

TenneT General Conditions for Electricity Connections and Transmission 2008

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**Article 1 Definitions**

In these General Conditions:

**'16c Agreement'** means an agreement within the meaning of article 2.1.7 of the Tariff Code, including the General Conditions declared applicable to it.

**'Connected Party'** means a party with a Connection in the grid managed by TenneT for which an Agreement has been concluded.

**'Connection'** means one or more links between the National High Voltage Grid and an immovable within the meaning of Section 16, a. to d., of the Valuation of Immovable Property Act, interconnecting the Installation with the National High Voltage Grid and all equipment fitted by TenneT in or to the link(s), such as the Metering Device, junction boxes for switching and safety devices, for which purpose an Agreement

has been concluded.

**'Accommodation'** means land and/or one or more protected rooms on the Premises of the Connected Party for the purpose of any part of the Connection.

**'Electricity Supply System'** means the total system of interconnected grids, means of production and connections.

**'Installation'** means the complex of electrical equipment and lines of a Connected Party, starting from the Point of Transfer of the Connection.

**'Metering Device'** means all components, software, etc, necessary for recording exchanged electrical energy and, if applicable, reactive energy.

**'Grid'** means one or more connections for transmitting electricity and the associated transformer stations, switching stations, distributor stations and substations and other auxiliary equipment, except to the extent that such connections and auxiliary equipments occur within the Installation of a Connected Party.

**'NMa'** means the Board of the Netherlands Competition Authority.

**'Point of Transfer'** means the physical point agreed by TenneT and the Connected Party where a separation can be created between the Connection and the Installation.

**'Agreement'** means the connection and transmission agreement that TenneT and the Connected Party have concluded for the Connection and that has been declared subject to these General Conditions.

**'Property'** means any movable or immovable property (or part or combination thereof) for which a Connection was or will be created or transmission of electrical energy occurs or will occur.

**'Programme Responsibility'** means the responsibility of customers, other than customers within the meaning of Section 95a, subsection 1 of the Act, and licence holders to prepare or commission preparation of programmes for grid administrators for the production, transmission and consumption of electricity and to act in accordance with such programmes under the conditions referred to in Section 31 of the Act.

**'Tariff Decision'** means a decision of the NMa by which it sets tariffs for TenneT under Section 41c of the Act.

**'Tariff List'** means the list stating charges payable to TenneT under a Tariff Decision.

**'TenneT'** means TenneT TSO B.V., a private limited company with its registered office at Arnhem, the Netherlands, and place of business at Utrechtseweg 310, Arnhem, the Netherlands.

**'Act'** means the Electricity Act 1998 (Act of 2 July 1998, Netherlands Bulletin of Acts Orders and Decrees 1998, 427, as subsequently amended).

## **Article 2      Validity and applicability**

1. The General Conditions form an integral part of the Agreement.
2. The Agreement shall be subject to the conditions referred to in Section 31 of the Act. In the event of inconsistency between the General Conditions or Agreement on the one hand and the conditions referred to in Section 31 of the Act on the other, the conditions shall prevail except where and to the extent that the inconsistency concerns parts of the conditions that may be set aside, in which case the General Conditions or Agreement shall prevail.
3. In the event of inconsistency between provisions of the General Conditions and a provision in the

Agreement (or the rest thereof) the latter provision shall prevail.

4. A reference to a provision under public law shall include a reference to the provision that replaces it.
5. Unless otherwise stated, the use in the General Conditions of terms also used in the Act and pursuant legislation is intended solely to make the General Conditions easier to read and not to deviate from the meanings assigned to such terms in the Act and pursuant legislation. If changes are made to the definitions of such terms in the Act or pursuant legislation, the same terms shall be interpreted in the General Conditions in accordance with the changed definitions.

### **Article 3 Requests for enlarging or modifying a Connection**

1. A request to enlarge or modify a Connection shall be made in writing. TenneT is the only party that may enlarge or modify an existing Connection, unless a third party enlarges or modifies the Connection under Section 16c of the Act pursuant to a 16c Agreement which the Connected Party has concluded with TenneT. TenneT shall determine the work performance method and location of the connection work, as far as possible in consultation with the Connected Party.
2. TenneT shall have the right to attach special conditions to an offer to enlarge, modify or activate a Connection if, for example:
  - a. the transmission capacity of the grid managed by TenneT or a grid interconnected with it is insufficient;
  - b. the Connected Party fails to pay any debt owed under the Agreement.

### **Article 4 Maintenance, inspection, replacement, relocation and removal of a Connection**

1. Except where a third party performs the work under Section 16c of the Act pursuant to a 16c Agreement concluded between the Connected Party and TenneT, the Connection shall be maintained, inspected, replaced, relocated or removed solely by TenneT and at its expense, in each instance after prior notification of and where possible in consultation with the Connected Party.
2. If a third party within the meaning of clause 1 does not perform the work, the Connected Party shall pay for replacement, relocation and removal of the Connection, if:
  - a. such occurs at its request;
  - b. such results from an act or omission on its part, unless it is credibly established that the act or omission resulted from circumstances that cannot reasonably be attributed to the Connected Party.

### **Article 5 Facilities for the Connection**

1. At TenneT's request the Connected Party shall provide and keep available Accommodation free of charge, insofar as the Connection or parts thereof are located on a site controlled by the Connected Party through ownership or limited or personal right. The Accommodation, the location(s) of which shall be determined by TenneT after consulting with the Connected Party, shall satisfy requirements laid down by TenneT in respect of size, construction, furnishing and access security. The Accommodation shall be permanently accessible from the public highway to allow timely performance at all times of all essential work, including but not confined to exchanging the high-voltage installation and/or other equipment associated with the Connection. The Accommodation shall be inaccessible to third parties.
2. The Accommodation shall be maintained at TenneT's discretion by the Connected Party or by TenneT, but in all instances at the expense of the Connected Party.
3. The Connected Party shall provide required co-operation free of charge in the performance of work by TenneT.
4. Equipment installed by TenneT or by a third party it makes known to the Connected Party shall be and remain the property of TenneT or such third party as the case may be. The Connected Party shall take the necessary measures or provide co-operation to protect the property rights of TenneT or such

third party, in particular by granting a right in rem at no cost. The Connected Party shall indemnify and hold harmless TenneT or such third party, as the case may, against claims laid by other third parties to the installed equipment on the grounds of a debt the Connected Party supposedly owes the other third parties.

5. The Accommodation and equipment located in or on it shall be kept readily accessible at all times. If such accessibility does not exist due to an act or omission by the Connected Party, TenneT shall have the right, after serving notice requiring fulfilment, to remove the obstructions, make changes to the route of the Connection or create an entirely new Connection at the expense of the party concerned.
6. If the Agreement with TenneT is terminated, TenneT shall have the right to continue using the Accommodation and equipment located in or on it for the purposes of its operations and for performance of work for up to twelve months after the date of termination of the Agreement. Throughout this period the Connected Party shall ensure the undisturbed usability of the Accommodation. The provisions of this article shall continue to apply *mutatis mutandis*.
7. If a right in rem has been established between TenneT (regardless of whether such occurs on behalf or jointly on behalf of a third party within the meaning of clause 4) and the Connected Party, the rights and obligations of the two parties shall additionally be governed by the provisions of the right-in-rem agreement. The right-in-rem agreement shall prevail in the event of inconsistencies between that agreement and the General Conditions.

#### **Article 6 Rights and obligations**

1. As and when necessary the Connected Party and TenneT shall fairly and reasonably consult with each other on a request by TenneT to install lines, create connections, make branches from pre-existing connections and to operate, maintain, enlarge, modify and remove such lines in, on, below or above the Property on behalf of the Connected Party or third parties.
2. To the extent reasonably within its power, the Connected Party shall ensure that no acts occur that are capable of preventing or obstructing TenneT's operations or that may jeopardise the safe presence, maintenance or repair of the lines, Connections or branches or pose a hazard to people or property.
3. TenneT shall award the Connected Party a payment in accordance with the Tariff Code if TenneT also uses the Connection or part thereof on behalf of other connected parties.

#### **Article 7 Installation**

The Installation shall meet the conditions laid down in or pursuant to the Act and, where applicable, the conditions of the 16c Agreement.

#### **Article 8 Connection and transmission agreement**

1. The Agreement shall take effect on the date stated therein.
2. Unless otherwise agreed in the Agreement, the Agreement shall be for an open-ended period of time.
3. The Connected Party may terminate the Agreement by cancelling it subject to written notice of at least six months.
4. Without prejudice to TenneT's right to dissolve the Agreement in cases provided for under article 16, TenneT shall have the right to cancel the Agreement. TenneT shall give written notice of cancellation, stating its reasons, with the proviso that cancellation shall be possible only for pressing interests of TenneT or third parties or if required in the public interest of public electricity supplies and subject to notice of at least six months. If the Agreement is for a fixed period of time, it may be cancelled in the

- interim only if such has been stipulated and to the extent and in the way stipulated.
5. During the notice period the Connected Party shall give TenneT an opportunity to perform activities necessary for termination of the Agreement. The Connected Party shall remain bound by matters laid down in or pursuant to the Agreement and General Conditions until such time as it has fulfilled all its commitments thereunder.
  6. The Agreement shall remain fully in force on occurrence of a situation provided for under article 9 and article 16.4.
  7. If a successor to TenneT is named under the Act for management of the grid (or part thereof), the Connected Party may decline to consent to the successor taking TenneT's legal position under the Agreement only if the successor fails to adopt unconditionally all rights and obligations of TenneT under the Agreement and General Conditions.
  8. The Connected Party may not assign its rights and obligations under the Agreement to a third party without TenneT's prior permission. TenneT shall not withhold such permission without reasonable grounds.

#### **Article 9 Restriction or interruption of transmission**

If it deems such necessary or desirable to assure proper public electricity supplies, TenneT may restrict or interrupt transmission for a time as short as possible, in connection with the performance of work, in the interests of safety or in the event of a likely risk of damage, as far as possible after prior notification. TenneT shall keep the duration of such restrictions and interruptions as short as possible, consult in good time beforehand with the Connected Party regarding the restriction or interruption, unless such is not reasonably possible, and gear the restriction or interruption as far as possible to the operations, scenario, maintenance schedule and/or transmission forecasts of the Connected Party, in each instance to the extent such are known to TenneT. If TenneT legitimately applies this provision, it shall not be liable to provide any form of compensation or redress for any form of damage or other harm.

#### **Article 10 Tariffs and charges**

1. For the Connection, its upkeep (including replacement and maintenance), provision and operation of transmission capacity and transmission of electrical energy and related services, the Connected Party shall owe a charge in accordance with the Tariff List or, if the Tariff List does not cover a certain case, a charge determined in accordance with the Tariff Decision.
2. A charge in accordance with the Tariff List shall be payable by the Connected Party for system services performable by TenneT.
3. On request the Connected Party shall provide details necessary to determine amounts owed. TenneT shall inform the Connected Party of the tariffs applicable to its situation.
4. All amounts the Connected Party owes under the General Conditions shall or may be increased through the addition of taxes, surcharges and levies TenneT is obliged or entitled to charge under a government decision. Insofar as possible TenneT shall itemise such increases on the invoice.
5. The Tariff List shall be amended in accordance with a new Tariff Decision. Such an amendment shall also apply to pre-existing agreements.
6. The date the amended Tariff List takes effect shall be the same as the date of commencement of the tariffs laid down in the Tariffs Decision on which the amendments to the Tariff List are based.

#### **Article 11 Invoicing and payment**

1. TenneT shall render an itemised invoice stating all amounts the Connected Party owes under the Agreement and General Conditions. The invoiced amount shall be stated in euro (€).

2. The invoiced amount shall be paid in full within fourteen days of the postmarked date of the invoice. TenneT shall indicate how the invoice must be paid.
3. The payment obligation shall not be set aside or suspended on the grounds of a suspected inaccuracy of the invoice, other objections against the invoice or the efficiency of the services provided.
4. Set-offs under article 6:127 et seq of the Netherlands Civil Code of debts the Connected Party owes under the Agreement and/or General Conditions against debts owed by TenneT shall not be allowed, except in the case of a set-off in bankruptcy or suspension of payments under Section 53 or Section 234 of the Bankruptcy Act.
5. TenneT waives its right to a set-off under article 6:127 et seq of the Netherlands Civil Code of debts it owes under the Agreement and/or General Conditions against debts owed by the Connected Party, except in the case of a set-off in bankruptcy or suspension of payments under Section 53 or Section 234 of the Bankruptcy Act.

#### **Article 12 Collateral**

TenneT shall have the right to require the Connected Party to provide collateral against amounts the Connected Party owes under the Agreement and/or General Conditions.

#### **Article 13 Non-payment**

1. The Connected Party shall be in default at law if it has failed to pay, pay in full and/or pay on time.
2. On entering into default, the Connected Party shall further owe interest at the statutory rate for late payment, without prejudice to TenneT's right to reimbursement of the costs of debt collection through the courts and/or otherwise. Amounts referred to in this clause shall be payable on demand.

#### **Article 14 Other obligations**

1. TenneT shall perform the Agreement with the care that may be expected of a conscientious grid administrator. In particular, TenneT shall exercise its best efforts to avoid the Connected Party incurring inconvenience or damage through the performance of work.
2. The Connected Party shall ensure that it has the agreement(s) required to take programme responsibility or to commission an accredited third party to take programme responsibility on its behalf. A Connected Party that fails to meet the provisions of this clause shall refrain from supplying or taking electrical energy by means of the grid managed by TenneT.
3. The Connected Party shall give TenneT the required co-operation in applying and implementing the provisions made in or pursuant to the General Conditions and checks on compliance with such provisions, in particular by:
  - a. informing TenneT as soon as possible of all details, incidents and changed circumstances that may be relevant to performance of the Agreement, including but not confined to damage, deficiencies or irregularities observed or suspected by the Connected Party in or on the part of the Connection present on its property, including the metering device and also the breaking of the seal on it;
  - b. providing access to the property at all times to any person carrying an authenticated personal, non-transferable document issued by TenneT who on request can demonstrate by showing means of identification accepted by the authorities that he is the person named in such document, for reasons including fulfilment of an obligation imposed on TenneT by the authorities;
  - c. informing TenneT in good time of changes of address and changes of trading names.
4. The Connected Party shall do everything reasonably possible to prevent damage to the part of the

- Connection in or on the property.
5. If it does not own the property, the Connected Party shall ensure that the owner consents to the performance of all activities TenneT deems necessary for the creation, maintenance, replacement, relocation, enlargement, modification or removal of the Connection or for transmission, on behalf of both the Connected Party and third parties. TenneT may require the Connected Party to provide a written statement in which the owner gives its consent.
  6. TenneT may choose to be represented by third parties for the purposes of fulfilling its obligations and exercising its rights.

## **Article 15 Liability**

1. TenneT shall not be liable to the Connected Party for damage arising through:
  - a. interruption or restriction of transmission;
  - b. a deficiency, defect or fault in the Connection, the grid or other operating resources managed by TenneT and/or in one or more other parts of the electricity supply system;
  - c. an act or omission by TenneT, its employees or subordinates or non-subordinates concerning the Connection, the grid or other operating resources managed by TenneT and/or one or more other parts of the electricity supply system.
2. The provisions of clause 1 of this article shall not apply if the damage arises through a deliberate act or gross negligence by TenneT, its employees or subordinates. Except where damage occurs through a deliberate act or gross negligence by TenneT or its managerial staff, however, TenneT shall not be bound to provide compensation for consequential damage, including but not confined to loss of profit or income, or for immaterial damage.
3. The provisions of clause 1 of this article shall further apply in favour of the grid owner and any other electricity company with which TenneT co-operates for the purpose of supplying electricity, and also in favour of employees or subordinates for whom TenneT or the other electricity company is liable. The words 'other electricity company' in any event mean other grid administrators, suppliers, grid owners that under Section 15 of the Electricity Act 1998 have not designated a grid administrator, and electricity producers.

## **Article 16 Dissolution**

1. TenneT shall have the right to dissolve the Agreement without recourse to the courts if the Connected Party has been granted suspension of payments or is declared bankrupt.
2. TenneT shall further have the right to dissolve the Agreement forthwith, without serving notice of default, if:
  - a. after being served with notice of default affording a reasonable time for redress, the Connected Party fails to fulfil any of its obligations under the Agreement or General Conditions and the seriousness of such failure justifies dissolution in view of such matters as the safety of people and property or the safety and reliability of the public electricity supply;
  - b. the programme responsibility for the Connection has ceased to exist and the Connected Party failed to remedy this situation within ten (10) days after it occurred or within the term laid stipulated in the conditions under Section 36 of the Act if this is longer or shorter than ten days;
  - c. during the remedy period referred to at b., the Connected Party takes or supplies electrical energy on the Connection.
3. If it dissolves the Agreement, TenneT shall further have the right to remove or deactivate the Connection at the Connected Party's expense with effect from the day dissolution took effect.
4. TenneT shall have the right to suspend fulfilment of its commitments under the Agreement in cases provided for in the Netherlands Civil Code, with the proviso that the reason for suspension must be

sufficiently pressing to justify such action, for example in view of such matters as the safety of people and property or the safety and reliability of the public grid. TenneT may interrupt or restrict transmission to execute suspension within the meaning of this clause.

#### **Article 17 Deviations from the General Conditions**

Deviations from and amendments and additions to the General Conditions and/or the Agreement shall be binding only to the extent agreed by parties in writing.

#### **Article 18 Amendments to the General Conditions and tariffs**

1. TenneT shall have the right to amend the General Conditions. Any amendments made shall also apply to pre-existing Agreements with the Connected Party that are subject to the General Conditions.
2. An amendment to the General Conditions shall take effect fourteen days after the day the amendment was made known to the Connected Party in writing.
3. If within the term referred to at clause 2 of this article a Connected Party lodges with NMa a request to resolve a dispute within the meaning of Section 51 of the Act, the amendment shall take effect, insofar as it is the subject of the request, on the day after the day NMa announces its decision on the request, unless the Connected Party's request is upheld fully or partly. If the Connected Party's request is rejected, the amendment shall take effect retroactively to the day ensuing from clause 2.
4. Notwithstanding clause 2 and clause 3 of this article, an amendment shall take effect at an earlier time determined by TenneT, with immediate effect, if and to the extent such is reasonably necessary to protect the safety of people or property or the safety and reliability of the public electricity supply.

#### **Article 19 Applicable law**

The Agreement and General Conditions shall be governed exclusively by Dutch law.

#### **Article 20 Disputes**

1. Parties shall endeavour to resolve disputes amicably.
2. All disputes arising from the Agreement that parties are unable to resolve amicably, including but not confined to disputes about its existence and validity, shall be resolved in accordance with the general rules of the Netherlands Arbitration Institute, subject to the following conditions:
  - a. the arbitration board shall consist of three arbitrators;
  - b. arbitration shall take place at Amsterdam;
  - c. the proceedings shall be conducted in Dutch;
  - d. the arbitration board shall decide according to the rules of law;
  - e. the proceedings cannot be combined on the strength of article 1046 of the Code of Civil Procedure with other arbitration proceedings, unless such proceedings are conducted solely between parties to the Agreement;
  - f. the Netherlands Arbitration Institute shall not be allowed to publish its ruling in the arbitration.
3. In particular cases parties may choose to agree a different way of resolving a dispute.
4. If a dispute requires an immediate provisional ruling, parties shall be free to apply to a preliminary

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injunctions court for summary proceedings.

**Article 21 Final provisions**

1. The General Conditions shall take effect on 1 January 2008. Effective the same date, they shall supersede earlier conditions.
2. The General Conditions may be cited as 'TenneT General Conditions for Electricity Connections and Transmission 2008'.
3. The General Conditions shall be available for inspection at the offices of TenneT where copies shall be obtainable free of charge. The General Conditions shall further be published on the website [www.tennet.nl](http://www.tennet.nl).