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| --- |
| Dated Date |
| **Breathing Space HR Limited**  **and**  **company name** |
| TERMS & CONDITIONS OF BUSINESS |

**THIS AGREEMENT** is dated xxxxxxx

**Between**

1. **BREATHING SPACE HR LIMITED** incorporated and registered in England and Wales with company number 05872679 whose registered office is at 13, Festoon Rooms, Sunny Bank Mills, 83-85 Town Street, Farsley, Leeds. LS28 5UJ ("**Breathing Space HR**"); and
2. **COMPANY NAME** incorporated and registered in England and Wales with company number xxxxxxxxxx whose registered office is at xxxxxxxxxxxxxx (the "**Client**").

**Agreed Terms**

1. Interpretation

The following definitions and rules of interpretation apply in this agreement.

* 1. Definitions

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| **"Client's Business Data"** | personal data processed in connection with this agreement including personal data of the Client's employees. |
| **"Client's Contacts"** | the Client's network of contacts including those on internet social media platforms and services. |
| **"Client's Manager"** | the Client's manager for the Services, appointed in accordance with clause 5.1 |
| **"Commencement Date"** | the date specified in the Proposal on which Breathing Space HR shall commence the provision of the Services to the Client. |
| **"Flexi Package Rate"** | Breathing Space HR's **Flexi -Project Package:**   * 4 hours £280 (two hundred and eighty pounds) plus VAT   Subject to amendment from time to time by Breathing Space HR giving not less than 1 (one) month's written notice to the Client. |
| **"Deliverables"** | all Documents, products and materials developed by Breathing Space HR or its agents, subcontractors, consultants and employees in relation to the Services in any form, including data, reports and specifications (including drafts). |
| **"Document"** | includes, in addition to any document in writing, any drawing, plan, diagram, design, picture or other image, tape, disk or other device or record embodying information in any form. |
| **"GDPR"** | The General Data Protection Regulations 2018/679. |
| **"Force Majeure Event"** | an event beyond the reasonable control of Breathing Space HR including but not limited to strikes, lock-outs or other industrial disputes, failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors. |
| **"Project Hourly Rate"** | Breathing Space HR's hourly fee rate of:   * **People Partner**: Hourly rate £70 (seventy pounds) * **Senior People Partner**: Hourly Rate £90 (ninety pounds) * **Suzie Bogle**: Hourly rate £150 (one hundred and fifty pounds)   Subject to amendment from time to time by Breathing Space HR giving not less than one month's written notice to the Client.  The hourly rate charged will be determined by Breathing Space HR based on level of expertise/knowledge required to complete project work and tasks |
| **"Project Daily Rate"** | Breathing Space HR's daily fee rate of:   * **People Partner**: Daily rate £420 (four hundred and twenty pounds) * **Senior People Partner**: Daily Rate £630 (six hundred and thirty pounds) * **Suzie Bogle**: Daily rate £1,050 (one thousand and fifty pounds)   Subject to amendment from time to time by Breathing Space HR giving not less than one month's written notice to the Client.  The daily rate charged will be determined by Breathing Space HR based on level of expertise/knowledge required to complete project work and tasks. |
| **"In-put Material"** | all Documents, information and materials provided by the Client relating to the Services, including staff handbooks and policies, employee files and contracts of employment. |
| **"Initial Subscription Period"** | the period of 12 (twelve) consecutive calendar months commencing on the Commencement Date. |
| **"Intellectual Property Rights"** | copyright and related rights, patents, rights to inventions, trademarks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world. |
| **"Monthly Subscription Charges"** | the charges set out in the Proposal payable each calendar month of this agreement in accordance with clause 7.1.1 by the Client who is a Subscription Client. |
| **"Pre-existing Materials"** | all Documents, information and materials provided by Breathing Space HR relating to the Services which existed prior to the commencement of this agreement. |
| **"Proposal"** | the detailed plan describing the Services and responsibilities for the provision of the Services, and setting out if the Client shall be a Subscription Client, agreed in accordance with clause 3. |
| **"Services"** | the services to be provided by Breathing Space HR under this agreement as set out in the Proposal, together with any other services which Breathing Space HR provides or agrees to provide to the Client from time to time. |
| **"Subscription Client"** | a Client who the parties agree in the Proposal shall subscribe for the Services on a monthly basis for the duration of this agreement as set out in clause 2.2 |
| **"VAT"** | value added tax chargeable under English law for the time being and any similar additional tax. |

* 1. Clause and Schedule headings shall not affect the interpretation of this agreement.
  2. The Schedule forms part of this agreement and shall have effect as if set out in full in the body of this agreement. Any reference to this agreement includes the Schedule.
  3. References to clauses and the Schedule are to the clauses and the Schedule of this agreement.
  4. A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns.
  5. Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular, and a reference to one gender shall include a reference to the other genders.
  6. A reference to any party shall include that party's personal representatives, successors and permitted assigns.
  7. A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time, and shall include all subordinate legislation made from time to time under that statute or statutory provision.
  8. A reference to **writing** or **written** includes fax and e-mail.
  9. Any words following the terms **including**, **include**, **for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

1. Commencement and duration
   1. Breathing Space HR shall provide the Services to the Client from the Commencement Date on the terms and conditions of this agreement.
   2. If the Client is a Subscription Client, the Services supplied under this agreement shall continue to be supplied for the Initial Subscription Period and thereafter shall continue to be supplied indefinitely until either party gives 3 (three) month's written notice to the other party that it wishes to terminate this agreement, unless this agreement is terminated earlier in accordance with clause 11.
   3. If the Client is not a Subscription Client, the Services supplied under this agreement shall continue to be supplied until materially completed in accordance with the Proposal, unless this agreement is terminated in accordance with clause 11.
   4. Where the Client does not sign this agreement but continues to instruct Breathing Space HR and benefit from the Services under it, the Client accepts to be bound by the content of this agreement.
2. Proposal
   1. The Proposal shall be agreed in the following manner:
      1. the Client shall provide Breathing Space HR with a request for a Proposal, setting out the requirements and specifications of the services which it is requesting from Breathing Space HR, including a description of what work is to be done, dates by which each stage of the work is requested to be started and finished, whether the Client wishes to be a Subscription Client, Deliverables, In-put Materials and such other information as Breathing Space HR may request to allow Breathing Space HR to prepare a draft Proposal;
      2. Breathing Space HR shall, as soon as reasonably practicable, provide the Client with a draft Proposal; and
      3. Breathing Space HR and the Client shall discuss and agree the draft Proposal including whether the Client is to be a Subscription Client and when it has been agreed it shall become the Schedule to and subject to this agreement.
   2. Once the Proposal has been agreed in accordance with clause 3.1.3, no amendment shall be made to it except in accordance with clause 6 and clause 14.1.
3. Breathing Space HR's obligations
   1. Breathing Space HR shall use reasonable endeavours to:
      1. provide the Services, and to deliver the Deliverables to the Client, in accordance with the Proposal in all material respects;
      2. observe all health and safety rules and regulations and any other reasonable security requirements that apply at any of the Client's premises and that have been communicated to it under clause 5.1.9, provided that it shall not be liable under this agreement if, as a result of such observation, it is in breach of any of its obligations under this agreement.
4. Client's obligations
   1. The Client shall:
      1. co-operate with Breathing Space HR in all matters relating to the Services and appoint the Client's Manager in relation to the Services, who shall have the authority contractually to bind the Client on matters relating to the Services;
      2. provide, in a timely manner, such In-put Material and other information as Breathing Space HR may require, and ensure that it is accurate in all material respects;
      3. provide, for Breathing Space HR, its agents, subcontractors, consultants and employees, in a timely manner and at no charge, access to the Client's premises, office accommodation, data and other facilities as required by Breathing Space HR or any of them;
      4. be responsible (at its own cost) for preparing and maintaining the relevant premises for the supply of the Services;
      5. keep Breathing Space HR informed of any employee issues, as soon as the Client or the Client’s Manager (in relation to the Services) is aware of any action, which might result in an employment dispute with any employee;
      6. to follow any advice given, written or verbal, by Breathing Space HR;
      7. not make amends to agreed employment documentation (Contracts of employment, handbooks, standard employee letters, policies or procedures. This list is not exhaustive.) without the knowledge and agreement of Breathing Space HR;
      8. keep Breathing Space HR advised of any change in number of employees employed by the Client, whether temporary or permanent, regardless of the employee’s working hours;
      9. inform Breathing Space HR of all health and safety rules and regulations and any other reasonable security requirements that apply at any of the Client's premises; and
      10. obtain and maintain all necessary licences and consents and comply with all relevant legislation in relation to the Services and the use of In-put Material in all cases before the date on which the Services are to start;
   2. Failure to observe clauses 5.1.5, 5.1.6 or 5.1.7 may result in additional fees being invoiced by Breathing Space HR if it is required to spend additional time or resources resolving any potential issue.
      1. The additional fees shall be invoiced at Breathing Space’s hourly rate of £90.00, exclusive of VAT, per hour.
   3. If Breathing Space HR's performance of its obligations under this agreement is prevented or delayed by any act or omission of the Client, its agents, subcontractors, consultants or employees, Breathing Space HR shall not be liable for any costs, charges or losses sustained or incurred by the Client that arise directly or indirectly from such prevention or delay.
   4. The Client shall be liable to pay to Breathing Space HR, on demand, all reasonable costs, charges or losses sustained or incurred by Breathing Space HR (including any direct, indirect or consequential losses, loss of profit and loss of reputation, loss or damage to property and those arising from injury to or death of any person and loss of opportunity to deploy resources elsewhere) that arise directly or indirectly from the Client's fraud, negligence, failure to perform or delay in the performance of any of its obligations under this agreement, subject to Breathing Space HR confirming such costs, charges and losses to the Client in writing.
   5. The Client shall not, without the prior written consent of Breathing Space HR, at any time from the date of this agreement to the expiry of 12 (twelve) months after the termination of this agreement, solicit or entice away from Breathing Space HR or employ or attempt to employ any person who is, or has been, engaged as an employee, consultant or subcontractor of Breathing Space HR in the provision of the Services.
5. Change control
   1. If either party requests a change to the scope or execution of the Services, Breathing Space HR shall, within a reasonable time, provide a written estimate to the Client of:
      1. the likely time required to implement the change;
      2. any necessary variations to Breathing Space HR's charges arising from the change;
      3. the likely effect of the change on the Proposal; and
      4. any other impact of the change on this agreement.
   2. If the Client wishes Breathing Space HR to proceed with the change, Breathing Space HR has no obligation to do so unless and until the parties have agreed the necessary variations to its charges, the Services, the Proposal and any other relevant terms of this agreement to take account of the change and this agreement has been varied in accordance with clause 14.1.
   3. Notwithstanding clause 6.2, Breathing Space HR may, from time to time and without notice, change the Services in order to comply with any applicable safety or statutory requirements, provided that such changes do not materially affect the nature, scope of, or the charges for the Services. If Breathing Space HR requests a change to the scope of the Services for any other reason, the Client shall not unreasonably withhold or delay consent to it.
6. Charges and payment for Services
   1. In consideration of the provision of the Services by Breathing Space HR, the Client shall pay:
      1. if the Client is a Subscription Client, the Monthly Subscription Charges on the 15th day of each calendar month;
      2. if the terms of business are signed before the 15th of the month, the client will be invoiced for that month, if the terms of business are signed after the 15th of the month, the client will be invoiced in the next calendar month for the previous month
      3. if the Client is not a Subscription Client, the charges on a time and materials basis (which shall be calculated in accordance with Breathing Space HR's standard Hourly Rate) in accordance with clause 7.7.
   2. The Monthly Subscription Charges and the Hourly Rate exclude:
      1. the cost of hotel, subsistence and any other ancillary expenses reasonably incurred by the individuals whom Breathing Space HR engages in connection with the Services, the cost of any materials and the cost of services reasonably and properly provided by third parties and required by Breathing Space HR for the supply of the Services. Such expenses, materials and third party services shall be invoiced by Breathing Space HR at cost;
      2. Meetings or telephone conferences arranged and mutually agreed outside normal working hours of 9am to 5pm, Monday to Friday or arranged on Bank holidays. These will be charged at an hourly rate of £120 (one hundred and twenty pounds);
      3. The Out of Scope items detailed in the Proposal;
      4. travelling expenses, which Breathing Space HR shall add to its invoices at the rate of £45 (forty-five pounds) per hour, when not travelling to the Client’s Yorkshire sites, plus VAT.
   3. If the Client is a Subscription Client, Breathing Space HR shall invoice the Client monthly in arrears for any expenses and materials (together with VAT where appropriate) for the month concerned, calculated as provided in clause 7.2.
   4. If the client is a Subscription Client, at end of the initial subscription period and subsequently on the anniversary of the end of the initial subscription period, Breathing Space HR reserve the right to increase the monthly subscription charge by the inflation rate at that time.
   5. If the client is a Subscription Client, Breathing Space HR will monitor the Client’s total employee headcount and reserve the right to increase the monthly subscription fee in line with the new employee headcount.
   6. In respect of charges payable by the Client under clause 7.1.3, Breathing Space HR shall invoice the Client monthly in arrears for its charges for time, expenses and materials (together with VAT where appropriate) for the month concerned, calculated as provided in clause 7.1.3 and clause 7.2. Each invoice shall set out the time spent by each individual whom it engages on the Services and provide a breakdown of any expenses and materials, accompanied by the relevant receipts.
   7. The Client shall pay each invoice submitted to it by Breathing Space HR, in full and in cleared funds, within 7 (seven) days of receipt to a bank account nominated in writing by Breathing Space HR.
   8. Without prejudice to any other right or remedy that it may have, if the Client fails to pay Breathing Space HR on the due date:
      1. the Client shall pay interest on the overdue amount at the rate of 4% (four percent) per annum above the Bank of England's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Client shall pay the interest together with the overdue amount; and
      2. Breathing Space HR may suspend all Services until payment has been made in full.
   9. All sums payable to Breathing Space HR under this agreement shall become due immediately on its termination, despite any other provision. This clause 7.9 is without prejudice to any right to claim for interest under the law, or any such right under this agreement.
   10. All amounts due under this agreement shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
   11. Should the Client fail to pay all sums owed to Breathing Space HR, the Directors of the Client will be held personally liable for any outstanding amount.
7. Intellectual Property Rights
   1. As between the Client and Breathing Space HR, all Intellectual Property Rights and all other rights in the Deliverables, the Pre-existing Materials shall be owned by Breathing Space HR. Subject to clause 8.2, Breathing Space HR licenses all such rights to the Client free of charge and on a non-exclusive, worldwide basis to such extent as is necessary to enable the Client to make reasonable use of the Deliverables, the Services. If this agreement is terminated, this licence (except in respect of the Deliverables) will automatically terminate.
   2. The Client acknowledges that, where Breathing Space HR does not own any of the Pre-existing Materials, the Client's use of rights in Pre-existing Materials is conditional on Breathing Space HR obtaining a written licence (or sub-licence) from the relevant licensor or licensors on such terms as will entitle Breathing Space HR to license such rights to the Client.
8. Confidentiality
   1. Each party undertakes that it shall not at any time during this agreement, and for a period of 5 (five) years after termination of this agreement, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 9.
   2. Each party may disclose the other party's confidential information:
      1. to its employees, officers, representatives or advisers who need to know such information for the purposes of carrying out the party's obligations under this agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 9; and
      2. as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
   3. No party shall use any other party's confidential information for any purpose other than to perform its obligations under this agreement.
9. Limitation of liability
   1. Nothing in this agreement limits or excludes Breathing Space HR's liability for:
      1. death or personal injury caused by its negligence;
      2. fraud or fraudulent misrepresentation; or
      3. breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession) or any other liability which cannot be limited or excluded by applicable law.
   2. Subject to clause 10.1:
      1. Breathing Space HR shall under no circumstances whatever be liable to the Client, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with this agreement; and
      2. Breathing Space HR’s total liability to the Client in respect of all other losses arising under or in connection with this agreement, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the lower of £1 million or the maximum level of cover of Breathing Space HR’s professional indemnity insurance.
   3. The terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from this agreement.
10. Data Processing
    1. In this Clause 11 and in the Agreement, **“personal data”, “data subject”, “data controller”, “data processor”**, and **“personal data breach”** shall have the meaning defined in Article 4, EU Regulation 2016/679 General Data Protection Regulation **(“GDPR”**).
    2. Both Parties shall comply with all applicable data protection requirements set out in the Data Protection Legislation. This Clause 11andthe Agreement shall not relieve either Party of any obligations set out in the Data Protection Legislation and does not remove or replace any of those obligations.
    3. For the purposes of the Data Protection Legislation and for this Clause 11 and the Agreement, the Client is the **“Data Controller”** and Breathing Space HR is the “**Data Processor**”.
    4. The type(s) of personal data, the scope, nature and purpose of the processing, and the duration of the processing shall be set out in Schedule 3 of this Agreement.
    5. The Data Controller shall ensure that it has in place all necessary consents and notices required to enable the lawful transfer of personal data to the Data Processor for the purposes described in these Terms and Conditions.
    6. The Data Processor shall, with respect to any personal data processed by it in relation to its performance of any of its obligations under these Terms and Conditions.
    7. Process the personal data only on the written instructions of the Data Controller unless the Data Processor is otherwise required to process such personal data by law. The Data Processor shall promptly notify the Data Controller of such processing unless prohibited from doing so by law.
       1. Ensure that it has in place suitable technical and organisational measures (as approved by the Data Controller) to protect the personal data from unauthorised or unlawful processing, accidental loss, damage or destruction. Such measures shall be proportionate to the potential harm resulting from such events, taking into account the current state of the art in technology and the cost of implementing those measures.
       2. Ensure that any and all staff with access to the personal data (whether for processing purposes or otherwise) are contractually obliged to keep that personal data confidential; and
       3. Not transfer any personal data outside of the European Economic Area without the prior written consent of the Data Controller and only if the following conditions are satisfied:
          1. The Data Controller and/or the Data Processor has/have provided suitable safeguards for the transfer of personal data;
          2. Affected data subjects have enforceable rights and effective legal remedies;
          3. The Data Processor complies with its obligations under the Data Protection Legislation, providing an adequate level of protection to any and all personal data so transferred; and
          4. The Data Processor complies with all reasonable instructions given in advance by the Data Controller with respect to the processing of the personal data.
       4. Assist the Data Controller at the Data Controller’s cost, in responding to any and all requests from data subjects in ensuring its compliance with the Data Protection Legislation with respect to security, breach notifications, impact assessments, and consultations with supervisory authorities or regulators (including, but not limited to, the Information Commissioner’s Office);
       5. Notify the Data Controller without undue delay of a personal data breach;
       6. On the Data Controller’s written instruction, delete (or otherwise dispose of) or return all personal data and any and all copies thereof to the Data Controller on termination of the Agreement unless it is required to retain any of the personal data by law; and
       7. Maintain complete and accurate records of all processing activities and technical and organisational measures implemented necessary to demonstrate compliance with this Clause 11 to allow for audits by the Data Controller and/or any party designated by the Data Controller.
    8. The Data Processor shall not sub-contract any of its obligations to a sub-processor with respect to the processing of personal data under this Clause 11without the prior written consent of the Data Controller (such consent not to be unreasonably withheld). In the event that the Data Processor appoints a sub-processor, the Data Processor shall:
       1. Enter into a written agreement with the sub-processor, which shall impose upon the sub-processor the same obligations as are imposed upon the Data Processor by this Clause 11 which shall permit both the Data Processor and the Data Controller to enforce those obligations; and
       2. Ensure that the sub-processor complies fully with its obligations under that agreement and the Data Protection Legislation.
    9. Either Party may, at any time, and on at least 30 days’ notice, alter the data protection provisions of theAgreement, replacing them with any applicable data processing clauses or similar terms that form part of an applicable certification scheme. Such terms shall apply when replaced by attachment to the Agreement.
11. Termination
    1. Without affecting any other right or remedy available to it, either party may terminate this agreement with immediate effect by giving written notice to the other party if:
       1. the other party fails to pay any amount due under this agreement on the due date for payment and remains in default not less than 5 (five) days after being notified in writing to make such payment;
       2. the other party commits a material breach of any term of this agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 5 (five) days after being notified in writing to do so;
       3. the other party repeatedly breaches any of the terms of this agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this agreement;
       4. the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed either unable to pay its debts or as having no reasonable prospect of so doing; or
       5. the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.
12. Consequences of termination
    1. On termination or expiry of this agreement:
       1. the Client shall immediately pay to Breathing Space HR all of Breathing Space HR's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, Breathing Space HR may submit an invoice, which shall be payable immediately on receipt;
       2. the Client shall return all Pre-existing Materials. If the Client fails to do so, then Breathing Space HR may enter the Client's premises and take possession of them. Until they have been returned or repossessed, the Client shall be solely responsible for their safe keeping;
       3. the following clauses shall continue in force: clause 8 (Intellectual Property Rights), clause 9 (Confidentiality), clause 11 (Limitation of liability), clause 11 (Data Processing), clause 13.1and clause 14.13 (Governing law and jurisdiction).
    2. Termination or expiry of this agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination or expiry.
    3. For the avoidance of doubt, if the Client is a Subscription Client and attempts to terminate this agreement during the Initial Subscription Period otherwise than in accordance with clause 11.2, then, without prejudice to any rights, remedies, obligations or liabilities of the Client that have accrued up to the date of termination, the full amount of all Monthly Subscription Charges for the remainder of the Initial Subscription Period following such termination shall immediately become payable by the Client.
13. General
    1. Subject to clause 6, no variation of this agreement shall be effective unless it is in writing (email or letter) agreed by the parties (or their authorised representatives).
    2. Breathing Space HR shall not be liable to the Client as a result of any delay or failure to perform its obligations under this agreement as a result of a Force Majeure Event. If the Force Majeure Event prevents Breathing Space HR from performing its obligations under this agreement for more than 4 (four) weeks, Breathing Space HR shall, without limiting its other rights or remedies, have the right to terminate this agreement immediately by giving written notice to the Client.
    3. No failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
    4. Except as expressly provided in this agreement, the rights and remedies provided under this agreement are in addition to, and not exclusive of, any rights or remedies provided by law.
    5. If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this agreement.
    6. This agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in this agreement. Nothing in this clause shall limit or exclude any liability for fraud.
    7. If there is an inconsistency between any of the provisions of this agreement and the Proposal, the provisions of this agreement shall prevail.
    8. This agreement is personal to the Client and the Client shall not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any of its rights and obligations under this agreement. Breathing Space HR may at any time assign, transfer, mortgage, charge or deal in any other manner with any or all of its rights and obligations under this agreement, provided that Breathing Space HR gives prior written notice to the Client.
    9. Nothing in this agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party. Each party confirms it is acting on its own behalf and not for the benefit of any other person.
    10. No one other than a party to this agreement, their successors and permitted assignees, shall have any right to enforce any of its terms.
    11. Any notice or other communication given to a party under or in connection with this agreement shall:
        1. be in writing, addressed to that party at such address as that party may have specified to the other party in writing, and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service, commercial courier, fax or e-mail;
        2. be deemed to have been received: if delivered personally, when left at the address referred to in clause 14.11.1; if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second working day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or e-mail, one working day after transmission.

The provisions of this clause 14.11 shall not apply to the service of any proceedings or other documents in any legal action.

* 1. This agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.
  2. This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales. Each party irrevocably agrees that the courts of England shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

**THIS AGREEMENT** has been entered into on the date stated at the beginning of it.

1. – Services to be Provided

Delete as appropriate

**Services to be Provided** **and charged at the Hourly/Daily rate of £xxxxx:**

**Insert Details of agreed Services**

**Flexi -Project Package**

* 4 Hour Flexi-Package £280 + VAT – Breathing Space HR will set up a shared timesheet and track the time spent on any work for the client .  The client can top up payments if additional support is required when any problems arise.

**Tailored Contract and Employee Handbook Package £750.**

This includes one set of tailored contracts from the list below – if you require additional contracts, they will be tailored to your business requirements at £150 per contract template.

* Full-time/ Part-time/Temporary Contracts (all 3 contract templates are included in this option)
* Hybrid/Homeworking Contract
* Service/Freelance Contract
* Zero Hours Contract
* Apprentice Contract

Breathing Space HR will invoice 50% of the Contract & Handbook project fee at the start of the project and the remainder of the project fee will be invoiced 4 weeks after the client receives the first draft of the documents (or following client sign off, if within 4 weeks of receipt of first draft)

The price for this service has been assessed based on the number of employees the Client has declared and from experience in delivering the services.

**Additional Ongoing Support**

The hourly and daily rates charged will be determined as defined in the Definitions in section 1.1 of this Agreement which are exclusive of VAT.

1. – Other Services Available

**UP & UP PACKAGE**

|  |  |  |
| --- | --- | --- |
|  | **STRATEGY** |  |
| **EMPLOYEE EXPERIENCE** | **ATTRACT** | * Employer Brand – Vision and Values * Recruitment and Selection strategy and advice * Workforce Planning: * Change Management * Business Organisation * Job Evaluation / Salary Benchmarking for individual role profiles * Equity, Inclusion, Diversity & Belonging Strategy * Corporate Social Responsibility (CSR) |
| **ENGAGE & RETAIN** | * Onboarding / Induction * Employee Feedback and Strategy * Reward and Recognition Strategy * Coaching and Mentoring * Employee Communications * Wellbeing Strategy |
| **DEVELOP** | * Employee Development * Management Development * Leadership Development * Talent Reviews and Succession Planning * Performance Reviews and Check-Ins * DevelopME Learning Platform |
| **SUPPORT** | **SUPPORT** | * Policies, Procedure and Compliance * HR Admin * Managing Conduct * Absence Management * Redundancies * Metrics and Analysis * HR Budget * Legal – Introduction to BSHR partners * Payroll – Introduction to BSHR partners * HR Tech / HRIS * HR Senior Strategic Support: * Mergers and Acquisitions / TUPE * Settlement Agreements * Multiple / Complex Redundancies * Crisis Management * Business Re-organisation |

**ADDITIONAL COSTS** *(price on application depending on client brief)*

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| **EMPLOYEE EXPERIENCE** | **ATTRACT and ENGAGE** | **Recruitment** | * Running assessment centre * Psychometric Selection |
| **Wellbeing** | Developing and running wellbeing initiatives |
| **Induction/Onboarding Reviews** | Delivering individual or group induction programmes / presentations |
| **SUPPORT** | **SUPPORT** | **Personnel File Management** | * Scanning paper HR documents to digital * Cleansing HR file data (paper and/or electronic) |
| **Starters** | Creating bespoke offer process (non-standard contract) |
| **Legal Representation** | Litigation or witness support in any court proceedings |
| **BSHR HRIS (Zoho People)** | * Implementation of any HRIS other than Zoho People * Monthly / annual SAAS cost per user employee * Implementation project cost |
| **Job Evaluation / Salary Benchmarking** | * Multiple job evaluations at organisational or departmental level projects |

**ESSENTIALS PACKAGE**

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| **EMPLOYEE EXPERIENCE** | **ATTRACT**  **ENGAGE & RETAIN**  **DEVELOP** | * Providing standard templates, letters or forms to cover all HR needs, for example: * Job descriptions * Recruitment and selection * Induction and onboarding * Exit and check-in interviews * Reward and recognition * Coaching for managers on any HR process or people issue, for example: * Absence management * Appeals * Disciplinary / resolution and grievance * Family friendly (adoption, maternity, paternity, unpaid parental leave and shared parental leave) * Performance improvement process * Redundances |
| **SUPPORT** | **SUPPORT** | * A dedicated People Partner to provide: * Unlimited phone and email advise for managers and employees * HR templates, letters, forms and Managers guidance * Reviewing of a letter/form drafted by client and making amendments * Coaching for managers on any HR process or people issue * Develop bespoke Contracts and Employee Handbook: * Policies, advice and templates review * GDPR compliance check in relation to employment |

**RECRUITMENT SUPPORT PACKAGE**

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| --- | --- |
| **SERVICE** | **COST** |
| **Job Description and Person Specification Design** – This could be on site or via Zoom | Included in Up & Up package |
| **Interview Question Design** | Included in Up & Up package |
| **Job Advertising** – Across 8 different paid for platforms including Indeed, Reed, CV Library, Total Jobs. Advert is live for 28 days. | £500 per advert and first sift (wheat from the chaff) |
| **Resourcing** – Telephone interview candidates and build a short list ready to interview | £70 per hour  £90 per hour – senior level recruitment |
| **Interviews** – organising and Giving Candidate Feedback | £70 for up to 4 interviews  £100 for 5 or more interviews |
| **Interview Support** – Running or Supporting on Interview be it onsite or via zoom | Included in Up & Up package |

1. – Data Protection
   * 1. - Operative provisions
        1. Definitions
           1. In this Schedule:

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| --- | --- |
| “Controller” | 1. has the meaning given in applicable Data Protection Laws from time to time; |
| “Data Protection Laws” | 1. means, as binding on either party or the Services:    1. the GDPR;    2. the Data Protection Act 2018;    3. any laws which implement any such laws; and    4. any laws that replace, extend, re-enact, consolidate or amend any of the foregoing; |
| “Data Subject” | 1. has the meaning given in applicable Data Protection Laws from time to time; |
| “GDPR” | 1. means the General Data Protection Regulation, Regulation (EU) 2016/679; |
| “International Organisation” | 1. has the meaning given in applicable Data Protection Laws from time to time; |
| “Personal Data” | 1. has the meaning given in applicable Data Protection Laws from time to time; |
| “Personal Data Breach” | 1. has the meaning given in applicable Data Protection Laws from time to time; |
| “processing” | 1. has the meaning given in applicable Data Protection Laws from time to time (and related expressions, including “process”, “processed” and “processes” shall be construed accordingly); |
| “Processor” | 1. has the meaning given in applicable Data Protection Laws from time to time; |
| “Protected Data” | 1. means Personal Data received from or on behalf of the Customer in connection with the performance of the Supplier’s obligations under this agreement; and |
| “Sub-Processor” | 1. means any agent, sub-contractor or other third party (excluding its employees) engaged by the Supplier for carrying out any processing activities on behalf of the Customer in respect of the Protected Data. |

* + - 1. Customer’s compliance with data protection laws

The parties agree that the Customer is a Controller and that the Supplier is a Processor for the purposes of processing Protected Data pursuant to this agreement. The Customer shall at all times comply with all Data Protection Laws in connection with the processing of Protected Data. The Customer shall ensure all instructions given by it to the Supplier in respect of Protected Data (including the terms of this agreement) shall at all times be in accordance with Data Protection Laws.

* + - 1. Supplier’s compliance with data protection laws

The Supplier shall process Protected Data in compliance with the obligations placed on it under Data Protection Laws and the terms of this agreement.

* + - 1. Indemnity

The Customer shall indemnify and keep indemnified the Supplier against all losses, claims, damages, liabilities, fines, sanctions, interest, penalties, costs, charges, expenses, compensation paid to Data Subjects, demands and legal and other professional costs (calculated on a full indemnity basis and in each case whether or not arising from any investigation by, or imposed by, a supervisory authority) arising out of or in connection with any breach by the Customer of its obligations under this Schedule.

* + - 1. Instructions
         1. The Supplier shall only process the Protected Data in accordance with this Schedule 3 and this agreement (including when making any transfer to which paragraph 10 relates), except to the extent:

that alternative processing instructions are agreed between the parties in writing; or

otherwise required by applicable law (and shall inform the Customer of that legal requirement before processing, unless applicable law prevents it doing so on important grounds of public interest).

* + - * 1. Without prejudice to paragraph 2 of Part 1 of this Schedule 3, if the Supplier believes that any instruction received by it from the Customer is likely to infringe the Data Protection Laws it shall promptly inform the Customer and be entitled to cease to provide the relevant Services until the parties have agreed appropriate amended instructions which are not infringing.
      1. Security

Taking into account the state of technical development and the nature of processing, the Supplier shall implement and maintain the technical and organisational measures set out in Part 2 of Section 2 of this Schedule to protect the Protected Data against accidental, unauthorised or unlawful destruction, loss, alteration, disclosure or access.

* + - 1. Sub-processing and personnel
         1. The Supplier shall:

not permit any processing of Protected Data by any agent, sub-contractor or other third party (except its or its Sub-Processors’ own employees in the course of their employment that are subject to an enforceable obligation of confidence with regards to the Protected Data) without the written authorisation of the Customer;

prior to the relevant Sub-Processor carrying out any processing activities in respect of the Protected Data, appoint each Sub-Processor under a written contract containing materially the same obligations as under this Schedule (including those relating to sufficient guarantees to implement appropriate technical and organisational measures) that is enforceable by the Supplier and ensure each such Sub-Processor complies with all such obligations;

remain fully liable to the Customer under this agreement for all the acts and omissions of each Sub-Processor as if they were its own; and

ensure that all natural persons authorised by the Supplier or any Sub-Processor to process Protected Data are subject to a binding written contractual obligation to keep the Protected Data confidential.

* + - 1. List of authorised sub-processors

The Customer authorises the appointment of the Sub-Processors listed below: None at the time of this agreement.

* + - 1. Assistance
         1. The Supplier shall (at the Customer’s cost) assist the Customer in ensuring compliance with the Customer’s obligations pursuant to Articles 32 to 36 of the GDPR (and any similar obligations under applicable Data Protection Laws) taking into account the nature of the processing and the information available to the Supplier.
         2. The Supplier shall (at the Customer’s cost) taking into account the nature of the processing, assist the Customer (by appropriate technical and organisational measures), insofar as this is possible, for the fulfilment of the Customer’s obligations to respond to requests for exercising the Data Subjects’ rights under Chapter III of the GDPR (and any similar obligations under applicable Data Protection Laws) in respect of any Protected Data.
      2. International transfers

The Supplier shall not process and/or transfer, or otherwise directly or indirectly disclose, any Protected Data in or to countries outside the United Kingdom or to any International Organisation without the prior written authorisation of the Customer.

* + - 1. Audits and processing

The Supplier shall, in accordance with Data Protection Laws, make available to the Customer such information that is in its possession or control as is necessary to demonstrate the Supplier’s compliance with the obligations placed on it under this Schedule and to demonstrate compliance with the obligations on each party imposed by Article 28 of the GDPR (and under any equivalent Data Protection Laws equivalent to that Article 28), and allow for and contribute to audits, including inspections, by the Customer (or another auditor mandated by the Customer) for this purpose (subject to a maximum of one audit request in any 12 month period under this paragraph 11).

* + - 1. Breach

The Supplier shall notify the Customer without undue delay and in writing on becoming aware of any Personal Data Breach in respect of any Protected Data.

* + - 1. Deletion/return and survival

On the end of the provision of the Services relating to the processing of Protected Data, at the Customer’s cost and the Customer’s option, the Supplier shall either return all of the Protected Data to the Customer or securely dispose of the Protected Data (and thereafter promptly delete all existing copies of it) except to the extent that any applicable law requires the Supplier to store such Protected Data.

**Part 2** – **Data processing and security details**

**Section 1 – Data Processing Details**

Processing of the Protected Data by the Supplier under this agreement shall be for the subject-matter, duration, nature and purposes and involve the types of Personal Data and categories of Data Subjects set out in the table below:



**Section 2—Minimum Technical and Organisational Security Measures**

1. The Supplier shall implement and maintain the following technical and organisational security measures to protect the Protected Data:
2. In accordance with the Data Protection Laws, taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of the processing of the Protected Data to be carried out under or in connection with this agreement, as well as the risks of varying likelihood and severity for the rights and freedoms of natural persons and the risks that are presented by the processing, especially from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to the Protected Data transmitted, stored or otherwise processed, the Supplier shall implement appropriate technical and organisational security measures appropriate to the risk, including as appropriate those matters mentioned in Articles 32(1)(a) to 32(1)(d) (inclusive) of the GDPR.

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| --- | --- |
| Signed by **SUZIE BOGLE, Managing Director** for and on behalf of **BREATHING SPACE HR LIMITED** | **A close-up of a sign  Description automatically generated with low confidence** |

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| Signed by  for and on behalf of |  |