

Services Agreement: Information Schedule

Client Details

CLIENT NAME:	
COMPANY NUMBER (if applicable):	
ADDRESS:	
CONTACT NAME:	
CONTACT EMAIL ADDRESS:	
CONTACT DIRECT DIAL:	

GatenbySanderson Details

CONTACT NAME:	
CONTACT EMAIL ADDRESS:	
CONTACT DIRECT DIAL:	

Project Details

COMMENCEMENT DATE:	
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This agreement is subject to the provisions overleaf

Signed for and on behalf of
GatenbySanderson Limited

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Date:

Signed for and on behalf of **the Client**

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Date:

Schedule 1

Part 1 – Data Processing Register

Subject-matter of processing

- (a) The Personal Information to be processed by GatenbySanderson pursuant to this Agreement concerns the following subject matter(s):
- Personal information shared with or collected by GatenbySanderson in the course of delivery of talent consultancy services to Clients*

Duration of the Processing

- (a) The Personal Data to be Processed under this agreement shall be Processed for the following duration:
- For the duration of the contract and for 24 months after project completion.*

Nature and purposes of the processing

- (b) The Personal Data to be Processed under this agreement shall be Processed for the following nature and purpose:
- For the purposes of selecting and appointing appropriately qualified and experienced candidates to role vacancies and for the purposes of providing client organisations with an overview of capability of individuals and groups of staff. For the purposes of development and coaching support to individuals or groups of individuals.*

Type of Personal Data

- (c) The Personal Data to be Processed by the Supplier pursuant to this agreement concerns the following type of Personal Data
- Where supplied by Client or an individual - name, bio data, role title and level, qualifications, experience, CV, tenure in role, performance and potential data, salary band or level, career planning, feedback collected from individuals about their experience of GatenbySanderson projects.*
- Where applicable - the outcome of personality and behavioural diagnostics and the outcome and notes from other assessment activities, computer generated and written reports about an individual, notes from conversations and disclosures from individuals within coaching and development conversations, qualitative and quantitative individual views on their employing organisation.*

Categories of Data Subjects

- (d) The Personal Data to be Processed under this agreement concern the following categories of Data Subjects:
- Individuals participating on GatenbySanderson run development and coaching programmes.*
- Staff or board members participating in an organisation, team or board review.*
- Individuals undergoing assessment processes for selection, promotion or development.*

Additional useful information (e.g. storage limits and other relevant information)

Data kept securely in line with GatenbySanderson Data Protection policy and stored for no longer than 24 months after project completion, unless otherwise agreed with the Client.

Contact details

- (a) For Personal Data queries arising from or in connection with this Agreement, the parties shall contact the following:

Client	GatenbySanderson
[Insert name]	Camilla Dyson
	Camilla.Dyson@gatenbysanderson.com

Part 2 – Approved Sub-Processors

Approved Sub-Processor	Nature of sub-processing
Clarizen	Hosting, maintenance and support of the Client's Project management software system.
Propel International Limited	Provision of Personal Information to allow individual access to diagnostic tests. Access to test scores for individuals and groups.
Test publishers including Saville Consulting Limited, Hogrefe, Real World Group, SHL Limited, PCL	Provision of Personal Information to allow individual access to diagnostic tests. Access to test scores for individuals and groups.
GatenbySanderson pre-approved subcontractor Limited Companies – pre approved list is stored on our Clarizen database	In the delivery of GS client projects, managed under an associate subcontractor contract

Part 3 – Form of Notification of Sub-Processing

Pursuant to clause [15.4] of the agreement entered into between GatenbySanderson Limited and [INSERT NAME OF CLIENT] ("Client") on [INSERT DATE OF AGREEMENT] for the provision of assessment centre services, GatenbySanderson hereby requests the Client's consent to

[appoint the party(ies) named in the table below to carry out the sub-processing of Personal Information for the purposes specified in the table:

Name of Sub-Processor (and company information)	Subject matter of Processing	Duration of Processing	Nature and purposes of Processing	Type of Personal Data	Categories of Data Subjects	Additional Information
Clarizen	Candidate & project information	2 years	Storing of candidate & project information	Candidate information	General	N/A
GatenbySanderson pre-approved subcontractor Limited Companies pre- approved list is	Candidate & project information	2 years	Storing of candidate & project information	Candidate information	General	N/A

stored on our Clarizen database						
Test publishers including Saville Consulting Limited, Real World Group, TTI Insights.	Candidate & project information	2 years	Storing of candidate & project information	Candidate information	General	N/A

] OR

[in relation to the Client's general written authorisation for the sub-processing of Personal Information by certain Approved Sub-Processors for the purposes of  (Authorised Purpose), to

[appoint **[INSERT NAME OF NEW SUB-PROCESSOR]** as an additional Approved Sub-Processor for the Authorised Purpose] OR

[appoint **[INSERT NAME OF NEW SUB-PROCESSOR]** instead of **[INSERT NAME OF EXISTING AUTHORISED SUB-PROCESSOR]** for sub-processing of Personal information for the Authorised Purpose].

APPENDIX

Part A – GENERAL TERMS AND CONDITIONS

1. DEFINITIONS AND INTERPRETATION

1.1 In this Agreement:

Applicable Laws: means all applicable laws, statutes and regulations from time to time in force relevant to the provision of the Services;

Bespoke Services: means services provided by GatenbySanderson that have been specifically tailored to the Client's needs, as identified in the Information Schedule and the SOW;

Business Day: means a day other than a Saturday, Sunday or bank or public holiday in England;

Charges: means the charges for the Services determined under clause 8 and the SOW;

Client: means the client identified in the Information Schedule;

Client Branding: means any of Client's branding including but not limited to trademarks and logos.

Client Data: the data input by the Client, Users, or GatenbySanderson on the Client's behalf for the purpose of using the Service or facilitating the Client's use of the Service.

Client Materials: means any equipment, systems or facilities provided by the Client and used directly or indirectly in the supply of the Services;

Commencement Date: means the date specified in the Information Schedule;

Confidential Information: has the meaning given to it in clause 14.1;

Controller; Processor; Data Subject; and Processing (and **Process**, **Processed** and **Processes** shall be construed accordingly) shall have the meanings ascribed to them in the Regulation;

Data Breach: means (i) any unauthorised loss, corruption, damage, destruction, alteration, disclosure or access to any Personal Information; (ii) any unauthorised or unlawful Processing of Personal Information; or (iii) any breach of Data Privacy Laws relating to personal information;

Data Privacy Laws: means all applicable laws and regulations in any relevant jurisdiction that relate to data protection, privacy, the use of information relating to individuals, and/or the information rights of individuals including, without limitation, the General Data Protection Regulation (EU 2016/679) ("**Regulation**") and any national implementing, amending or replacement legislation, as applicable from time to time;

Deliverables: means the deliverables to be supplied by GatenbySanderson to the Client ancillary to the supply of the Services;

EEA: means the member states of the European Union, Norway, Iceland and Liechtenstein;

Executive Assessment Services: projects which involve an assessor or consultant conducting an interview with one or more individuals with the intent of determining their suitability for a role or as a means of determining their personal development areas;

Force Majeure Event: means an event beyond the reasonable control of a party 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;

GatenbySanderson: means Gatenby Sanderson Limited with company number 04451141 whose registered office is at 14 King Street, Leeds, West Yorkshire LS1 2HL;

GatenbySanderson Materials: means any equipment and materials, provided by GatenbySanderson or its subcontractors and used directly or indirectly in the supply of the Services;

Information Schedule: means the information schedule at the front of the Agreement, which is signed by the parties;

Infringing Data: means information or data that (i) infringes applicable law; (ii) infringes any third party Intellectual Property Rights; or (iii) includes any material which is obscene, indecent, pornographic, seditious, offensive, defamatory, threatening, liable to incite racial hatred, menacing or blasphemous;

Intellectual Property Rights: means copyright, patents, rights in inventions, rights in confidential information, know-how, trade secrets, trade marks, service marks, trade names, design rights, rights in get-up, database rights, rights in data, semi-conductor chip topography rights, mask works, utility models, domain names, rights in computer software and all similar rights of whatever nature and, in each case: (i) whether registered or not, (ii) including any applications to protect or register such rights, (iii) including all renewals and extensions of such rights or applications, (iv) whether vested, contingent or future and (v) wherever existing;

Personal Information: means any information which: (i) falls within the definition of "Personal Data" under the Regulation; and (ii) in relation to which GatenbySanderson is providing the Services or which GatenbySanderson is required to Process (subject to the Data Privacy Laws) in connection with this Agreement;

Project: means the project described in the SOW;

Representatives: has the meaning given to it in clause 14.2.1;

SaaS: means GatenbySanderson providing the Client with software as a service, as identified in the Information Schedule and the SOW;

Services: means the services supplied to the Client by GatenbySanderson in relation to the Project as set out in the SOW together with the Deliverables (if applicable) including any Bespoke Services and SaaS (as applicable);

SOW: means the statement of work agreed between the parties and set out in Schedule 1;

Term: has the meaning given to it in clause 3.1;

Third Party Tools: means tools used by GatenbySanderson in the provision of the Services, the Intellectual Property Rights in which belong to a third party, including but not limited to assessment materials and surveys tools; and

VAT: means value added tax, as defined by the Value Added Tax Act 1994.

1.2 In this Agreement:

- 1.2.1 a reference to this Agreement includes its schedules;
- 1.2.2 a reference to a 'party' includes that party's personal representatives, successors and permitted assigns;
- 1.2.3 a reference to a 'person' includes a natural person, corporate or unincorporated body (in each case whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns;
- 1.2.4 words in the singular include the plural and vice versa; and
- 1.2.5 a reference to legislation is a reference to that legislation as amended, extended, re-enacted or consolidated from time to time.

2. **SCOPE**

2.1 The conditions set out in this Part A shall apply to every Project.

2.2 If the Project encompasses the supply of:

- 2.2.1 Bespoke Services, the additional terms and conditions set out in Part B of these Conditions shall also apply; and
- 2.2.2 SaaS, the additional terms and conditions set out in Part C of these Conditions shall also apply.

2.3 If there is any conflict between the provisions of this Part A and those of Parts B and C, the provisions of Parts B and C shall prevail.

- 2.4 If there is any conflict between the provisions of Parts A to C inclusive and the SOW, the provisions of the SOW shall prevail.

3. SUPPLY OF SERVICES

- 3.1 This Agreement commences on the Commencement Date and shall continue, unless terminated earlier in accordance with clause 12, until the Project is completed in accordance with the SOW ("**Term**").
- 3.2 During the Term, GatenbySanderson agrees to supply, and the Client agrees to purchase, the Services on the terms set out in this Agreement.
- 3.3 Nothing in this Agreement shall restrict GatenbySanderson from supplying any services which are the same as or similar to the Services to other clients.

4. PERFORMANCE OF THE SERVICES

- 4.1 GatenbySanderson shall use reasonable endeavours to provide the Services, and to deliver the Deliverables to the Client, in accordance with the SOW in all material respects.
- 4.2 GatenbySanderson shall use reasonable endeavours to meet any performance dates specified in the SOW, but any such dates shall be estimates only and time for performance by GatenbySanderson shall not be of the essence.
- 4.3 GatenbySanderson shall use reasonable endeavours to observe all health and safety rules and regulations and any other reasonable security requirements that apply at the Client's premises and that have been communicated to it under clause 5.1.6.
- 4.4 GatenbySanderson shall not be liable for any delay in or failure in providing the Services which is caused by or contributed to by the Client's failure to:
- 4.4.1 grant GatenbySanderson access to the location where the Services are to be performed;
 - 4.4.2 provide GatenbySanderson with adequate instructions in respect of the Services; or
 - 4.4.3 provide GatenbySanderson with any Client Materials.
- 4.5 If during a Project, GatenbySanderson is prevented or delayed in performing the Services by any cause attributable to the Client, GatenbySanderson (without prejudice to its other rights):
- 4.5.1 may suspend performance of the Services until the Client remedies its default;
 - 4.5.2 shall not be liable for any costs or losses sustained by the Client as a result of such suspension; and
 - 4.5.3 may charge the Client (and the Client shall pay under this Agreement) costs or losses incurred by GatenbySanderson arising from the Client's default.
- 4.6 If GatenbySanderson agrees to undertake a Project for the Client, GatenbySanderson will make all necessary arrangements to ensure the appropriate personnel and resources are available on the agreed dates. If the Client subsequently wishes to cancel or postpone the agreed project date(s), GatenbySanderson will discuss whether substitute work to replace the work that has been cancelled or postponed can be carried out on the days arranged for the original work. If this is not possible, the following cancellation charges will apply (unless agreed otherwise), in addition to the expenses set out in clause 4.7:

Executive Assessment Services

No. of days written notice given by the Client	% of Charges payable (plus VAT)
5 Business Days or less from Project start date	100
10 Business Days or less from Project start date	50
15 Business Days or less from Project start date	25

All other assessment and consultancy work

No. of days written notice given by the Client	% of Charges payable (plus VAT)
10 Business Days or less from Project start date	100
20 Business Days or less from Project start date	50
30 Business Days or less from Project start date	25

- 4.7 In addition to the cancellation charges set out in clause 4.6, the Client shall also be liable for any costs associated with any psychometric tools or assessments that have been launched prior to cancellation/postponement or any non-refundable expenses that have been incurred, including without limitation any booked travel. All such costs shall be recoverable from the Client in full irrespective of any notice period given.

5. CLIENT OBLIGATIONS

- 5.1 The Client warrants that it shall at all times during the Term:

- 5.1.1 co-operate with GatenbySanderson in all matters relating to the Services and appoint a Client manager in relation to the Project, who shall have the authority to bind the Client on matters relating to that Project;
- 5.1.2 obtain and maintain all consents, permissions and licences necessary to enable GatenbySanderson to perform its obligations under this Agreement;
- 5.1.3 provide sufficient information and materials (including any Client Materials) as reasonably requested by GatenbySanderson in the provision of the Services and performance of its obligations under this Agreement and ensure all such information is correct and accurate;
- 5.1.4 keep and maintain GatenbySanderson Materials in good condition and in accordance with GatenbySanderson's instructions as notified from time to time and shall not dispose of or use GatenbySanderson's Materials other than in accordance with GatenbySanderson's written instructions or authorisation;
- 5.1.5 provide such access to premises, systems and other facilities which may be reasonably required by GatenbySanderson; and
- 5.1.6 inform GatenbySanderson of all health and safety rules and regulations and any other reasonable security requirements that apply at the Client's premises.

- 5.2 GatenbySanderson shall not be obliged to continue to perform the Services where the Client breaches any of the warranties in this clause 5, or where GatenbySanderson considers there is a safety hazard or such performance would represent a breach of law.

6. CHANGE CONTROL

- 6.1 The parties shall meet at agreed time periods to discuss matters relating to the Project. If either party wishes to change the scope or execution of the Services, it shall submit details of the requested change to the other in writing.

- 6.2 If either party requests a change to the scope or execution of the Services, GatenbySanderson shall, within a reasonable time, provide a written estimate to the Client of:

- 6.2.1 the likely time required to implement the change;
- 6.2.2 any necessary variations to the Charges arising from the change;
- 6.2.3 the likely effect of the change on the SOW; and
- 6.2.4 any other impact of the change on this Agreement.

- 6.3 If the Client wishes GatenbySanderson to proceed with the change, GatenbySanderson has no obligation to do so unless and until the parties have agreed the necessary variations to the Charges, the Services, the SOW and any other relevant terms of this Agreement to take account of the change and this Agreement shall be deemed to be varied in accordance with clause 19.5.

6.4 Notwithstanding clause 6.3, GatenbySanderson may, from time to time and without notice, change the Services in order to comply with any applicable statutory requirements, provided that such changes do not materially affect the nature, scope of, or the Charges for the Services.

6.5 GatenbySanderson may charge for the time it spends assessing a request for change from the Client on a time and materials basis in accordance with clause 8.

7. WARRANTY

7.1 GatenbySanderson warrants that the Services shall:

7.1.1 conform in all material respects to the SOW;

7.1.2 be supplied with reasonable care and skill;

7.1.3 be supplied by appropriately skilled personnel; and

7.1.4 be supplied in accordance with all applicable law.

7.2 GatenbySanderson shall, at its option, remedy, re-perform or refund the Charges for any of the Services that do not comply with clause 7.1, provided that the Client:

7.2.1 serves a written notice on GatenbySanderson:

7.2.1.1 no later than five Business Days from performance of the Services in the case of defects discoverable by a physical inspection; or

7.2.1.2 within a reasonable period of time from performance of the Services in the case of latent defects,

that some or all of the Services do not comply with clause 7.1 and identifying in sufficient detail the nature and extent of the defects; and

7.2.2 gives GatenbySanderson a reasonable opportunity to examine the claim of the defective Services.

7.3 GatenbySanderson shall not be liable for any failure of the Services to comply with clause 7.1:

7.3.1 where the Client is in breach of the warranties in clause 5.1;

7.3.2 where such failure arises by reason of wilful damage or negligence of the Client;

7.3.3 where clause 4.4 applies;

7.3.4 to the extent caused by the Client's failure to comply with GatenbySanderson's instructions as to: (i) use or benefit from the Services, or (ii) good practice in relation to the use or benefit from the Services; or

7.3.5 to the extent caused by GatenbySanderson following any request or requirement of the Client in relation to the Services.

7.4 Except as set out in this clause 7:

7.4.1 GatenbySanderson gives no warranty and makes no representations in relation to the Services; and

7.4.2 shall have no liability for their failure to comply with the warranty in clause 7.1,

and the conditions implied by ss 12–16 of the Supply of Goods and Services Act 1982 are expressly excluded.

7.5 The Client assumes sole responsibility for any results or output obtained from the use of the Services and the Deliverables and for conclusions drawn from, or any reliance placed upon, such use and GatenbySanderson shall have no liability to the Client in this respect.

8. CHARGES AND PAYMENT

- 8.1 The Charges payable by the Client shall be as set out in the SOW. The Charges are exclusive of VAT, which the Client shall pay in addition on receipt of a valid VAT invoice.
- 8.2 Where the SOW states that the Charges are on a time and materials basis:
- 8.2.1 the Charges payable for the Services shall be calculated in accordance with GatenbySanderson's standard daily fee rates, as amended from time to time;
 - 8.2.2 GatenbySanderson standard daily fee rates for each individual person are calculated on the basis of an 7.5 hour day, worked between 9.00 am and 5.30 pm (with an hour for lunch) on weekdays (excluding public holidays);
 - 8.2.3 GatenbySanderson recognises that some Services may be required outside of the core hours set out in clause 8.2.2 and it reserves the right to negotiate additional fees where appropriate;
 - 8.2.4 GatenbySanderson shall ensure that every individual whom it engages on the Services completes time sheets recording time spent on the Project, and GatenbySanderson shall use such time sheets to calculate the Charges covered by each monthly invoice referred to in clause 8.2.5; and
 - 8.2.5 GatenbySanderson shall invoice the Client monthly in arrears (or as otherwise specified in the SOW) for its charges for time, expenses and materials (together with VAT where appropriate) for the month concerned, calculated as provided in this clause 8.2. Each invoice will clearly detail the milestones being invoiced (in accordance with the SOW). Any expenses and materials invoiced will be detailed separately and receipts provided if required.
- 8.3 Where the SOW states that the Services are provided for a fixed price, the total price for the Services shall be the amount set out in the SOW. GatenbySanderson shall invoice the Client for the Charges, together with expenses and third party costs (pursuant to clause 8.4) and VAT at the periods specified in the SOW.
- 8.4 Unless stated otherwise in the SOW, any fixed price excludes the cost of hotel, subsistence, travelling and any other ancillary expenses reasonably incurred by the individuals whom GatenbySanderson 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 GatenbySanderson for the supply of the Services. Such expenses, materials and third party services shall be invoiced by GatenbySanderson in addition to the Charges.
- 8.5 The Client shall pay all invoices in full in cleared funds within 30 days of the date of each invoice to the bank account nominated by GatenbySanderson. Time of payment is of the essence.
- 8.6 Where sums due under this Agreement are not paid in full by the due date GatenbySanderson may, without limiting its other rights, suspend the provision of the Services until all amounts due have been paid in full and in cleared funds.
- 8.7 GatenbySanderson may set and vary credit limits from time to time and withhold all further supplies if the Client exceeds such credit limit.
- 9. INTELLECTUAL PROPERTY RIGHTS**
- 9.1 All Intellectual Property Rights and all other rights arising in or in connection with the Services and the Deliverables shall be owned by GatenbySanderson or its licensors (as applicable). Subject to clause 9.2, GatenbySanderson 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 and the Services.
- 9.2 The Client acknowledges that, where GatenbySanderson uses Third Party Tools in the provision of the Services, the Client's use of such Third Party Tools is conditional on GatenbySanderson obtaining a licence (or sub-licence) from the relevant licensor(s) on such terms as will entitle GatenbySanderson to license such rights to the Client and the Client must comply with such terms at all times.
- 9.3 All GatenbySanderson Materials are GatenbySanderson's exclusive property.
- 9.4 The Client is not permitted to modify any of the Deliverables without GatenbySanderson's prior written consent and, if the Client does modify them, the Client must ensure that the modifications are not attributed to GatenbySanderson.
- 10. CLIENT DATA AND BRANDING**

- 10.1 The Client shall own all right, title and interest in and to all of the Client Data and Client Branding and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the Client Data.
- 10.2 The Client shall not provide or use any Infringing Data in respect of the Services.
- 10.3 The Client grants GatenbySanderson a royalty-free, non-transferable, non-exclusive licence for the Term to use the Client Data and Client Branding to the extent necessary to provide the Services. The Client warrants that it has all the rights and consents that are necessary to grant to GatenbySanderson the licences provided in this clause 10.3.
- 10.4 The Client acknowledges that GatenbySanderson has no control over any Client Data hosted as part of the provision of the Services and does not actively monitor the content of the Client Data.
- 10.5 GatenbySanderson shall notify the Client immediately if it becomes aware of any allegation that any Client Data may be Infringing Data and GatenbySanderson shall have the right to remove Client Data without the need to consult the Client.
- 10.6 GatenbySanderson shall be responsible for taking reasonable and prudent measures to safeguard the security of the Client Data in its possession. GatenbySanderson shall not be responsible for any loss or damage to Client Data to the extent that such loss or damage was caused by the Client or a third party (other than a subcontractor or representative of GatenbySanderson).
- 10.7 GatenbySanderson is permitted to use the Client Branding for the Services, including without limitation, any white labelling of part of the Services.
- 10.8 The Client shall defend, indemnify and hold harmless GatenbySanderson against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with GatenbySanderson's use of the Client Branding or Client Data in accordance with the terms of this Agreement

11. LIMITATION OF LIABILITY

- 11.1 Notwithstanding any other provision of this Agreement, GatenbySanderson's liability shall not be limited in any way in respect of the following:
 - 11.1.1 death or personal injury caused by negligence;
 - 11.1.2 fraud or fraudulent misrepresentation; or
 - 11.1.3 any other losses which cannot be excluded or limited by applicable law.
- 11.2 Subject to clause 11.1, GatenbySanderson shall under no circumstances whatever be liable to the Client, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any:
 - 11.2.1 loss of profit;
 - 11.2.2 loss of data;
 - 11.2.3 loss of use;
 - 11.2.4 loss of contract;
 - 11.2.5 loss of savings, discount or rebate (whether actual or anticipated);
 - 11.2.6 harm to reputation or loss of goodwill; or
 - 11.2.7 any indirect or consequential loss arising under or in connection with this Agreement.
- 11.3 Subject to clause 11.1, GatenbySanderson'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 in respect of the Project to which the claim relates.

12. TERMINATION

- 12.1 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 the other party commits a material breach

of any term of this Agreement which cannot be remedied or (if such breach is remediable) fails to remedy that breach within a period of 20 Business Days after being notified in writing to do so.

- 12.2 Without prejudice to any other rights that it may have, GatenbySanderson may terminate this Agreement immediately on written notice to the Client if the Client has failed to pay any amount due under this Agreement on the due date and such amount remains unpaid 10 Business Days after the Client has received a written notification from GatenbySanderson that the payment is overdue.

- 12.3 Either party may terminate this Agreement by giving written notice to the other party if the other party:

- 12.3.1 stops carrying on all or a significant part of its business, or indicates in any way that it intends to do so;
- 12.3.2 is unable to pay its debts either within the meaning of section 123 of the Insolvency Act 1986 or if the non-defaulting party reasonably believes that to be the case;
- 12.3.3 becomes the subject of a company voluntary arrangement under the Insolvency Act 1986;
- 12.3.4 has a receiver, manager, administrator or administrative receiver appointed over all or any part of its undertaking, assets or income;
- 12.3.5 has a resolution passed for its winding up;
- 12.3.6 has a petition presented to any court for its winding up or an application is made for an administration order, or any winding-up or administration order is made against it;
- 12.3.7 is subject to any procedure for the taking control of its goods that is not withdrawn or discharged within 7 days of that procedure being commenced;
- 12.3.8 has a freezing order made against it;
- 12.3.9 is subject to any recovery or attempted recovery of items supplied to it by a GatenbySanderson retaining title to those items; or
- 12.3.10 is subject to any events or circumstances analogous to those in clauses 12.3.1 to 12.3.9 in any jurisdiction.

- 12.4 The right of a party to terminate the Agreement pursuant to clause 12.3 shall not apply to the extent that the relevant procedure is entered into for the purpose of amalgamation, reconstruction or merger (where applicable) where the amalgamated, reconstructed or merged party agrees to adhere to this Agreement.

13. CONSEQUENCES OF TERMINATION

- 13.1 On termination of this Agreement for any reason:

- 13.1.1 the Client shall immediately pay all outstanding invoices of GatenbySanderson;
- 13.1.2 GatenbySanderson shall promptly invoice the Client for all Services performed but not yet invoiced plus expenses and third party costs, and payment for such invoices shall be due immediately on receipt by the Client;
- 13.1.3 the parties shall, within 5 Business Days, return any materials of the other party then in its possession or control; and
- 13.1.4 the accrued rights and liabilities of the parties (including any rights in relation to breaches of contract) shall not be affected.

- 13.2 The following clauses of this Agreement shall survive termination, howsoever caused: clause 1, 2.3, 2.4, 4.5, 4.6, 4.7, 8, 9, 10, 11, 13, 14, 15, 18, 19, 20, Part B and Part C together with any other provision of this Agreement which expressly or by implication is intended to survive termination.

14. CONFIDENTIAL INFORMATION

- 14.1 Each party undertakes that it shall keep any information that is confidential in nature concerning the other party and its affiliates including, any details of its business, affairs, customers, clients, suppliers, plans or strategy ("**Confidential Information**") confidential and that it shall not use or disclose the other party's Confidential Information to any person, except as permitted by clause 14.2.

- 14.2 A party may:
- 14.2.1 disclose any Confidential Information to any of its employees, officers, representatives or advisers ("**Representatives**") who need to know the relevant Confidential Information for the purposes of the performance of any obligations under this Agreement, provided that such party must ensure that each of its Representatives to whom Confidential Information is disclosed is aware of its confidential nature and agrees to comply with this clause 14 as if it were a party;
 - 14.2.2 disclose any Confidential Information as may be required by law, any court, any governmental, regulatory or supervisory authority (including any securities exchange) or any other authority of competent jurisdiction to be disclosed; and
 - 14.2.3 use Confidential Information only to perform any obligations under this Agreement.
15. **DATA PROTECTION**
- 15.1 The provision of the Services may require GatenbySanderson to Process Personal Information for and on behalf of the Client. In respect of such Processing, the parties acknowledge and agree that:
- 15.1.1 the Client shall be the Controller and GatenbySanderson shall be the Processor;
 - 15.1.2 GatenbySanderson shall Process Personal Information as set out in Schedule 2, Part 1 (Data Processing Register) of this Agreement; and
 - 15.1.3 clauses 15.2 to 15.9 below shall apply.
- 15.2 The Client shall:
- 15.2.1 comply with all Data Privacy Laws;
 - 15.2.2 obtain and maintain all relevant registrations (and similar) required by Data Privacy Laws;
 - 15.2.3 ensure that all instructions that it issues to GatenbySanderson comply with Data Privacy Laws; and
 - 15.2.4 ensure that the transfer of Personal Information to GatenbySanderson (by or on behalf of the Client) is in compliance with the Data Privacy Laws.
- 15.3 When Processing Personal Information as part of the delivery of the Services, GatenbySanderson shall:
- 15.3.1 Process the Personal Information only on the documented instructions of the Client, except to the extent that any Processing of Personal Information is required by Applicable Laws;
 - 15.3.2 where Processing of Personal Information by GatenbySanderson is required by Applicable Laws, GatenbySanderson shall inform the Client of the relevant legal requirement before Processing, unless such law prohibits GatenbySanderson from doing so;
 - 15.3.3 notify the Client where GatenbySanderson reasonably believes that any documented instructions from the Client in respect of the Processing of Personal Information infringe any Data Privacy Laws;
 - 15.3.4 ensure that its personnel who are authorised to Process the Personal Information have committed themselves to confidentiality;
 - 15.3.5 implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk of Processing;
 - 15.3.6 only appoint a third party to Process Personal Information on its behalf in accordance with clauses 15.4 and 15.5 below;
 - 15.3.7 taking into account the nature of the Processing, assist the Client by appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of the Client's obligation to respond to requests for exercising a Data Subject's rights under Data Privacy Laws;
 - 15.3.8 notify the Client without undue delay after becoming aware of a Data Breach;

- 15.3.9 assist the Client in its compliance with its obligations under Data Privacy Laws in respect of notifying Data Breaches to the UK Information Commissioner's Office (or the equivalent national data protection authority in any relevant jurisdiction) ("ICO") and affected Data Subjects, insofar as it is able taking into account the nature of the Processing and the information available to GatenbySanderson;
 - 15.3.10 at the Client's discretion, delete or return to the Client all of the Personal Information Processed under this Agreement on completion of the Services, and delete any copies of such Personal Information unless any Applicable Laws require that copies are kept; and
 - 15.3.11 make available to the Client all information reasonably necessary to demonstrate compliance with its obligations in this clause 15.3.
- 15.4 GatenbySanderson shall not sub-contract its Processing of Personal Information to a third party without the Client's prior specific or general written consent, such consent not to be unreasonably withheld, conditioned or delayed (for the avoidance of doubt, written consent shall be deemed given for the approved sub-processors listed in Schedule 2, Part 2 (Approved Sub-Processors) to this Agreement). Where:
- 15.4.1 GatenbySanderson wishes to sub-contract its Processing of Personal Information to a third party, it shall notify the Client of such intention in writing in the format specified in Schedule 2, Part 3 (Form of Notification of Sub-Processing) (as agreed between the parties from time to time). The Client shall notify GatenbySanderson in writing of any objections it has to the sub-processing of Personal Information by such third party within five (5) Business Days, after which the sub-processing of Personal Information by such third party to which the Client has not objected shall be deemed to be accepted; and
 - 15.4.2 any sub-contracting of Processing of Personal Information is based on the Client's general written authorisation, GatenbySanderson shall inform the Client of any intended changes concerning the addition or replacement of any sub-contractors and the Client shall notify GatenbySanderson of any objections it has to any such changes in writing within two (2) Business Days, after which any such changes which the Client has not objected to in accordance with this clause 15.4 shall be deemed to be accepted.
- Where the Client objects to any sub-processing of Personal Information by a third party or any intended changes concerning the addition or replacement of any sub-contractors, GS may terminate the Services (in whole or in part) immediately on written notice to the Client without any liability to the Client.
- 15.5 Where GatenbySanderson sub-contracts its Processing of Personal Information to a third party in accordance with clause 15.4 above, GatenbySanderson shall:
- 15.5.1 ensure that any such third party is subject to data protection obligations no less onerous than those set out in clause 15.3 above;
 - 15.5.2 obtain sufficient guarantees from any such third party that they will implement appropriate technical and organisational measures in such a manner that the Processing of Personal Information by such third party will meet the requirements of Data Privacy Laws; and
 - 15.5.3 remain liable to the Client for any Processing of Personal Information by any such third party.
- 15.6 Each party shall co-operate with the ICO on the request of the other party in respect of the performance of its tasks under this Agreement.
- 15.7 Where GatenbySanderson transfers any Personal Information to any country outside of the EEA, GatenbySanderson shall:
- 15.7.1 ensure that appropriate safeguards in respect of the Personal Information that will be processed or transferred outside of the EEA are in place so as to ensure compliance with the Data Privacy Laws; and
 - 15.7.2 if the Client so requests, confirm in writing to the Client details of how GatenbySanderson has ensured an adequate level of protection and appropriate safeguards in respect of such Personal Information.
- 15.8 The Client warrants that it has obtained, and shall at all times during the Term maintain, all relevant consents, notices and/or approvals (including all relevant consents from Data Subjects) necessary for GatenbySanderson to Process Personal Data for the purposes of this Agreement and in order to provide

the Services. The Client shall notify GatenbySanderson immediately in the event that any consent, notice and/or approval pursuant to this clause is revoked, withdrawn or otherwise expires.

- 15.9 In the event that any consent, notice or approval required for GatenbySanderson to process Personal Data is not obtained or is revoked, withdrawn or otherwise expires (or GatenbySanderson, acting reasonably, believes that to be the case), GatenbySanderson shall be entitled to suspend or terminate this Agreement (in whole or in part) immediately on notice to the Client without liability to the Client.

16. ANTI-BRIBERY

- 16.1 The Client warrants, represents and undertakes to:

- 16.1.1 comply with all applicable laws, statutes, regulations relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 ("**Relevant Requirements**");
- 16.1.2 have and maintain in place its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements and will enforce them where appropriate; and
- 16.1.3 promptly report to GatenbySanderson any request or demand for any undue financial or other advantage of any kind received by the Client in connection with the performance of this Agreement.

- 16.2 For the purposes of this clause 16 the expressions adequate procedures and associated with shall be construed in accordance with the Bribery Act 2010 and legislation or guidance published under it.

17. FORCE MAJEURE

- 17.1 A party shall not be liable if delayed in or prevented from performing its obligations under this Agreement due to Force Majeure Event, provided that it:

- 17.1.1 promptly notifies the other of the Force Majeure Event and its expected duration; and
- 17.1.2 uses reasonable endeavours to minimise the effects of the Force Majeure Event.

- 17.2 If, due to a Force Majeure Event, a party is or is likely to be delayed in or prevented from performing its obligations for a continuous period of more than 4 weeks the other party may terminate this Agreement on not less than 14 days' written notice.

18. NON-SOLICITATION

- 18.1 During the Term and for a period of 12 months after termination of this Agreement, the Client shall not in any way, directly or indirectly solicit, entice away or employ any GatenbySanderson personnel who have been engaged in the provision of Services for the Client, without GatenbySanderson's prior written consent.

- 18.2 Any consent given by GatenbySanderson in accordance with clause 18.1, may be subject to the Client paying GatenbySanderson an agreed sum.

19. GENERAL

- 19.1 The parties agree that this Agreement constitutes the entire agreement between them and supersedes all previous agreements, understandings and arrangements between them, whether in writing or oral in respect of its subject matter.

- 19.2 Each party acknowledges that it has not entered into this Agreement in reliance on, and shall have no remedies in respect of, any representation or warranty that is not expressly set out in this Agreement. No party shall have any claim for innocent or negligent misrepresentation on the basis of any statement in this Agreement.

- 19.3 Any notice or other communication given to a party under or in connection with this 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 or sent by prepaid first-class post or other next working day delivery service, or by commercial courier, or e-mail.

- 19.4 A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 19.3; 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 e-mail, one Business Day after transmission.
- 19.5 No variation of this Agreement shall be valid or effective unless it is in writing, refers to this Agreement and is duly signed or executed by, or on behalf of, each party.
- 19.6 The Client shall not assign, subcontract or encumber any right or obligation under this Agreement, in whole or in part, without GatenbySanderson's prior written consent (such consent not to be unreasonably withheld or delayed).
- 19.7 Subject to clause 15.4, GatenbySanderson may supply the Services through sub-contractors, who shall be selected by GatenbySanderson (as it thinks fit) to perform the Services and no prior consent of the Client shall be required in this respect.
- 19.8 The parties are independent businesses and are not partners, principal and agent or employer and employee and this Agreement does not establish any joint venture, partnership or other relationship between them, other than the contractual relationship expressly provided for in it. None of the parties shall have, nor shall represent that they have, any authority to make any commitments on the other party's behalf.
- 19.9 If any provision of this Agreement (or part of any provision) is or becomes illegal, invalid or unenforceable, the legality, validity and enforceability of any other provision of this Agreement shall not be affected.
- 19.10 If any provision of this Agreement (or part of any provision) is or becomes illegal, invalid or unenforceable but would be legal, valid and enforceable if some part of it was deleted or modified, the provision or part-provision in question shall apply with such deletions or modifications as may be necessary to make the provision legal, valid and enforceable. In the event of such deletion or modification, the parties shall negotiate in good faith in order to agree the terms of a mutually acceptable alternative provision.
- 19.11 No failure, delay or omission by either party in exercising any right, power or remedy provided by law or under this Agreement shall operate as a waiver of that right, power or remedy, nor shall it preclude or restrict any future exercise of that or any other right, power or remedy.
- 19.12 No single or partial exercise of any right, power or remedy provided by law or under this Agreement shall prevent any future exercise of it or the exercise of any other right, power or remedy. A waiver of any term, provision, condition or breach of this Agreement shall only be effective if given in writing and signed by the waiving party, and then only in the instance and for the purpose for which it is given.
- 19.13 This Agreement may be signed in any number of separate counterparts, each of which when signed and dated shall be an original, and such counterparts taken together shall constitute one and the same agreement.
- 19.14 A person who is not a party to this Agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of the provisions of this Agreement.
- 20. GOVERNING LAW AND JURISDICTION**
- 20.1 This Agreement and any dispute or claim arising out of, or in connection with, it, its subject matter or formation (including non-contractual disputes or claims) shall be governed by, and construed in accordance with, the laws of England and Wales.
- 20.2 The parties irrevocably agree 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, its subject matter or formation (including non-contractual disputes or claims).

PART B – BESPOKE SERVICES

1. SUPPLY

- 1.1 The parties will work together in a collaborative manner where GatenbySanderson provide Bespoke Services to the Client, including but not limited to methodologies, assessments and leadership programmes.

- 1.2 Where the Deliverables are provided to the Client by way of access to software, the provisions of Part C, paragraphs 1, 2, 3 and 5 shall apply.
- 2. INTELLECTUAL PROPERTY RIGHTS**
- 2.1 The copyright, design rights and other Intellectual Property Rights in the Bespoke Services and the Deliverables will fall into the following categories:
- 1.1.1. they will have been created by GatenbySanderson before the Commencement Date ("**GatenbySanderson IPR**");
 - 1.1.2. they will have been created by a third party before the Commencement Date ("**Third Party IPR**"); or
 - 1.1.3. they will be created by GatenbySanderson (or a third party on GatenbySanderson's behalf) during the provision of the Bespoke Services ("**New IPR**").
- 2.2 All GatenbySanderson IPR and New IPR will be owned by GatenbySanderson and the Third Party IPR will be owned by the relevant third party.
- 2.3 Subject to full payment of the Charges and subject always to paragraph 2.5 below, GatenbySanderson grants to the Client, an exclusive, perpetual, non-transferrable licence to use the New IPR in the Deliverables to enable the Client to use the Deliverables for the purpose for which they were originally intended.
- 2.4 Subject to full payment of the Charges, GatenbySanderson grants to the Client (and shall procure that the relevant third party grants), a non-exclusive, perpetual, non-transferrable licence to use the GatenbySanderson IPR and the Third Party IPR (as the case may be) in the Deliverables to enable the Client to use the Deliverables for the purpose for which they were originally intended.
- 2.5 The Client acknowledges and agrees that notwithstanding the exclusive licence contained in paragraph 2.3 above, nothing in this Agreement shall prevent GatenbySanderson from using in its business any tools, methodology, software coding and know-how arising from or gained from the provision of the Bespoke Services.
- 2.6 Where the Bespoke Services involve any white labelling using the Client Branding, GatenbySanderson acknowledges that it will obtain any rights or title in such Client Branding.

PART C – SaaS

1. DEFINITIONS

The definitions in Part A of this Agreement shall apply to this Part C as well as the additional definitions set out below.

Documentation: means the documents (in whatever media) provided to the Client to facilitate use of the Service by Users;

Service: means the remote provision of the Software to the Client for the benefit of Users;

Service Hours: means 24 hours a day, seven days a week;

Software: means the Software set out in the SOW;

Users: means the users that are authorised to use the Software.

2. SERVICE AND AVAILABILITY

- 2.1 GatenbySanderson shall make the Service and the Documentation available to the Client during the Service Hours excluding:
- 2.1.1 scheduled maintenance which GatenbySanderson shall use reasonable endeavours to undertake from 10pm to 3am (UK time);
 - 2.1.2 emergency maintenance; or
 - 2.1.3 downtime caused in whole or part by Force Majeure.

- 2.2 GatenbySanderson will use reasonable endeavours to notify the Client in advance of scheduled maintenance but the Client acknowledges that it may receive no advance notification for emergency maintenance or downtime caused by Force Majeure.
- 2.3 The Client acknowledges that GatenbySanderson shall be entitled to modify the features and functionality of the Service as part of its ongoing development of the Software. GatenbySanderson shall use reasonable endeavours to ensure that any such modification does not adversely affect the Client's use of the Service.
- 2.4 Due to the inherent nature of the internet, GatenbySanderson does not warrant or represent that the Service will be free from errors and interruptions.
- 2.5 The Client acknowledges and agrees that:
 - 2.5.1 unless specified otherwise in the SOW, the Service has not been designed to meet the Client's individual requirements and cannot be tested in every operating environment;
 - 2.5.2 it is the Client's responsibility to ensure the facilities and functions of the Service meet the Client's requirements and will not cause any error or interruption in the Client's own software or systems
 - 2.5.3 the Client assumes sole responsibility for results obtained from the use of the Service and the Documentation, and for conclusions drawn from such use. GatenbySanderson shall have no liability for any damage caused by any actions taken by GatenbySanderson at the Client's direction; and
 - 2.5.4 except as expressly and specifically provided in this Agreement, the Service and the Documentation are provided to the Client on an "as is" basis.

3. USE OF THE SERVICE

- 3.1 GatenbySanderson grants the Client a non-transferable, non-exclusive right for the Term to allow Users access to the Service. The Client shall be responsible for the Users actions when making use of the Service.
- 3.2 GatenbySanderson will specify the number of Users permitted to use the Service. Any additional Users requested by the Client may incur additional charges.
- 3.3 The Client shall, and shall procure that Users shall only use the Service in connection with the Client's own business purposes.
- 3.4 Except to the extent such activities are expressly agreed by the parties, the Client's rights to benefit from the Service does not permit it, or the Users, to:
 - 3.4.1 copy, cut and paste, email, reproduce, publish, distribute, redistribute, broadcast, transmit, modify, adapt, edit, abstract, create derivative works of, store, archive, publicly display, sell or in any way commercially exploit any part of the Service;
 - 3.4.2 access all or any part of the Service and Documentation in order to build a product or service which competes with the Service and/or the Documentation;
 - 3.4.3 use the Service to provide outsourced services to third parties or make it available to any third party or allow or permit a third party to do so;
 - 3.4.4 combine, merge or otherwise permit the Service (or any part of it) to become incorporated in any other program, nor arrange or create derivative works based on it;
 - 3.4.5 attempt to decompile (as defined in section 50B of the Copyright, Designs and Patents Act 1988) the underlying software (or any part of it) that is used to provide the Service, except and only to the extent that such restriction is prohibited pursuant to section 50B of the Copyright, Designs and Patents Act 1988; and
 - 3.4.6 to observe, study or test the functioning of the underlying software (or any part of it) that is used to provide the Service, except and only to the extent that such restriction is prohibited pursuant to section 50B of the Copyright, Designs and Patents Act 1988.
- 3.5 The Client warrants and represents that it shall, and ensure that Users shall, keep confidential and, except as provided for in this Agreement, not share with any third party their password or access details provided to facilitate access to the Service. The Client shall contact GatenbySanderson if updates to any list of Users

given to GatenbySanderson are required, including when Users cease to be employed or engaged by the Client.

- 3.6 The Client shall not, and shall procure that the Users shall not, introduce any software virus or other malware (including any bugs, worms, logic bombs, trojan horses or any other self-propagating or other such program) that may infect or cause damage to the Service or GatenbySanderson's systems or otherwise disrupt the provision of the Service.
- 3.7 The Client shall not be permitted to frame or mirror any part of the Service other than as permitted by the Documentation or with GatenbySanderson's express written consent.
- 3.8 GatenbySanderson reserves the right to monitor usage by all Users (by way of audits or otherwise) during the Term for the purpose of (among others) ensuring compliance with the terms of this Agreement. Any audit may be carried out by GatenbySanderson or a third party authorised by GatenbySanderson.
- 3.9 In the event of unauthorised use of the Service by the Client or Users, GatenbySanderson reserves the right to deny the Client or Users access to the Service by blocking, without prior notification, the IP addresses that the Client or Users used to access the Service.
- 3.10 GatenbySanderson may suspend access to the Service to all or some of the Users if:
 - 3.10.1 it suspects that there has been any misuse of the Service or breach of this Agreement or the Documentation; or
 - 3.10.2 the Client fails to pay any sums due to GatenbySanderson by the due date for payment.

4. INTELLECTUAL PROPERTY RIGHTS

- 4.1 Subject to paragraph 4.2 below, all Intellectual Property Rights in and to the Software, Documentation or any part of the Service belong to and shall remain vested in GatenbySanderson or its licensors. To the extent that the Client acquires any Intellectual Property Rights in the Software, Documentation or any part of the Service, the Client shall assign or procure the assignment of such Intellectual Property Rights with full title guarantee (including by way of present assignment of future Intellectual Property Rights) to GatenbySanderson or its licensors (as the case may be). The Client shall execute all such documents and do such things as GatenbySanderson may consider necessary to give effect to this paragraph.
- 4.2 Where the Service has been white labelled using the Client Branding, GatenbySanderson acknowledges that neither it (nor its licensors) will obtain any rights or title in such Client Branding.

5. CONSEQUENCES OF TERMINATION

- 5.1 In the event of termination of this Agreement for any reason:
 - 5.1.1 the right to access the Service provided under this Agreement shall terminate immediately; and
 - 5.1.2 GatenbySanderson shall at the Client's cost return or destroy (at the Client's option) all Client Data.