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TOS People On Demand B.V.

This company is part of  
TOS Holding B.V.

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## CHAPTER 1 GENERAL CONDITIONS

### Article 1. Definitions

In these General Terms and Conditions, the following words have the following meanings:

1. TOS: Transport & Offshore Services People On Demand B.V., a private limited company which, in the course of its business, supplies employees to a customer to perform work for and under the supervision and direction of that customer.
2. Employee: any natural person who has entered into a temporary employment contract with TOS to perform work for and under the supervision and direction of a customer.
3. Customer: any natural person or legal entity hiring a employee to work under its supervision and direction;
4. Assignment: the contract between TOS and a customer, which forms the basis for the performance of work by an individual employee or employees - in accordance with the nature of the work - for a customer through the intermediary of TOS;
5. Fee: the rate charged per unit (hour/day/month) by TOS to the customer for the provision of a employee or workers;
6. Temporary employment contract: the contract under which a employee is made available by TOS to a customer in order to perform work under the supervision and direction of that customer pursuant to a assignment concluded between the customer and TOS;
7. NBBU collective agreement: the collective agreement applicable to TOS as a member of De Nederlandse Bond van Bemiddelings- en Uitzendondernemingen (NBBU, Dutch Association of Intermediary Organizations and Temporary Employment Agencies).
8. Any reference in these terms and conditions to 'employees' must be construed as a reference to: both male and female employees and any reference to 'he', 'his' and/or 'him' must be construed as a reference to: 'he/she', 'his/her' and/or 'him/her'.

### Article 2. Applicability of these conditions

1. These terms and conditions apply to all offers made by TOS to a customer and to all contracts of hire between TOS and a customer, for work undertaken in the Netherlands and abroad, to which TOS has declared these terms and conditions applicable, as well as to all deliverables and services of any nature to be provided thereunder between TOS and a customer, except as explicitly otherwise agreed by the parties in writing.
2. If a contract is concluded with a customer subject to these terms and conditions, such customer is deemed to tacitly agree to the applicability of these terms and conditions to any other contracts concluded between the customer and TOS.
3. All estimates, quotations and offers, in whatever form, are without obligation, except as otherwise agreed in writing.
4. TOS shall not be bound by any terms and conditions of the customer in so far as such terms and conditions differ from the present terms and conditions. Any derogation from the present terms and conditions is permissible only in so far as expressly agreed in writing. The terms and conditions of the customer shall apply only after the express written acceptance of TOS.
5. If any provision of these General Terms and Conditions is nullified, declared null and void or declared to be inapplicable, the other provisions shall retain their full effect. In these circumstances, the parties will replace the nullified, null and void or inapplicable provision by a valid and enforceable provision in accordance with the purport of this nullified, null and void or inapplicable provision, and in such a way that the new provision differs as little as possible from the nullified, null and void or inapplicable provision.



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### Article 3. Invoicing procedure

1. Unless otherwise agreed, the invoices issued by TOS are based in part on completed timesheets that have been signed as correct by the customer.
2. The customer is responsible for the accurate, complete and timely completion and approval of the timesheets. The customer shall furnish TOS with signed timesheets, either in digital form or in the form of a print-out.
3. In the case of discrepancies between a timesheet submitted to TOS and the corresponding copy kept by the customer, the timesheet submitted to TOS shall be deemed to be correct, unless the customer furnishes written proof to the contrary.
4. If the employee disputes the timesheet data, TOS may invoice the number of hours worked and other costs in accordance with the statement of the employee, unless the customer shows that the timesheets are correct.
5. If the customer fails to comply with the provisions of Paragraph 2 of this Article, TOS may decide to issue invoices to the customer on the basis of the facts and circumstances as they are known to TOS. TOS will not do so without proper consultation with the customer.
6. Changes in fees, rates and charges resulting from obligations under the collective agreement or as a result of amendments to or as a consequence of fiscal policy and/or social security laws and regulations shall be passed on to the customer from the date when changes take effect, and shall accordingly be payable by the customer, even if such changes occur during the term of an assignment.
7. Only if TOS has a blocked 'G' account, or an indemnity account [in Dutch: "vrijwaringsrekening"] exists for its deposits with the Tax and Customs Administration (vicarious tax liability, Liability of Subcontractors Act [Dutch: "Wet Ketenaansprakelijkheid"], may the customer enter into negotiations with TOS to discuss the possibility of the customer paying a percentage of the invoiced amount into the relevant account, and the level of any such contribution. This option is only available if the parties manage to reach an agreement.

### Article 4 Payment terms and conditions

1. The customer must ensure that the invoices issued by TOS are paid within 30 days of the date of invoice, without any deduction, abatement or set-off.
2. Only payments made directly to TOS will discharge the customer from its obligations, even if the customer is in possession of receipts signed by the employee. The customer is only permitted to make payments or advance payments directly to the employee with the express written permission of TOS, and on submission of receipts signed by the employee.
3. The customer must notify TOS in writing of any invoice disputes within 14 days of the invoice being sent, under penalty of cancellation of the customer's right to challenge. Any invoice disputes will not discharge the customer from its payment obligations.
4. If the customer fails to pay any outstanding amount on time, in full or at all, the customer shall be in default by operation of law from the due date of the invoice in question. From that date, the customer shall also be liable to pay default interest to TOS at a rate of 1% of the gross invoice amount per month, with part of a month counting as a whole month.
5. Any and all judicial and extrajudicial costs, including the costs of legal assistance, incurred by TOS due to the failure of the customer to fulfil its payment obligations, shall be borne by the customer. The extrajudicial debt collection costs incurred by TOS in respect of the amount to be collected are set at the higher of 10% of the principal sum or € 400.00.

### Article 5 Dissolution

1. If either party imputably fails to fulfil its obligations under the assignment, the other party shall be entitled - in addition to the provisions of the assignment - to cancel the assignment



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by registered letter, without judicial intervention. Dissolution of the assignment shall not take effect until a written notice of default has been served upon the defaulting party, allowing a reasonable period to remedy the breach.

2. Moreover, either party is entitled to cancel the assignment in whole or in part by registered letter with immediate effect, without judicial intervention and without a reminder or notice of default being required, in the following instances:
  - a. the other party applies for or obtains (preliminary) court protection from creditors (moratorium on payment);
  - b. the other party files a petition for insolvency or bankruptcy or is declared insolvent or bankrupt;
  - c. the other party's business is wound up;
  - d. the other party ceases its current business operations;
  - e. a substantial part of the assets of the other party is seized or attached through no fault of the first party, or if the other party is otherwise deemed unable to meet its obligations under the assignment contract.
3. If at the time of such rescission, the customer has already received a partial performance in the execution of the assignment the customer shall be entitled to rescind only that part of the contract not yet performed by or on behalf of TOS.
4. The customer shall be liable to pay TOS any amounts invoiced by TOS prior to the cancellation of the assignment in respect of work already performed under that contract, and such amounts shall be payable on demand at the time of rescission.
5. If the customer, after being issued with a notice of default, still fails to perform any obligation under the assignment or fails to do so fully or in time, TOS will be entitled to suspend performance of its obligations to the customer without a duty to pay any form of compensation to the customer, or the customer will have to provide TOS with financial security by means of an advance or a (bank) guarantee. The size of the advance or (bank) guarantee must be in proportion to the obligations of the customer under the assignment. TOS will also be entitled to do so if any of the circumstances referred to in Paragraph 2 of this Article arise.
6. If, in the opinion of TOS, there are serious doubts about the financial position of the customer, the customer will provide TOS, at its request, with the financial security referred to in Paragraph 5.

### Article 6 Liability

1. Subject to any applicable mandatory provisions and the requirements of fairness and equity, TOS shall not be liable for compensation for any direct or indirect loss or damage suffered by the employee or caused to property or suffered by persons employed by or present at the premises of the customer or a third party and resulting from:
  - a. the employee's posting by TOS with the customer, even if it subsequently transpires that the employee in question does not meet the requirements set by the customer;
  - b. unilateral termination of the temporary employment contract by the employee;
  - c. any act or omission on the part of the employee, the customer or a third party, including the assumption of obligations by the employee.
2. Any liability of TOS for direct loss or damage is limited, per event, to 50% of the relevant amount invoiced or to be invoiced. TOS assumes no liability for any indirect loss or damage, including consequential loss or damage.
3. The customer is required to take out adequate and full liability insurance to cover any direct and indirect loss and/or damage as referred to in Paragraph 1 of this Article.
4. In any event, the customer agrees to indemnify, defend and hold TOS harmless from and against any claims by the employee or third parties for compensation for any loss or



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damage, as referred to in Paragraph 1 of this Article, suffered by such employee or third parties.

5. The limitation of liability referred to in Paragraphs 1 and 2 of this Article shall not apply in the case of wilful intent or gross negligence on the part of TOS and/or its management.
6. TOS is entitled at any time to remedy any loss or damage suffered by the customer if and where possible. This also includes the right of TOS to take measures to prevent or limit any loss or damage.
7. The liability clauses and additional provisions of these Terms and Conditions shall also apply to the commute from the employee's place of domicile or registered permanent residence to the address stipulated by the customer, at which the relevant work is to be undertaken and/or has been undertaken.

### Article 7 Non-attributable failure ('Force Majeure')

1. In the event of Force Majeure, the obligations of TOS under the contract shall be suspended for the duration of the Force Majeure event. The term 'Force Majeure' means any circumstance beyond the control of TOS which permanently or temporarily prevents TOS from performing the contract and the risk of which should not, pursuant to the law or in terms of reasonableness and equity, be borne by TOS.
2. If TOS is affected by Force Majeure as referred to in Paragraph 1 of this Article, it shall notify the customer accordingly without delay.
3. Force Majeure includes, but is not limited to: strikes, sit-down strikes, blockades, embargoes, government action, war, revolution and/or similar occurrences, power failures, electronic communication network breakdowns, fire, explosion and other emergencies, water damage, floods, earthquakes and other natural disasters, as well as epidemic diseases affecting TOS members of staff.
4. The obligations of TOS are suspended for the duration of the Force Majeure event. However, obligations that are not affected by the Force Majeure and that arose before the Force Majeure event occurred shall not be suspended.
5. Each of the parties is entitled to terminate the agreement by means of a written announcement to the other party if the Force Majeure extends a period of three months, or if it is an established fact that Force Majeure shall extend a period of three months, without notice being required. After early termination of the contract, the customer shall still be required to pay the fees for the period preceding the Force Majeure event to TOS.
6. TOS shall not be liable for compensation for any loss or damage suffered by or caused to the customer for the duration of the Force Majeure event after termination of the contract as referred to in the preceding Paragraph of this Article.

### Article 8 Disputes

1. The assignment shall be governed by the laws of the Netherlands.
2. Any disputes between the parties arising out of the assignment shall be subject to the exclusive jurisdiction of the Dutch courts.
3. To the extent that the adjudication of such a dispute falls within the jurisdiction of a District Court, the dispute shall be subject to the exclusive jurisdiction of the District Court in the court district in which the headquarters of TOS are established.

## CHAPTER 2. TERMS AND CONDITIONS FOR THE PROVISION OF EMPLOYEES

### Article 9 Terms and conditions for the hiring of employees

1. The temporary employment contract is concluded between the employee and TOS. The temporary employment contract is subject to the provisions of the NBBU collective agreement. The working relationship between the customer and the employee, therefore, does not constitute an employment contract.



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2. The customer is obliged to give guidance to and supervise the temporary employee provided by TOS; the employee shall remain under its authority for the duration of the work to be undertaken. The customer shall undertake such duties with all due care and attention, and shall grant equal treatment to employees and permanent members of staff. As a formal employer, TOS has no direct control and view over the workplace and the activities undertaken.
3. The work is undertaken in accordance with the agreements set out in the assignment. The customer may only deviate from these provisions after consulting TOS.

### Article 10 (Hourly) remuneration, benefits and other allowances of the employee

1. The wages, benefits and other allowances directly payable by TOS to the employee are always determined before the start of the posting or, where necessary, during the posting, and shall be commensurate, *inter alia*, with the wages, benefits and other allowances of employees who occupy a comparable position, as described in the collective agreement applicable to the customer's business (the so-called wage ratio provision, known in Dutch as "loonverhoudingsvoorschrift").
2. The wages, benefits and other allowances include the following components:
  - a. only the applicable pay determined by unit of time ('pay period wages') in the applicable salary scale;
  - b. the applicable reduction in working hours, compensated in either time or money, at the discretion of TOS;
  - c. allowances for overtime, commuting time, food, non-standard working hours, irregular hours (including public holidays allowance) and shift work;
  - d. initial pay increase;
  - e. tax-free allowances: travelling expenses, pension contributions and other costs necessarily incurred in the performance of the work;
  - f. incremental pay rises.
3. The customer shall advise TOS of the components referred to in Paragraph 2 in good time. If the customer supplies TOS with incorrect information about the above components, TOS has the right to adjust the wages, benefits and other allowances payable to the employee, as well as the customer's fee, accordingly, with retroactive effect from the commencement date, and to charge the adjusted amounts to the customer.
4. If no collective agreement applies to the customer's business, the wages, benefits and other allowances payable to the employee shall be determined following consultation between TOS, the employee and the customer. The guiding principle, in this regard, is the temporary employee's educational background and experience, and the responsibilities and relevant skills required to perform the job in question.
5. For every call-out period of less than three hours in which the employee performed work on behalf of the customer, the employee shall be entitled to remuneration to which he would have been entitled if he had performed work for three hours, if:
  - a. a period of work of less than 15 hours a week has been agreed and the times when the work must be performed have not been fixed; or
  - b. there is no or no clear definition of the scope of the work.
6. The customer must inform TOS immediately of its intentions to make a car available to the employee. The customer may only permit the employee to use the company car for personal purposes in consultation with TOS, so as to allow TOS to take such private use into account for payroll tax purposes. If the customer fails to do so, the customer is obliged to compensate TOS for any resulting loss, damage, costs and (tax) implications suffered or incurred by TOS.



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#### Article 11 Fees and alterations

1. The customer shall owe TOS a fee for the provision of employees. TOS shall confirm the fee in writing or by telephone, if written confirmation is not possible.
2. Except with the express written permission of TOS, the customer is not permitted to assign different work or duties to the employee, or a different grade than that agreed upon when entering into the agreement.
3. If the employee's duties change during the term of the contract, such that the employee carries out duties appropriate to a lower grade, the fee initially agreed between the parties shall apply.
4. If the employee is assigned to undertake duties commensurate with the demands of a higher grade than originally agreed between the customer and TOS, as a result of measures taken by the government or by any other body by virtue of any statutory requirement, the fee will be increased accordingly.
5. Unless otherwise agreed in writing, the agreed daily fee does not include travel, accommodation and visa expenses, which shall be borne by the customer at the current cost.
6. In the event of illness of the employee supplied by TOS, which necessitates repatriation to the Netherlands and/or his country of birth for medical reasons, all travel and associated expenses shall be borne by the customer, unless otherwise agreed in writing, including additional cost arising from the timely provision of a replacement to cover the duties of the incapacitated employee. In that event, any overlapping travel days between the employee, to be replaced for medical reasons, and his replacement, shall be borne by the customer.
7. If a employee supplied by TOS is sent away as a result of repeated misconduct, the costs of repatriation arising therefrom shall be borne by TOS.
8. In all cases, neither TOS nor the employee shall be liable for any damage and/or (additional) costs suffered by any party, in whatever sense or in whatever manner caused.
9. In the cases described in Paragraphs 6 and 7, TOS is obliged to perform to the best of its abilities and deploy all the necessary means to provide an adequate replacement.

#### Article 12 Scope of the assignment and notice periods

1. The assignment specifies the term of the employee's posting or, if the term of posting is not known in advance, an as accurate as possible estimate of the term of posting. Where possible and appropriate, the assignment also states the start and end dates of the term of posting, the number of hours to be worked and the terms and conditions of employment for the employee.
2. The employee is permitted to work a reduced number of hours, provided this has been agreed upon on commencement of the employment relationship, or subsequently agreed in mutual consultation.
3. Employees shall work the exact same number of hours as permanent members of staff working on the same project.
4. If TOS or the customer wishes to terminate the posting and the employee is in phase 1 or 2 as defined in the NBBU collective agreement and is subject to a temporary employment contract containing a temporary employment clause [in Dutch: "uitzendbeding"], there is no notice period unless otherwise agreed in writing.
5. If the temporary employment clause does not apply to the temporary employment contract in question, an open-ended or fixed-term employment contract is concluded. In this case, the assignment shall terminate on expiry of the agreed term of the posting, unless otherwise agreed in writing.
6. If the customer wishes to terminate the fixed-term or open-ended contract placement early, the customer shall be liable for compensation to TOS, which compensation shall be payable on demand. Such compensation shall be equal to 100% of the applicable fee for the employee in question, multiplied by the number of hours agreed in the assignment for the



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period between the date of early termination and the end date of the assignment initially agreed.

7. If the customer wishes to terminate the posting, and no agreements have been made concerning the duration of the posting, and the temporary employee has been hired for a fixed-term period or indefinite period of time, a notice period of 20 working days shall apply, unless otherwise agreed in writing.

#### Article 13 Direct employment relationship between the customer and the employee

1. If the customer intends to enter into an employment contract or any other form of employment relationship with the employee, the customer shall inform TOS accordingly in writing and in good time, before realising such intention. The parties shall subsequently enter into negotiations to establish the wishes and requirements of the customer.
2. In the context of this Article, “any other form of employment relationship” is understood to mean:
  - a. the contract worker is appointed as a civil servant
  - b. the assignment
  - c. contracting of work
  - d. the employee in question is placed with the customer by a third party (e.g. another temporary employment agency) to undertake the same or different work
3. The customer shall not enter into a direct employment relationship with a employee as long as the temporary employment contract between the employee and TOS has not been terminated in a legally valid manner, as referred to in Paragraph 4 of this Article.
4. If the customer enters into an employment contract, or any other form of employment relationship, during or within the first 6 months following on from the posting, with a employee supplied by TOS to the customer, and if such employee has not yet worked for 1,040 hours on the basis of such a contract, the customer shall owe TOS an immediately payable fee, which is not open to judicial mitigation and judicial intervention. The transfer fee is equal to 25% of the applicable fee for the remaining term of the contract, multiplied by the number of hours agreed in the assignment for the period between the date of early termination and the end date of the assignment initially agreed, being the period of 1,040 hours as referred to in the preceding sentence.
5. If the customer enters into an employment contract, or any other form of employment relationship, with the employee within six months of the employee being recruited, selected and proposed by TOS, without the posting actually taking effect, the customer shall owe TOS a transfer fee.  
If no fee has been agreed, such compensation shall be equal to 50% of the gross hourly wage, which the employee would have earned in accordance with Article 10, multiplied by the number of hours as referred to in Paragraph 4.
6. In the event that the customer (in its capacity as outsourcer) hires out the services of the temporary employee posted to the customer by TOS, rather than its own members of staff, TOS (in its capacity as employer) shall be entitled to charge a transfer fee as referred to in Paragraph 4 of this Article, if a direct employment relationship is entered into between the eventual customer and the employee within 1,040 hours of commencement of the assignment.

#### Article 14 Selection of employees

1. TOS is entirely free to select the person or persons to be posted and/or made available to the customer pursuant to a assignment. TOS shall guarantee that the employee is suitably skilled and/or qualified, in accordance with agreements made with the customer.
2. In providing information regarding the work to be performed, the customer may not set any requirements that are not relevant to the position filled by the employee. Any such requirements will not be honoured by TOS.



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3. Only in exceptional circumstances, in cases where the employee has not worked on at least one occasion for the client, and is subsequently found to lack the necessary skills and/or qualifications, may the client notify TOS accordingly in writing, no later than at the end of the first working day, stating reasons. The costs of repatriation shall be borne by TOS.
4. During the term of the assignment, TOS has the right to present a proposal for the replacement of the employee, for instance if the employee is no longer able to perform the work. In that case, the customer's fee will be recalculated.

### Article 15 Health and Safety

1. The customer shall be required to observe the provisions of Section 7:658 of the Dutch Civil Code, the Working Conditions Act [in Dutch: "Arbeidsomstandighedenwet"] and provide a safe working environment. The customer shall issue concrete instructions to the employee to prevent any personal injury to the employee in the performance of his duties. In this respect, the customer shall provide the employee with personal protective equipment, insofar as deemed necessary. The customer is obliged to satisfy all the applicable employers' obligations in respect of health and safety.
2. The customer shall be liable, without limitation, to the employee and TOS for any damage suffered by the employee by or as a result of deterioration in his health and/or threat to safety, unless the damage is a direct result of wilful intent or gross negligence on the part of the employee.
3. Before commencement of the posting, the customer shall provide the employee and TOS with an accurate description of the job, job requirements including professional qualifications, and an up-to-date version of its Risk Assessment and Evaluation procedure (RAE), setting out the specific characteristics of the workplace in question.
4. If following commencement of employment, the health and safety of the employee is compromised, the customer is obliged to repatriate the employee immediately. The costs of repatriation shall be borne by the customer.
5. If the employee is injured in the performance of his duties and dies as a result of his injuries, the customer is under an obligation, pursuant to Section 6:108 of the Dutch Civil Code, to (i) the persons referred to in the said Section and (ii) to TOS to pay compensation to the persons referred to in the said Section, unless the injury is the result of wilful intent or gross negligence on the part of the employee.
6. The customer agrees to indemnify, defend and hold TOS harmless from and against all claims made against TOS on account of non-performance by the customer of the obligations referred to in Paragraph 1 of this Article, and authorises TOS to assign the claims in respect thereof to the party or parties directly concerned, or to assert the claims against the customer also on behalf of TOS.
7. The customer may not hire out to a third party any employee whom it has hired itself, to perform work under the supervision and direction of that third party, without the permission of TOS.
8. In the event of an overseas posting of temporary employees, the customer must notify TOS of the location at which the work is to be performed and/or commenced, and the estimated duration of the work. In addition, the customer must notify TOS of any changes in sailing area, working area or country as soon as these become known. If TOS has not granted permission for this type of work, TOS reserves the right to recall the employee, in which case the customer is obliged to repatriate the temporary employees immediately; the costs of repatriation shall be borne by the customer.
9. The customer shall ensure that the employees supplied to the customer by TOS:
  - a) do not consume alcohol or drugs during work;
  - b) are not under the influence of alcohol and drugs during work;
  - c) do not consume excessive amounts of alcohol or drugs outside working hours, if the employee is in the service of TOS and is engaged in that capacity in project work;



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d) After alcohol consumption, an alcohol-free period of at least eight hours is observed, before commencing work/activities again.

#### Article 16 Identification and personal details

1. On commencement of the posting, the customer is required to establish the identity of the employee by reference to an original ID, and to keep copies of all records relating to verification of identification.
2. The customer shall treat the personal details of employees that come to its knowledge in the context of the posting in the strictest confidence and shall process them in accordance with the provisions of the Data Protection Act [in Dutch: “Wet bescherming persoonsgegevens”].
3. TOS assumes no liability for any penalties or claims imposed on the customer for his failure to meet his obligations set out in the preceding Paragraphs.

### CHAPTER 3 TERMS AND CONDITIONS FOR RECRUITMENT & SELECTION.

#### Article 17 Definitions

1. TOS: Transport & Offshore Services People On Demand B.V., the private limited company which, in the course of its business, engages in the recruitment & selection of employees.
2. Client: any natural person or legal entity that has expressed its intention to engage TOS in the recruitment & selection of employees to undertake one or more functions;
3. Assignment: The agreement concluded between TOS and the client, on the basis of which TOS undertakes recruitment & selection services.
4. Annual income: the term “gross annual income” is understood to mean the gross annual salary, plus holiday allowance and fixed emoluments at the time of the employee entering into employment with the client.

#### Article 18 Applicability of general conditions

1. The General Terms and Conditions set forth in Chapter 1 shall apply mutatis mutandis to the employment relationship between TOS and the client, with the exception of the provisions of Article 3, Paragraphs 1 to 6 inclusive. In the event that these provisions deviate from and/or incompatibility exist with the provisions of Chapter 1 of these General Terms and Conditions, the provisions of this Chapter shall prevail.
2. Any reference in these terms and conditions to “customer”, “employee” or “posting”, must be construed as a reference to: “client”, “candidate” and “recruitment & selection”.

#### Article 19 Fee and scope of the assignment

1. Upon successful conclusion of the recruitment & selection procedure, TOS shall charge an appropriate fee. The recruitment & selection is deemed to be successfully concluded when the candidate proposed by TOS is approved by the client.
2. The fee is equal to 23% of the annual income as defined in Article 17.4. No advertising costs or miscellaneous expenses shall be passed on to the client, unless otherwise agreed between TOS and the client.
3. The assignment, insofar as relevant, sets out the duration of the recruitment & selection process, the procedures and the fee charged by TOS to the client.

#### Article 20 Direct employment relationship between the client and the candidate.

If the client enters directly into a contract of employment with, or hires a candidate selected by TOS, and does so either during the recruitment & selection process or within six months thereafter, the client shall forfeit a penalty to TOS – which shall be immediately due



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and payable and shall not be open to judicial moderation – equal to the fee agreed with the client for the recruitment & selection services or equal to the fee that would have been charged if no direct employment relationship as referred to above had been entered into.

### Article 21 Selection of the candidate

1. The candidate is selected by TOS on the basis of i) the qualities and skills of the employees available for placement who are known to TOS and ii) the information provided by the customer to TOS regarding the work to be performed.
2. In providing information regarding the work to be performed, as referred to in Paragraph 1 of this Article, the customer may not set any requirements that are not relevant to the position filled by the employee. Any such requirements will not be honoured by TOS.

### Article 22 Duty of confidentiality

TOS shall execute the assignment to the best of its ability and with due diligence. TOS shall treat the personal details of candidates/the parties concerned that come to its knowledge in the context of the posting in the strictest confidence and shall process them in accordance with the provisions of the Data Protection Act [in Dutch: “Wet bescherming persoonsgegevens”]. The client is obliged to return to TOS all aforementioned documentation, without retaining any copies, unless the recruitment & selection procedure has been successfully concluded. TOS shall hold the client liable for any misuse of confidential information in respect of the candidates; the client shall be obliged to pay TOS any resulting damages, administrative fines or criminal penalties.

### Article 23 Liability

In offering a position of employment to the candidate proposed by TOS, the client acts entirely at its own risk. TOS assumes no liability whatsoever for the suitability of the candidate in respect of the position offered by the client. In addition, until commencement of the employment contract between the client and the candidate proposed by TOS, the client shall remain subject to the liability stipulations in respect of the customer, as referred to in Article 6 of these General Terms and Conditions.

## CHAPTER 4 PAYROLLING TERMS AND CONDITIONS

### Article 24 Definitions

1. TOS: Transport & Offshore Services People On Demand B.V., the private limited company which engages in the provision of employees to a customer for the undertaking of work on behalf of this customer. The employee is recruited by the customer, not by TOS.
2. Payroll agreement: the employment contract under which a contract worker is made available by TOS to a customer in order to perform work under the supervision and direction of that customer pursuant to an employment contract concluded between the employee and TOS. The payroll agreement will be concluded following the successful recruitment of the employee by the customer, not by TOS.
3. Payrolling: Provision of employees by TOS to a customer pursuant to the provisions of a payroll agreement as referred to in Paragraph 2.

### Article 25 Applicability Chapters 1 and 2

1. If the employee and TOS have entered into a payroll agreement, the provisions of Chapters 1 and 2 of these General Terms and Conditions shall apply to the relationship between TOS and the customer, except for the provisions of Article 12, Paragraphs 4 to 7 inclusive, Article 13, Paragraphs 4 to 6 inclusive, and Article 14. In the event that the provisions of this



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Chapter deviate from and/or incompatibility exist with the provisions of Chapters 1 and 2 of these General Terms and Conditions, the provisions of this Chapter shall prevail.

2. Any reference in Chapters 1 and 2 of these terms and conditions to: “employee” and “temporary employment contract” must be construed, in the context of payrolling, as a reference to: “employee” and “payroll agreement” respectively.

### Article 26 Invoicing

If the employee is incapable of undertaking work due to unforeseen circumstances, such as illness or burnout, non-working hours will also be invoiced, in instances where TOS is obliged to continue paying the employee's wages.

### Article 27 Supplementary employment conditions

The terms and conditions of employment contained in the collective bargaining agreement of the customer shall apply only if they are not in conflict with the applicable NBBU collective bargaining agreement for Employees, and if expressly agreed in writing.

### Article 28 Commencement and termination of the assignment

1. Before TOS enters into a payroll agreement with the employee, the customer must provide an accurate and full account of the employee's employment history with the customer. If the customer fails to do so, the customer is obliged to compensate TOS for any resulting loss or damage suffered or incurred by TOS.
2. The assignment may only be terminated or dissolved, in derogation of the provisions of Article 5, once the payroll agreement between TOS and the employee has terminated by operation of law. If necessary, the customer will assist in the payrolling of the employee via a third employer or in (re)engaging the services of the employee.
3. The assignment may only be dissolved prematurely, before the period stated in Paragraph 2, if circumstances arise that are of such nature that fulfilment of the obligations is impossible or, according to criteria of reasonableness and fairness, cannot be required anymore. If TOS is obliged to continue paying the employee's wages, the customer shall observe a minimum notice period of three months, unless otherwise agreed in writing.

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