

Terms of business relating to the supply of candidates by NDT personnel Limited (employment agency)

1 Interpretation

- 1.1 In these terms of business ('the Terms'), the following expressions will be given the following meanings:
- 1.1.1 'Candidate' means a person introduced by the Company to the Client to be considered for an Engagement.
 - 1.1.2 'The Client' means any person, firm or corporation who approaches the Company with a view to engaging or otherwise employing a Candidate or to whom a Candidate is introduced by the Company.
 - 1.1.3 'The Company' means NDT Personnel Limited (a company registered in England and Wales under number 10527207) or any of its subsidiary, associated or holding companies.
 - 1.1.4 'Engagement' means the employment, hire or other use, directly or indirectly and whether under a contract of service or contract for services or otherwise, and on a permanent, temporary or other basis, of a Candidate by or on behalf of the Client and 'Engaged' and 'Engages' will be interpreted accordingly.
 - 1.1.5 'Month' means a calendar month.
 - 1.1.6 'Week' means 7 consecutive days.
- 1.2 In these Terms, words importing the singular will include the plural and vice versa and words importing the masculine gender will include the feminine gender and vice versa.
- 1.3 All and any business undertaken by the Company is transacted subject to these Terms, all of which will be incorporated in any agreement between the Company and the Client. In the event of any conflict between these Terms and any other terms and conditions, these Terms will prevail unless expressly otherwise agreed in writing by a director or other authorised officer of the Company. No variation in these Terms will be valid if made without the written consent of a director or other authorised officer of the Company.
- 1.4 The interviewing by or on behalf of the Client or the Engagement of a Candidate or the commencement by a Candidate of work for or the provision of services to the Client (whichever first occurs) will be deemed acceptance of and agreement to these Terms.
- 1.5 The complete or partial invalidity or unenforceability of any provision in these Terms for any purpose will in no way affect the validity or enforceability of such a provision for any other purpose or the remaining provisions. Any such provisions will be deemed to be severed for that purpose subject to such consequential modification as may be necessary for the purpose of such severance.
- 1.6 These Terms supersede all previous terms of business.

2 Obligations of the Company

The Company will use reasonable endeavours to introduce to the Client a suitable Candidate to carry out work for the Client of such nature as the Client will notify to the Company when advising the Company of the vacancy in respect of which the Candidate has been introduced. The Client accepts that no warranty as to the suitability of the Candidate can be given by the Company. The Company cannot guarantee to find a suitable Candidate for each vacancy.

3 Obligations of the Client

- 3.1 The Client will notify the Company immediately when an offer of employment is accepted by a Candidate or otherwise upon the commencement of an Engagement (whichever first occurs).
- 3.2 Notwithstanding clause 3.1 above, the Client will satisfy itself as to the suitability of any Candidate for the purposes of the vacancy for which the Candidate has been introduced. Without prejudice to the generality of the foregoing, it is acknowledged by the Client that it is for the Client to take up references, to check that the Candidate has or holds any special skills, licence, certification, authorisation or other necessary qualification and that each such licence, certification, authorisation or other necessary qualification is valid and subsisting and to ensure that the Candidate is capable of driving any vehicle and/or operating any equipment and/or machinery to the necessary level. The Client will be responsible for obtaining any certificate of sponsorship or permit needed to enable the Candidate to work in any country in which the Candidate is to be employed or engaged by the Client and for ensuring that the Candidate satisfies any medical requirements or other qualifications that may be appropriate or required by law.
- 3.3 The Client undertakes not to employ or seek to employ members of the staff of the Company but if any such member of staff accepts an Engagement within 3 months of such member of staff leaving the employment of the Company, the Client will be liable to pay the Company's scale of fees for staff as if such member of staff had been introduced by the Company.
- 3.4 The Client undertakes that in the event of the Client effectively introducing (directly or indirectly) any Candidate to another person, firm or corporation, including any subsidiary, associated or holding company of the Client, resulting in an Engagement by that person, firm or corporation (which the Client will immediately notify to the Company), the Client will pay to the Company an introduction fee in accordance with clause 4 of these Terms, unless the Engagement occurs more than 14 weeks after the introduction of the Candidate to the Client by the Company or from the date of the Candidate's last interview with the Client whichever is the later.
- 3.5 The Client consents to the disclosure by the Company to Candidates of information relating to the Client.

4 Fees

- 4.1 The introduction fee will become due immediately upon the commencement of an Engagement. The fee will be calculated in accordance with the Company's scale of fees in relation to Candidates in force from time to time (a copy of which may be obtained from the Company on request). VAT will be payable on that at the prevailing rate where applicable.
- 4.2 The introduction fee payable under clause 4.1 above will be calculated as a percentage of the Candidate's annual salary at the date of the commencement of the Engagement, to include a notional figure for benefits, bonuses and allowances which form part of the total remuneration package in accordance with the Company's standard rates for evaluating such benefits from time to time.
- 4.3 All moneys due under these Terms will be paid by the Client within 30 days of the date of invoice by the Company.
- 4.4 The Company reserves the right to charge the Client interest in respect of any amount outstanding after the period for payment set out in clause 4.3 above (both before and after any judgment) from the date of invoice up to and including the day of payment at the rate of 5% per annum above the base rate from time to time of Barclays Bank Plc, subject to a minimum rate of 8% a year.

5 Termination

- 5.1 In the event of a Candidate terminating or the Client lawfully terminating an Engagement within 12 weeks of the date upon which such Candidate commenced work for the Client and provided that:
- 5.1.1 all moneys due under these Terms have been paid by the Client in accordance with clause 4 of these Terms;
- 5.1.2 such termination is not as a result of redundancy, injury or ill health or because of age, disability, gender reassignment, marriage or civil partnership, pregnancy or maternity, race, religion or belief, sex and/or sexual orientation;
- 5.1.3 such termination has not arisen where the Client has entered into the Engagement with the prior or likely intention of disposing with the Candidate's services or terminating employment either without proper cause or with a view to obtaining a refund unfairly;
- 5.1.4 the Client serves notice on the Company in writing at its registered office of the termination of the Engagement within 7 days of such termination; and
- 5.1.5 neither the Client nor any subsidiary, associated or holding company of the Client will commence Engagement of the Candidate within 6 months from the date of the termination of the Engagement;

then the Client will receive a rebate calculated in accordance with the Company's scale of rebates set out in the schedule below. Under no circumstances will any expenses be refunded.

- 5.2 No rebate will be payable by the Company in the event of failure by the Client to adhere to the time limits provided for in clause 5.1 above.
- 5.3 No rebate will be made in respect of an Engagement where the Candidate was previously Engaged in any capacity by the Client through the Company.
- 5.4 The rebate will be repayable in full where the Client subsequently re-Engages the Candidate in any capacity.

6 Liability and indemnity

- 6.1 Neither the Company nor any of its staff will be liable to the Client for any loss, injury, damage, expense or delay incurred or suffered by the Client arising directly or indirectly from or in any way connected with an Engagement and, in particular, but without limitation to the foregoing, any such loss, injury, damage, expense or delay arising from or in any way connected with:

- 6.1.1 failure of the Candidate to meet the requirements of the Client for all or any of the purposes for which he is required by the Client (subject to clause 5 of these Terms);
- 6.1.2 any act or omission of a Candidate, whether wilful, negligent, fraudulent, dishonest, reckless or otherwise;
- 6.1.3 any loss, injury, damage, expense or delay incurred or suffered by a Candidate;
- 6.1.4 the kidnapping and/or ransom of any Candidate;

PROVIDED THAT nothing in this clause 6 will be construed as purporting to exclude or restrict liability of the Company to the Client for personal injury or death resulting from negligence (as defined in the Unfair Contract Terms Act 1977) nor any statutory liability or any exclusion or limitation which is prohibited by law.

- 6.2 In consideration of the Company entering into an agreement with the Client into which these Terms are incorporated, the Client undertakes to indemnify the Company in respect of any and all liability of the Company for:

- 6.2.1 any loss, injury, expense or delay suffered or incurred by a Candidate, howsoever caused;
- 6.2.2 the kidnapping and/or ransom of any Candidate; and
- 6.2.3 any loss, injury, damage, expense or delay suffered or incurred by anyone arising directly or indirectly from or in any way connected with the acts and omissions of a Candidate, whether wilful, negligent, fraudulent, dishonest, reckless or otherwise;

PROVIDED THAT this indemnity is given only in respect of any such loss, injury, damage, expense or delay caused during or arising directly or indirectly out of or in any way connected with an Engagement.

- 6.3 The Client acknowledges that the limitations and exclusions of the obligations and liabilities of the Company set out in these Terms are reasonable and

reflected in the fee payable to the Company under these Terms and will accept risk or insure accordingly.

7 Miscellaneous

- 7.1 The Company reserves the right to review and to revise these Terms without prior notice.
- 7.2 These Terms are governed by and construed in accordance with the laws of England and Wales.

Schedule: scale of refund

Week in which the Engagement is terminated	% of introduction fee refunded
1 – 4	100% less £250 administration charge
5 – 8	50%
9 – 12	25%