

# Tennet General Purchase Conditions

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## General section

### Article 1. Definitions

"**Agreement**" means written arrangements agreed between tennet and the Other Party concerning Delivery of Goods and/or Services;

"**Delivery of Goods**" means providing to or placing under the control of tennet one or more items and/or property rights (including but not confined to delivery of software);

"**Delivery of Services**" means providing services on behalf of tennet, including but not confined to providing workers and contracting and delivering work;

"**Documentation**" means all documentation in Dutch or English accompanying Goods and/or Services, including but not confined to (digital) drawings, quality certificates, approvals, guarantees, CE certificates, manuals, instruction books or any other document necessary for usage and/or maintenance;

"**General Conditions**" means these tennet General Purchasing Conditions;

"**Goods**" means articles and property rights, including software;

"**Other Party**" means the party with whom tennet enters into an Agreement;

"**TenneT**" means tennet Holding B.V., with its registered office at Arnhem, the Netherlands, and all legal persons and companies associated with tennet in a group within the meaning of article 2:24 b of the Netherlands Civil Code; user of these General Purchasing Conditions.

### Article 2. Applicability

- These General Conditions apply to all requests, offers and Agreements for Delivery of Goods and/or Services by the Other Party to tennet.
- Deviations from and/or additions to these General Conditions shall be valid only to the extent agreed in writing.
- The general conditions of the Other Party, howsoever such conditions may be called, shall not apply unless parties have agreed otherwise in writing.
- The Dutch version of these General Conditions prevails over the English version, or any other translation thereof.

### Article 3. Entering into an Agreement

- Unless the Other Party has explicitly stated otherwise in writing, an offer made by the Other Party to tennet shall be irrevocable.
- An Agreement shall not be entered into until such time as tennet has accepted the offer of the Other Party in writing.
- The Other Party shall act at its own expense and risk if and to the extent that it starts performing its offer before tennet has accepted it in writing and consequently no Agreement has been entered into.
- An acceptance by tennet that differs from the offer made by the Other Party shall be deemed an offer made by tennet. In such case the Agreement shall be entered into according to the offer made by tennet provided that within ten working days of the offer tennet receives written acceptance from the Other Party, or, as the case may be, the Other Party has started performing the Agreement within ten working days after the offer.

### Article 4. Price / payment conditions

- Unless otherwise agreed in writing by parties on entering into the Agreement, all prices and tariffs shall be fixed for the term of the Agreement.
- Prices and tariffs shall be stated in euro. Unless otherwise agreed in writing, prices shall include all costs in connection with fulfilment of the obligations of the Other Party, including but not limited to the costs of packing, transport, insurance and any costs incurred for exchanging or translating foreign currency. All prices shall be exclusive of value added tax, but inclusive of any other taxes and duties, including but not confined to environmental levies and import / export duties.
- Services shall be performed for a final net total price stated in the Agreement. Notwithstanding this provision, parties may agree in the Agreement that all or some of the work shall be carried out in return for hourly rates or other unit charges specified in the Agreement. Unless otherwise agreed in writing, rates shall include any travelling and accommodation expenses and travelling time.
- To the extent that parties have agreed that payment shall take place entirely or partly on the basis of rates, the Other Party shall keep records of the rates payable, showing the components that make up the total amount payable by tennet. The Other Party shall submit a copy of such records within fourteen days after the end of each calendar month.
- The tennet order number shall be stated on each invoice together with the item number(s), volume(s) and description(s). The invoice shall satisfy all legal requirements, including but not confined to inclusion of the VAT number of the Other Party.
- Payment of net invoiced amounts shall be made within thirty days of receipt of an invoice, provided that the following conditions have been met:
  - tennet has accepted the Goods or Services in accordance with the provisions of article 8;
  - tennet has received the Documentation in full and in understandable language.Under no circumstances whatsoever shall payment by tennet constitute any waiving of its rights.
- Before making payment tennet shall have the right to require the Other Party to furnish security for fulfilment of its obligations by means of an unconditional and irrevocable bank guarantee issued by a bank acceptable to tennet.
- tennet shall have the right to deduct amounts that it is or may be owed by the Other Party at any time against amounts that tennet owes or may owe the Other Party at any time.

### Article 5. Amendments to the Agreement

- Amendments or additions to the Agreement or its performance may be made only with the written permission of tennet.
- Subject to consultation with the Other Party, tennet shall have the right to amend the contents of the Agreement. tennet shall have the right to make changes to drawings, models, instructions, specifications and similar items that concern the Agreement. tennet shall make the amendments known to the Other Party in writing as soon as possible.
- The Other Party shall carry out all amendments required by tennet (including amendments to the time schedule) provided that they are possible technically and organisationally. If the Other Party is of the opinion that a required amendment will have consequences for the agreed price and/or Delivery date, it shall inform tennet in writing accordingly as soon as possible before carrying out the amendment, and in all instances within five working days after receiving notification of the requested amendment, in the absence of which the required amendment shall be deemed to have no consequences for the agreed price and/or Delivery date.
- Parties shall agree the consequences of amendments beforehand in writing. If tennet is of the opinion that the consequences for the price and/or Delivery date are unreasonable in relation to the nature and scale of the amendment, or if parties fail to reach agreement on the consequences of amendments, tennet shall have the right to dissolve the Agreement by means of a written notification of the Other Party, unless the consequences of the amendment do not justify dissolution.

### Article 6. Obligations of the Other Party

- The Other Party is deemed to possess full knowledge of and skills necessary for the nature of the deliverable Goods and/or Services, the scale of all activities associated with performance of the Agreement and the applicable contractual terms and conditions.
- The Other Party warrants that it holds all qualifications necessary to perform the Agreement independently and under its own responsibility.
- The Other Party is deemed to be aware of all applicable regulations and recommendations of national and international authorities and the applicable codes of conduct.
- The Other Party shall hold all required licences and/or approvals at all times during performance of the Agreement.
- The Other Party shall make Delivery of Goods and/or Services at a quality level at least equal to the one customary in its industry. The Other Party warrants that the Delivery of Goods and/or Services shall satisfy the requirements that tennet may expect for such deliveries.



## Article 7. Fulfilment / Delivery

- 7.1. Delivery and fulfilment of obligations under the Agreement shall take place at the agreed place and at the agreed time or, as the case may be, within the agreed term. Unless otherwise agreed in writing, all delivery terms stated by tenner shall be deadlines. The Other Party shall be in default by operation of law if it fails to meet a delivery term. For the purposes of these conditions Delivery shall include partial deliveries.
- 7.2. At such time as the Other Party knows or may reasonably be able to foresee that an agreed delivery term will not be met, or that it will fail in any other way to fulfil the Agreement, the Other Party shall notify tenner in writing without delay and state reasons, followed by the earliest possible written confirmation of such notification.
- 7.3. tenner shall have the right to alter the agreed place of Delivery and to postpone the agreed time of Delivery. tenner shall make such known to the Other Party in writing not later than five working days prior to Delivery. If Delivery is postponed, the Other Party shall store, secure and insure the Goods for tenner, in a properly packed, separately stored and recognisable condition. tenner shall reimburse the Other Party for reasonable costs incurred for this purpose.

## Article 8. Acceptance

- 8.1. Delivery shall not constitute acceptance.
- 8.2. Within a reasonable time after Delivery, tenner shall inspect or commission inspection of the Goods and/or Services, including checks and/or tests. Inspection shall not constitute acceptance and shall not relieve the Other Party of its obligations under the Agreement. Unless otherwise agreed, the Other Party shall pay the costs of the inspection, except for the costs of the employees of tenner or its agents who make such inspections. The costs of a re-inspection shall be payable by the Other Party.
- 8.3. Based on such an inspection, tenner may:
  - a) approve the Goods and/or Services;
  - b) provisionally approve the Goods and/or Services, with the proviso that the Other Party shall resolve any remaining matters within a time determinable by tenner, or
  - c) reject the Goods and/or Services.
- 8.4. In the case of rejection, tenner may require the Other Party as yet to fulfil the Agreement, in accordance with the agreed requirements, within a reasonable period of time determinable by tenner, whereby tenner shall have the right to issue instructions. The provisions of this article shall then apply again mutatis mutandis. If the delivered Goods and/or Services are rejected a second time, tenner shall have the right to perform or commission a third party to perform the Agreement at the expense of the Other Party.
- 8.5. Rejection shall not occasion in any delay of the agreed Delivery date, unless tenner has agreed to a delay in writing.
- 8.6. Acceptance shall not occur before such time as tenner has accepted the Goods and/or Services in writing, or, as the case may be, until the remaining matters that are the subject of a provisional approval have been resolved in the written opinion of tenner.
- 8.7. In the case of partial deliveries, tenner shall perform only provisional inspections and acceptance shall not occur until complete performance of the Agreement, provided always that the other acceptance conditions have been met.
- 8.8. Without prejudice to the provisions of this article, tenner shall have the right to perform inspections and progress checks during performance of the Agreement. tenner shall arrange such inspection(s) and progress checks in such a way that they disrupt the progress of the work as little as possible. The Other Party shall provide the cooperation required for inspections and progress checks.
- 8.9. tenner shall have the right to start using performed work (or parts thereof) before Delivery and/or its acceptance, insofar as tenner considers such desirable and/or necessary.
- 8.10. Acceptance shall not relieve the Other Party of its liability for any visible or invisible defects, regardless of whether tenner has conducted an inspection.

## Article 9. Warranty

- 9.1. The Other Party guarantees that the delivered Goods and/or Services shall be in conformity with the Agreement and shall possess the agreed properties, be free of defects, suitable for the purpose for which they are intended and satisfy the legal requirements and other applicable regulations, nationally and internationally, in each instance as applicable at the time of Delivery.
- 9.2. Provided that the Agreement or applicable laws and/or regulations do not otherwise stipulate, the Other Party shall provide for 24 months after Delivery a full warranty on the Goods and/or Services. As and when necessary, the date of acceptance by tenner and not the Delivery date shall be the starting date of the warranty term.
- 9.3. The Other Party shall repair defects and/or imperfections in the warranty term within a reasonable period of time determinable by tenner. All costs incurred for such repairs shall be for the account of the Other Party.
- 9.4. If necessitated by the required speed of repair, tenner shall have the right, after consulting with the Other Party, to carry out or commission the repair at the expense of the Other Party. In very urgent circumstances, tenner may refrain from prior consultation, in which case tenner shall notify the Other Party as soon as possible after completion of the repairs.

- 9.5. If tenner considers such necessary, it may require the entire replacement of Goods and/or Services and/or of parts that it designates. tenner shall make such a request to the Other Party in writing. The Other Party shall then carry out the replacement.
- 9.6. The warranty and warranty term shall recommence after acceptance by tenner of the performed repair or replacement covered by the warranty conditions.

## Article 10. Liability / Insurance

- 10.1. The Other Party shall be liable for all damage (except for damage in connection with interruption or limitation of transport of electricity) that tenner has incurred or may incur as a result of an imputable shortcoming in fulfilment of the Agreement by the Other Party, by personnel of the Other Party or by persons engaged by the Other Party in performance of the Agreement. This liability shall include liability for damage caused by a defect in the Goods within the meaning of article 6:186 of the Netherlands Civil Code (Product liability). The Other Party shall inform tenner immediately of all instances of damage.
- 10.2. The Other Party shall indemnify and hold harmless tenner against claims by third parties for compensation for damage within the meaning of clause 1 of this article. For the purposes of these conditions, third parties shall include employees of tenner and persons working on the instructions of tenner.
- 10.3. Compliance with the tenner regulations for safety, health and the environment or any other regulations in force at tenner shall not relieve the Other Party of its liability for damage occurring in connection with performance of the Agreement or damage occurring through accidents during performance of the Agreement.
- 10.4. The Other Party shall obtain sufficient insurance cover against liability within the meaning of this article. At the request of tenner, the Other Party shall submit for inspection the relevant policy or policies or a statement issued by the insurer. Additionally, tenner may require proof of payment or a statement from the insurer that evidences payment of the premiums due for the current insurance(s).
- 10.5. tenner may require that insurances taken out by the Other Party include a clause to the effect that tenner is a co-insured party and that any payouts for damage shall be transferred directly to tenner.
- 10.6. If several cooperating Opposite Parties have concluded an Agreement with tenner, they shall be severally and jointly liable to tenner for obligations resting on them under the Agreement.
- 10.7. If and to the extent that tenner has concluded Contractors' All Risks (CAR) insurance for performance of the Agreement, tenner shall stipulate that such insurance shall also cover damage that the Other Party, its personnel and/or its engaged third parties have caused or may cause. On request tenner shall submit to the Other Party a statement from the insurer regarding this matter.
- 10.8. Without prejudice to the provisions of clause 10.7, the Other Party shall remain bound to compensate tenner for damage that has been or may be caused by the Other Party, its personnel and/or its engaged third parties, if and to the extent that such damage is not covered by the CAR insurance.

## Article 11. Default / Dissolution

- 11.1. Any default of the obligations of the Other Party under the Agreement shall give tenner the right to:
  - a) require the Other Party as yet to fulfil the obligations within a reasonable period of time;
  - b) remedy or commission the remedy of the consequences of the default at the expense of the Other Party;
  - c) carry out the Agreement itself or commission a third-party to fulfil all or part of the Agreement at the expense and risk of the Other Party;
  - d) suspend its obligations under the Agreement, and/or
  - e) require full compensation, in each instance at the discretion of tenner, without prejudice to its other rights in connection with the default and without being liable to the Other Party for payment of any form of compensation.
- 11.2. Without prejudice to its other rights, tenner shall have the right to dissolve the Agreement in the interim, with immediate effect, in full or in part, through written notification of the Other Party, if:
  - a) the Other Party fails to fulfil, fulfil on time or fulfil properly its obligations under the Agreement and/or these General Conditions within a reasonable period of time after receiving written notice of default from tenner;
  - b) a significant part of the assets of the Other Party are attached and the attachment is not lifted or annulled within thirty days of the attachment;
  - c) a petition has been filed for suspension of payments or debt remission, an application has been filed for bankruptcy, creditors have been offered a private settlement, the Other Party has been declared bankrupt in an irrevocable judgment or has been granted suspension of payments, or a request for debt remission has been granted;
  - d) the Other Party discontinues all or some of its activities, transfers its activities to a third party, if any change occurs in majority control of the Other Party and/or if licences and/or approvals required for its activities are cancelled.
- 11.3. Any and all debts the Other Party owes or may owe tenner on dissolution of the Agreement shall be payable in full on demand.

## Article 12. Force majeure

- 12.1. In the event of a non-imputable failure to fulfil obligations under the Agreement within the meaning of article 6:75 of the Netherlands Civil Code ("Force majeure"), parties shall inform each other accordingly without delay and shall state the expected duration. Fulfilment of the obligations of parties shall be suspended for the duration of force majeure, unless the situation lasts longer than three months or the nature of the Agreement precludes such suspension. In both cases, each party shall have the right to dissolve the Agreement without being liable to payment of any form of compensation.

## Article 13. Confidentiality

- 13.1. The Other Party shall maintain strict confidentiality in relation to third parties regarding all tennet data and company information that it may reasonably be expected to understand to be confidential and also all data marked confidential by tennet that comes to its knowledge during performance of the Agreement and shall impose the same confidentiality obligations on its employees and any persons it engages in performance of the Agreement.
- 13.2. Unless tennet has given its prior written permission, the Other Party shall not refer to an Agreement or possible Agreement in publications or advertisements in magazines, newspapers, reports, business letters, brochures, radio, television, the Internet or any other medium.
- 13.3. tennet shall have the right to require that persons who are or will be engaged by the Other Party in performance of the Agreement sign a confidentiality statement in accordance with a model provided by tennet.
- 13.4. The confidentiality obligations shall remain valid after the Agreement ends for any reason whatsoever.

## Article 14. Intellectual and industrial property rights / Source code

- 14.1. Unless otherwise agreed in writing, tennet shall retain ownership of all data and documents that it makes available to the Other Party for the purpose of performance of the Agreement, insofar as tennet owns such data and documents or holds intellectual and/or industrial property rights to them, and the Other Party shall respect the rights of tennet in this regard. On expiry of the Agreement the Other Party shall return without delay all data and documents belonging to tennet.
- 14.2. If and to the extent that the Other Party or a third party can enforce intellectual and/or industrial property rights attached to delivered Goods, the Other Party shall grant tennet the right to use the delivered Goods for an unlimited period of time on an unrestricted scale. The right of use shall include the right of tennet to grant its customers a right to use the Goods. tennet shall further acquire the most comprehensive right possible to use inventions applied or developed by the Other Party in performance of the Agreement. Unless otherwise agreed in writing, tennet shall not owe the Other Party any separate charges for such rights.
- 14.3. The Other Party guarantees the unrestricted and undisturbed use by tennet of the delivered Goods and of the inventions applied and/or developed by the Other Party in the performance of the Agreement. The Other Party guarantees that in performance of the Agreement it shall not infringe any third party industrial or intellectual property rights. The Other Party shall indemnify and hold harmless tennet against claims by third parties for compensation for damage for infringement of their industrial and intellectual property rights.
- 14.4. In the event of an infringement within the meaning of clause 3 of this article, the Other Party shall as yet acquire for tennet a right of use, or, if such is not possible, shall replace the delivered Goods by equivalent Goods that do not infringe the intellectual and/or industrial property rights of third parties, or modify the Goods in a way such that the infringement ceases to exist, in each instance subject to consultation with tennet provided always that the Goods continue to meet the relevant provisions of the Agreement and are suitable for the purpose for which they are intended.
- 14.5. If the Agreement provides for the development of software, or if the Delivery of Goods includes the provision of software, the Other Party shall at the request of tennet deposit the software source code with an independent third party on conditions to be agreed, so as to allow tennet access to the source code in the event of bankruptcy of the Other Party, or if for any other reason the Other Party is no longer able or willing to maintain or supply the software.

## Article 15. Assignment of contract / Subcontracting

- 15.1. The Other Party shall not assign or subcontract any rights or obligations under the Agreement to third parties without the prior written permission of tennet. tennet shall have the right to attach conditions to such permission.
- 15.2. If and to the extent the Agreement is performed entirely or partly by one or more third parties with the permission of tennet, the Other Party shall remain severally and jointly liable to tennet for fulfilment of obligations under the Agreement. The Other Party shall indemnify and hold harmless tennet against claims for compensation for damage incurred by third parties engaged by the Other Party.

## Article 16. Voidness / Nullity

- 16.1. If any provision of these General Conditions is invalid, null and void or annulable it shall not impair the validity of the other provisions. Such a provision shall be replaced by a provision that comes as close as possible to the purpose and purport of the original provision.

## Article 17. Governing law / Disputes

- 17.1. Dutch law shall govern the Agreement and its associated commitments. The United Nations Convention on Contracts for the International Sale of Goods 1980 (CISG) ("Vienna Convention") shall not apply.
- 17.2. Unless parties have agreed otherwise in writing, all disputes arising between parties as a result of the Agreement or its associated commitments shall be submitted to a court of law with jurisdiction at Arnhem, the Netherlands.
- 17.3. Under no circumstances whatsoever shall a dispute between parties constitute a ground for the Other Party to suspend fulfilment of its obligations under the Agreement.

## Supplementary provisions for delivery of goods

### Article 18. Conditions of Delivery

- 18.1. Goods shall be supplied Delivered Duty Paid (DDP), unloaded, at the agreed place and time of Delivery or within the agreed term. Delivery shall be subject to the prevailing Incoterms issued by the International Chamber of Commerce in Paris.
- 18.2. Unless agreed otherwise in writing, the Other Party may offer the Goods only on working days between 08:00 hrs and 16:00 hrs at the agreed place of Delivery. The provisions of article 8 shall apply in full.
- 18.3. Unless the Agreement stipulates otherwise, tennet shall have the right to refuse Delivery in partial deliveries or Delivery before the agreed time. In such circumstances tennet shall have the right to return the Goods without notice at the expense and risk of the Other Party.

### Article 19. Packing / Dispatch

- 19.1. Goods shall be packed in a way that ensures they reach their destination in good condition and are suitable for storage. All costs associated with packing the Goods shall be for the account of the Other Party. The Other Party shall be liable for damage attributable to inadequate packing of Goods.
- 19.2. The Other Party shall meet any special requirements that tennet has in respect of packing. The Other Party shall avoid to the fullest extent possible the use of superfluous or unnecessary packaging that harms the environment. In all other respects the Other Party shall meet all legal requirements concerning packing.
- 19.3. When packing and dispatching the Other Party shall provide the Goods with a legible packing list and/or copy of the invoice that states at least the name and address of the Other Party and the name and purchase order number of tennet.
- 19.4. All packaging, with the exception of loaned packaging, shall become the property of tennet at the time of Delivery of the Goods, unless parties have agreed otherwise in writing, in which case the final sentence of the next clause shall apply mutatis mutandis.
- 19.5. Loaned packaging shall be clearly marked as such. tennet shall send back loaned packaging at the expense and risk of the Other Party to the address stated by the Other Party.

### Article 20. Transfer of ownership and risk

- 20.1. The risk attached to the Goods shall transfer after Delivery and the acceptance of the Goods by tennet in accordance with article 18 or article 8, as the case may be.
- 20.2. Ownership of the Goods shall transfer to tennet on Delivery. tennet shall have the right to stipulate that it acquires ownership of the Goods at an earlier time. In such cases the Other Party shall mark the Goods clearly as being the property of tennet and shall indemnify and hold harmless tennet against loss, damage and exercise of third party rights.

### Article 21. Availability of maintenance and spares

- 21.1. If the Agreement stipulates that the Other Party has an obligation to perform maintenance and/or supply spares, the Other Party guarantees that maintenance and spares necessary for repair and maintenance of Goods shall remain available at reasonable prices and/or rates for a period of ten years after the final Delivery of the Goods concerned to tennet, unless the Agreement stipulates a different term.

## Supplementary provisions for delivery of services/ contracting of work

### Article 22. Employer's obligations and payment of wages and salaries tax and social security contributions

- 22.1. The Other Party shall fulfil its obligations towards personnel it engages in performance of the Agreement.
- 22.2. The Other Party shall fulfil its obligations to make and pay deductions and keep accounts under the Wages and Salaries Tax Act 1964 and the Social Security (Coordination) Act and other relevant laws and regulations.
- 22.3. tennet shall have the right to require the Other Party to provide tennet with a regular copy (at least once every three months) of statements regarding its pattern of payment to the organisation that administers social security insurances ("UWV") and/or the collector of taxes.



22.4. The Other Party shall state on its invoice the amounts it is required to deduct under the legislation referred to in clause 2 of this article. Tenner shall have the right at any time to deposit these amounts on a "G" (Guarantee) account in the name of the Other Party, or to pay such amounts directly to the collector of taxes or the organisation that administers social security insurances ("UWV").

22.5. The Other Party shall indemnify and hold harmless Tenner against all liability for wages and salaries tax and social security contributions owed by the Other Party. If Tenner is held liable for wages and salaries tax and social security contributions not deducted by the Other Party, and it pays these and/or other costs, Tenner shall recover the entire amount from the Other Party. The Other Party shall impose the obligations under this article on all parties it contracts in connection with the deliverable services and/or work, and such parties shall have the same obligation in respect of parties they contract, and so on.

These General Purchasing Conditions have been filed with the Kamer van Koophandel (Chamber of Commerce) voor Centraal Gelderland under number 09083317 on 2 January 2006.