

General terms and conditions TOSS

Table of contents

Article 1. Applicability

Article 2. Definitions

Article 3. Quotations / Offers

Article 4. Payments to TOSS

Article 5. Duration and termination of the Partnership Agreement and/or Placement Agreement

Article 6. Termination of the Payroll Agreement

Article 7. Posting of Employee(s)

Article 8. Hirer's Duty of Care

Article 9. Liability

Article 10 Timesheet

Article 11. Remuneration(s)

Article 12. Entering into an employment relationship between Hirer and an Employee

Article 13. Rate

Article 14. Identity verification and processing of personal data

Article 15. Applicable law and disputes

Article 1. Applicability

1.1 These General Terms and Conditions apply to all quotations, offers, order confirmations, (framework) agreements and deliveries of Payroll Services on behalf of:

TOSS in Holland B.V. registered with the Chamber of Commerce under the number 64636755, hereinafter to be referred to as: **TOSS**.

1.2 These general terms and conditions may be amended or supplemented by **TOSS** at any time. The amended general terms and conditions shall then also apply to previously concluded agreements with effect from one month after written notification of the amended terms and conditions.

1.3 Any purchase or other conditions of the **Hirer** shall not apply.

1.4 Agreements that deviate from these general terms and conditions are valid only after written approval by **TOSS** and apply only to the relevant agreement.

1.5 In case of annulment or nullification of one or more provisions of these general terms and conditions, the remaining provisions of these terms and conditions shall remain in force. The provisions that are not legally valid or cannot legally be applied will be replaced by provisions that are as close as possible to the purport of the provisions to be replaced.

1.6 The titles of articles and subheadings in these general terms and conditions have no independent meaning, they do not affect the interpretation of the articles.

1.7 The Terms and Conditions of **TOSS** apply to the Partnership Agreement, as well as to the Placement Agreement(s). Insofar as the Partnership Agreement and/or Placement Agreement and/or Terms and Conditions of **TOSS** conflict with each other, the provisions in the higher ranked document prevail over the provisions in the lower ranked document in the following order:

1. The Placement Agreement;
2. The Partnership Agreement;
3. The Terms and Conditions of **TOSS** .

Article 2. Definitions

In these general terms and conditions, the following definitions shall apply:

2.1 **TOSS** : the company that provides labour to a **Hirer** for the performance of work under the **Hirer's** supervision and management, other than under an employment contract concluded with it.

2.2 **Employee**: the labour force, being a natural person recruited and selected by the **Hirer**, who performs or will perform work in the service of **TOSS** for and under the supervision and management of the **Hirer**. For the sake of readability, where these general terms and conditions refer to **Employees**, this means male and female workers. and where reference is made to him and/or he, this means his/her or him/her.

2.3 **Hirer**: the party to whom the **Employee** - employed by **TOSS** - is assigned to perform work under its direction and supervision in the context of a placement as named under clause 2.6.

2.4 Partnership Agreement: the agreement in relation to Payroll services, between **TOSS** and the **Hirer** which is not concluded in the context of bringing together supply and demand in the labour market but pursuant to which **TOSS**, at the request of the **Hirer**, enters into a Payroll Agreement with an **Employee** who is then made available exclusively to the **Hirer** to perform labour under the latter's management and supervision against payment of the **Hirer Rate**.

2.5 The Hirer Rate: the amount per unit of time owed by the **Hirer** to **TOSS** for the provision of the **Employee**. It includes the cost of labour including wage costs, payroll tax and social security contributions, as well as a margin for the services provided by **TOSS**.

2.6 Placement Agreement: the agreement between **TOSS** and the **Hirer** containing the specific conditions under which an **Employee** is made available to perform work for and under the direction and supervision of the **Hirer**.

2.7 Payroll Agreement: the employment contract between the **Employee** and **TOSS**, under which the **Employee** is made available to the **Hirer** under the Partnership Agreement between **TOSS** and the **Hirer** exclusively for the performance of work for and under the management and supervision of the **Hirer** as referred to in Article 7:692 of the Dutch Civil Code.

2.8 Salary: The agreed gross monthly or hourly salary of the **Employee**.

2.9 Payroll service: the service provided by **TOSS** whereby the **Hirer** outsources to **TOSS** the legal employment of the **Employee(s)** recruited and selected by the **Hirer**. **Employees** recruited and selected by the **Hirer** join **TOSS** under a Payroll Agreement makes them available to the **Hirer**, where they perform work under the direction and supervision of the **Hirer**. **TOSS** pays the salary to the **Employees**.

Article 3. Quotations/Offers

3.1 The **Hirer** guarantees the completeness and accuracy of the information provided by him/her on which the offer is based by **TOSS**.

3.2 All quotations and offers by **TOSS** are entirely without obligation, unless otherwise stated.

3.3 All quotations and offers by **TOSS** are valid for one (1) month, unless otherwise stated.

Article 4. Payments to TOSS

4.1 Payments by the **Hirer** shall be made without application of discount, set-off, deduction or suspension. Unless otherwise agreed in writing, payment shall be made within fourteen (14) days of the date of the invoice by transfer to the account specified by **TOSS**, if so desired in part to the specified G account.

4.2 Only payments to **TOSS** shall be in discharge. Payments made by the **Hirer** to an **Employee**, under any title whatsoever, shall not constitute a payment in discharge vis-à-vis **TOSS**.

4.3 In case of late or incomplete payment by the **Hirer**, the **Hirer** shall be in default without notice of default being necessary. The **Hirer** shall be obliged - without prejudice to its other obligations - from the due date of the invoice until the day of payment in full to reimburse all costs incurred by **TOSS** to collect the claim **TOSS** has against the **Hirer** with a minimum amount of EUR 250.00 per invoice.

All collection costs, including the full costs of legal assistance, both in and out of court, by whomsoever granted, shall be borne in full by the **Hirer**. This fee shall always be charged without further proof and shall be payable by the **Hirer** as soon as legal assistance has been invoked by **TOSS** or the claim has been invoked by **TOSS** and handed over to collection.

4.4 If the **Hirer** defaults on any payment owed by it to **TOSS**, all other claims owed by **TOSS**, shall be immediately due and payable without any other notice of default being required. From the day of due date, the **Hirer** shall owe interest on the amount of such claims to **TOSS** at the rate of 1.7% per month.

4.5 In the event of a late or incomplete payment, the **Hirer** will be reminded in writing (by e-mail).

4.6 Complaints regarding an invoice must be submitted in writing to **TOSS** within seven (7) calendar days of the invoice date. Invoking the right to complain does not suspend the payment obligation.

4.7 **TOSS** has the option to request the **Hirer** in writing to provide an advance payment or adequate financial security by means of a bank guarantee, pledge, surety or otherwise for its financial obligation towards **TOSS**. **TOSS** has the option to do so for existing and future payments. The requested security should be proportional in size to the **Hirer's** relevant obligations.

4.8 Should the requested security not be provided by the **Hirer** within the stipulated period, the **Hirer** shall be in default. **TOSS** is entitled to suspend all obligations or terminate its cooperation with the **Hirer**.

Article 5. Duration and termination of the Partnership Agreement and/or Placement Agreement

5.1 The Partnership Agreement is entered into for an indefinite period and the start date of the first signed Placement Agreement. Subsequently, a separate Placement Agreement will be concluded between **TOSS** and the **Hirer** for each posted **Employee**.

5.2 The duration of the Placement Agreement is equal to the duration of the Payroll Agreement between **TOSS** and the **Employee** and can only be terminated by the **Hirer** if the Payroll Agreement will also legally terminate. The Placement Agreement cannot be terminated earlier by the **Hirer** after the first three months of the Placement Agreement have expired, nor can it terminate earlier than the Payroll Agreement.

5.3 If the Placement Agreement has been entered into for a definite period, it may be terminated subject to a notice period of one month by an end date no earlier than the legally valid end date of the Payroll Agreement. A Placement Agreement that has been entered into for a definite period and that has not been terminated on time will be renewed for the same period and under the same conditions after the expiry of that definite period, unless otherwise stated in writing.

5.4 If the Placement Agreement has been entered into for an indefinite period and the **Hirer** wishes to terminate the Placement Agreement due to insufficient work ('business economic circumstances'), the **Hirer** shall only be entitled to terminate that Placement Agreement (with due observance of the agreed notice period of one month) if the **Hirer** has, in the opinion of **TOSS**, been able to sufficiently demonstrate that the **Hirer** is actually forced to terminate the Placement Agreement for business economic reasons (also taking into account the applicable laws and regulations). Briefly, this means that the **Hirer** has to prove that the lapse of the relevant **Employee's** job is necessary for the efficient operation of the **Hirer's** business. Also, the nomination for dismissal of the relevant **Employee** must be in accordance with applicable laws and regulations. Only in that situation can **TOSS** terminate the Payroll Agreement with the **Employee** and thus also terminate the Placement Agreement.

5.5 If the **Hirer** wishes to terminate the Placement Agreement for an indefinite period of time for reasons other than business economic reasons - e.g. because of dysfunction of or labour conflict with the **Employee** concerned - the **Hirer** shall only be entitled to terminate that assignment with due observance of the agreed notice period if the statutory conditions for dismissal for that reason are met. The **Hirer** shall always involve **TOSS** in a timely manner so that **TOSS** can properly fulfil its role as employer. In that context, the **Hirer** will also provide **TOSS** with all information and documentation relevant to the termination of the employment contract (such as, for example, interview reports).

5.6 As long as the (statutory) conditions for termination of the Payroll Agreement described in this article are not met, the Placement Agreement shall continue until **TOSS** can lawfully terminate the underlying Payroll Agreement with the **Employee** (including the possibility of terminating the Payroll Agreement by mutual consent).

5.7 Termination of the Partnership Agreement and the Placement Agreement must be in writing.

5.8 Any costs, including but not limited to engaging legal advice, for **TOSS** as a result of the termination of the Partnership Agreement, Placement Agreement and/or Payroll Agreement shall be borne by the **Hirer** and will be charged to the **Hirer**.

Article 6. Termination of the Payroll Agreement

6.1 Both the **Hirer** and **TOSS** are bound by Dutch laws and regulations regarding the termination of Payroll Agreements. If the **Hirer** wishes to terminate the Placement Agreement (prematurely or indefinitely), there must be reasonable cause within the meaning of Article 7:669 of the Dutch Civil Code for **TOSS** to validly terminate the Payroll Agreement.

6.2 An employment contract may, inter alia, be lawfully terminated by **TOSS**:

- a) During the probationary period, without giving reasons;
- b) With immediate effect in case of an urgent reason (e.g. theft or fraud);
- c) In case of business economic reasons, if the UWV has issued a dismissal permit;
- d) In case of individual reasons such as dysfunction or a disrupted working relationship, by dissolution by the subdistrict court.

e) It is also possible that the **Hirer**, **TOSS** and the **Employee** may, by mutual agreement, jointly decide to terminate the Payroll Agreement by means of a termination agreement.

6.3 With regard to article 6.2, reference is also made to article 5 of these general terms and conditions for an adequate file to be prepared by the **Hirer**. If the **Hirer** intends to terminate the Placement Agreement for any reason, the **Hirer** must inform **TOSS** immediately.

6.4 In the event of legal proceedings where an oral hearing is ordered, the **Hirer** shall be requested by **TOSS** to be present at the hearing.

6.5 **TOSS** shall be entitled to invoice the **Hirer** in the usual manner for all costs - including salary costs, transitional and/or equitable compensation, legal assistance costs - in connection with termination of the Payroll Agreement.

Article 7. Posting of Employee(s)

7.1 The **Hirer** allows the **Employee** to work in accordance with the pre-established assignment and the pre-agreed conditions.

7.2 At the time the **Employee** performs work on behalf of the **Hirer**, the **Hirer** can only deviate from the placement and set conditions as agreed upon after written approval from **TOSS** and the **Employee**.

7.3 If for any reason the **Hirer** does not or cannot enable the **Employee** to perform the agreed work as per the arrangements, the **Hirer** must pay the agreed rate (as agreed in the Placement Agreement) to **TOSS** in full.

7.4 The **Hirer** shall not assign the **Employee** concerned to a third party to work under his/her supervision and direction without the written consent of **TOSS**. In case of violation, the **Hirer** runs the risk that the required work permit will be revoked by the IND, as a result of which the **Employee** is no longer entitled to perform work. The **Hirer** is liable for all damages suffered by **TOSS** and/or the **Employee** as a result.

7.5 If the **Hirer**, with the written consent of **TOSS**, assigns the relevant **Employee** to a third party to work under the supervision and direction of such third party, the **Hirer** shall ensure that such third party is committed to all obligations and responsibilities to which the **Hirer** is required to comply under the agreements with **TOSS**. The **Hirer** remains jointly and severally liable to **TOSS** and the **Employee** for the fulfilment of all obligations and responsibilities under these General Terms and Conditions and the resulting agreements.

Article 8. Hirer's duty of care

8.1 The **Hirer** shall exercise the same duty of care towards the posted **Employee** as towards his/her **Employees** directly employed by the **Hirer**. As evidence of the **Hirer**'s compliance with its duty of care, it shall provide the RI&E (Risk Inventory & Evaluation) applicable within its organization to **TOSS** in a timely manner.

8.2 The **Hirer** shall comply with the provisions of Article 7:658 of the Dutch Civil Code, with the **Hirer** bearing the obligations of **TOSS** as legal employer. The **Hirer** must provide a safe working environment for the **Employee**. The **Hirer** has a duty of care towards the **Employee(s)** under its management and supervision. The **Hirer** is obliged to provide proper instruction to the **Employee** for the performance of the agreed work as is reasonably necessary to prevent the **Employee** from suffering harm in the performance of his duties.

8.3 If the **Hirer** fails to comply with the obligations referred to in Article 8.1 and/or 8.2, the **Hirer** shall be liable and obliged to pay compensation for the resulting damage to **TOSS** and/or the **Employee** who has suffered damage in the broadest sense.

8.4 If the **Employee** suffers a work-related accident while working, the **Hirer** must ensure that the Labour Inspectorate is called in immediately and the **Hirer** must ensure that **TOSS** is informed simultaneously.

8.5 The **Hirer** is obliged to take out company liability insurance with sufficient cover against liability under the provisions of these General Terms and Conditions.

8.6 The **Hirer** shall accept liability and compensate the damage suffered by **TOSS** as well as the damage suffered or to be suffered by the **Employee** in the performance of the obligations referred to in this article.

8.7 The **Hirer** shall compensate **TOSS** for any damage caused by the **Employee** to the **Hirer** or to third parties.

Article 9. Liability

9.1 The **Hirer** is liable to compensate all damages and related costs directly arising from the failure to fulfil one or more obligations arising from the Partnership Agreement, Placement Agreement and/or from these General Terms and Conditions, without the need for a declaration of default.

9.2 The provisions of this article are without prejudice to the right of **TOSS** to bring other claims against **Hirer**, including the claim for compliance or the right of termination by **TOSS**.

9.3 **TOSS** may at any time invoke this article.

9.4 **TOSS** is not liable for damages of any nature whatsoever, directly or indirectly, caused to the **Employee**, the **Hirer** or to items or persons at or from **Hirer**, which is related to or ensues from the placement of the **Employee**. The **Hirer** indemnifies **TOSS** against any liability for damage and/or losses that the **Employee** himself suffers or causes to the **Hirer** himself and/or third party.

9.5 In the event of a final judicial decision made in accordance with Article 6.4 as unreasonably onerous and/or contrary to the reasonableness and fairness of ex. Art. 6:248, paragraph 2 of the Dutch Civil Code, the liability of **TOSS** is limited to the provisions of the following paragraphs.

9.6 **TOSS** is only liable for any damage suffered by the **Hirer**, including damage arising from fines, if this damage arises from failure or improper performance by **TOSS** of any obligation arising directly from the Partnership Agreement. **TOSS** is never liable for indirect damages, including consequential damages, lost profit or missed savings.

9.7 The liability of **TOSS** is limited to the amount that is paid out under the cover of the liability insurance taken out by **TOSS**. If insofar as, for whatever reason, no payment is made under the aforementioned insurance, or if no insurance has been taken out, any liability of **TOSS** is limited to the amount that **TOSS** has charged the **Hirer** in the month prior to the claim. In the absence of a preceding month, the amount that **TOSS** would charge the **Hirer** in accordance with the Placement Agreement is decided upon, in the month in which the event has caused the damage occurred/took place. Under no circumstances – whatever its name and on whatever legal basis – **TOSS** is liable for an amount.

9.8 Fines and/or (additional) levies imposed on the basis of legislation and/or regulations, which are the direct result of non-compliance, incorrect and/or timely compliance with procedures and/or obligations by the **Hirer**, are enforced by **TOSS** and charged to the **Hirer**. These fines/additional levies will be paid to **TOSS** without discount or compensation within the specified time period.

9.9 The **Hirer** is obliged to take out adequate insurance for its legal and contractual liability. The **Hirer** is obliged to give insight into its insurance policies at the first request of **TOSS**.

Article 10. Timesheet

10.1 If **TOSS** and the **Hirer** have agreed a Placement Agreement based on flexible hours, **TOSS** will invoice the **Hirer** on the basis of the timesheet form signed and approved (digitally) by the **Hirer** and the **Employee**.

10.2 The **Hirer** must ensure that the timesheet reflects the correct number of hours (overtime) worked, as well as other required information - including the actual costs incurred - clearly on the timesheet.

10.3 The **Hirer** will keep a signed copy of the timesheet for its own records and may at any time request the previously approved timesheet.

Article 11. Remuneration(s)

11.1 **Employees** are remunerated in accordance with the customary or legally required remuneration scheme or collective agreement.

11.2 The **Hirer** is obliged to inform **TOSS** of all applicable surcharges, overtime supplements, conditions of employment and changes thereto. The monthly/daily/hourly rate will be adjusted proportionally to a salary increase. If it appears that the correct employment conditions have not been applied for an **Employee**, **TOSS** is obliged to apply the correct employment conditions retrospectively. All associated costs will be charged to the **Hirer**.

11.3 If it is determined that the work performed by the **Employee** compared to the job description provided by the **Hirer** should reasonably result in a higher salary for the **Employee**, **TOSS** shall, in consultation with the **Hirer**, correct the same. The **Hirer** will owe the adjusted fee to **TOSS** (with retroactive effect).

11.4 The **Employee's** salary, allowances and remunerations shall be determined prior to the assignment and where necessary during the assignment. The salary, allowances and remunerations shall be equal to the salary, allowances and remunerations paid to comparable **Employees** of the **Hirer** working in the same or similar positions.

Article 12. Entering into an employment relationship between the Hirer and an Employee

12.1 If the **Employee** was already employed by the **Hirer** in the period of 6 months prior to the commencement of the Payroll Agreement with **TOSS**, **TOSS** shall be considered as successor employer. The provisions of the Dutch Civil Code relating to successive employment shall apply at that time.

12.2 If the **Hirer** wishes to enter into an employment relationship with an **Employee**, it must first notify **TOSS** of this intention in writing.

12.3 The **Hirer** shall only enter into an employment relationship with an **Employee** after the Payroll Agreement between **TOSS** and the **Employee** has legally terminated and only after the Placement Agreement between **TOSS** and the **Hirer** has legally terminated.

Article 13. Rate

13.1 The monthly/daily/hourly rate in respect of the **Employee** will be agreed in writing between **TOSS** and the **Hirer**, for the duration of the placement and agreed in the Placement Agreement.

13.2 If the work performed by the **Employee** as a result of a changed position results in a higher wage for the **Employee**, the monthly/daily/hourly rate will increase accordingly from then on. Both the **Employee** and **TOSS** must have agreed to the changed position in writing.

13.3 **TOSS** shall in any case be entitled to unilaterally adjust the monthly/daily/hourly rate during the term of the assignment if the gross salary has to be increased due to changes in or as a result of laws and regulations including social and fiscal laws and regulations or any binding rule.

Article 14. Identity verification and processing of personal data

14.1 The **Hirer** is responsible for establishing and verifying the identity of the **Employees** on the basis of the original proof of identity (within the meaning of Article 1, paragraphs 1, 2 and 3 of the Compulsory Identification Act). The signing authority from the **Hirer** who signs the agreements between **TOSS** and the **Hirer** must provide a legible copy of the **Employee's** passport to **TOSS**.

14.2 The **Hirer** shall treat and process the personal data of the **Employee** about whom it has knowledge in the context of the assignment confidentially and in accordance with the provisions of the Personal Data Protection Act and other relevant legislation.

If there is joint processing responsibility, **TOSS** and the **Hirer** will make further agreements on the exercise of the rights of data subjects and the obligation to provide information. These agreements are laid down in a mutual arrangement.

14.3 In the event of a data leak, with the risk of loss or unlawful processing of personal data, the **Hirer** is obliged to inform **TOSS**, which will then inform the **Employee(s)** concerned.

14.4 The **Hirer** shall indemnify **TOSS** against any claims by **Employees** or other third party brought against **TOSS** in connection with a breach of the provisions of this Article by the **Hirer** and shall reimburse all related costs incurred by **TOSS**.

14.5 Fines and additional taxes imposed on **TOSS** as a result of incorrect determination or verification of identity of the **Employees** by the **Hirer** shall be charged to the **Hirer**.

15. Applicable law and disputes

15.1 The agreements between **TOSS** and the **Hirer** shall be governed exclusively by Dutch law.

15.2 Disputes between **TOSS** and the **Hirer** shall be settled exclusively by the competent court in Amsterdam. Before either party will apply to the competent court, both parties will make every effort to resolve their dispute out of court.