

AGREEMENT FOR THE PROVISION OF SCREENING SERVICES

This Agreement is made between:

	Giant	"Client"
Full company name	Giant screening Limited	
Registered Office <i>(or, if applicable, principal place of business)</i>	3 Harbour Exchange Square, London, United Kingdom, E14 9TQ	
Company number, if applicable	10656083	

This Agreement shall comprise the following:

- (i) This signature sheet; and
- (ii) The attached Schedule ("the Schedule") and any Appendices to the Schedule; and
- (iii) Giant's Terms and Conditions Version S.1 ("the Terms and Conditions")

The Client acknowledges that it has read and understood the Terms and Conditions and agrees to be bound by them as varied by the Schedule attached. The date of this Agreement shall be the latest date of signature below.

	Giant	Client
Signature of authorised signatory		
Name		
Position		
Date		

SCHEDULE - SECTION 1: CONTRACT INFORMATION

SERVICES

The provision of a service to verify details relating to the background of individuals.

TIMING AND DATES

Commencement Date:	**/**/**
Live Date:	**/**/** (or if earlier the date on which the Services are first available to the Client in a live environment other than for testing purposes).
Initial Term:	the period from the Commencement Date until the date which is 1 year after the Live Date.
Minimum Notice Period:	1 month

SECTION 2: FEES

FEES

Transactional Fees:

TBC

To the extent that any third-party charges giant to provide a reference, confirmation of qualification or confirmation of professional status, Giant will pass this charge directly onto the client at cost.

DocuSign configuration - Costs for converting documents are priced upon request and complexity of the conversion.

all fees exclusive of VAT

SPECIAL TERMS AND CONDITIONS

GENERAL

For the purposes of these Special Terms and Conditions:

“Applicant” means that person who is the subject of the Services provided by Giant to the Client: and

“Principal” means any third party instructing the Client to act as its agent to consider the suitability of Applicants for employment with the Principal and/or to assist the Principal in monitoring performance and/or potential performance of individuals in the employment of the Principal,

Except as expressly provided to the contrary in these Special Terms and Conditions (if at all), if the Client is acting on behalf of a Principal the Client shall be entitled to make the Information or part thereof available to the Principal to the extent reasonably necessary for such purposes. Without prejudice to the generality of the Client's obligations under this Agreement, the Client shall obtain from each such individual express prior written consent to any Information relating to such individual being submitted by the Client to the Principal.

The Client shall ensure that each Applicant has given consent in advance to any check which is to be undertaken under this Agreement (but Giant acknowledges that the Client may appoint Giant to seek certain consents on the Client's behalf). Giant shall not be obliged to provide the Services in respect of any Applicant who has not given such consent.

LIABILITY

Without prejudice to the provisions of Clause 9 of the Terms and Conditions, Giant accepts no liability for any inaccuracy, incompleteness or other error in the Information which results from information provided to Giant by the Client (or any Principal).

CRIMINAL RECORD CHECKS

The provisions of the Appendix 1 to this Schedule shall apply where Giant is providing criminal history information on Applicants as part of the Services.

Processing of a criminal check cannot commence unless the Applicant has presented original proof of identity and proof of address to the Client. By requesting a criminal record check on an Applicant, the Client confirms that they have seen and will retain verified copies for a period of 12 months the Applicants original documents supporting proof of identity and proof of current address.

FINANCIAL AND IDENTITY CHECKS

The provisions of the Appendix 2 to this Schedule shall apply where Giant is providing criminal history, financial or identity information on Applicants as part of the Services.

SCREENING COMPLETION

Giant will use its reasonable endeavours to complete not less than 90% of cases where they have received all required information from the Client and Applicant within 15 working days [30 working days for cases that fall under the scope of the FCA/PRA Regulatory Reference Regime] of instruction, or any within the turnarounds separately specified with the provision that:

If, after all reasonable endeavours have been made, Giant is unable to complete the report within 30 working days [45 working days for cases that fall under the scope of the FCA/PRA Regulatory Reference Regime] the case will be finalised, closed and considered complete.

DATA RETENTION

Unless otherwise specifically directed by the Client, Giant will not retain any documents or information relating to individuals screened for more than twelve months after the final Report has been delivered to the Client.

APPENDIX 1.

CRIMINAL HISTORY REQUEST REQUIREMENTS

1 For the purposes of this Appendix:

- 1.1 "Basic Disclosure" means details of convictions considered unspent under the Rehabilitation of Offenders Act 1974;
- 1.2 "DBS" means the Disclosure and Barring Service (or such replacement body from time to time responsible for providing potential employers and voluntary sector organisations with criminal history information on individuals applying for posts in England and Wales);
- 1.3 "DBS Code of Practice" means the code of practice relating to Disclosure Information created by the DBS from time to time under Section 122 of Part V of the Police Act 1997;
- 1.4 "Disclosure Information" means the document and any other information issued by the DBS or Disclosure Scotland when a basic, standard or enhanced check is performed;
- 1.5 "Disclosure Scotland" Disclosure Scotland (or such replacement body from time to time responsible for providing potential employers and voluntary sector organisations with criminal history information on individuals applying for posts in Scotland));
- 1.6 "Disclosure Scotland Code of Practice" means the code of practice relating to Disclosure Information published by the Scottish Ministers from time to time under Section 122 of Part V of the Police Act 1997;
- 1.7 "Enhanced Disclosure" means the details included in a Standard Disclosure plus a check of locally held police records.
- 1.8 "Standard Disclosure" means details of all spent and unspent convictions, cautions, reprimands and final warnings from the Police National Computer.
- 1.9 the definition of "Information" in the Terms and Conditions shall include (where relevant) Disclosure Information; and
- 1.10 all references to the DBS shall be replaced with Disclosure Scotland where an Applicant's proposed position of employment is in Scotland, or where any Basic Disclosure is carried out regardless of the location of the position of employment.

2 The Client warrants to Giant that:

- 2.1 it will comply with all eligibility requirements when requesting Standard or Enhanced Disclosures, including, without limitation, those set out in the Exceptions Order to the Rehabilitation of Offenders Act 1974 and the Police Act 1997.
- 2.2 it will make all applications and store, handle, retain and dispose of all Disclosure Information in accordance with the DBS Code of Practice and the Disclosure Scotland Code of Practice (as applicable) it will comply with all other relevant DBS policy requirements and regulations as amended from time to time;
- 2.3 it has obtained written approval from the Applicant to:
 - 2.3.1 the procurement by the Client of a background check from Giant; and
 - 2.3.2 Giant's storage of Information acquired during the provision of the Service to the Client;
- 2.4 it recognises (and where relevant shall advise its Principal) that Giant may receive Disclosure Information which it is prevented by law from disclosing to the Client.

3 The Client shall report to Giant:

- 3.1 evidence of failure by the Client, or any third party, to comply with the DBS Code of Practice or the Disclosure Scotland Code of Practice (as applicable); and/ or
- 3.2 any reasonable suspicion that any offence has been committed by the Client or any third party under section 124 of the Police Act 1997.

4 Without prejudice to the provisions of clause 10 of the Terms and Conditions Giant shall be entitled immediately to terminate this Agreement on notice to the Client where Giant is made aware or, in its reasonable opinion, Giant believes that the Client is in breach of the provisions of this Appendix.

APPENDIX 2.

SECURITY REQUIREMENTS

1. For the purposes of this Appendix:
 - 1.1 Authorised User - means an employee of the client who has been granted access to the Operator Portal
 - 1.2 Screening Services – means the provision of a service to verify details relating to the background of individuals.
 - 1.3 Operator Portal – means the giant online screening system
 - 1.4 Screening Output – means all information that results from the Screening Services
 - 1.5 Security Requirements – means the requirements set out in Appendix 2.
 - 1.6 Customer – means The Client
 - 1.7 Applicable Law - the laws of England
 - 1.8 Partners – Any company or individual that giant are required to interact with to deliver the Screening Services.
 - 1.9 Data Controller – The Client
 - 1.10 Data Processor – Gian
2. Due to the nature of Giant and its Partner's business, particularly with regard to providing criminal record checks and county court judgements or other vetting data, it follows what it considers to be best industry practice in relation to the security around how it handles Personal Data and the delivery of the Screening Service and the Screening Output that it provides to its customers. Subsequently, it also looks to its customers (including the Customer) to follow the similar high standards in relation to security around Screening Service and expects the Customer to follow these Security Requirements always.
3. These Security Requirements apply to any means through which the Customer orders or accesses the Operator Portal including, without limitation, system-to-system, direct access terminal, personal computer or the Internet.
4. These obligations are in addition to any requirements imposed by any Applicable Law which may apply to the Customer's use of the Screening Services (which may or may not include Personal Data).
5. The Customer will:
 - 5.1.1 ensure that only Authorised Users can have access to the Screening Services;
 - 5.1.2 ensure that Authorised Users do not initiate Screening Services for personal reasons or provide them to any third party unless expressly permitted by any agreement between the Customer and Giant;
 - 5.1.3 ensure that all devices used by the Customer to access the Operator Portal are placed in a secure location and accessible only by Authorised Users, and that such devices are secured when not in use through such means as screen locks, shutting power controls off, or other reasonable security procedures;
 - 5.1.4 take all necessary measures to prevent unauthorised access to the Operator Portal by any person other than an Authorised User for permissible purposes, including, without limitation, limiting the knowledge of the Customer security codes, any telephone access number(s) Giant provides, and any passwords the Customer may use, to those individuals with a need to know.in no event access the Operator Portal via any unsecured wireless hand-held communication device, including but not limited to, web enabled cell phones, interactive wireless pagers, personal digital assistants (PDAs), mobile data terminals and portable data terminals. Secured wireless connections shall adhere at a minimum to Giant's encryption standards outlined below in paragraph 5.7;
 - 5.1.5 not use personal computer hard drives or portable and/or removable data storage equipment or media (including but not limited to laptops, zip drives, tapes, disks, CDs, DVDs, software, and code) to store the Screening Output. In addition, data must be encrypted when not in use and all printed Screening Output must be stored in a secure, locked container when not in use, and must be completely destroyed when no longer needed by cross-cut shredding machines (or other equally effective destruction method) such that the results are not readable or useable for any purpose;
 - 5.1.6 if the Customer sends, transfers or ships any Screening Output, encrypt the data using the following minimum standards, which standards may be modified from time to time by Giant: Advanced Encryption Standard (AES), minimum 128-bit key or Triple Data Encryption Standard (3DES), minimum 168-bit key, encrypted algorithms;
 - 5.1.7 monitor compliance with the obligations of these Security Requirements, and immediately notify Giant if the Customer suspects or knows of any unauthorised access or attempt to access the Screening Service. Such monitoring will include, without limitation, a review of each Giant invoice for the purpose of detecting any unauthorised activity;
 - 5.1.8 not ship hardware or software between the Customer's locations or to third parties without deleting all Giant Customer's number(s), security codes, telephone access number(s) and the Customer user passwords;
 - 5.1.9 if the Customer uses a third-party vendor to establish access to the Screening Service, be responsible for the third party vendor's use of the Customer's member numbers, security access codes, or passwords, and the Customer will ensure the third party vendor safeguards the Customer's security access code(s) and passwords through the use of security requirements that are no less stringent than those applicable to the Customer under these Security Requirements; and
 - 5.1.10 use best endeavours to assure security when disposing of any consumer report information or record obtained from Giant.

6. Giant may suspend the Screening Service and the supply of Screening Output if, acting reasonably, Giant believes the Customer has suffered, is suffering or may suffer a breach or attempt to breach its security.
7. During any period of suspension:
 - 7.1.1 Giant will have no liability to the Customer;
 - 7.1.2 the Customer will cooperate with Giant to address the cause of any concerns; and
 - 7.1.3 neither party will issue any public statement regarding the Screening Services or the Screening Output and identifying the other party, unless required to do so by Applicable Law.
8. Giant will reinstate any suspended services as soon as it is satisfied as to the security of the Screening Service and the Screening Output.

GIANT TERMS AND CONDITIONS VERSION S.1

1. PRIMARY OBLIGATIONS AND WARRANTIES

- 1.1. Giant shall use all reasonable care and skill in the performance of the Services, and in the collection and collation of any data on which the Services are based or which is comprised within the Services.
- 1.2. The Client shall use all reasonable endeavours to ensure that any information provided to Giant is complete, accurate and in the agreed format.
- 1.3. Each of the parties shall use all reasonable endeavours to perform its obligations under this Agreement in accordance with any written timetable for delivery of the Services agreed between the parties.
- 1.4. Each party warrants that it has the full power and authority to enter into this Agreement.
- 1.5. The warranties expressly set out in this Agreement are the only warranties that each party gives to the other in respect of the subject matter of this Agreement. All other warranties, representations or terms of equivalent effect that might be implied by law are excluded to the extent permitted by law.

2. TERM

- 2.1. This Agreement shall be deemed to have commenced on the Commencement Date and, subject to the provisions for early termination set out in this Agreement, shall continue for the Initial Term and thereafter unless terminated by either party serving on the other not less than the Minimum Notice Period to expire on or after the end of the Initial Term.

3. PAYMENTS AND INVOICING

- 3.1. The Client shall pay the fees set out in and/or referred to in the Schedule. All sums referred to in this Agreement are exclusive of VAT.
- 3.2. Giant will invoice the Client monthly in arrears, unless otherwise stated in the Schedule.
- 3.3. All invoices are payable in cleared funds within 30 days after the date invoice. If any sum payable by the Client to Giant is not paid by its due date, Giant shall be entitled to charge interest on the overdue amount at 4% above Barclays Bank plc's base rate from time to time. Interest will accrue daily from the due date up to the date of actual payment, after as well as before judgment.
- 3.4. Not Used
- 3.5. Unless otherwise stated in the Schedule, Giant shall be entitled to increase the prices payable under this Agreement with effect from each 1st July occurring whilst this Agreement remains in force. Any such increase shall not exceed the percentage increase over the 12 months prior to the increase taking effect in the Retail Prices Index published by the Central Statistical Office.
- 3.6. If any index referred to in Clause 3.5 ceases to be published, then a broadly equivalent index as may

be agreed by the parties will be used as a substitute.

- 3.7. Notwithstanding any provisions to the contrary in this Agreement Giant shall be entitled to increase the fees specified in this Agreement to reflect any increase in the charges Giant incurs with third parties in order to provide the Services (including the charges of the Disclosure and Barring Service or Disclosure Scotland). Giant shall notify the Client in advance of any such increase.
- 3.8. Giant may invoice the Client for the fees provided in this Schedule on Giant's receipt from the Client of the Applicant's details.

4. NATURE OF THE SERVICES

- 4.1. Giant's services are not intended to be used as the sole basis for any business decision and are based upon data which is provided by third parties, the accuracy and/or completeness of which it would not be possible for Giant to guarantee. Giant is therefore not able to accept any liability, other than under Clause 1.1, for:
 - 4.1.1. any inaccuracy, incompleteness or other error in the Services and/or the Information which arises as a result of data provided to Giant by the Client or any third party;
 - 4.1.2. any failure of the Services to achieve any particular result for the Client.
- 4.2. Giant shall be entitled from time to time on reasonable notice to the Customer to upgrade or modify the mode of access to the Screening Service (or any part of them) and change the format and content of the Screening Services.
- 4.3. The Screening Services utilises services and databases licensed to Giant by Partners. It is a condition of such licences that the Customer agrees to certain terms in this Agreement that are imposed by the Partners. The current known contract conditions are contained in this Agreement and Schedule, but the Customer agrees subject to clause 10 that Giant shall be entitled by notice in writing to the Customer to amend this Agreement to take account of any such term that a Partner requires to be included in this Agreement.
- 4.4. If any Partner is unable to continue to provide a Screening Service or database to Giant, Giant will use all reasonable endeavours to source an equivalent or similar service or database. The Customer agrees to absolve Giant of any responsibility and liability for the discontinuation of any Partner service or database and may terminate the Agreement in accordance with Clause 10.
- 4.5. In exercising its rights under Clause 4.4, Giant will consult with the Customer, and act reasonably and in a way which is consistent with its treatment of its other Customers.

5. COMPLIANCE AND AUDIT

- 5.1. Each party shall in connection with the provision or use of the Services (as appropriate) comply with all

legislation, regulations, and other rules having equivalent force which are applicable to that party, including the GDPR. The Client acting as Data Controller and Giant as Data Processor.

5.2. Each party shall permit the other (on reasonable notice and during normal working hours) to audit the first party's compliance with its obligations under this Agreement in relation to the use of any software, data or other materials. The party carrying out the audit shall:

5.2.1. observe the other party's procedures relating to the protection of confidential information about any clients or customers of the other party;

5.2.2. take all reasonable steps to minimise disruption to the other party's business during such audit.

5.3. To protect the integrity of the data used in connection with the Services, the Client shall:

5.3.1. comply with Giant's reasonable instructions and guidelines relating to data security;

5.3.2. not copy, interfere with and/or use in any unauthorised way any digital certificate or any other security device provided by Giant.

6. CONFIDENTIALITY

6.1. Each party shall, in respect of the Confidential Information for which it is the recipient:

6.1.1. keep the Confidential Information strictly confidential and not disclose any part of such Confidential Information to any person except as permitted by or as required for the performance of the recipient's obligations under this Agreement. Provided that nothing in this clause restricts the right of Giant in its advertising or marketing material to recognise the Customer as a Customer of Giant, subject to receiving the Customer's prior written consent.;

6.1.2. take all reasonable steps to prevent unauthorised access to the Confidential Information.

6.2. Each party may disclose Confidential Information to, and allow its use in accordance with this Agreement by, the following if it shall procure that any party to whom it discloses Confidential Information shall observe the restrictions in this Clause 6:

6.2.1. employees and officers of the recipient who require it for the recipient to perform its obligations under this Agreement;

6.2.2. the recipient's auditors and professional advisors solely for the purposes of providing professional advice;

6.2.3. if Giant is the recipient, agents and sub-contractors of Giant involved in performing Giant's obligations under this Agreement, and Giant group companies;

6.2.4. if Giant is the recipient the Information Commissioner's Office pursuant to any requirement to do so (whether legally binding or otherwise), and any person as permitted by the GDPR or any other statutory provision.

6.3. The restrictions in Clause 6.1 do not apply to any information to the extent that it:

6.3.1. is or comes within the public domain other than through a breach of Clause 6.1; or

6.3.2. is in the recipient's possession (with full right to disclose) before receipt from the other party; or

6.3.3. is lawfully received from a third party (with full right to disclose); or

6.3.4. is independently developed by the recipient without access to or use of the Confidential Information; or

6.3.5. is required to be disclosed by law or by a court of competent jurisdiction or by any regulatory body or in accordance with the rules of any recognised stock exchange.

7. USE OF INFORMATION/SERVICES

7.1. The Client agrees that it will:

7.1.1. use the Services and/or the Information for the Permitted Purpose only;

7.1.2. not (and will not allow any third party to) copy, adapt, alter, modify, reverse engineer, de-compile or otherwise interfere with the Services and/or any Information.

8. INTELLECTUAL PROPERTY RIGHTS

8.1. All Intellectual Property Rights in the Client Data will remain vested in the Client (or its relevant licensors).

8.2. All Intellectual Property Rights in the Services, the Information and the Derivative Output will remain vested in Giant (or its relevant licensors).

8.3. The Client grants Giant a perpetual, royalty free, non-exclusive, non-transferable licence to use (and copy) the Client Data in order to perform this Agreement and for other agreed purposes and in order for Giant to comply with any requests made to Giant under statute.

9. LIMITS ON LIABILITY

9.1. Neither party excludes or limits its liability to the other for any of the following (and nothing in this Agreement shall be construed as excluding or limiting such liability):

9.1.1. for breach of its obligations under section 12 Sale of Goods Act 1979 or section 2 Supply of Goods and Services Act 1982;

9.1.2. for personal injury or death resulting from its negligence or that of its employees, agents and/or sub-contractors;

9.1.3. for breach of Clause 6;

- 9.1.4. (in the case of the Client) for any intentional breach of Clause 7.1.2
- 9.1.5. for any matter, which it would be illegal for that party to exclude and/or limit, or attempt to exclude and/or limit, its liability; or
- 9.1.6. for that party's fraud.
- 9.2. The liability of each party to the other (whether in contract, negligence, breach of statutory duty or under any indemnity or otherwise) in respect of any claims for the damage to or loss of tangible property (excluding claims for loss or corruption of, or damage to, data contained on any tangible media) shall be limited to £1 million per claim or series of claims arising from any one incident.
- 9.3. Except as provided in Clauses 9.1, 9.2 and 9.4, the liability of each party to the other in respect of any claims (whether in contract, negligence, for breach of statutory duty or under any indemnity or otherwise) brought under or in connection with this Agreement shall be limited to the aggregate amount paid by the Customer under this Agreement in the 12 month period immediately preceding the date on which the cause of action arose.
- 9.4. The limitations in Clause 9.3 shall be in addition to the obligation of the Client to pay fees and charges under this Agreement.
- 9.5. Subject to Clause 9.1, neither party shall be liable to the other (whether in contract, negligence, for breach of statutory duty or under any indemnity or otherwise) for:
 - 9.5.1. any indirect or consequential loss;
 - 9.5.2. the following types of financial loss; loss of profits; loss of earnings; loss of business or goodwill; even if that party had notice of the possibility of the other party incurring such losses;
 - 9.5.3. the following types of anticipated or incidental losses; loss of anticipated savings; increase in bad debt; failure to reduce bad debt; even if that party had notice of the possibility of the other party incurring such losses.
- 10. TERMINATION**
 - 10.1. Either party shall be entitled to terminate this Agreement immediately by serving written notice on the other party in the following circumstances:
 - 10.1.1. if the other party commits a material breach of any of its obligations under this Agreement which is not capable of remedy;
 - 10.1.2. if the other party commits a material breach of any of its obligations under this Agreement which is not remedied within 28 days after receipt of a notice from the party not in breach specifying the breach, requiring its remedy and making clear that failure to remedy may result in termination;
 - 10.1.3. if the other party has passed a resolution for its winding up (save for a voluntary winding-up for the purpose of a voluntary reconstruction or amalgamation), is subject to a petition presented to any court for its winding-up (save for a voluntary winding-up for the purpose of a voluntary reconstruction or amalgamation), is the subject of an application for administration filed at any court or a notice of appointment of an administrator filed at any court or a notice of intention to appoint an administrator given by any person, or is the subject of a notice to strike off the register at Companies House, or is dissolved or declared bankrupt, or has a receiver, administrator or administrative receiver appointed over all or part of its assets, or enters into an arrangement with its creditors, or is unable to pay its debts within the meaning of section 123 Insolvency Act 1986, or ceases to trade or takes or suffers any similar action.
 - 10.1.4. Termination of this Agreement (or of any element of it) shall not affect any rights, obligations or liabilities of either party which have accrued before termination or which are intended to continue to have effect beyond termination. The Client's entitlement to use the Information shall (unless such entitlement is stated to be perpetual) cease on termination of this Agreement.
- 11. GENERAL**
 - 11.1. Any notices to be sent by one party to the other about this Agreement except for the service of Court proceedings shall be in writing and shall be delivered personally or sent by special delivery post (or equivalent service offered by the postal service from time to time) to the addresses of each party as set out on the front page of the Schedule or as otherwise notified in accordance with the provisions of this Clause.
 - 11.2. Notices shall be deemed to have been duly given: if delivered personally, upon delivery; if sent by post, two clear days after the date of posting;
 - 11.3. Except as provided in Clause 11.4 the Client may not assign, transfer, charge or deal in any other manner with this Agreement or any of its rights under it without the prior written consent Giant (such consent not to be unreasonably withheld or delayed).
 - 11.4. Giant shall be entitled to sub-contract any or all of its obligations under this Agreement to a sub-contractor but by doing so Giant shall be responsible for the acts and omissions of the sub-contractor to the same extent as if it had carried out the obligations itself pursuant to this Agreement.
 - 11.5. If any part of this Agreement is found to be invalid or unenforceable by any Court or other competent body, such invalidity or unenforceability shall not

affect the other provisions of this Agreement and such other provisions shall remain in full force and effect.

11.6. Neither party will be liable for any delay or failure in the performance of its obligations under this Agreement if such delay or failure is due to an event of Force Majeure.

11.7. If either party fails to exercise a right or remedy that it has or which arises in relation to this Agreement, such failure shall not prevent that party from exercising that right or remedy subsequently in respect of that or any other incident.

11.8. A waiver of any breach or provision of this Agreement shall only be effective if it is made in writing and signed on behalf of the party who is waiving the breach or provision. Any waiver of a breach of any term of this Agreement shall not be deemed a waiver of any subsequent breach and shall not affect the enforceability of any other term of this Agreement.

11.9. This Agreement and all matters arising out of it shall be governed by, and construed in accordance with, the laws of England. The English courts shall have exclusive jurisdiction over any claim or matter which may arise out of or in connection with this Agreement.

11.10. Variations of this Agreement shall not be effective unless recorded in writing signed by the parties; variations in electronic form shall not count as variations recorded in writing. However, variations to the Schedule made in accordance with any agreed change control procedure shall be effective.

11.11. This Agreement sets out all the terms agreed between the parties relating to the subject matter of this Agreement and supersedes any previous agreement between the parties relating to the same subject matter. Neither of the parties shall be bound by, or liable to the other party for, any representation, promise or inducement (other than fraudulent misrepresentations) made by it or by any agent or person on its behalf which is not expressly contained in this Agreement.

11.12. The parties hereby agree that nothing in this Agreement shall be construed as creating a right which is enforceable by any person who is not a party to this Agreement or a permitted assignee of such a party.

11.13. Each party shall, at the reasonable request and cost of the other party, do whatever is reasonably required to give the other party the full benefit of all the provisions of this Agreement.

11.14. Nothing in this Agreement is intended to, or shall, operate to:

11.14.1. create a partnership or joint venture of any kind between the Client and Giant;

11.14.2. authorise either party to act as agent for the other party;

11.14.3. authorise either party to act in the name or on behalf of, or otherwise to bind, the other party in any way.

11.15. In this Agreement:

11.15.1. any reference to a statutory provision includes a reference to any modification or re-enactment of it from time to time;

11.15.2. references to clauses and schedules are to the Clauses of and the Schedule to this Agreement;

11.15.3. the singular includes the plural and vice versa;

11.15.4. the headings are for ease of reference only and shall not affect the construction or interpretation of this Agreement;

11.15.5. where any matter is to be agreed, such agreement must be recorded in writing;

11.15.6. wherever the words "including", "include", "includes" or "included" are used they shall be deemed to be followed by the words "without limitation" unless the context otherwise requires.

11.16. The contents of the Schedule shall prevail over the contents of these Terms and Conditions to the extent of any conflict or inconsistency

12. DEFINITIONS

In this Agreement, the following words and expressions shall have the following meanings:

Word or Expression	Meaning
Client Data	Any data owned by the Client and provided to Giant in connection with this Agreement;
Commencement Date	The Commencement Date set out in the Schedule or (if none) the date that the individual signature sheet identifying this Agreement is signed by both parties;
Confidential Information	The Information and any and all information relating to the trade secrets, operations, processes, plans, intentions, product information, prices, know-how, designs, customer lists, market opportunities, transactions, affairs and/or business of the parties and/or to their customers, suppliers, clients or group companies in or on any medium or format;
Contract Year	A twelve-calendar month period from the Commencement Date or any anniversary of the Commencement Date;
Derivative Output	Information, data and materials that are derived, prepared or generated by Giant and/or its sub-contractors within Giant's environment pursuant to (and/or as a consequence of) the Services;

Word or Expression	Meaning
Force Majeure	Any act of government or state, civil commotion, epidemic, fire, flood, industrial action or organised protests by third parties, natural disaster, war, failure of payment systems, or any event beyond the reasonable control of the party claiming to be excused from performance of its obligations;
GDPR	The General Data Protection Regulation (GDPR) (EU) 2016/679 and any subordinate legislation having effect in England;
Information	All data, scores, reports and other materials of whatever nature provided to the Client or used by Giant as part of or in connection with the Services
Initial Contract Value	In respect of the first Contract the actual amounts due and payable by the Client under this Agreement (excluding VAT);
Initial Term	The period specified as such in the Schedule;
Intellectual Property Rights	Copyright, database right, domain names, patents, registered and unregistered design rights, registered and unregistered trade marks, and all other industrial, commercial or intellectual property rights existing in any jurisdiction in the world and all the rights to apply for the same;
Live Date	The date set out in the Schedule or, if none, the date on which the Services are first available for use in a live or production environment other than for the purposes of testing;
Minimum Notice Period	The minimum period of notice to be served to terminate this Agreement as set out in the Schedule (and if none is specified 12 months);
Permitted Purpose	Unless otherwise stated in the Schedule, the internal business purposes of the Client and not in any event for the provision of any bureau services to any third parties;
Revenue Year	Unless otherwise stated in the Schedule, a period of 12 calendar months commencing on the Live Date or any anniversary of the Live Date;
Schedule	The schedule(s) containing the specific terms relating to this Agreement;
Services	The services specified in the Schedule and all other services supplied by Giant to the Client under or in connection with this Agreement;

Word or Expression	Meaning
Specification	Any document referred to in the Schedule that sets out details of the agreed functionality to be provided by any Giant Materials or a detailed description of the Services (as such document is updated by agreement between the parties from time to time);