

## SAMPLE CONTRACT

This Agreement is entered into on the last of the dates below between

1. **ClerksWell Limited** t/a ClerksWell (Registered in England and Wales No 07905188) whose office is at SB 463, China Works, 28 Black Prince Road, London, SE1 7SJ. ("ClerksWell"); and
2. \_\_\_\_\_ ("the Client")

### Whereas: -

ClerksWell is the developer and owner of the Product and the parties have agreed to enter into this Agreement on the terms and conditions set out in it. The Product is designed to run on Microsoft SharePoint and the Client acknowledges that it is the Client's responsibility to purchase separate licences from Microsoft to use Microsoft SharePoint which licences are not included in this Agreement. The parties have agreed as set out in this Agreement

### Contact Details

Name	Contact Name	Telephone	Email	Title
ClerksWell	Nina Anderson	020 7689 8800	n.anderson@clerkswell.com	Head of Sales
_____				

### Licences and basis of Licence Fees:

Date	Standalone <sup>1</sup>	Enterprise <sup>2</sup>	Temporary Licence <sup>3</sup> (No of users)	Initial Licence <sup>4</sup> (No of users)	More/less <sup>5</sup> (No of users)	Total number of licenced users	Fees
Renewal date: _____							

<sup>1</sup> **Standalone:** EasyShare Aeon deployed to on-premises or online environments only

<sup>2</sup> **Enterprise:** EasyShare Aeon deployed to both on-premises and online environments

<sup>3</sup> **Temporary licence (No of users):** Refers to the temporary licence key as per clause 2.1

<sup>4</sup> **Initial licence (No of users):** Refers to the initial licence key, 30 days after the temporary licence key was issued, as per clause 3.1

<sup>5</sup> **More/less (No of users):** The number of additional licenced users since the last entry

### Signed on behalf of ClerksWell

Name: Nina Anderson

Signature

Date

We accept your proposal as set out in this Agreement. We confirm that we have read, understand and accept the terms of business as set out in this Agreement and in the following pages. A large print version of the terms of business contained on the following pages is available on request.

### Signed on behalf of the Client

Name:----- Signature ----- Date -----

## Terms of Business

### 1. Interpretation

- 1.1 In this Agreement (except where the context otherwise requires) the following words shall have the following meanings:

<b>Additional Licence Fees</b>	the additional licence fees payable under clause 4.2 below
<b>Additional Licences</b>	Any additional Licences which ClerksWell agrees to issue in accordance with clause 3.2
<b>Business Day</b>	any day which is not a Saturday, a Sunday or a bank holiday or public holiday in England
<b>Intellectual Property</b>	means any patent, copyright, database right, trade mark or other form of protection, any application for any such protection, and any rights in relation to any confidential information, subsisting at the relevant time in any part of the world
<b>Licence</b>	the licence in respect of the intellectual property in the Product granted in accordance with the provisions of clause 3 below
<b>Licence Fees</b>	the Initial Licence Fees and the Additional Licence Fees
<b>Licensed Users</b>	the number of persons authorised in connection with the Client's business in accordance with this Agreement to have access to the Product
<b>Object Code</b>	the Product shall be supplied in object code form which is accessible by the client but not to be edited or adapted in any way
<b>Permitted Code</b>	the source code form which the Client shall be entitled to adapt
<b>Product</b>	the Standalone or Enterprise version of EasyShare Aeon (as indicated on page 1 above) being ClerksWell's intranet software product, built on Microsoft SharePoint product, a fuller description of which is set out in the Specification and includes all Updates and different versions installed by the Client from time to time
<b>Renewal Date</b>	The date falling 12 calendar months after expiry of the temporary licence granted under clause 2 below <b>provided that</b> if such date does not exist or is not a Business Day then the Renewal Date will be on the next Business Day
<b>Service Level Agreement</b>	the service level agreement between ClerksWell and the Client
<b>Software Assurance</b>	the obligations of ClerksWell, if applicable, as set out in the Schedule
<b>Specification</b>	ClerksWell's specification for the Product as varied, updated and amended from time to time
<b>Updates</b>	means any patch, new release or update of the Product including bug fixes and (without any obligation) may include such features (if any) and ClerksWell decides to publish.

- 1.2 Any reference in this Agreement to a party includes (where appropriate) a reference to their respective successors

- 1.3 In this Agreement and its Schedule, the masculine gender shall include the feminine and neuter genders and the singular number shall include the plural and vice versa; Words denoting the singular shall include the plural and vice versa. Words denoting the masculine gender shall include the feminine gender; references to persons shall include individuals, bodies corporate, unincorporated associations and partnerships; the headings are inserted for convenience only and shall not affect the interpretation or construction of this Agreement; an obligation on a party not to do something includes an obligation not to allow that thing to be done

### 2. Temporary Licences

- 2.1 In consideration of the Client entering into this Agreement with ClerksWell (by signing and returning a copy of it to ClerksWell or by ClerksWell accepting a purchase order from the Client, the Client having previously been made aware of the terms and conditions of it) ClerksWell grants to the Client with effect from the date this Agreement a temporary non-exclusive non-transferrable licence of the intellectual property in the Product for 10 Licensed Users for 30 day from the date of this Agreement subject always to the terms and conditions set out in it.

### 3. Grant of Licence

- 3.1 **Initial Licence:** In consideration of the Client's agreement to pay to ClerksWell the Initial Licence Fees, ClerksWell grants to the Client with effect from the date of expiry of the temporary licence a non-exclusive non-transferrable licence of the intellectual property in the Product for use

by such number of Licensed Users as set out at the beginning of this Agreement or such other number as is agreed from time to time for the Licence Period subject to the terms and conditions of this Agreement. For the avoidance of doubt the Client is not entitled to the Licence under this clause until payment of the Initial Licence Fees has been received by ClerksWell in full.

- 3.2 **Additional Licences:** In consideration of the Client's agreement to pay to ClerksWell Additional Licence Fees ClerksWell grants such number of Additional Licences to the Client as the Client may request subject to the same conditions as the Initial Licence save that the Licence Period in respect of such Additional Licences will run from the date of acceptance by ClerksWell for such Additional Licences until the next occurring Renewal Date.

- 3.3 **Renewal:** In respect of all Licences granted for periods of 12 months or more, unless ClerksWell or the Client has served on the other not less than 30 days' notice in writing to terminate the Licence or reduce the number of Licences granted, such notice to expire on a Renewal Date, the initial Licence granted under clause 3.1 and all Additional Licences granted to the Client under clause 3.2 above in force at the next Renewal Date less any reduction in Licences in respect of which the Client has served notice in writing on ClerksWell such number of Licences shall automatically renew for a period of one year with effect from such Renewal date and shall continue to renew as specified in this clause on each subsequent anniversary of the Renewal Date (as adjusted in accordance with this clause) until notice in writing to terminate the Licence in accordance with this clause 3.3 is served. Licences for period of less than 12 months shall lapse on termination of the initial Licence Period unless otherwise agreed by ClerksWell and the Client in writing.

- 3.4 **Full Licence Keys:** Subject to the Client's full observance, performance and compliance of its obligations under this Agreement ClerksWell shall provide full licence keys to the Client to enable the Client to access the Product during the Licence Period.

- 3.5 This Agreement shall apply to any adaptation, alteration or modification of or any derivative work produced from the Product as they apply to the Product itself.

- 3.6 The Client shall be entitled to install any Updates which ClerksWell makes available generally to its clients for the Product from time to time.

### 4. Licence Fees

- 4.1 **Initial Licence Fees:** Within 7 days of (a) receipt of a signed copy of this Agreement or (b) acceptance by ClerksWell of a purchase order for the Product from the Client whichever is first to occur, ClerksWell shall issue an invoice to the Client in respect of the Initial Licence Fee plus vat at the prevailing rate to cover the Initial Licence Period which invoice shall be due and payable immediately.

- 4.2 **Additional Licence Fees:** ClerksWell shall issue an invoice to the Client for such number of Additional Licences plus vat at the prevailing rate as the Client shall request in writing until the next Renewal Date.

- 4.3 **Renewal Licence Fees:** Unless ClerksWell or the Client has served notice in accordance with clause 3.3 above, ClerksWell shall issue an invoice to the Client in respect of all licences renewed on each Renewal Date at its rates then in force.

- 4.4 **Payment terms:** Unless otherwise specifically agreed between ClerksWell and the Client in writing all payments due under this Agreement are immediately due and payable on issue of the invoice.

- 4.5 **Payment of Licence Fees monthly or quarterly by standing order:** Where monthly or quarterly payments of Licence Fees have been agreed between ClerksWell and the Client, the Client must set up and maintain monthly or quarterly payments by standing order (as the case may be) payable on the due date for payment. If any such payment is not received within 5 Business Days of the due date for payment the whole of the then outstanding balance of Licence Fees shall immediately become due and payable. In addition a 5% surcharge will be applied for clients who opt to pay in instalments.

- 4.6 The Client shall settle all invoices as and when due by electronic payment to ClerksWell's bank account details of which ClerksWell will provide to the Client. Without prejudice to any other rights that ClerksWell has under this Agreement ClerksWell shall be entitled to suspend the Client's access to the Product and/or reduce End-User access to the Product if any payment due by the Client to ClerksWell under this Agreement is not settled in full within 3 Business Days of the due date.

- 4.7 Subject always to the observance by the Client of its obligations under this Agreement the Client shall be entitled to Product Updates from ClerksWell from time to time as and when released.

- 4.8 All Licence Fees and any other monies due under this Agreement (or any breach of it) due by the Client to ClerksWell shall be paid without set-off, deduction or withholding.

- 4.9 The terms and conditions between ClerksWell and any of its partners, sub-contractors or agents (if any) will be set out in separate Agreements between such parties.

### 5. Trial and Acceptance Period

- 5.1 If by the end of the 30-day temporary licence period, the Client has not served notice in writing on ClerksWell rejecting the Product as not being in all material respects in accordance with the Specification (such notice setting out in reasonable detail any shortcomings complained of) then no

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- Licence Fees will be payable by the Client in respect of such temporary licence period and any temporary licence granted to the Client to trial the Product shall terminate immediately. For the purposes of this clause 5.1 notice by email is not permitted.
- 5.2 If the Client serves notice on ClerksWell in accordance with clause 5.1 the Client shall immediately cease to use the Product (directly and indirectly) and shall delete all versions of the Product from its system(s) and the Client shall, if requested by ClerksWell, permit engineers authorised by ClerksWell to access the Client's systems to verify that the Product has been permanently deleted and, if not, the Client hereby irrevocably authorises ClerksWell (or its agents) to access its systems and to permanently delete the Product from them.
6. **Permitted Use of the Product**
- 6.1 The Client may use the Product only strictly in accordance with the documentation provided by ClerksWell relating to the Product.
- 6.2 The Client shall not use the Product other than for its own internal business purposes during the Licence Period and shall not suffer or permit any person (other than Licenced Users) to use or access the Product at any time.
- 6.3 The Licence is limited for use by the number of Licenced Users authorised under this Agreement.
- 6.4 If at any time the Client becomes aware that the number of Licenced Users has been exceeded or is likely to exceed the Licenced Users set out in or calculated in accordance with this Agreement (or as subsequently agreed in writing between ClerksWell and the Client), the Client shall immediately notify ClerksWell in writing and request and pay for additional Licenced Users on the basis of ClerksWell's standard licence fees (or as otherwise agreed between ClerksWell and the Client) to cover the additional numbers of Licenced Users.
- 6.5 Where any third party software (including Microsoft SharePoint) is used in connection with the Product, its use shall be governed by the third party's licence Agreement and not by this Agreement or the Licence and the Client must obtain and comply with the terms of any such licence agreement.
- 6.6 The Client shall not: -
- 6.6.1 decompile, disassemble, reverse engineer the Product (except to the extent applicable laws specifically prohibit such restriction) or adapt, alter, modify or create any derivative works of the Product, except as otherwise permitted in accordance with this Agreement;
- 6.6.2 redistribute, publish, sell, rent, lease, lend, sub-Licence, part with possession of or otherwise transfer the Product to any other person or permit any other person to use the Product in any way; or
- 6.6.3 remove or alter any trade mark, logo, copyright or other proprietary notices, legends, symbols or labels in or on the Product.
- 6.7 The Client will ensure that the Product is used in a proper manner only on appropriate computer equipment and by suitably qualified and trained Licenced Users.
- 6.8 The Client shall indemnify and keep ClerksWell indemnified against all loss or liability arising from the unauthorised use of the Product by the Client or any other person to whom the Client gives or permits access to the Product.
- 6.9 The Client must comply with all applicable laws in relation to the Product and not export or re-export the Product or any part of it in violation of any such laws or regulations or without the prior written consent of ClerksWell.
- 6.10 The Object Code in respect of the Product may be covered by patents owned by Microsoft Corporation. The Client is not Licenced under any Microsoft patents to distribute this code in any form unless the Client has obtained an appropriate Licence from Microsoft. The terms and conditions of such Licence may be obtained by contacting Microsoft at [protocol@microsoft.com](mailto:protocol@microsoft.com).
- 6.11 Subject to the terms and conditions of the Licence and to the rights of Microsoft (as referred to in clause 6.10 above, all Intellectual Property in the Product shall belong exclusively to ClerksWell provided that, for avoidance of doubt, any functionality built into or onto the Product by the Client shall belong to the Client and will remain the Intellectual Property of the Client.
7. **Interest**
- 7.1 Any sums not paid under this Agreement when due shall attract interest at the rate of 5 per centum per annum over the base lending rate of Barclays Bank plc (before as well as after judgment) until paid in full.
8. **Warranties and Liabilities**
- 8.1 Subject to the following provisions, ClerksWell warrants to the Client that:
- 8.1.1 it is authorised to licence the Product and has the necessary authority to enter into this Agreement; and
- 8.1.2 provided that the Client installs any Update which ClerksWell makes available generally in relation to the Product from time to time and the Client uses the Product in accordance with any documentation provided by ClerksWell the Product will during the Licence Period perform in all material respects in accordance with the Specification.
- 8.2 In the event of any breach of the warranties given under clause 8.1 above ClerksWell shall, so far as it is able, as the Client's sole remedy for such breach, use its reasonable endeavours to:
- 8.2.1 replace all or part of the Product's functionality by way of installing Updates which ClerksWell makes available generally to its customers for the Product from time to time without charge to the Client; and/or
- 8.2.2 modify or procure the modification of the Product so far as it is able provided that the Product (as amended) functions in substantially the same way as the Product before modification.
- 8.3 Save as provided in this clause 8, no warranties are given or implied and all warranties which might otherwise be implied are hereby excluded to the greatest extent permitted by law.
9. **Suitability of Product, Installation, Maintenance, Support and Bugs**
- 9.1 The Client acknowledges and agrees that, save as provided under clause 3.6 above, unless otherwise agreed in writing with ClerksWell, ClerksWell shall have no obligations or duties to the Client in respect of the suitability of the Product for the Client's purposes, the installation of the Product or any maintenance or support all which rights, duties and obligations are between the Client and its IT providers and advisers.
- 9.2 It is the Client's responsibility to (a) ensure that the Product and the terms of the Specification are suitable for its purposes; (b) cooperate with ClerksWell in all matters relating to the supply of any services to be provided by ClerksWell; and (c) obtain and maintain all necessary licences, permissions and consents which may be required prior to use of the Product and any services to be provided by ClerksWell.
- 9.3 If the Client finds a bug, error or defect in the Product the Client shall promptly notify ClerksWell with details of the bug, error or defect to ClerksWell support.
- 9.4 ClerksWell and the Client each accept that bugs, errors or defects may occur at any time in the Product and ClerksWell agrees to make reasonable efforts to remedy reported defects after receipt of notification from the Client provided that all monies due by the Client to ClerksWell have been paid in full and the Client is not in breach of this Agreement or any other Agreement between ClerksWell and the Client.
- 9.5 The provisions of the Schedule shall apply in relation to the Software Assurance.
10. **Limitations and Exclusions of Liability**
- 10.1 ClerksWell shall not be liable to the Client by reason of any representation or breach of any implied condition, warranty or other term or any duty at common law or under statute or under any express term of the Agreement for any loss, damages, costs, expenses or other claim for compensation, whether occasioned by the negligence of ClerksWell or any of its partners, sub-contractors or agents, their respective employees or agents or otherwise which relate to the provision of the Product (including any failure or delay in providing it) or which in any way arises out of or in connection with the Agreement, to the extent that:
- 10.1.1 the claim is for loss of profits, agreements, goodwill or anticipated savings or for wasted expenditure or for any indirect, special or consequential loss or damages; or
- 10.1.2 the amount of any claim for which any partners or ClerksWell would otherwise be liable under this Agreement exceeds the amount of the Licence Fees paid by the Client up to the date of the claim.
- 10.2 ClerksWell shall not be responsible for any unsatisfactory performance arising from the use of any third party software or hosting provider and their terms of business shall apply between the Client and such parties in respect of such services.
- 10.3 No party under this Agreement shall be deemed to be in breach of this Agreement or have any liability to any other party in so far as it is prevented from performing its obligations under this Agreement by reason of any circumstances beyond its reasonable control.
- 10.4 Nothing in this clause 10 affects the liability of a party for death or personal injury caused by negligence or for fraudulent misrepresentation.
11. **Termination**
- 11.1 Subject to clauses 11.2 and 11.3 below either party may terminate this Agreement by serving not less than 30 days' notice in writing on the other party such notice to expire on a Renewal Date.
- 11.2 ClerksWell may terminate this Agreement at any time by serving notice in writing on the Client if any Licence Fee remains unpaid 7 Business Days after the due date for payment. On expiry of such notice the Client shall immediately cease to use the Product.
- 11.3 ClerksWell or the Client may terminate this Agreement by giving written notice to the other party if such other party: -
- 11.3.1 commits any material breach of its obligations and, if the breach is capable of remedy, fails to remedy it within thirty (30) days after being given written notice containing particulars of the breach and requiring it to be remedied; or
- 11.3.2 becomes insolvent or goes into receivership, administration or liquidation, or ceases to trade.

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- 11.4 For the purposes of clause 11.3.1 a breach shall be considered as capable of remedy if the party in breach can comply with the provision in question in all respects other than as to the time of performance.
- 11.5 Upon the termination of the Agreement for any reason:
- 11.5.1 the Client shall immediately cease to use, either directly or indirectly, the Product, and shall delete any version of it from its system(s);
- 11.5.2 the provisions of clause 12 shall continue in full force and effect; and
- 11.5.3 subject as provided in this clause and except in respect of any accrued rights, neither party shall be under any further obligation to the other.
- 12. Confidentiality**
- 12.1 The Product is proprietary to ClerksWell and contains confidential information, know-how and valuable trade secrets belonging to ClerksWell. The Client shall at all times keep the Product and the documentation provided by ClerksWell relating to the Product confidential and shall not permit the same to be used, copied, disclosed or disposed of except strictly in accordance with this Agreement.
- 12.2 The Client shall not at any time either during the continuance of this Agreement or after its termination (howsoever arising) disclose to any person or use for any purpose any information concerning the business, affairs, finances, transactions or trade secrets of ClerksWell or any of its sub-contractors, partners or agents or of their respective customers or clients except as required by law.
- 12.3 The provisions of clauses 12.1 and 12.2 shall not apply to information which is in the public domain or becomes so at a future date other than as a result of a breach by the Client or an Affiliate of the Client.
- 13. Dispute Resolution**
- 13.1 In the event of a dispute arising out of or in connection with any technical computing matter relating to the Product the matter shall be referred at the instance of either party to such person as may be nominated by them by agreement or, in default of agreement, nominated on the application of either party by the President for the time being of The British Computer Society.
- 13.2 Any person appointed or nominated under clause 13.1 shall act as an expert and not as an arbitrator and shall be entitled to appoint such technical expert or experts as he considers necessary to assist him in determining the matter referred to him. The decision of the expert (which shall be given by him in writing stating his reasons) shall be final and binding on the parties save in the case of manifest error.
- 13.3 The cost of any expert (including the cost of any technical expert appointed by him) shall be borne in such proportions as the expert may determine to be fair and reasonable in all the circumstances or, if no such determination is made by the expert, by the parties in equal proportion.
- 13.4 For the avoidance of doubt the provisions of clause 13.1, 13.2 and 13.3 shall not apply to any non-technical dispute not any dispute in relation to the payment of Licence Fees or other payments due under or arising from this Agreement which shall be dealt with in the Courts.
- 14. Contracts (Rights of Third Parties) Act 1999**
- 14.1 Any person who is not a party to this Agreement has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement provided that this does not affect any right or remedy of a third party which exists or is available apart from that Act.
- 15. Successors**
- 15.1 This Agreement shall be binding on and shall ensure for the benefit of the successors and assigns and personal representatives (as the case may be) of each of the parties in so far as any such assignment or succession is permitted under this Agreement
- 16. Severability**
- 16.1 Each of the obligations contained in the clauses and sub-clauses of this Agreement shall be construed as separate and several obligations (unless otherwise expressly provided) and if any clause or sub-clause shall be held to be illegal or unenforceable in any respect the other clauses and sub-clauses of this Agreement shall not be affected.
- 17. Waiver Forbearance and Variation**
- 17.1 No forbearance delay or indulgence by ClerksWell in enforcing the provisions of this Agreement shall prejudice or restrict the rights of that party nor shall any waiver of its rights operate as a waiver of any subsequent rights and no right power or remedy conferred upon or reserved for ClerksWell shall be exclusive of any other right power or remedy available to ClerksWell and each such right power or remedy shall be accumulative.
- 18. Assignment**
- 18.1 The Client shall not assign or otherwise transfer this Agreement or any of its rights or obligations under it whether in whole or in part without the prior consent in writing of ClerksWell.
- 19. No Partnership**
- 19.1 Nothing in this Agreement shall constitute or be deemed to constitute a partnership between the parties or any of them and none of them shall have any authority to bind the other in any way.
- 20. Further Assurance**
- 20.1 The parties shall, and shall use their respective reasonable endeavours to procure that any necessary third parties shall, do, execute and perform all such further deeds, documents, assurances, acts and things as any of the parties may reasonably require by notice in writing to the others to carry the provisions of this agreement into full force and effect
- 21. Entire Agreement**
- 21.1 This Agreement and all documents and Agreements to be entered into pursuant to it and any side letters or agreements entered into simultaneously with it constitute the entire agreement between the parties with respect to the matters dealt with and supersede all previous negotiations and agreements between the parties in relation to such matters.
- 21.2 Each party expressly acknowledges and confirms that it has not been induced to enter into this Agreement nor has it relied on any warranty statement fact or other thing other than the warranties in clause 8 above and the parties hereby expressly exclude all and any liability or claims arising from or through a misrepresentation howsoever caused (other than fraudulent misrepresentations) by the other party or their respective agents and each party hereby expressly agrees that any liability arising is restricted to any competent claim brought under the warranties in clause 8 above.
- 21.3 No variation of this Agreement shall be valid or effective unless made by one or more instruments in writing and signed by the party affected by such variation.
- 22. Notices**
- 22.1 Any notice or other communication to be given under this Agreement shall either be delivered personally or sent by first class post to the party to be served at the address shown at the beginning of this Agreement (or such other address as the party to be served may have previously notified in writing to the other party) or, unless otherwise specified in this Agreement as not being permitted by email, by email to the email addresses used by the parties during the negotiations prior to signing this Agreement (or such other email address as the party to be served may have previously notified in writing to the other party). All notices shall be deemed to have been served as follows: -
- 22.1.1 if personally delivered, at the time of delivery;
- 22.1.2 if posted, at the expiration of 48 hours after the envelope containing the same was delivered into the custody of the postal authorities; and
- 22.1.3 if sent by email, on delivery provided that a read receipt or other evidence of receipt can be provided.
- Provided that** where, in the case of delivery by hand or by email, such delivery occurs after 5.00 pm on a Business Day or on a day which is not a Business Day, service shall be deemed to occur at 9.00 am on the next following Business Day.
- 22.2 In proving such service, it shall be sufficient to prove that personal delivery was made, or that the envelope containing such notice was properly addressed and delivered into the custody of the postal authorities as a recorded delivery letter, as the case may be
- 23. Law and Jurisdiction**
- 23.1 This Agreement shall be governed by and construed in accordance with English law.
- 23.2 The parties irrevocably submit to the non-exclusive jurisdiction of the English Courts in respect of any dispute or matter arising out of or connected with this Agreement to the exclusion of all other jurisdictions.
- 24. Personal Data**
- 24.1 ClerksWell process personal data in reliance on three of the lawful bases stipulated by Article 6 of the General Data Protection Regulation. Under Article 6 (b), data controllers are permitted to process personal data where such processing is necessary for the performance of contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract. When relying on Article 6 (b) ClerksWell will only process personal data where it is necessary for the performance of a contract or in order to take steps at the data subject's request prior to the entering into of a contract. ClerksWell will take reasonable steps to inform data subjects of the processing necessary to take steps prior to entering into a contract.
- 24.2 Where processing is required but not necessary to the performance of a contract, ClerksWell reserves the right to process personal data in accordance with Article 6 (a). This stipulates that processing shall be lawful where the data subject has given consent to the processing of his or her personal data for one or more specific purposes. If such processing is required we will seek consent from the relevant data subjects in accordance with our GDPR consent policy.
- 24.3 Where neither Article 6 (a) or (b) applies, ClerksWell reserve the right to process personal data pursuant to Article 6 (1) (f). This stipulates that processing will be lawful where necessary for the purposes of the legitimate interests pursued by the controller or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection, in particular

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where the data subject is a child. ClerksWell will rely on Article (1) (f) in circumstances including, but not limited to, where the processing is not required by law but is of a clear benefit to the data subject; where there is a limited privacy impact on the data subject or where the data subject should reasonably expect their data to be used in that way. ClerksWell will not deploy Article 6 (1) (f) as a default lawful basis for processing.

- 24.4 ClerksWell is aware of its obligation under Article 31 of the GDPR, which stipulates in the case of a personal data breach data controllers shall without undue delay and, where feasible, not later than 72 hours after having become aware of it, notify the personal data breach to the supervisory authority, unless the personal data breach is unlikely to result in a risk for the rights and freedoms of individuals. In the event of a personal data breach ClerksWell will inform the data subject of whether ClerksWell considers a report to the relevant authority necessary. If it is not intended that a report will be made ClerksWell will inform the data subject as to why ClerksWell consider the breach unlikely to result in a risk for the rights and freedoms of individuals. In the event that a report to the relevant information authority is not made within 72 hours ClerksWell will provide the data subject with a reasonable justification for the delay. ClerksWell will maintain records of any personal data breaches and decisions taken pursuant to obligations under Article 31.

## The Schedule – Software Assurance

### 1. The ClerksWell Software Assurance model

- 1.1 Unless otherwise agreed separately and in writing ClerksWell supports the Product Object Code only and nothing else. No other services or support are provided by ClerksWell to the Client.
- 1.2 It is the Client's responsibility to make its own arrangements for support of the Permitted Code, configuration and custom code as required by the Client.
- 1.3 ClerksWell will provide fixes, ongoing device compatibility updates, as well as enhancements, new releases and new features to the Object Code from time to time during the period Product remains current.

### 2. ClerksWell Software Assurance Response Process

- 2.1 An initial response to the Client (in the form of an acknowledgment) for all reported issues will be the responsibility of ClerksWell. If an issue is logged by the Client on the ClerksWell system, ClerksWell will take reasonable steps to acknowledge the reported issue within 24 hours of the Client registering it in accordance with ClerksWell's procedures.
- 2.2 Following an initial acknowledgement, ClerksWell will carry out an investigation to confirm if the issue is a core defect (being a material defect that ClerksWell can reproduce and which ClerksWell determines in its sole opinion to be a bug in the Object Code), the severity of the bug and the target release date of a fix (if considered by ClerksWell to be a core defect).
- 2.3 ClerksWell will use its reasonable endeavours to investigate the issue and report to the Client (if there is no SLA in place and the issue was logged by the Client within 3 working days provided that time is not of the essence and the time taken to investigate and produce a fix will depend on the complexity of the issue)
- 2.4 In the case of medium and low severity bugs ClerksWell will use its reasonable endeavours to resolve the issue in the next major release save that if the next major release is due in less than 4 weeks from the date the issue is reported to it ClerksWell will use its reasonable endeavours to resolve the issue in the next major release after that.
- 2.5 ClerksWell will use its reasonable endeavours to resolve high severity bugs with a minor release (patch) of the current release.
- 2.6 The severity of all bugs will be determined and categorised by ClerksWell.

### 3. ClerksWell Additional Terms

- 3.1 On service of notice terminating this Agreement, ClerksWell will be under no further obligation to fix any issues reported by the Client or any Partner on behalf of the Client and the Client will lose access to the ClerksWell Client Extranet and will no longer receive any updates.