

# TERMS OF BUSINESS FOR THE INTRODUCTION OF FIXED TERM WORKERS (TO BE PAID DIRECTLY BY THE CLIENT)



## 1. DEFINITIONS

1.1 In these Terms of Business the following definitions apply:

<b>“Assignment”</b>	means the deployment of the Candidate by the Client with the written agreement of the Company for the period stated in the Fixed Term Booking Order Form, or for such period as may otherwise be agreed in writing by the Company and the Client from time to time. The Assignment shall include any use of the Candidate made by the Client during the period of the Assignment on a full time or part time basis, whether under a contract of service or for services, under an agency, licence, franchise or partnership agreement or otherwise, either directly or through a limited company of which the Candidate is an officer, employee, or other representative;
<b>“Candidate”</b>	means any person Introduced by the Company to the Client, including any officer, employee or other representative of the Candidate if the Candidate is a corporate body;
<b>“Charges”</b>	means the charges payable by the Client to the Company in respect of the Assignment and referred to in the Fixed Term Booking Order Form, or as otherwise agreed in writing by the Company and the Client;
<b>“Client”</b>	means the company, person or corporate body together with any holdings, subsidiaries or associated company, person or corporate body (as the case may be) to which the Candidate is Introduced;
<b>“Client Group”</b>	means (a) any individual, company, partnership, statutory body or other entity which from time to time Controls the Client, including (but not limited to) as a holding company as defined in section 1159 of the Companies Act 2006; and (b) any company, partnership, statutory body or other entity which from time to time is Controlled by or is under common Control with the Client, including (but not limited to) as a subsidiary or holding company as defined in section 1159 of the Companies Act 2006
<b>“Company”</b>	means CJUK which is the trading name of Chefs Jobs UK Limited of One Cathedral Square, Cathedral Quarter, Blackburn, Lancashire, BB1 1FB (registration number 10865790);
<b>“Data Protection Laws”</b>	means the Data Protection Act 2018, the General Data Protection Regulation (EU 2016/679) or any applicable statutory or regulatory provisions in force from time to time relating to the protection and transfer of personal data;
<b>“Engagement”</b>	means the engagement, appointment, employment or use of the Candidate by the Client or by any third party to whom the Candidate has been Referred, on a permanent or temporary basis, whether under a contract of service or for services; under an agency, licence, franchise or partnership agreement; or any other engagement; directly or through a limited company of which the Candidate is an officer, employee or other representative and <b>“Engage”</b> , <b>“Engages”</b> and <b>“Engaged”</b> shall be construed accordingly;
<b>“Fixed Term Booking Order Form”</b>	means the order form attached to these Terms and /or referred to in these Terms;
<b>“Introduction”</b>	means the disclosure by the Company to the Client of any information which identifies the Candidate and <b>“Introduce”</b> , <b>“Introduces”</b> and <b>“Introduced”</b> shall be construed accordingly;
<b>“Introduction Fee”</b>	means the fee payable by the Client to the Company pursuant to the terms of clauses 3.3 and 4.2;
<b>“Referral”</b>	means the Client’s disclosure to a third party of any information which identifies the Candidate, or the Client’s introduction of the Candidate to a third party (in either case, directly or indirectly) and <b>“Refer”</b> , <b>“Refers”</b> and <b>“Referred”</b> shall be construed accordingly;
<b>“Regulations”</b>	means the Conduct of Employment Agencies and Employment Businesses Regulations 2003;
<b>“Remuneration”</b>	includes gross base salary or fees, guaranteed and/or anticipated bonus and commission earnings, allowances, inducement payments and all other payments and taxable (and, where applicable, non-taxable) emoluments payable to or receivable by the Candidate for services rendered to or on behalf of the Client or any third party to whom the Candidate has been Referred;
<b>“Terms”</b>	means these Terms of Business.

1.2 Unless the context requires otherwise, references to the singular include the plural and vice versa.

1.3 The headings contained in these Terms are for convenience only and do not affect their interpretation.

## **2. THE CONTRACT**

2.1 These Terms shall be deemed to be accepted by the Client by the signing of the Fixed Term Booking Order Form, or by the Introduction of the Candidate, or by the commencement of the Assignment by the Candidate, whichever shall first occur.

2.2 These Terms and the Fixed Term Booking Order Form contain the entire agreement between the Company and the Client and shall prevail over any other terms of business or purchase conditions (or similar) put forward by the Client.

2.3 Without limiting the generality of clause 2.2, these Terms shall apply to each and every Introduction, Assignment and Engagement.

2.4 No variation or alteration to these Terms shall be valid unless the details of such variation or alteration are agreed between a Director of the Company and the Client and are set out in writing and a copy of the varied terms is given to the Client stating the date on or after which such varied terms shall apply.

2.5 The Company confirms for the purpose of the Regulations that it is acting as an employment agency in providing its services to the Client.

## **3. OBLIGATIONS**

3.1 The Client shall pay the Charges for the Assignment to the Company in accordance with the provisions of clause 4.1.

3.2 The duration of the Assignment may be extended by the Client, subject to the prior written consent of the Company and the payment of additional Charges, which will be notified to the Client.

3.3 The Client shall pay the Company an Introduction Fee for any Engagement which commences within 6 calendar months from the last date of the Assignment, unless the Company has agreed in writing prior to the commencement of the Engagement that the Engagement constitutes a new Assignment, or an extension of the existing Assignment. The Introduction Fee shall be non-refundable.

## **4. CHARGES, FEES AND PAYMENT**

4.1 The Charges for the Assignment shall be paid in such amounts and at such intervals and times as shall be notified to the Client. Where a credit account has been authorised, payment will be due within 14 days of the invoice date.

4.2 An Introduction Fee shall be payable pursuant to the provisions of clause 3.3, including should the Client Engage the Candidate on a permanent basis. The Introduction Fee shall be calculated by applying the appropriate percentage shown below to the annual commencing Remuneration of the Candidate:

**15% where the Remuneration is up to £14,999;**

**17.5% where the Remuneration is between £15,000 and £19,999;**

**20% where the Remuneration is between £20,000 and £24,999;**

**25% where the Remuneration is between £25,000 and £29,999;**

**30% where the Remuneration is £30,000 or above**

Where the amount of the annual commencing Remuneration of the Candidate is not readily ascertainable, the Introduction Fee shall be calculated as a multiple of 300 x the hourly rate of pay payable to the Candidate on the last date of the Assignment. The Introduction Fee shall be payable within 21 days of date of invoice.

4.3 For the avoidance of doubt, the Company does not offer a guarantee period where the Candidate has been offered and has accepted a permanent position from a fixed term booking.

4.4 VAT is payable on the Charges and the Introduction Fee and shall be charged at the rate prevailing at the date of invoice.

4.5 Time shall be of the essence with respect to all payments required to be made pursuant to this clause 4.

- 4.6 The Company reserves the right to charge interest under the Late Payment of Commercial Debts (Interest) Act 1998 on invoiced amounts unpaid by the due date at the rate of 8% per annum above the base rate from time to time of the Bank of England from the due date until the date of payment.

## **5. CONFIDENTIALITY AND DATA PROTECTION**

- 5.1 All information relating to the Candidate is confidential and is subject to the Data Protection Laws and is provided solely for the purpose of providing the Company's services to the Client. Such information must not be used for any other purpose nor divulged to any third party. The Client undertakes to abide by the provisions of the Data Protection Laws in receiving and processing such information at all times.
- 5.2 Without prejudice to the Company's rights under clauses 3.3 and 4.2, any Referral by the Client shall be deemed to be a breach of clause 5.1.
- 5.3 Information relating to the Company's business which is or which should reasonably be supposed to be confidential must be kept confidential and not divulged to any third party, except for information which is in the public domain or which is required to be disclosed by law.
- 5.4 Telephone calls to and from the Company may be monitored and recorded for training and quality purposes. Any such recordings will be processed and stored in compliance with the Data Protection Laws.

## **6. SUITABILITY AND REFERENCES**

- 6.1 The Company will endeavour to ensure the suitability of any Candidate introduced to the Client in accordance with the Regulations by obtaining confirmation of the Candidate's identity, that the Candidate has the experience, training, qualifications and any authorisation which the Client considers necessary or which may be required by law or by any professional body and that the Candidate is willing to work in the position which the Client seeks to fill.
- 6.2 Notwithstanding clause 6.1 above, the Client shall satisfy itself as to the suitability of the Candidate and the Client shall take up any references provided by the Candidate to it or the Company prior to the commencement of the Assignment by the Candidate. The Client is responsible for obtaining work permits and/or such other permission to work as may be required, for the arrangement of medical examinations and/or investigations into the medical history of any Candidate, and for satisfying any medical and other requirements, qualifications or permission required by law or by any professional body. The Client accepts full responsibility for checking that the Candidate has all necessary identification to permit the Candidate to work in the United Kingdom pursuant to the Immigration, Asylum and Nationality Act 2006 prior to the commencement of the Assignment by the Candidate. The Client shall indemnify the Company for any cost, expense or other financial liability incurred by the Company and arising from any breach of any of the Client's obligations under this clause 6.2.

## **7. STATUS AND PAYMENT OF REMUNERATION**

- 7.1 The Company shall not and cannot be responsible for determining the employment status of the Candidate Introduced to the Client. The issue of status is the responsibility of the Client and the Company makes no comment or representation in regards to status. Nothing in these Terms shall render the Candidate an employee, worker, agent or partner of the Company and the Client will not hold the Candidate out as such. The Client shall indemnify the Company in respect of any liability arising from any employment related claim or any claim based on the status of the Candidate (including reasonable costs and expenses) brought by the Candidate arising out of or in connection with the Assignment. The Client also agrees to indemnify the Company in respect of any loss attributable to a finding by HM Revenue and Customs or other legal authority that the Candidate is an employee of the Company.
- 7.2 The Client shall be responsible for paying the Candidate's Remuneration and associated costs including any holiday entitlement and sickness benefit and shall deduct all applicable taxes (including any national insurance contributions) required by law. The Client agrees to indemnify the Company in respect of any claim arising in respect of any breach of any of the Client's obligations under this clause 7.2.

## **8. LIABILITY**

- 8.1 The Company shall not be liable under any circumstances for any loss, damage or expenses suffered or incurred by the Client or by any third party arising from or in any way connected with the Company seeking to place the Candidate for the Client, or related to any Introduction, or any Assignment, or any Engagement.

8.2 The Candidate shall be deemed to be under the direction and control of the Client for the duration of the Assignment. The Client agrees to assume liability for all acts and omissions of the Candidate whether wilful, negligent or otherwise as though the Candidate were an employee of the Client. The Client will also comply in all respects (in relation to the Candidate) with all Statutes (including the Working Time Regulations 1998), By Laws, Codes of Practice and legal requirements to which the Client is ordinarily subject in respect of the Client's own staff or to which it would be subject if the Candidate was an employee of the Client. This includes in particular the provision of adequate employers' and public liability insurance cover in respect of the Candidate for the duration of the Assignment and full compliance with all applicable health and safety obligations.

The Client shall not bring or seek to bring any claim (including any claimed right of set off) against the Company in respect of any matter for which it agrees to assume liability in this clause 8.2. Further, the Client agrees to keep the Company indemnified against any costs, claims and liabilities incurred by the Company arising from the Client's breach or non-compliance in respect of any of its obligations in this clause 8.2.

8.3 For the avoidance of doubt but without prejudice to the provisions of clause 8.1 or clause 8.2, the Company does not exclude or limit liability for death or personal injury arising from its own negligence, or for fraud or fraudulent misrepresentation, or for any other loss which it is not permitted to exclude or limit under law.

8.4 Subject to clause 8.3, the maximum aggregate liability of the Company to the Client (if any) shall in no event exceed 50% of the Charges paid by the Client in respect of the Assignment (without any extension or renewal of the Assignment).

#### **9. WAIVER**

Any failure by the Company to enforce any one or more of the provisions of these Terms shall not be deemed a waiver of its rights or of the right to subsequently enforce any of the provisions of these Terms.

#### **10. VALIDITY**

If any clause or provision of these Terms is held to be invalid, void, illegal or otherwise unenforceable, the remaining clauses and provisions (or any part thereof) of these Terms shall remain in full force and effect to the maximum extent permitted by law.

#### **11. NOTICES**

All notices which are required to be given in accordance with these Terms shall be in writing and may be delivered personally or by first class prepaid post to the registered office of the party upon whom the notice is to be served or to any other address that the party has notified the other party of in writing, or by email or facsimile transmission. Any such notice shall be deemed to have been served: if by hand when delivered, if by first class post 48 hours following posting and if by email or facsimile transmission, when that email or facsimile is sent.

#### **12. FORCE MAJEURE**

The Company shall have no liability for any delay or failure in performance of its obligations to the Client where this arises from matters outside its reasonable control.

#### **13. THIRD PARTIES**

No provision of these Terms shall be enforceable by any person who is not a party to them, pursuant to the Contract (Rights of Third Parties) Act 1999.

#### **14. GOVERNING LAW**

These Terms shall be governed by and construed in accordance with the laws of England and Wales and the parties hereby submit to the exclusive jurisdiction of the English and Welsh Courts.

\_\_\_\_\_  
Client Name

**I confirm I am authorised to sign these Terms for and on behalf of the Client.**

\_\_\_\_\_  
Signed on behalf of the Client

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date