

**OFFSHORE WIND FARM INTER-ARRAY POWER CABLES
CROSSING OF [HOLLANDSE KUST (WEST) ALPHA POWER CABLE]**

AGREEMENT

between

[Company Name]

and

TenneT TSO B.V.

Disclaimer:

The content of this document is disclosed for information purposes only. In no way does this document constitute rights for any (potential) party to a crossing agreement, or bind TenneT TSO B.V. legally.

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This Agreement is made and entered into as of the [.....] 20[...], by and between:

1., a company incorporated under the laws of, with its registered office at.....
(hereinafter called the "Crossing Party"), and
2. TenneT TSO B.V., organizational No. 09155985, a company incorporated under the laws of the Netherlands with a registered office at Utrechtseweg 310, NL 6812 AR Arnhem, the Netherlands; acting as covenantee and owner of the [Hollandse Kust (west) Alpha Power Cable].
(hereinafter called the "Affected Party")

or the successors or assigns of the foregoing companies.

WHEREAS:

the Crossing Party desires to install [.....] (hereinafter called the "Crossing Cable", as hereinafter defined) that will run within the [.....] in the Dutch Exclusive Economic Zone (EEZ);

the Crossing Party is the owner of the Crossing Cable, and;

the Affected Party owns the Affected Cable, and;

the Crossing Party desires the Crossing Cable to cross the Affected Cable, respectively, at the approximate locations stated in Appendix B hereto, and;

the Affected Party hereby agrees to the crossing by the Crossing Cable of the Affected Cable in accordance with the provisions of this Agreement.

NOW THEREFORE, in consideration of the premises, covenants and obligations set forth herein, the Parties have agreed to the following:

1. DEFINITIONS

(a) **"Affiliate"** shall mean:

- a) an entity which directly or indirectly holds more than 50% of the share capital or voting rights, or which in any other way directly or indirectly, controls one of the Parties (parent company);
- b) an entity in which one of the Parties, directly or indirectly, holds more than 50% of the share capital or voting rights, or in any other way, directly or indirectly, controls such entity (subsidiary company); and

- c) an entity whose share capital or voting rights, directly or indirectly and by more than 50%, is owned or otherwise controlled, directly or indirectly, by one or more concerns which themselves, either directly or indirectly, own more than 50% of the share capital or voting rights, or otherwise control one of the Parties (associated company).
- (b) **“Affected Party”** shall mean TenneT TSO B.V..
- (c) **“Affected Cable”** shall mean the [Hollandse Kust Zuid Alpha Power Cable] consisting of a power cable that commences at Maasvlakte-Noord and terminates at [Windfarm XX], owned by the Affected Party.
- (d) **“Agreement”** shall mean this Agreement together with all Appendices attached hereto.
- (e) **“As-built route”** shall mean route of the Crossing Cable as shown in Appendix B, or as amended in accordance with the provisions of the Agreement.
- (f) **“Contractor”** and **“Contractors”** shall mean a supplier(s) of materials and services to one of the Parties and/or its subcontractors, sub-suppliers etc. of any tier.
- (g) **“Crossing Party”** shall mean [.....].
- (h) **“Crossing Cable”** shall mean the inter-array power cables as defined in the preamble of this agreement
- (i) **“Crossing Point(s)”** shall mean those point(s), the approximate locations of which are defined in accordance with the procedure as laid out in Article 3, and as shown in Appendix B, where the Crossing Cable will cross the Affected Cable.
- (j) **“Day”** shall mean calendar day.
- (k) **“Effective Date”** shall mean the date filled in at top of page 3 being the date from which the Agreement shall be deemed to take effect.
- (l) **“Good Industry Practice”** means a set of criteria within the North Sea hydrocarbons exploration, transportation and production industry relating to the functioning and carrying out of operations in a highly safe, secure, healthy, environmentally friendly and efficient way, and furthermore in accordance with the rules and regulations of the ICPC (the International Cable Protection Committee).
- (m) **“Gross Negligence or Wilful Misconduct”** means in relation to any of the Parties, the conscious or reckless disregard of Good Industry Practice or of the provisions of this Agreement by any of the officers or directors of that Party, its Affiliates, Contractors or

Subcontractors;

- (n) **“Installation Work”** shall mean all work performed for and during the installation of the crossing structures at the Crossing Point and the associated operations within the Laying Area and excludes work performed in preparation of or following the completion of such installation;
- (o) **“Installation Work Documents”** Are the documents is defined in Article 4.3 of this Agreement;
- (p) **“Laying Area”** shall mean the area defined by a corridor of 500 metres to each side of the Affected Cable, with a length of 500 metres from the Crossing Point(s) in both directions of the Affected Cable, and as shown in Appendix B.
- (q) **“Laying Corridor”** shall mean the area adjacent to the proposed route for the new part of the Crossing Cable which is to be laid hereunder. Such area shall be confined to a corridor of 25 metres on each side of the proposed route.
- (r) **“Laying Operation”** shall mean all work related to the laying and installation of the Crossing Cable within the Laying Area, deemed to be complete when the Affected Party has approved the As-built Documentation as referred to in Section 4.3.
- (s) **“As-built Documentation”** shall mean the reports of the as-laid results, reports and results of the as-built situation from the protective measures on the crossing and associated surveys in the Laying Area which shall be prepared by the Crossing Party when the Crossing Cable has been laid and installed in the Laying Area. The term shall include any required update of the as-laid results and associated surveys required as a result of the need for repair work revealed in such initial as-laid results and associated surveys.
- (t) **“Party”** shall mean either the Crossing Party or the Affected Party.
- (u) **“Parties”** shall mean the Crossing Party and the Affected Party.
- (v) **“Regular Cable Inspection”** shall mean any inspection of the Affected Cable, including, but not limited to, outside visual inspection by remotely operated vehicle or divers, or inside the cable inspection by intelligent testing methods, but excluding inspections due to any extraordinary occurrences, required by the Affected Party following the approval of the As-built Documentation to determine that no damage has been caused to the Affected Cable as a result of the Laying Operation.
- (w) **“Representative”** shall mean the respective contact person(s) with at least 5 years practical working experience in offshore installation operations nominated by the Affected Party and/or the Crossing Party for the purposes of this Agreement the person who is observing the Laying Operation on board.

(x) **“Subcontractor”** and **“Subcontractors”** shall mean a supplier(s) of materials and/or services to a Contractor(s), its Affiliates, Contractors, Subcontractors and agents of any tier.

(y) **“Survey”** shall mean the survey to be carried out by the Crossing Party in order to investigate the possible route and Crossing Point(s) for the Crossing Cable, as described in Article 3.2.

Where the sense requires words denoting the singular only, the plural shall also be included and vice versa. References to persons shall include firms and companies and vice versa.

2. CONTRACT DOCUMENTS AND INTERPRETATION

2.1 The Agreement consists of these conditions of contract and the following Appendices:

- Appendix A: Scope of work and crossing principles
- Appendix B: Planned Crossing Cable route and Crossing Point(s)
- Appendix C: Pre-lay Survey results
- Appendix D: Requirements for crossing the Affected Cable
- Appendix E: Contact details of Parties representatives

2.2 The Appendices to this Agreement form part of the Agreement and any section which contains a reference to an Appendix shall be read as if the Appendix were set out at length in the body of the Agreement itself.

2.3 In the event of any conflict between the provisions of the Agreement documents listed in Section 2.1, they shall apply in the following order of priority:

- a) these Conditions of Contract
- b) all Appendices in the order they are listed in Section 2.1

2.4 The article headings in this Agreement are inserted for convenience only and shall not be used for purposes of construction or interpretation.

3. THE PARTIES' OBLIGATIONS PRIOR TO THE LAYING OF THE CROSSING CABLE

3.1 The Affected Party shall provide the Crossing Party with the as-built route (the route positioning list, depth of burial and the latest survey report) of the relevant parts of the Affected Cable.

The Affected Party shall bear all costs (limited to 10,000 EUR) it incurs in providing data and information to the Crossing Party and reviewing, commenting upon and/or approving data and information received from the Crossing Party pursuant to this section or any other section under the Agreement.

3.2 The Crossing Party shall in order to prepare for future crossing, perform the following Survey activities at the Crossing Party's sole cost:

- a) Survey showing the seabed conditions in the Laying Area
(Ref Appendix C)
- b) Prelay survey of the planned Crossing Point.
(Ref Appendix C)

The Crossing Party shall give at least 14 Days' notice to the Affected Party of its planned start of any Survey, and follow this notice with a further notice at least 3 Days prior to entering into and / or setting the first anchor in the Laying Area. In the first notice, the Crossing Party will state the expected time frame for the Survey.

- 3.3 The Crossing Party shall design the cable crossings and develop the anchor patterns, laying methods and procedures related to the installation of the crossing, all in accordance with Good Industry Practice and in compliance with all applicable laws and regulations and provide the Affected Party with detailed information about the design of the cable crossing, anchor patterns, laying methods and procedures at least 60 Days prior to the planned start of the Laying Operation. As minimum requirements reference is made to Appendix D. The planned installation schedule to be indicated in Appendix A.

The Crossing Party shall submit such design, anchor patterns, laying methods and procedures for the comment and approval of the Affected Party. Such approval shall not be unreasonably withheld. The Affected Party shall either approve or offer any comments it may have in writing no later than 21 Days following the receipt of the information provided by the Crossing Party pursuant to this Section 3.3. In granting its written approval the Affected Party shall be under no duty whatsoever to ensure the accuracy, correctness or completeness of the design, anchor patterns, laying methods or procedures, except for a duty not to engage in Gross Negligence or Wilful Misconduct.

The Crossing Party shall obtain all approvals from relevant authorities required for the installation of the Crossing Cable in the Laying Area and shall, if requested by the Affected Party, confirm in writing to the Affected Party that such approvals have been obtained prior to commencement of the Laying Operation. The Crossing Party shall indemnify and hold harmless the Affected Party, its contractors, subcontractors and agents from and against all claims, costs, expenses, actions and liabilities arising out of or in any way connected with any failure to obtain such approvals or to comply with any condition related thereto.

- 3.4 The Crossing Party will take all reasonable measures available to it to give at least 30 Days' notice to the Affected Party of its intention to commence the Laying Operation and follow this with a further notice 7 Days before commencement and thereafter provide daily reports of progress with relevant information.

- 3.5 *[Stipulations with regard to working with Risk Assessments between the Parties to be inserted].*

4. SCOPE OF WORK FOR THE CROSSING PARTY IN CONNECTION WITH THE LAYING OPERATION

- 4.1 The Crossing Party's scope of work includes, but is not limited to, necessary preparation work and the laying of the Crossing Cable in the Laying Area. Such work shall be performed in accordance with the procedures agreed by the Parties under Section 3.3 or such revised procedures as may be agreed between the Parties from time to time. Further information about the relevant requirements are described in the Appendix D.
- 4.2 All costs related to the Laying Operation, including the pre- and post Laying Operation surveys shall be borne by the Crossing Party.
- 4.3 The As-built Documentation shall be submitted to the Affected Party for review and approval as soon as possible, but no later than 30 Days after the Crossing Cable has been laid and installed, or any repair work has been completed, in the Laying Area.

The Affected Party shall approve the As-built Documentation within 30 Days after the receipt of such documentation or within 30 Days after any required repair work revealed in such initial As-built Documentation has been completed and documented in an updated As-built Documentation, whichever comes later. The Affected Party shall have the right to reject the As-built Documentation only if it does not reflect what was agreed by the parties in this agreement or as amended in writing from time to time.

5. INDEMNITIES DURING THE LAYING OPERATION

- 5.1 In respect of any work in connection with each Laying Operation:
- a) The Crossing Party shall indemnify and hold the Affected Party, its Affiliates, Contractors, Subcontractors and agents of any tier harmless from and against any liability in respect of death of, or personal injury to, any person in the employment of the Crossing Party and/or its Contractors and/or Subcontractors, and/or agents and for any loss relating to the loss of, the destruction of, or damage to, the property of the Crossing Party and/or its Contractors and their Subcontractors, and/or agents and/or the employees of the foregoing parties.
 - b) The Crossing Party shall indemnify and hold the Affected Party, its Affiliates, Contractors, Subcontractors and agents of any tier harmless from and against any liability to any third party for personal injuries or death of persons or damage to or destruction of property or loss, arising from acts or omissions caused by any acts or omissions of the Crossing Party, its Contractors and/or Subcontractors and/or agents and/or the directors of the foregoing parties.

No indemnifications given under this clause, or elsewhere in the Agreement, shall apply in case of Gross Negligence and/or Wilful Misconduct of the other Party, its Contractors, Subcontractors, agents and/or directors.

6. LIABILITIES DURING THE LAYING OPERATION

6.1 During the Laying Operation the Crossing Party shall be liable for and indemnify the Affected Party for any loss (which shall include consequential loss, loss of profit and claims under the statutory compensation scheme of article 16 f of the Electricity Act 1998 (Elektriciteitswet 1998), damage or expense resulting from damage to the Affected Cable within the Laying Area caused by any acts or omissions in relation to the Laying Operation, howsoever caused by the Crossing Party, its Contractors, Subcontractors and/or agents of any tier.

In case of damage to the Affected Cable, the Crossing Party shall give priority to the Affected Party's repair of the Affected Cable over the repair and the Laying Operation of the Crossing Cable even if there is a dispute regarding the liability for the damage, to the extent that such priority is required by the Affected Party. The Affected Party can require assistance from the Crossing Party, and the Crossing Party shall use its best endeavours to provide such assistance to the Affected Party during its repair operation on the Affected Cable, to the extent that the Crossing Party's ship, craft or other equipment is suitable therefore.

6.2 If the As-built Documentation reveals that the Affected Cable, which shall include the protective arrangements at the Crossing Points, has been damaged within the Laying Area, the Affected Party shall promptly inform the Crossing Party thereof. For such damage Section 6.1 shall apply.

If, after the As-built Documentation has been approved by the Affected Party, physical damage is discovered to the Affected Cable, which shall include the protective arrangements at the Crossing Points, within the Laying Area any damage to the Affected Cable within the Laying Area shall during the Laying Operation and for a period of six (6) months following completion of the Laying Operation be presumed to have been caused by the Installation Work, unless the Crossing Party can demonstrate otherwise and Section 6.1 shall apply.

The Crossing Party shall be relieved from its liabilities and the Affected Party shall have no further claims under this Section 6.2 when either:

- a) the Affected Party upon completion of its Regular Cable Inspection has confirmed that no damage has been caused to the Affected Cable by the Crossing Party during the Laying Operation; or

- b) if the Regular Cable Inspection mentioned in Section 6.2 a) above indicates that damage has been caused to the Affected Cable by the Crossing Party during the Laying Operations, as soon as such damage has been repaired; such repair not to be unreasonably delayed.
- c) either the final cable inspection under full commissioning circumstances has proven that no damage has been caused to the Affected Cable by the Crossing Party during the Laying Operations.

The Regular Cable Inspection under this Section shall not take place prior to the approval of the As-built Documentation, and no later than 24 months after the approval of the As-built Documentation. The final cable inspection mentioned in section 6.2 c) will take place no later than 12 months after commissioning of the last 66 kV cable connected to the platform.

- 6.3 Notwithstanding the release from liabilities according to Article 6.2, the Affected Party may submit a further claim if damage is proven by own detections by Affected Party during normal operations of the Affected Cable, by means of, though not limited to, AIS based monitoring, current measurements or Distributed Temperature Sensor measurements. The Affected Party shall promptly inform the Crossing Party thereof. For such damage Section 6.1 shall apply.
- 6.4 The Affected Party makes, with the exception of any proof of functionality given to the Crossing Party, as mentioned in Section 3.5, no warranties to ensure the accuracy or completeness of any information which the Affected Party may have made or may make available in good faith to the Crossing Party in connection with the subject matter of this Agreement for the purpose of assisting the Crossing Party in carrying out the Laying Operation. The Affected Party shall not be liable to the Crossing Party for any loss, damage or expense which the Crossing Party may suffer or incur as a consequence of any use which the Crossing Party may make of such information, unless such loss, damage or expense was occasioned by Gross Negligence or Wilful Misconduct of the Crossing Party, its Affiliates, Contractors, Subcontractors and agents of any tier.
- 6.5 The total liability for the Crossing Party to the Affected Party according to Sections 6.1 and 6.2 shall not exceed EUR 25 million (in words: twenty five million euro) per occurrence and with an annual aggregate of EUR 50 million (in words: fifty million euro). No maximum liability as described under this clause, or elsewhere in the Agreement, shall apply in case of Gross Negligence and/or Wilful Misconduct.

7. LIABILITIES AND INDEMNITIES AFTER THE LAYING OPERATION

- 7.1 Either Party may perform at their own expenses such maintenance or repair work, including any operation whereby any ground penetrating activities, such as but not limited to any anchor handling, ploughing, grapnel operations, trenching, dredging and geotechnical soil

investigations, within the Laying Area, to their own cable as may be required at any future date to secure the continuous operation of their own cable. Whenever such work is proposed on the cable within the Laying Area, the Party intending to carry out the work shall give written notification to the other Party at the earliest possible date, if possible at least 30 Days before the work will take place. In cases where urgent work has to be carried out within the Laying Area, shorter verbal notification followed immediately by written confirmation, may be given.

- 7.2 Neither Party shall operate ground penetrating activities as meant in Section 7.1, and the like within the Laying Area without the prior written consent of the other Party which shall not be unreasonably withheld. However, if due to an emergency there is no time to obtain the approval of the other Party, a Party may operate such equipment that it regards necessary for the protection of life or for the prevention of pollution. Information concerning such event shall be promptly notified in writing to the other Party.
- 7.3 The Crossing Party shall indemnify and hold the Affected Party, its Contractors and Subcontractors and their employees and/or agents of any tier, harmless from and against any loss, damage and/or expense arising out of any claim in respect of:
- a) injuries to or death of employees of the Crossing Party, its Affiliates, Contractors, Subcontractors and/or agents of any tier and/or;
 - b) loss of or damage to the property of the Crossing Party, its Affiliates, Contractors, Subcontractors and agents of any tier; and/or
 - c) all consequential losses, which include but are not limited to loss of profit, to the Crossing Party, its Affiliates, Contractors, Subcontractors and/or agents of any tier, including consequential loss, loss of profit and claims under the statutory compensation scheme of Article 16f of the Electricity Act 1998 (Elektriciteitswet 1998), to be calculated in accordance with the regulations for the statutory compensation scheme that are based on Article 16f of the Dutch Electricity Act;
 - d) arising out of the Crossing Parties', its Affiliates', Contractor's, Subcontractor's and/or agents of any tiers' performances under this Clause 7 or otherwise caused by the Crossing Party, its Affiliates, Contractors, Subcontractors and/or agents of any tier (including the mere presence of the Crossing Cable); except when such claim is a result of Gross Negligence or Wilful Misconduct of the Affected Party, its Affiliates, Contractors, Subcontractors and/or agents of any tier .
- 7.4 The Affected Party shall indemnify and hold the Crossing Party, its Affiliates, Contractors, Subcontractors and/or agents of any tier, harmless from and against any loss, damage and/or expense arising out of any claim in respect of:

- a) injuries to or death of employees of the Affected Party, its Affiliates, Contractors, Subcontractors and/or agents of any tier; and/or;
- b) loss of or damage to the property of the Affected Party, its Affiliates, Contractors, Subcontractors and/or agents of any tier; and/or
- c) all consequential losses, which include but are not limited to loss of profit, to the Affected Party, its Affiliates, Contractors, Subcontractors and/or agents of any tier,

arising out of the Affected Parties' performance under this Section 7 or otherwise caused by the Affected Party, its Contractors, Subcontractors and/or agents of any tier (including the mere presence of the Affected Cable), except when such claim is a result of Gross Negligence or Wilful Misconduct of the Crossing Party, its Affiliates, Contractors, Subcontractors and/or agents of any tier.

7.5 The Parties shall defend, indemnify and hold each other harmless from and against any loss, damage or expense arising out of any claim or injuries to or death of or damage to property or loss of income of third parties arising in connection with the performance of work covered in this Clause 7 or otherwise caused by the respective Parties, their Affiliates, Contractors, Subcontractors and/or agents of any tier.

7.6 Notwithstanding anything of the above, the total liability, whether arising from an indemnification and/or as described in this clause 7, inclusive of any repair works, shall not exceed EUR 25 million (in words: twenty-five million euro) per occurrence with an total annual aggregate of EUR 50 million (in words: fifty million euro). No maximum liability as described under this clause, or elsewhere in the Agreement, shall apply in case of fraud, intent, Gross Negligence and/or Wilful Misconduct of the other Party, it's Affiliates, Contractors and Subcontractors of any tier, their employees and agents, 's employees.

8. INSURANCE

8.1 Each of the Parties hereto shall insure their respective liabilities hereunder (or have equivalent coverage) and shall cause their respective contractors and subcontractors to procure, for all work undertaken by them, and maintain with respect to and for the duration of this Agreement, insurance policies to cover their respective liabilities hereunder. All such policies shall provide for a waiver of all rights of recovery or subrogation against the Crossing Party and the Affected Party respectively (including the respective Parties' Affiliates, Contractors and Subcontractors of any tier, their employees and agents. All premiums as well as deductibles shall be for the account of the respective Party subscribing the insurance. Each of the Parties may require that the other Party forward documentation proving that they have insured their respective liabilities hereunder, or have equivalent coverage, in accordance with the requirements of this Agreement.

- 8.2 The insurance is to be maintained with a reputable market insurer with a minimum financial rating of Standard and Poor's A- (or similar such similar rating as agreed by both Parties).
- 8.3 All rights of the Parties arising from this Article 8 or any other provisions of this Agreement which by their nature also benefit the Crossing Party's cable contractor(s) performing the Installation Work, or both Parties' Contractors performing any repair works and/or – ultimately – the removal of the Cables, shall also be vested in the that respective Party's Contractor(s) by way of an irrevocable third-party clause as referred to in article 6:253 of the Dutch Civil Code. The respective Party's Contractor can accept this third-party clause at a suitable time.

9. REPRESENTATIVES

- 9.1 Within 14 Days of signing of the Agreement, each of the Parties shall appoint a Representative with authority to act on its behalf in all matters concerning the Agreement. Each Party may, by giving 7 Days' notice to the other Party, substitute its own Representative.
- 9.2 The Affected Party's Representative shall (except with the prior consent of the Crossing Party Representative or in the case of an emergency) consult only with the Crossing Party's Representative, and not with the Crossing Party's Contractors or Subcontractors and/or agents of any tier. All directions, requests or communications to Crossing Party's Contractors or Subcontractors in connection with the execution of the Laying Operation shall (except in the case of an emergency) be made or given by the Crossing Party's Representative and not the Affected Party's Representative.
- 9.3 Each Party shall facilitate the presence of an Company's Representative nominated by the other Party to observe all work on the former Party's cable within the Laying Area. The latter Party shall provide detailed daily progress reports to the other Party.

Each Party shall provide (or procure the provision of) transport of any Representative of the other Party to and from its onshore operations base (and to and from each vessel on or from which the work is carried out by the other Party) and shall provide any Representative of the other Party with accommodation of a standard not less than that given to officers on board, full victualling whilst on board, access to the normal communications facilities as required in connection with its task and access to any non-confidential operational meetings.

Whenever a Party is intending to perform work in the Laying Area a written notice of at least 7 Days shall be given to the other Party that its Representative can witness the Installation Work on board of the relevant ship or craft performing work in the Laying Area. In connection with urgent maintenance work shorter notification may be given as provided in Clause 7.1.

9.4 When under Clause 9.3 a Party has given notice of the intention to nominate a Company's Representative, said representative shall board the ship or craft at such time and place as the other Party specifies.

Charges for offshore travel and accommodation as meant in Section 9.3 shall be paid by the Party doing the work.

9.5 The Laying Operation shall not be delayed due to the failure of a Representative to board any ship or craft. A Representative's only function shall be to observe the other Party's work in connection with the Agreement, in order for the Representative's Party to be able to safeguard its interests in relation to the Laying Operation. A Representative shall in no way interfere with the processes and work of the Crossing Party.

9.6 Each Party shall be fully liable for any Representative it shall place on the other Party's ship or craft during performance of the work under this Agreement, and shall hold such other Party harmless from any claim by or of the Representative or heirs, and/or successors from injury or loss of life, except where such injury or loss of life is caused by Gross Negligence or Wilful Misconduct of the other Party, its Contractors, Subcontractors, and/or agents of any tier.

9.7 The presence of a Representative shall not imply the approval of or acquiescence in any Laying Operation or any other work carried out by or on behalf of the Crossing Party or the Affected Party as to relieve the Party carrying out the work of or reduce that Party's obligations and liabilities under the Agreement.

10. INFORMATION

10.1 Each Party shall allow the other Party access to information which is discovered during any surveys carried out within the Laying Area and which such Party should know is relevant to the safe operation of the other Party's cable in the Laying Area.

10.2 If, during activities performed under this Agreement, danger to the Affected Cable or the Crossing Cable is identified by either Party, then the Party having identified the danger shall give immediate notice to the other Party.

10.3 All information and announcements to the public relating to the Affected Cable shall be performed by the Affected Party. All information and announcements to the public relating to the Crossing Cable shall be performed by the Crossing Party.

10.4 Subject to Section 10.3, each of the Parties to this Agreement, including their Contractors, Subcontractors and/or agents, including their employees, undertakes that it will keep confidential and will not disclose and will use only for the purposes of the Agreement any

Confidential Information which it may receive or acquire pursuant to the Agreement.

Under the Agreement Confidential Information shall mean any information, acquired or received by the Parties pursuant to the Agreement, in whatever form, about or concerning the Affected Party or the Crossing Party, their Affiliates and any of their contractors, subcontractors, directors, employees, servants or agents including, but without limitation, business products, methods of manufacture or methods of Laying Operation of any of the aforesaid entities and/or persons but not including any such information which:

- a) is or becomes generally available to the public (other than by reason of a breach of the Agreement);
- b) is known to the receiving or acquiring Party at the time of its receipt or acquisition; or
- c) is subsequently lawfully acquired by the receiving or acquiring Party from a third party on terms that it may be disclosed by the receiving or acquiring Party.

10.5 Notwithstanding the provisions of Section 10.4, either Party may disclose such Confidential Information:

- a) to its Affiliates, to its and its Affiliates' contractors and subcontractors, and to any of their respective directors, employees, servants or agents who need such Confidential Information for the purpose of enabling the Party to perform any of its obligations or exercise any of its rights under the Agreement provided that such aforementioned Affiliates, contractors, subcontractors, directors, employees, servants, agents, or assignees shall have undertaken to keep such Confidential Information confidential and not to disclose it or use it for any other purpose; or
- c) to the extent that such recipient is required to disclose such Confidential Information pursuant to any law or order of any court or order of any governmental or regulatory authority with whose instructions the recipient habitually complies.

11. POLLUTION CONTROL

11.1 Each Party shall exercise all possible diligence to conduct its operations under this Agreement in a manner that will prevent pollution and they shall comply with all applicable laws, rules, ordinances, regulations, licences or contract provisions regarding pollution. No trash, waste oil or other pollutants shall be discharged or allowed to escape into the sea by any Party doing work on its cable. Each Party shall take all necessary measures to instruct its personnel, contractors, subcontractors and agents in pollution control and shall at its own expense clean up any pollution caused by it or them in the course of operations under this Agreement.

- 11.2 The Party doing work on its cable shall be liable for all pollution caused by it, its Contractors, subcontractors and agents during the execution of any work hereunder, and shall indemnify and hold the other Party harmless from any liability in respect of such pollution, except where such pollution is caused by Gross Negligence or Wilful Misconduct of the other Party's, its Affiliates, Contractors, Subcontractors of any tier. For the avoidance of doubt, Clauses 7.3 c) and 7.4.c) are fully applicable to this provision.

12. ASSIGNMENT

- 12.1 The Crossing Party and the Affected Party and each of the companies participating in a Party may assign its rights and obligations under this Agreement in whole or in part, without the prior written consent of the other Party, provided that:
- a) the assignee has entered into an agreement to purchase a share in the Crossing Party or the Affected Party respectively;
 - b) the assignee of the rights and obligations is qualified with respect to financial strength; and
 - c) the instruments of assignment include provisions stating that the assignee is bound by the terms of the Agreement.
- 12.2 No change in ownership as to the Affected Cable or the Crossing Cable shall be effective for the purpose of the Agreement until after written notice of such change has been given to the other Party or their successors or assignees.

13. NOTICE AND COMMUNICATIONS

- 13.1 Except where otherwise specifically provided in the Agreement, any approvals, claims, notices or other information to be given in accordance with the Agreement, shall be in writing in English and shall be submitted to the relevant Party's representative under Section 3, to such address as given in Appendix E or by later written notice to the other Party. A duly signed letter in PDF, attached to an e-mail, will be deemed as a notice in writing.

14. NON-WAIVER OF DEFAULT

- 14.1 Any failure by either Party to enforce the strict terms of the Agreement or to exercise any rights hereunder shall not constitute a waiver of such terms or rights and shall not affect the right of the Party to enforce or exercise such terms or rights.
- 14.2 Any waiver of any term or right under the Agreement shall not constitute a precedent, nor bind the Parties to a waiver thereafter of the same or any other term or right.

15. AMENDMENTS

15.1 Any amendments to the Agreement shall be in writing and agreed by the Parties.

16. GOVERNING LAW AND DISPUTES

16.1 The Agreement or any disputes or conflicts arising out of the Agreement, shall be governed by Dutch law.

16.2 All disputes arising out of or in connection with the Agreement or concerning its validity shall be referred to the court of Rotterdam.

16.3 The Parties agree to the importance of keeping disputes under the Agreement confidential, and hence any arbitration proceedings and awards in disputes under the Agreement shall not be available to the public. The Parties furthermore agree that they shall keep all arbitration proceedings and awards under the Agreement confidential and that they for any such arbitration proceeding(s) shall enter into agreement to this effect.

17. TERM OF AGREEMENT AND DECOMMISSIONING

17.1 The Agreement shall be effective as from the Effective Date and shall remain in force until the end of a 12 month period following either the decommissioning of the Crossing Cable or the Affected Cable, whichever event occurring first.

17.2 Each of the Parties shall give written notice to the other Party at least 12 months prior to the start of the decommissioning of its cable. The Parties will endeavour to enter into a separate agreement concerning the procedures to be followed for abandonment or removal of any of the cables upon the request of either Party.

18. SIGNATURES

The Agreement is issued in two original copies of which each Party retains one copy.

* * *

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TenneT TSO B.V.

Signature: _____
Name:
Title:
Date:

Signature: _____
Name:
Title:
Date:

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APPENDIX A

Scope of work and crossing principles

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APPENDIX B

Planned Crossing Cable route and Crossing Point(s)

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APPENDIX C

Pre-lay Survey results

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APPENDIX D

Requirements for crossing the Affected Cable

General requirements:

The Crossing Party shall design the crossing taking into account ICPC recommendations no. 02 (Recommended Routing and Reporting Criteria for Cables in Proximity to Others), no. 03 (Criteria to be Applied to Proposed Crossings of Submarine Cables and/or Pipelines) and no. 04 (Recommended Co-ordination Procedures for Repair Operations near Active Cable Systems).

Specific requirements:

- a) The Affected Cable is assumed to be buried at the Crossing Point(s).
- b) The burial depth of the Affected Cable at the Crossing Point(s) is known but survey tolerances have to be taken into account.
- c) The Crossing Party shall verify the location and depth of the Affected Cable over a length of at least 200m along the Affected Cable, covering at least 100m either side of the Crossing Point(s). The measuring method and schedule to be approved by Affected Party.
- d) At all times there shall be a minimum vertical separation of 1.0 metres between the Affected Cable and the Crossing Cable.
- e) Insurance shall be given from the Crossing Party that the minimum separation is maintained through the entire lifetime of the Affected Cable and the Crossing Cable. The method and schedule to establish and ensure the minimum separation is to be submitted to the Affected Party for review and comments.
- f) No ground penetrating activities, such as but not limited to any anchor handling, ploughing, grapnel operations, trenching, dredging and geotechnical soil investigations, that may compromise the integrity of the Affected Cable shall be operated within the Laying Area during installation and future maintenance without written consent of the Affected Party.
- g) When crossing the Affected Cable the Laying Contractor of the Crossing Party shall have its trenching equipment on deck and not suspended in the water column.
- h) Future repairs or maintenance activities within the Laying Area shall be subjected to special safety requirements in planning such an operation. Any operation within the Laying Area requires approval of the Affected Party regarding method and equipment to be used. As a minimum, a Risk and Vulnerability Study shall be conducted prior to approval of any such operation. Parties shall participate in execution of the Risk and Vulnerability Study.
- i) The Affected Party shall have the right to perform inspection and survey activities which are required for the operation and maintenance and regular and periodical inspections and survey activities to fulfil permit obligations for the Affected Cable along the Affected Cable without any prior approval from or notification to the Crossing Party.
- j) All charts, co-ordinates and reports shall be presented by the Crossing Party relative to the geographic reference system ETRS89 UTM31.
- k) A proposal for crossing design according to above guidelines and installation method based on verification of location and depth of the Affected Cable shall be presented for Affected Party's approval not later than 2 months prior to execution of the work.

- l) The Affected Cable shall be crossed by the Crossing Cable at a crossing angle as close to 90° angle as practically possible. The definitive crossing angle is to be agreed upon with the Affected Party.
- m) The Crossing Cable shall not influence or reduce the transmission capacity of the Affected Cable.
- n) The Crossing Party shall provide, for the Affected Party to assess, a scientific report determining:
 - the thermal influence of the Crossing Cable in relation to the Affected Cable, taking into account seabed mobility over the lifetime of the cables;
 - the electromagnetic influence of the Crossing Cable in relation to the Affected Cable. This influence shall not exceed the limit agreed in NEN3654;
- o) Voltage level and technical design of the Affected Cable are available upon request.

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APPENDIX E

Contact details for the Parties representatives

All notices and other communications relating to this Agreement shall be in writing and shall be delivered as follows:

If to the Crossing Party:

Contact Person:

Address:

Telephone:

Fax:

and copied to:

Address:

Telephone:

Fax:

If to the Affected Party (Marine Operation Centre TenneT (TBD)):

Contact Person:

Address:

Telephone:

Fax:

and copied to:

Address:

Telephone:

Fax:

or to such addressees as the parties may from time to time notify pursuant to this Clause.