

## Terms and Conditions for the Supply of Services

The Client's attention is particularly drawn to clause 8.1. Definition and Interpretation.

1.1 In these Conditions the following definitions and rules of interpretation apply:

"Agreement"	the contract between Bay Tree VA and the Client for the supply of Services in accordance with these Conditions;
"Bay Tree VA"	means Bay Tree VA Limited, a company incorporated and registered in England and Wales with company number 06524167 whose registered office is located at Stone Farm, Felsham, Bury St Edmunds, Suffolk, IP33 0HP;
"Business Day"	a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business;
"Charges"	the charges payable by the Client for the supply of the Services in accordance with clause 5 together with the payment of any of the expenses incurred and the rates specified in clause 5.5;
"Client"	means the person or company to whom Bay Tree VA provides the Services;
"Client Documentation"	any Client documentation supplied as part of the Services;
"Commencement Date"	has the meaning set out in clause 2.2;
"Conditions"	these terms and conditions as amended from time to time in accordance with clause 13.11;
"Service Form"	the Client's order for Services as set out in the Client's written correspondence or, the Client's written acceptance of a quotation by Bay Tree VA, as the case may be;
"Expenses"	the list of expenses which Bay Tree VA may incur on behalf of the client in providing the Services in accordance with clause 5.5;
"Insolvency Event"	means in respect of the Client any action, proceedings, procedure or step is taken for: (a) the suspension of payments, a moratorium of any indebtedness, winding up, dissolution, administration or reorganisation (using a voluntary arrangement, scheme of arrangement or otherwise); or (b) the composition, compromise, assignment or arrangement with any creditor; or (c) the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of a party or any of its assets; or (d) the other party (being an individual) is the subject of a bankruptcy petition or order; or (e) any event occurs in relation to a party similar to those in (a) to (d) (inclusive)

under the laws of any applicable jurisdiction.

"Intellectual Property Rights"	patents, rights to inventions, copyright and related rights, trade marks, 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;
"Materials"	has the meaning set out in clause 4.1.2;
"Services"	the services to be supplied by Bay Tree VA as set out in the Service Form;
"Specification"	the description or specification of the Services as set out in the Service Form.

1.2 a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;

1.3 a reference to writing or written includes faxes and e-mails;

1.4 unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular;

1.5 unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

### 2. Supply of Services

2.1 In return for the payment of the Charges, Bay Tree VA hereby agrees to provide the Services to the Client on the terms set out in this Agreement.

2.2 Bay Tree VA shall supply the Services to the Client in accordance with the Specification in all material respects.

2.3 Bay Tree VA shall use all reasonable endeavours to meet any performance dates specified in the Specification, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.

2.4 Bay Tree VA shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and Bay Tree VA shall notify the Client in any such event.

2.5 Bay Tree VA warrants to the Client that the Services will be provided using reasonable care and skill.

2.6 Bay Tree VA shall provide the Services to the Client from the date specified in the Service Form (the "**Commencement Date**").

2.7 The Services supplied under this Agreement shall continue to be supplied until terminated in accordance with clause 10.

2.8 This Agreement constitutes the entire agreement between the parties. The Client acknowledges that it has not relied on any

statement, promise, representation, assurance or warranty made or given by or on behalf of Bay Tree VA which is not set out in the Agreement.

### 3. Bookkeeping services

3.1 Where Bay Tree VA is providing bookkeeping services, it will be the sole responsibility of the Client to provide updated and accurate financial information to Bay Tree VA. The Client will be responsible for all costs, expenses, and legal fees incurred if an independent financial review is needed for the purpose of correcting the Client's financial data.

3.2 Both the Client and Bay Tree VA agree that all materials and information provided to Bay Tree VA will remain the Client's property, and the Client will hold harmless and protect and defend Bay Tree VA from any claim of action arising from the use of such materials and information.

3.3 Bay Tree VA will perform the bookkeeping services in accordance with generally accepted accounting principles and practice, and Bay Tree VA acknowledges that all bookkeeping services provided will be of professional and workmanlike quality, and provided within a reasonable time.

3.4 To the extent required by law, all bookkeeping work will be performed by individuals duly licensed and authorised by law to perform the work.

### 4. Client's Obligations

4.1 The Client shall:

4.1.1 co-operate with Bay Tree VA in all matters relating to the Services;

4.1.2 provide Bay Tree VA with such information and materials as Bay Tree VA may reasonably require in order to supply any part of the Services, and ensure that such information is accurate in all material respects (the "Materials");

4.1.3 obtain and maintain all necessary licences, permissions and consents which may be required before the date on which the Services are to start.

4.2 If Bay Tree VA's performance of any of its obligations under the Agreement is prevented or delayed by any act or omission by the Client or failure by the Client to perform any relevant obligation ("Client Default"):

4.2.1 Bay Tree VA shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Client remedies the Client Default, and to rely on the Client Default to relieve it from the performance of any of its obligations to the extent the Client Default prevents or delays Bay Tree VA's performance of any of its obligations;

4.2.2 Bay Tree VA shall not be liable for any costs or losses sustained or incurred by the Client arising directly or indirectly from Bay Tree VA's failure or delay to perform any of its obligations as set out in this clause 4.2; and

4.2.3 the Client shall reimburse Bay Tree VA on written demand for any costs or losses sustained or incurred by Bay Tree VA arising directly or indirectly from the Client Default.

### 5. Charges and payment

5.1 The Charges for the Services shall be on a time and materials basis and shall be charged in accordance with this clause 5 and the Service Form together with any expenses incurred in accordance with clause 5.5.

5.2 **Invoicing:** Full payment is expected within 14 days from the date of any invoice issued by Bay Tree VA, following which interest will be charged at 5% above Barclays Bank base rate from time to time.

Invoices will be sent out each month from the Commencement Date, unless alternative arrangements are agreed.

5.3 Time for payment shall be of the essence of this Agreement.

5.4 The Client shall pay all amounts due under this Agreement in full without any set-off, deduction or withholding (except for any deduction or withholding required by law). Bay Tree VA may at any time, without limiting its other rights or remedies, set off any amount owing to it by the Client against any amount payable by Bay Tree VA to the Client.

5.5 **Reimbursement and expenses:** Any costs incurred will be recorded and shown separately on each invoice. These may include:

- Mileage – charged at 45p per mile (as per current HMRC mileage rates for business travel)
- Postage – at cost (which will be first class, unless otherwise agreed)
- Telephone – at cost (unless otherwise agreed)
- Printing - b/w = 5p per page; colour = 10p per page
- Reasonable out of pocket expenses e.g. travel costs, parking expenses, subsistence.

5.6 Any overnight expenses, such as meals and accommodation, although these will be agreed with the Client in advance of being incurred.

### 6. Intellectual property rights

6.1 The Client acknowledges that, in respect of any third party Intellectual Property Rights, the Client's use of any such Intellectual Property Rights is conditional on Bay Tree VA obtaining a written licence from the relevant licensor on such terms as will entitle Bay Tree VA to license such rights to the Client.

6.2 All Materials are the exclusive property of the Client and Bay Tree VA hereby assigns to the Client the copyright and other Intellectual Property rights of whatever nature in the Client Documentation produced as part of the provision of the Services.

### 7. Confidentiality

7.1 The Client agrees to give Bay Tree VA access to certain confidential information relating to the affairs of the Client solely for the purposes of carrying out the supply of the Services by Bay Tree VA to the Client.

7.2 Bay Tree VA agrees to obtain and use such information only for the purposes of supplying the Services, and otherwise to keep such information confidential in accordance with the terms of this Agreement.

7.3 The Client has or shall furnish to Bay Tree VA confidential information as described above, and may further allow banks, suppliers, customers, employees or representatives of the Client to disclose information to Bay Tree VA.

7.4 Bay Tree VA agrees to hold all confidential information or proprietary information or trade secrets (information) in trust and confidence and agrees that the information shall be used only for the supply of the Services, and not for any other purpose nor disclosed to any third party save for Bay Tree VA may disclose to a sub-contractor any information necessary for the sub-contractor to carry out the duties and/or work provided that Bay Tree VA has in place an agreement between themselves and the sub-contractor requiring the sub-contractor to keep information confidential.

7.5 No copies will be made or retained by Bay Tree of the confidential information unless specifically requested in writing, except in the normal course of performance of the duties agreed above.

7.6 At the conclusion of this Agreement, or upon demand by the Client, all information, including written notes, photographs or memoranda shall, by prior agreement, be promptly returned to the Client by Royal Mail Registered Post or shredded by Bay Tree VA. Bay

Tree VA shall retain no copies or written documentation relating thereto.

## **8. Limitation of liability: The Client's attention is particularly drawn to this clause**

8.1 Nothing in this Agreement shall limit or exclude Bay Tree VA's liability for:

8.1.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;

8.1.2 fraud or fraudulent misrepresentation; or

8.1.3 breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).

8.2 Subject to clause 8.1:

8.2.1 Bay Tree VA 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

8.2.2 Bay Tree VA'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 Charges paid by the Client to Bay Tree VA in the 12 month period prior to the date the liability arises.

8.3 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.

8.4 This clause 8 shall survive termination of this Agreement.

## **9. Complaints**

9.1 Subject to clause 8, there is a Client complaint procedure which includes cover with professional indemnity insurance. All complaints will be dealt with by Bay Tree VA within 28 days of complaints being issued. If the issue has not been successfully dealt with the matter will be passed to Bay Tree VA's Professional Indemnity Insurer.

## **10. Termination**

10.1 Both the Client and Bay Tree VA are able to end this Agreement by giving the other 30 days' written notice of their intention to end the Agreement to the other party.

10.2 In the event that either party is in material or persistent breach of any of the terms of this Agreement, the other party may terminate this Agreement if, upon the expiry of 14 days after serving notice on the party in default, steps have not been taken to remedy the breach.

10.3 Without limiting its other rights or remedies, Bay Tree VA may terminate the Agreement with immediate effect by giving written notice to the other party if:

10.3.1 an Insolvency Event occurs affecting the Client; or

10.3.2 the Client's financial position deteriorates to such an extent that in Bay Tree VA's opinion the Client's capability to adequately fulfil its obligations under the Agreement has been placed in jeopardy; or

10.3.3 the Client (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.

10.4 Without limiting its other rights or remedies, Bay Tree VA may suspend the supply of Services or all further deliveries of Services under the Agreement or any other agreement between the Client and Bay Tree VA if the Client fails to pay any amount due under this Agreement on the due date for payment, the Client becomes subject

to any of the events listed in clause 10.3, or Bay Tree VA reasonably believes that the Client is about to become subject to any of them.

10.5 On termination of the Agreement or suspension of the Services (other than through default on the part of Bay Tree VA) the Client shall forthwith pay to Bay Tree VA all unpaid fees and reimbursable expenses accrued up to the date of termination or suspension.

## **11. Force majeure**

11.1 For the purposes of this Agreement, "**Force Majeure Event**" means an event beyond the reasonable control of Bay Tree VA including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of Bay Tree VA or any other party), 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.

11.2 Bay Tree VA 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.

11.3 If the Force Majeure Event prevents Bay Tree VA from providing any of the Services for more than 4 weeks, Bay Tree VA shall, without limiting its other rights or remedies, have the right to terminate this Agreement immediately by giving written notice to the Client.

## **12. Non-Solicitation**

12.1 The Client shall not, without the prior written consent of Bay Tree VA, at any time from the date of the Agreement to the expiry of 12 months after the termination of this Agreement, solicit or entice away from Bay Tree VA or employ or attempt to employ any person who is, or has been engaged as an employee, consultant or subcontractor of Bay Tree VA in the 12 month period prior to the date of solicitation or enticement.

12.2 Any consent given by Bay Tree VA in accordance with clause 12.1 shall be subject to the Client paying to Bay Tree VA a one-off sum equivalent to 20% of the then current annual remuneration of Bay Tree VA's employee, consultant or subcontractor or, if higher, 20% of the annual remuneration to be paid by the Client to that employee, consultant or subcontractor.

## **13. General**

13.1 **Contact Hours.** Bay Tree VA's contactable hours are between 09:00 – 18:00, Monday - Friday, unless otherwise agreed. Bay Tree VA will notify you if unavailable for longer than a day. As much notice as possible will be given regarding holiday arrangements. The office will be closed on public holidays. Should cover be required, endeavours will be taken to secure this, although it cannot be guaranteed to be at the same level of day-to-day support.

### **13.2 Assignment and other dealings.**

13.2.1 Subject to clause 13.2.2, neither party may at any time assign, transfer, mortgage, charge, sub-contractor deal in any other manner with all or any of its rights under the Agreement and may sub-contract or delegate in any manner any or all of its obligations under the Agreement to any third party or agent without the other parties prior written consent, such consent not to be unreasonably withheld or delayed.

13.2.2 Bay Tree VA may, if required during its performance of the Services, sub-contract or delegate in any manner any or all of its obligations under this Agreement to any third party or agent, including, but not limited to other team members of Bay Tree VA, printers, caterers or other third party suppliers.

### **13.3 Notices.**

13.3.1 Any notice or other communication given to a party under or in connection with the Agreement shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, 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.

13.3.2 A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 13.2.1; if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business 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 Business Day after transmission.

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

#### 13.4 Severance.

13.4.1 If any provision or part-provision of the 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.

13.4.2 If any provision or part-provision of this Agreement is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

13.5 **Waiver.** A waiver of any right under the Agreement or law is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy provided under the Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict its 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.

13.6 **No partnership or agency.** Nothing in the Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, nor constitute either party the agent of the other for any purpose. Neither party shall have authority to act as agent for, or to bind, the other party in any way.

13.7 This Agreement creates an independent Client-virtual assistant relationship. The Client is interested only in the results to be achieved. Bay Tree VA is solely responsible for the conduct and control of the work.

13.8 Bay Tree VA is not entitled to any benefits that the Client provides to the Client's employees.

13.9 **Non-Exclusive.** This is a non-exclusive agreement. Both parties are free to contract with other parties for similar services.

13.10 **Third parties.** A person who is not a party to the Agreement shall not have any rights to enforce its terms.

13.11 **Variation.** No variation of the Agreement shall be effective unless it is agreed in writing and signed by both parties.

13.12 **Conflict:** If there is any conflict between the terms set out in the Service Form and the terms set out in these Conditions, then the terms set out in the Service Form shall prevail.

13.13 **Governing law.** 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.

13.14 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales 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).