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## **Realisation Agreement**

**for a connection at:**

**[Name of offshore platform]**

**for the wind farm:**

[Name of wind farm]

Realisation Agreement made by and between:

**TenneT TSO B.V.**

and

[ ]

Dated: [ ]

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# Realisation Agreement

## The undersigned:

1. TenneT TSO B.V., having its registered office and place of business at Utrechtseweg 310, Arnhem, the Netherlands ("TenneT"),  
  
and
2. [ ], having its registered office at [ ] and place of business at [ ], [ ] ("Connected Party"),  
  
the parties to this Agreement are hereinafter referred to jointly as the "Parties" and each as a "Party".

## Whereas:

- A TenneT is the TSO for electricity in the Netherlands as well as the TSO for the Offshore Transmission System;
- B the Connected Party develops the Installation and has requested to connect the Installation to the Offshore Transmission System for the purpose of transmitting the electricity generated or consumed by the Connected Party;
- C The Parties wish to set down in this Realisation Agreement the terms and conditions governing the realisation of the Connection;
- D The Parties will also enter into a Connection and Transmission Agreement for the period after the Connection has been delivered. From the day after the Connection has been delivered that Connection and Transmission Agreement will govern the legal relationship between the Parties with respect to the Connection.

**The Parties hereby agree as set forth below:**

## **1. Definitions and interpretation**

- 1.1 In this Realisation Agreement, capitalised words have the meanings assigned to them in Article 1 of the TenneT General Terms and Conditions for Connection and Transmission of Offshore Electricity 2015, including Realisation Conditions (further referred to as: "General Terms and Conditions").
- 1.2 Headings have been inserted for convenience of reference only and do not affect the interpretation of any provision of this Realisation Agreement.

## **2. Purpose of this Realisation Agreement**

TenneT and the Connected Party enter into this Realisation Agreement for the purpose of regulating their relationship with respect to the realisation of the Connection.

## **3. Realisation of the Connection**

- 3.1 TenneT shall realise the Connection in accordance with (i) the Scenario, (ii) the Basic Design (iii) the technical terms, conditions and requirements stated in Annex 2 (Description and technical specifications of the Connection, including drawings) and Annex 3 (Technical terms and conditions for the Platform) and (iv) any other requirements set out in this Realisation Agreement, European or Dutch legislation, the European Codes or the Codes.
- 3.2 TenneT shall realise the Connection (as referred to in Article 4.1) on or before the date set in the Scenario [**Drafting note (to be deleted in the final version):** projected date is 31 August 2019]. Any consequences of delay or unavailability of the Connection or the Offshore Transmission System will be solely governed by section 5.27 of the Act and no provision of this Realisation Agreement will reduce or extend the Connected Party's rights for compensation under the Act or give rise to contractual or other liability of TenneT in relation to delay or unavailability of the Connection or the Offshore Transmission System.
- 3.3 TenneT shall designate on the Platform a room, which will be reserved for the Connected Party and the equipment it wants to install (in accordance with Annex 2 (Description and technical specifications of the Connection, including drawings) and Annex 3 (Technical terms and conditions for the Platform)) and provide for a reasonable timeframe in which the Connected Party may install equipment on the Platform when it is under construction onshore as well as a reasonable timeframe in which the Connected Party may install equipment in the Onshore Substation.

- 3.4 After the Connection has been realised in accordance with this Realisation Agreement, the Connected Party will use the Connection for feeding electricity into and receiving electricity from the Offshore Transmission System.
- 3.5 The Connected Party shall comply with the requirements applicable to the Installation as set forth in Annex 4 (Technical requirements applicable for the connection of Offshore Power Park Modules) and any other requirements set out in this Realisation Agreement, the Scenario, European or Dutch legislation, the European Codes or the Codes.
- 3.6 TenneT shall install the primary part of the Metering Device at its own cost.
- 3.7 The details of the Connected Party are set forth in Annex 1 (Details of Connected Party and TenneT).
- 3.8 The Connected Party shall connect [insert number; no less than four, no more than eight] 66 kV cables to the Connection.
- 3.9 The Connected Party is entitled to connect 66 kV or other cables to the Platform or Connection or perform activities outside of the designated room for the Connected Party on the Platform after it has received written permission from TenneT, which permission will not be unreasonably withheld. A request for such permission must be filed eight (8) weeks before the date on which the connection or other activities take place. The Connected Party must notify any changes in the planned connection or activities to TenneT four (4) weeks before the date on which the connection or other activities take place. In case the Connected Party requests a later date in such notification, TenneT will use reasonable efforts to accommodate the revised date for connecting or performing the other activities.
- 3.10 For entering the Platform or for carrying out the works on or to the Platform (including the connection of cables to the Platform or to the Installation), the Connected Party must comply with the requirements set forth in Annex 5 (Operational arrangements and exchange of information).

#### 4. Delivery of the Connection

- 4.1 The delivery of the Connection will be held to be completed when an independent expert appointed by TenneT confirms that the Connection meets the delivery requirements set in the Scenario and TenneT has sent a notification thereof, together with a non-confidential version of the independent expert's report, to the Connected Party [**Drafting note (to be deleted in the final version):** the draft Scenario indicates this means: (i) ready for commissioning and testing of the Installation, (ii) capability to transport full power and (iii) two-way communication].

- 4.2 TenneT will notify the Connected Party at least one month in advance of the date of delivery of the Connection. If the independent expert denies the confirmation referred to in Article 4.1 or if it turns out that the delivery of the Connection cannot take place on the date notified to the Connected Party, TenneT will notify an adjusted date to the Connected Party at least one month in advance of that new date of delivery.
- 4.3 The delivery of the Connection, in accordance with Article 4.1, does not reduce or extend any rights the Connected Party may have to require remedy of any defects or to hold TenneT liable. TenneT's obligations to remedy defects and any liability vis-à-vis the Connected Party are determined on the basis of the General Terms and Conditions and this Realisation Agreement.
- 4.4 The Connected Party may not use any part of the Connection for transmission of electricity via the Offshore Transmission System before:
- (a) the Connected Party has concluded a Connection and Transmission Agreement with TenneT; and
  - (b) all conditions precedent required under the Connection and Transmission Agreement for using the Connection (for transmission of electricity via the Offshore Transmission System), to the extent relevant for the intended use, have been fulfilled by the Connected Party.

## **5. Tariffs, fees, costs and payment**

- 5.1 The Connected Party shall fully reimburse TenneT for the costs related to the access referred to in Article 6.9.
- 5.2 TenneT will only charge tariffs, fees or costs (including the costs referred to in Article 5.1) if these tariffs, fees or costs, or the method to determine such fees or costs, are regulated in any Tariff Decision or can be subject to ex post review by ACM in accordance with the Act.
- 5.3 TenneT shall invoice any tariffs, fees and costs referred to in Article 5.2 to the Connected Party in accordance with Article 6 of the General Terms and Conditions.

## **6. Information exchange, planning, access and operational matters**

- 6.1 The Parties will, based on the respective planning of TenneT and the Connected Party, as soon practicable jointly prepare a combined planning for information purposes. The planning will include the following milestones:
- (a) the date (or dates) on which TenneT or its contractor has obtained the permits to realise the Connection;

- (b) the period in which the Connected Party may install equipment on the Platform when it is under construction onshore;
- (c) the period in which the Connected Party may install equipment in the Onshore Substation;
- (d) the date on which the Onshore Substation is ready;
- (e) the date on which TenneT's export cables are ready;
- (f) the date as from which the Connected Party's 66 kV cables may be hung to the Platform when it is under construction offshore;
- (g) the date on which the Platform is ready for cable pull in;
- (h) the date of the physical connection of each respective 66 kV cable from the Installation to the Connection;
- (i) the delivery of the Connection in accordance with Article 4.1;
- (j) EON, leading to energisation of the first 66 kV cable, windfarm grid and auxiliaries;
- (k) ION (ION1 and ION2);
- (l) FON,

or such other milestones as the Parties agree are necessary.

6.2 For the duration of this Realisation Agreement:

- (a) TenneT shall keep the Connected Party informed of the progress of the realisation of the Connection, and
- (b) the Connected Party shall keep TenneT informed of the progress of the realisation of the Installation,

by means of quarterly reports or with such other frequency as the Parties may agree on from time to time. The Parties will jointly update the combined planning referred to in Article 6.1 accordingly.

6.3 Based on the combined planning referred to in Articles 6.1 and 6.2, the Parties may agree on binding milestones, including any liability or other consequences if the Party concerned does not meet a binding milestone. The preceding sentence will not apply to the Scenario date, to which Article 4.1 applies.

6.4 TenneT will set up a project working group in which TenneT, the Connected Party and any other party who will be granted a connection at the Platform will participate and which will convene regularly to discuss operational matters and planning. The Parties and the other party who will be granted a connection at the Platform will jointly prepare written rules governing the proceedings within the project working group, including the protection of confidential information and compliance with competition law. Each Party and any other party who will be granted a connection at the Platform may invite (sub)contractors to attend project working group

meetings.

- 6.5 The Connected Party and TenneT shall retain records and supporting documentation (including minutes of meeting) in order to document the realisation of the Installation and the Connection, respectively, for the duration of this Realisation Agreement and the Connection and Transmission Agreement and two years thereafter. Each Party shall provide the other Party with copies of any such records and underlying documentation upon request and to the extent necessary for the realisation or operation of the Installation or the Connection, respectively and any disputes related thereto or additionally, in the case of TenneT, for executing its statutory duties as a TSO.
- 6.6 At the request of the Connected Party, TenneT shall provide the Connected Party with information it possesses which is necessary for the Connected Party to comply with the SDE+-Subsidy and Wind Farm Permit or to apply for compensation under section 5.27 of the Act or to comply with any other regulation or statutory requirements for the use of the Connection or realisation of the Installation.
- 6.7 Each Party shall provide accurate and complete information to the other Party insofar as the accuracy and completeness of such details can be verified by the Party providing the information.
- 6.8 The Connected Party shall ensure that the room on the Platform that is designated for use by the Connected Party is accessible by TenneT at all times for emergency and safety reasons.
- 6.9 Access to the Platform and any other operational matters will be dealt with between the Parties in accordance with Annex 5 (Operational arrangements and exchange of information).

## **7. Insurance**

- 7.1 TenneT shall have third-party liability insurance at its own cost that covers the liability risks in relation to the realisation of the Connection, including works performed by the parties engaged by it to perform these activities. The insurance will have a minimum coverage of EUR 25 million (in words: twenty-five million euro) per incident, with a minimum annual aggregate of EUR 50 million (in words: fifty million euro).
- 7.2 The Connected Party shall have third-party liability insurance including cover for properties of TenneT which are under its care, custody or control at its own cost that covers the liability risks in relation to the activities it carries out in relation to the Installation and the Platform (including connecting cables to the Platform and works carried out on the Platform), including liability of the Connected Party for activities performed by the parties engaged by it. The insurance will have a minimum coverage of EUR 100 million (in words: one hundred million euro) per incident,



- with a minimum annual aggregate of EUR 100 million (in words: one hundred million euro). The insurance will have a minimum sublimit of EUR 5 million (in words: five million euro) per incident for care, custody and control, with a minimum annual aggregate of EUR 10 million (in words: ten million euro).
- 7.3 To the extent required under the applicable law, each Party shall have sufficient cover for workers' compensation and an employer's liability insurance, covering liability for claims, damages, losses and expenses (including legal fees and expenses), arising from injury, sickness, disease or death of any person employed by that Party or persons working on its behalf. The insurance will have a minimum coverage of EUR 2.5 million (in words: two and a half million euro) per incident, with a minimum annual aggregate of EUR 5 million (in words: five million euro).
- 7.4 Each Party shall take out a marine protection and indemnity (P&I) insurance, in respect of any provided marine craft/unit/-vessel or other floating equipment and the like utilised in connection with the performance of their activities near the other Party's properties, including wreck and debris removal and oil pollution liability in respect of all vessels, craft or floating equipment owned, leased or hired by the Party or any of the parties engaged by it to perform activities, including specialist operations. The insurance will have a minimum coverage of USD 50 million (in words: fifty million US dollars) or value of hull, whichever the greater, and should provide full primary cover. In respect of the P&I (insurance), the insurance provider has to be a member of the International Group of P&I Clubs.
- 7.5 Insurances as referred to in this Article 7 may be effected by the contractor of a Party, but the relevant Party shall be responsible for compliance with this Article. Each Party shall ensure that the parties engaged by it take out and maintain insurances on appropriate terms and to appropriate levels as may be relevant to their activities.
- 7.6 For insurances as referred to in this Article 7, the leading insurance company and any of the co-insurers must be rated at least "A" based on Fitch rating scale "Insurer Financial Strength Rating" (IFS-Rating) or on a comparable standard (e.g. Standard and Poors or Moodys) and must have permits to operate in the European Union.

## 8. Applicable technical regulations and compliance testing

- 8.1 Unless explicitly provided otherwise in Annex 3 (Technical terms and conditions for the Platform) or Annex 4 (Technical requirements applicable for the connection of Offshore Power Park Modules), the Codes and RfG apply *mutatis mutandis* to the Connection or the Installation or both, including the realisation thereof. In the event RfG or the Codes are changed but do not apply by operation of law, TenneT will amend Annex 3 (Technical terms and conditions for the Platform) or Annex 4 (Technical requirements applicable for the connection of Offshore Power

Park Modules) accordingly, in accordance with Article 10.2.

- 8.2 Once provisions of European Codes or Codes apply by operation of law to the Connection or the Installation or both, TenneT will amend Annex 3 (Technical terms and conditions for the Platform) or Annex 4 (Technical requirements applicable for the connection of Offshore Power Park Modules), in accordance with Article 10.2, to remove the corresponding provisions of the relevant Annex, save where these Annexes provide additions, specifications or deviations of the provisions in the European Code or Code which are allowed thereunder, in which case such additions, specifications or deviations will be included in the relevant Annex. In case of conflict, Article 12.8 applies.
- 8.3 The procedures for (initiating) commissioning and compliance tests and simulations at the Installation will be set out in the annex to the Connection and Transmission Agreement regarding compliance activities.

## 9. Connected Party's financing documentation

Upon request of the Connected Party, TenneT shall enter into a direct agreement with the Connected Party's lenders as required under the Connected Party's finance documentation for the Installation, to enable the Connected Party('s lenders) to restructure the Connected Party's corporate, financing, business or contractual structure in respect of the Installation. Such direct agreement shall include, from the date of the serving of a restructuring notice for a maximum period of 90 calendar days, the following undertakings:

TenneT:

- (i) will continue to perform its obligations under this Realisation Agreement vis-à-vis the Connected Party in full;
- (ii) shall provide all reasonable assistance to fully effect the restructuring;
- (iii) will allow and provide cooperation (*medewerking*) in relation to the transfer of this Realisation Agreement under section 6:159 DCC to a step-in entity appointed by the Connected Party's lenders, provided that:
  - (a) the step-in entity concludes an agreement with TenneT under the conditions equal to the conditions in this Realisation Agreement;
  - (b) the step-in entity becomes the holder of the SDE+-Subsidy and Wind Farm Permit within two months from the date of the serving of a restructuring notice;
- (iv) shall not:
  - (a) request or enforce the financial security under clause 7 of the General Terms and Conditions;
  - (b) institute any enforcement process (including the exercise of any precautionary or executory seizure (*conservatoir of executoir beslag*));
  - (c) institute creditor's process; and

- (d) exercise any termination right under this Realisation Agreement.

## 10. Amendments to the annexes

- 10.1 Amendments to Annex 1 (Details of Connected Party and TenneT), Annex 2 (Description and technical specifications of the Connection, including drawings), and Annex 5 (Operational arrangements and exchange of information) require written consent of both Parties. A Party shall notify the other Party in writing as soon as possible of any desired amendments.
- 10.2 TenneT may (or if Articles 8.1 or 8.2 apply: shall) unilaterally amend Annex 3 (Technical terms and conditions for the Platform) and Annex 4 (Technical requirements applicable for the connection of Offshore Power Park Modules) further to changes in European or Dutch legislation or the European Codes or the Codes or if the statutory duties as a TSO so require. TenneT shall notify the Connected Party in advance of any such amendments by written notice, which notice will state the date from which the amended annex will take effect.

## 11. Effect and term of this Realisation Agreement

- 11.1 This Realisation Agreement takes effect on the date of signing this Realisation Agreement by the Parties hereto. If the Parties have not signed this Realisation Agreement on the same day, this Realisation Agreement takes effect on the day of the last signature.
- 11.2 This Realisation Agreement remains in force until and including the date on which the delivery of the Connection has been completed in accordance with Article 4.1, without prejudice to Article 4.3.

## 12. General provisions

- 12.1 This Realisation Agreement consists of the provisions set forth in this Realisation Agreement and the Annexes referenced therein. All references to this Realisation Agreement are also references to the Annexes. The General Terms and Conditions are applicable to this Realisation Agreement.
- 12.2 Any general terms and conditions of the Connected Party are not applicable to this Realisation Agreement.
- 12.3 The Agreements contain all arrangements agreed between the Parties concerning the realisation of the Connection, the Connection and the transmission of electricity from and to the Installation. All previous agreements and arrangements made by the Parties in relation to that subject matter are hereby cancelled.

- 12.4 This Realisation Agreement may only be amended by mutual written consent between the Parties, unless provided otherwise in this Realisation Agreement.
- 12.5 In the event of a conflict between:
- (a) the terms of this Realisation Agreement and an Annex, the terms of this Realisation Agreement prevail;
  - (b) the terms of this Realisation Agreement and the General Terms of Conditions, the terms of this Realisation Agreement prevail; and
  - (c) the terms of an Annex and the General Terms of Conditions, the terms of the Annex prevail.
- 12.6 Where this Realisation Agreement refers to provisions of European or Dutch legislation or the European Codes or the Codes, in the event of a conflict:
- a. references to European legislation or European Codes prevail over references to Dutch legislation or the Codes;
  - b. references to European legislation prevail over references to the European Codes; and
  - c. references to Dutch legislation prevail over references to the Dutch Codes.
- in each case unless otherwise provided by law and save for additions, specifications or deviations allowed under the prevailing terms.
- 12.7 If any part of this Realisation Agreement is or becomes void or non-binding, the Parties shall consult with each other and amend this Realisation Agreement wherever necessary. The Parties shall replace the void or non-binding provision(s) by provision(s) that are valid and binding and that have legal effects that, given the content and purport of this Realisation Agreement, correspond with those of the void or non-binding provision(s) to the greatest extent possible. The enforceability of the remainder of this Realisation Agreement shall not be affected.
- 12.8 In the event of a conflict between the provisions of future European or Dutch legislation or the European Codes or the Codes and this Realisation Agreement (including its Annexes), the Parties undertake to amend this Realisation Agreement in reasonable time to ensure this Realisation Agreement will be in line with the European or Dutch legislation or the European Codes or the Codes. If the relevant amended or new provision in the European or Dutch legislation or the European Codes or the Codes is not practicable because it is insufficiently detailed, to implement the relevant amended or new provision TenneT shall propose an amendment to this Realisation Agreement (including the date from which the amendment takes effect) to the Connected Party within three (3) months after the relevant amended or new provision has been adopted, after which the Parties shall discuss the proposal in good faith. The Connected Party shall not withhold its consent to TenneT's proposal on unreasonable grounds.

In case of provisions that are applicable by operation of law but that do not cause a conflict, Article 8.2 applies.

- 12.9 Nothing in this Realisation Agreement shall conflict with the Scenario. In the event of conflict between the Scenario and this Realisation Agreement (including its Annexes), the Scenario shall prevail. TenneT will inform the Connected Party of any changes to the Scenario. In the event of a conflict between the provisions of changes to the Scenario and this Realisation Agreement, Parties undertake to amend this Realisation Agreement in reasonable time to ensure this Realisation Agreement will be in line with the revised Scenario. If the relevant amended or new provision in the Scenario is not practicable because it is insufficiently detailed, to implement the relevant amended or new provision, TenneT shall propose an amendment to this Realisation Agreement (including the date from which the amendment takes effect) to the Connected Party within three (3) months after the relevant amended or new provision has been adopted, after which the Parties shall discuss the proposal in good faith. The Connected Party shall not withhold its consent to TenneT's proposal on unreasonable grounds.

### 13. Notices

- 13.1 Each Party shall notify the other Party and exchange information about operational matters relating to this Realisation Agreement in accordance with Annex 5 (Operational arrangements and exchange of information).
- 13.2 For all other matters relating to this Realisation Agreement, each Party nominates the address referred to below as its place of residence:

TenneT  
Attn. [ ]  
address: [ ]  
postal code, town and country: [ ], the Netherlands  
for the attention of: [ ]  
E-mail: [ ]

Connected Party  
Attn. [ ]  
address: [ ]  
PO box: [ ]  
postal code, town and country: [ ],  
for the attention of: [ ]  
E-mail: [ ]

- 13.3 Notices and other statements with legal effect in connection with Article 13.1 or Article 13.2 of

this Realisation Agreement may only be given by way of a letter sent by regular or other mail, and at the recipient's place of residence, as most recently nominated in the Netherlands in accordance with this Article. Operational notices or statements in connection with Article 13.1 which do not have legal effect may also be given by email. Each statement must be either in the Dutch or English language.

13.4 A Party may nominate a different place of residence in the Netherlands from that referred to in Article 13.2 by notifying the other Party in writing of that new place.

## **14. Costs**

Unless this Realisation Agreement provides otherwise, all costs which a Party has incurred or will incur in preparing, concluding or performing this Realisation Agreement, including any amendments thereof, are for its own account.

**Done accordingly and signed by:**

TenneT TSO B.V.

*Name:*

*Title:*

*Date:*

*Place:*

[Name of Connected Party]

*Name:*

*Title:*

*Date:*

*Place:*

DRAFT

**Annex 1** Details of Connected Party and TenneT

[See separate document]

**Annex 2** Description and technical specifications of the Connection, including drawings

[See separate document]

**Annex 3** Technical terms and conditions for the Platform

[See separate document]

**Annex 4** Technical requirements applicable for the connection of Offshore Power Park Modules

[See separate document]

**Annex 5** Operational arrangements and exchange of information

[See separate document]