

IMPROVEWELL – APP USAGE AGREEMENT UK

This App Usage Agreement is made between:

	“ImproveWell”	“Customer”
Full company name	ImproveWell LTD	
Registered Office <i>(or, if applicable, principal place of business)</i>	Registered in England and Wales with company number 10399916 Registered office is at Studio 1, 305a Goldhawk Road, London W12 8EU	

1. BACKGROUND

- (1) ImproveWell is the entire legal and beneficial owner and licensor of the ImproveWell Solution that, among other things, empowers staff to communicate theme-based improvement ideas, share how their day at work is going and complete surveys, providing insights directly to senior management.
- (2) The Customer wishes to use the ImproveWell Solution and ImproveWell is willing to provide the ImproveWell Solution in accordance with the terms of this Agreement.

This Agreement shall comprise the following:

- (i) This signature sheet; and
- (ii) The attached Schedule (“the Schedule”) and any Appendices to the Schedule; and
- (iii) Terms and Conditions (“Terms and Conditions”).

2. Please note that all capitalised terms used in this Agreement are defined in Clause 1 (Definitions) of the Terms and Conditions.

Both parties acknowledge that they have read and understood the Agreement including the Terms and Conditions and the Schedule and agree to be legally bound by the terms contained herein.

	ImproveWell LTD	You / Customer
Signature of authorised signatory		
Name	Lara Mott	
Position	Director, CEO and Co-founder	
Date		

THE SCHEDULE – COMMERCIAL TERMS

1. ImproveWell Solution

The ImproveWell Solution comprises a smartphone application to capture real-time data from frontline users, and an intelligent website dashboard for management to analyse data, prioritise improvement efforts, measure changed and publish reports. The ImproveWell Solution has three core feedback systems: staff can share theme-based improvement ideas; staff can share how their day at work is going, helping organisations track workforce sentiment; and staff can complete bespoke pulse surveys. Insights from wider stakeholder groups can also be tapped via customisable online portals. Customers can run unlimited projects, supported by data visualisation tools to detect trends, shifts and cycles, as well as targeted push notifications and user prompts. The ImproveWell Solution has support for different languages and the ability for frontline users to participate in other organisations' ImproveWell projects using the same account.

As part of the ImproveWell Solution, the Customer has the ability to derive further insights by comparing its own performance securely using ImproveWell's aggregated quality improvement dataset generated by anonymised general usage data from all ImproveWell customers' use of the ImproveWell Solution which includes statistics, reports, logs and thematic information regarding the three core feedback systems. Using advanced statistical data analysis and machine learning techniques, the ImproveWell Solution aims to supports data-driven and evidence-based decision making.

2. Fees

Initial Term Payment:

Set up:

Subscription Number:

ImproveWell Solution:

Payment Terms

3. Term and Notice

Commencement Date (if not date of signature):	
Initial Term:	

4. Restrictions

Territory	UK
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5. Additional Customer obligations

* END OF SCHEDULE *

App Usage UK - Terms and Conditions

1. INTERPRETATION

1.1 The definitions and rules of interpretation in this clause apply in this Agreement.

Affiliate: means any business entity from time to time controlling, controlled by, or under common control with, either Party;

Application: means the ImproveWell application, an iOS and Android mobile and website application used by the Authorised Users to provide feedback to senior management within the Customer;

Authorised User(s): means user(s) who are authorised by the Customer to use the ImproveWell Solution;

Claim: shall have the meaning given to it in clause 8.4;

Commencement Date: means the date as set out in the Schedule;

Confidential Information: means information and materials of commercial or political value, in whatever form or medium, which has been kept confidential by the Party from whom the information originates and which has not come into the public domain during the term of this Agreement in breach of any obligation of confidence, including information relating to the ImproveWell Solution, or any of its constituent parts, the source code relating to the Application, and the Website or any such parts, commercial or technical know-how, technology, information pertaining to business operations and strategies, and to customers, funders, backers, investors, advisors, pricing and marketing and the existence and terms of this Agreement;

Customer Data: means data inputted by the Customer, or any Authorised User which may include any specific feedback in any form entered on to the Application by Authorised User including suggestions for innovation or improvements, discoveries, ratings, ideas, comments, thoughts and surveys;

Data Protection Laws: all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.

Data Subject Request means an actual or purported request, notice or complaint from (or on behalf of) a Data Subject exercising his rights under the Data Protection Laws;

ImproveWell Solution: means the Application, the Website and related services and information as further defined in the Schedule;

Initial Term: shall have the meaning given to it in the Schedule;

Intellectual Property Rights / IPRs: patents, utility models, rights to inventions, copyright and related rights, trade marks and service marks, trade names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to preserve the

confidentiality of information (including know-how and trade secrets) and any other intellectual property rights, including all applications for (and rights to apply for and be granted), renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist, now or in the future, in any part of the world;

Security Requirements: means the requirements regarding the security of the Personal Data, as set out in the Data Protection Laws (including, in particular, the seventh data protection principle of the Act and/ or the measures set out in Article 32(1) of the GDPR (taking due account of the matters described in Article 32(2) of the GDPR)) as applicable;

Subscriptions: the subscriptions purchased by the Customer which entitle Authorised Users to access and use the ImproveWell Solution in accordance with this agreement as set out in the Schedule;

Term: shall be the Initial Term and any renewal period thereafter in accordance with clause 19.2;

Website: means ImproveWell's web-application linked with the Application, where Authorised Users can submit and the Customer can view Customer Data.

1.2 Clause, Schedule and paragraph headings shall not affect the interpretation of this Agreement.

1.3 Unless the context otherwise requires:

- (a) words in the singular shall include the plural and in the plural shall include the singular;
- (b) a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time;
- (c) a reference to one gender shall include a reference to the other genders; and
- (d) any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

2. LICENCES GRANTED

2.1 Subject to the Customer purchasing the Subscriptions, and subject to the restrictions set out in this clause 2 and the other terms and conditions of this agreement, ImproveWell hereby grants to the Customer a non-exclusive, non-transferable right, without the right to grant sub-licences, to permit the Customer and the Authorised Users to use the ImproveWell Solution throughout the Term solely for the Customer's business operations.

2.2 In relation to the Authorised Users, the Customer undertakes that:

- (a) the maximum number of Authorised Users that it authorises to access and use the ImproveWell Solution and the Documentation shall not exceed the number of Subscriptions it has purchased from time to time;

- (b) it will not allow or suffer any Subscription to be used by more than one individual Authorised User unless it has been re-assigned in its entirety to another individual Authorised User, in which case the prior Authorised User shall no longer have any right to access or use the ImproveWell Solution;
- (c) each Authorised User shall keep a secure password for the use of the ImproveWell Solution, that such password shall be changed in-line with the Customer's security policies such that each Authorised User shall keep their password confidential;
- (d) it shall maintain a written, up to date list of current Authorised Users and provide such list to ImproveWell within 10 Business Days of ImproveWell's written request at any time or times; and
- (e) if any of the parties become aware that any password has been provided to any individual who is not an Authorised User, then without prejudice to ImproveWell's other rights, the Customer shall promptly disable such passwords and ImproveWell shall not issue any new passwords to any such individual.

2.3 The rights provided under this Clause 2 are granted to the Customer only and shall not be considered granted to any subsidiary or holding company of the Customer.

3. RESTRICTIONS ON USE

3.1 In relation to scope of use:

- (a) for the purposes of the licences granted in clause 2.1 and 2.3, use of the ImproveWell Solution shall be solely for the normal business purposes of Customer (which shall not include allowing the use of the ImproveWell Solution by, or for the benefit of, any person other than an Authorised User of Customer);
- (b) Customer may not use the ImproveWell Solution other than as specified in clause 3.1 (a) without the prior written consent of ImproveWell; and
- (c) Customer has no right (and shall not permit any third party) to copy, adapt, reverse engineer, decompile, disassemble, modify, adapt or make error corrections to the ImproveWell Solution in whole or in part.

3.2 Customer may not use any such information provided by ImproveWell to create any software or service whose expression is substantially similar to that used for the ImproveWell Solution, nor use such information in any manner which would be restricted by any copyright subsisting in them: in particular, the Customer shall not attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the ImproveWell Solution (as applicable) in any form or media or by any means

3.3 Nothing in this Agreement shall require ImproveWell to breach any agreement with any

third party (whether entered into before, after or during the term of this Agreement) through the sharing of IPRs Confidential Information, customer data equivalent to the Customer Data and/or any other data in breach of such agreement.

3.4 Customer shall not:

- (a) sub-license, assign or novate the benefit or burden of the licences granted herein or any or all of its rights or obligations under this Agreement in whole or in part;
- (b) allow the ImproveWell Solution to become the subject of any charge, lien or encumbrance; or
- (c) deal in any other manner with any or all of its rights and obligations under this Agreement.

3.5 Each Party confirms it is acting on its own behalf and not for the benefit of any other person.

3.6 Customer shall notify ImproveWell as soon as it becomes aware of any unauthorised use of the ImproveWell Solution by any person.

3.7 The Customer shall not, and shall ensure the Authorised Users shall not, access, store, distribute or transmit any viruses, or any material or data information during the course of its use of the ImproveWell Solution that:

- (a) is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
- (b) facilitates illegal activity;
- (c) depicts sexually explicit images;
- (d) promotes unlawful violence;
- (e) is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or
- (f) is otherwise illegal or causes damage or injury to any person or property,

and ImproveWell reserves the right, without liability or prejudice to its other rights to the Customer, to disable the Customer's access to any material that breaches the provisions of this clause.

4. CUSTOMER DATA

4.1 The Customer shall own the Customer Data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of all such Customer Data.

4.2 ImproveWell is hereby licensed by the Customer for the Term to use the Customer Data for the purposes of performing its obligations under this Agreement and providing the ImproveWell Solution.

4.3 On expiry of this Agreement, ImproveWell undertakes to return or delete any personal data contained in the Customer Data.

4.4 In addition to complying with the obligations set out in clause 11 (Data Protection), ImproveWell shall, in providing the ImproveWell Solution, comply with its Privacy and Transparency Notice as set out on www.improvewell.com/transparency-notice relating to the privacy and security of the Customer Data as may be amended from time to time by ImproveWell in its sole discretion acting reasonably.

5. FEES

5.1 In consideration for the licence granted pursuant to this Agreement, the Customer shall pay the Fees and expenses as set out in the Schedule.

5.2 The Fees are exclusive of any out-of-pocket expenses incurred by ImproveWell in the provision of the ImproveWell Solution and any applicable VAT and other sales tax which shall be payable by the Customer at the rate and in the manner prescribed by law against submission of a valid tax invoice issued to the Customer by ImproveWell.

5.3 Fees shall be increased each anniversary of the Commencement Date in proportion to the change in the RPI (the Retail Price Index) (or any other index substituted for it from time to time by the Office for National Statistics or its successors) over the most recent period of 12 consecutive months for which such figures are available.

5.4 If Customer fails to make any payment due to ImproveWell under this Agreement by the due date for payment, then, without limiting any other legal remedies that ImproveWell may have, Customer shall pay interest on the overdue amount at the rate of 4% per annum above the Bank of England's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount. Customer shall pay the interest together with the overdue amount.

5.5 The Customer acknowledges and agrees that, except where otherwise agreed by ImproveWell, any sums paid by the Customer pursuant to clause 5.1 shall be non-refundable.

6. CONFIDENTIALITY AND PUBLICITY

6.1 Each Party shall, during the Initial Term and thereafter, keep confidential all, and shall not use for its own purposes (other than implementation of this Agreement) nor without the prior written consent of the other disclose to any third party (except its professional advisors or as may be required by any law or any legal or regulatory authority) any Confidential Information which may become known to such Party from the other Party and which relates to the other Party or any of its Affiliates, unless that information is public knowledge or already known to such party at the time of disclosure, or subsequently becomes public knowledge other than by breach of this Agreement, or subsequently comes lawfully into

the possession of such Party from a third party. Each Party shall use its reasonable endeavours to prevent the unauthorised disclosure of any such information.

6.2 Neither Party shall make, or permit any person to make, any public announcement concerning this Agreement without the prior written consent of the other Party (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.

7. WARRANTIES

7.1 If, at any time during the term of this Agreement, Customer notifies ImproveWell in writing of any defect or fault in the ImproveWell Solution, and such defect or fault does not result from Customer, or anyone acting with the authority of Customer, having amended the ImproveWell Solution or used them outside the terms of this Agreement for a purpose or in a context other than the purpose or context for which it was designed or in combination with any other software not provided by ImproveWell, or it has not been loaded onto suitably configured equipment, ImproveWell shall, at ImproveWell's option, do one or more of the following:

- (a) provide the Customer with back-ups of any Customer Data generated by, or stored on, the affected ImproveWell Solution;
- (b) repair the ImproveWell Solution;
- (c) replace the ImproveWell Solution; or
- (d) terminate this Agreement immediately by notice in writing to Customer and refund any of the fees paid by Customer as at the date of termination (less a reasonable sum in respect of Customer's use of the ImproveWell Solution to the date of termination) on return of the ImproveWell Solution, provided Customer provides all the information that may be necessary to assist ImproveWell in resolving the defect or fault, including a documented example of any defect or fault, or sufficient information to enable ImproveWell to re-create the defect or fault.

7.2 ImproveWell does not warrant that the use of the Software will be uninterrupted or error-free.

7.3 All other conditions, warranties or other terms which might have effect between the Parties or be implied or incorporated into this Agreement or any collateral contract, whether by statute, common law or otherwise, are hereby excluded, including the implied conditions, warranties or other terms as to satisfactory quality, fitness for purpose or the use of reasonable skill and care.

8. INTELLECTUAL PROPERTY RIGHTS

8.1 The parties acknowledge and agree that ImproveWell has no ownership rights to Customer Data, and shall use same for the performance of

- the acts set out in this Agreement. ImproveWell and its third-party licensors will retain all ownership interest in and to the ImproveWell Solution and any underlying systems.
- 8.2 Except as expressly set out in this Agreement, any developments made or generated by ImproveWell and/or the Customer under this Agreement, or any other development otherwise made or generated by ImproveWell and/or the Customer relating to the ImproveWell Solution (and the Intellectual Property Rights in any and all of the foregoing) shall belong to ImproveWell, and the Customer hereby assigns any and all rights the Customer may have in such developments to ImproveWell.
- 8.3 Other than as expressly provided in this Agreement, neither Party shall, under this Agreement acquire ownership of or obtain any rights in any of the other Party's Intellectual Property Rights. Further, each Party shall remain the exclusive owner of any and all Intellectual Property Rights owned by it before the date of this Agreement.
- 8.4 ImproveWell undertakes at its own expense to defend Customer or, at its option, settle any claim or action brought against Customer alleging that the possession or use of the ImproveWell Solution (or any part thereof) in accordance with the terms of this Agreement infringes the IPRs of a third party ("Claim") and shall be responsible for any reasonable losses, damages, costs (including legal fees) and expenses necessarily incurred by or awarded against Customer as a result of or in connection with any such Claim. For the avoidance of doubt, this clause 8.4 shall not apply where the Claim in question is attributable to possession or use of the ImproveWell Solution by Customer other than in accordance with the terms of this Agreement, use of the ImproveWell Solution in combination with any solution not supplied or specified by ImproveWell if the infringement would have been avoided by the use of the ImproveWell Solution not so combined, or use of a non-current release of the ImproveWell Solution.
- 8.5 If any third party makes a Claim, or notifies an intention to make a Claim against Customer, ImproveWell's obligations under clause 8.4 are conditional on Customer:
- (a) as soon as reasonably practicable, giving written notice of the Claim to ImproveWell, specifying the nature of the Claim in reasonable detail;
 - (b) not making any admission of liability, agreement or compromise in relation to the Claim without the prior written consent of ImproveWell (such consent not to be unreasonably conditioned, withheld or delayed);
 - (c) giving ImproveWell and its professional advisers access at reasonable times (on reasonable prior notice) to its premises and its officers, directors, employees, agents, representatives or advisers,
- and to any relevant assets, accounts, documents and records within the power or control of Customer, so as to enable ImproveWell and its professional advisers to examine them and to take copies (at ImproveWell's expense) for the purpose of assessing the Claim; and
- (d) subject to ImproveWell providing security to Customer to Customer's reasonable satisfaction against any claim, liability, costs, expenses, damages or losses which may be incurred, taking such action as ImproveWell may reasonably request to avoid, dispute, compromise or defend the Claim.
- 8.6 If any Claim is made, or in ImproveWell's reasonable opinion is likely to be made, against Customer, ImproveWell may at its sole option and expense:
- (a) procure for Customer the right to continue to use the ImproveWell Solution (or any part thereof) in accordance with the terms of this Agreement;
 - (b) modify the ImproveWell Solution so that they cease to be infringing;
 - (c) replace the ImproveWell Solution with non-infringing solutions; or
 - (d) terminate this Agreement immediately by notice in writing to Customer and refund any of the fees paid by Customer as at the date of termination (less a reasonable sum in respect of Customer's use of the ImproveWell Solution to the date of termination) on return of the ImproveWell Solution and all copies thereof,
- provided that if ImproveWell modifies or replaces the ImproveWell Solution, Customer shall have the same rights in respect thereof as it would have had under those clauses had the references to the date of this Agreement been references to the date on which such modification or replacement was made.
- 8.7 Notwithstanding any other provision in this Agreement, clause 8.4 shall not apply to the extent that any claim or action referred to in that clause arises directly or indirectly through the possession or use of any third-party software or through the breach of any third-party terms and conditions by Customer.
- 8.8 This clause 8 constitutes Customer's exclusive remedy and ImproveWell's only liability in respect of Claims and, for the avoidance of doubt, is subject to clause 10.
- 9. SUPPORT**
- 9.1 ImproveWell shall provide the Customer with reasonable personal support in relation to the ImproveWell Solution and shall endeavour to respond to any questions that the Customer has in relation to the ImproveWell Solution in a helpful and timely manner. Such support shall be included in the fees payable under this Agreement.

9.2 ImproveWell shall provide more extensive support to the Customer, if required by the Customer, (including but not limited to training sessions, presentations and talks) subject to the payment (at ImproveWell's standard charges in force from time to time) of additional fees by the Customer to ImproveWell and the prior agreement between the parties as to the scope of such support.

9.3 If ImproveWell becomes aware of any technical error in the ImproveWell Product it shall promptly (and in any event within twenty-four (24) hours) provide full details of such errors to the Customer. ImproveWell shall use reasonable endeavours to rectify such errors by providing temporary and permanent resolutions (as applicable) to such errors within twenty-four (24) hours of becoming aware of such error.

10. LIMITS OF LIABILITY

10.1 Except as expressly stated in clauses 8.4 and 10.2:

(a) ImproveWell shall not in any circumstances have any liability for any losses or damages which may be suffered by Customer (or any person claiming under or through Customer), whether the same are suffered directly or indirectly or are immediate or consequential, and whether the same arise in contract, tort (including negligence) or otherwise howsoever, which fall within any of the following categories:

- (i) Indirect, special, incidental or consequential damages even if ImproveWell was aware of the circumstances in which such special damage could arise;
- (ii) loss of profits;
- (iii) loss of anticipated savings;
- (iv) loss of business opportunity;
- (v) loss of goodwill; or
- (vi) loss or corruption of data.

(b) the total liability of the Parties, whether in contract, tort (including negligence) or otherwise and whether in connection with this Agreement or any collateral contract, shall in no circumstances exceed £50,000, save for those Claims as provided in clause 8.4 which shall not be subject to such £50,000 cap;

(c) Customer agrees that, in entering into this Agreement, either it did not rely on any representations (whether written or oral) of any kind or of any person other than those expressly set out in this Agreement or (if it did rely on any representations, whether written or oral, not expressly set out in this Agreement) that it shall have no remedy in respect of such representations and (in either case) ImproveWell shall have no liability in any circumstances otherwise than in accordance with the express terms of this Agreement.

10.2 The exclusions in clause 10.1 shall apply to the fullest extent permissible at law, but ImproveWell does not exclude liability for:

- (a) death or personal injury caused by the negligence of ImproveWell, its officers, employees, contractors or agents;
- (b) fraud or fraudulent misrepresentation;
- (c) breach of the obligations implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or
- (d) any other liability which may not be excluded by law.

10.3 All dates supplied by ImproveWell for the delivery of the ImproveWell Solution shall be treated as approximate only. ImproveWell shall not in any circumstances be liable for any loss or damage arising from any delay in delivery beyond such approximate dates.

10.4 The Customer acknowledges that no liability or obligation is accepted by ImproveWell (howsoever arising whether under contract, tort, in negligence or otherwise):

- (a) in relation to any third party software; or
- (b) that the operation of the ImproveWell Solution shall not be subject to minor errors or defects.

10.5 All references to "ImproveWell" in this clause 10 shall be treated as including all employees, subcontractors and suppliers of ImproveWell and its Affiliates, all of whom shall have the benefit of the exclusions and limitations of liability set out in this clause.

11. DATA PROTECTION

11.1 The terms "**Controller**", "**Data Subject**", "**Personal Data**", "**Personal Data Breach**", "**Processing**" and "**Processor**" shall have their respective meanings under the Data Protection Act 2018 ("DPA") as amended or replaced from time to time, together with all equivalent legislation of the UK and any other applicable jurisdiction (the "Data Protection Legislation").

11.2 The Parties shall each Process the Personal Data. The Parties acknowledge that the factual arrangement between them dictates the role of each Party in respect of the Data Protection Laws. Notwithstanding the foregoing, both Parties anticipate that, for the purposes of this Agreement, the Customer shall act as a Data Controller and ImproveWell will act as a Data Processor.

11.3 Each Party shall comply with its obligations under the Data Protection Laws. Each Party agrees to use all reasonable efforts to assist the other to comply with such obligations as are respectively imposed on them by the Data Protection Laws. Neither Party shall, by its acts or omissions, cause the other Party to breach its respective obligations under the Data Protection Laws.

- 11.4 Where ImproveWell is processing Personal Data for Customer, ImproveWell will:
- 11.5 only do so on Customer's documented instructions and in accordance with applicable law, including with regard to transfers of Personal Data to other jurisdictions or an international organisation, and the parties agree that this Agreement constitutes such documented instructions of the Customer to ImproveWell to process Customer Data;
- 11.6 not permit any Processing of Contract Data outside of the United Kingdom without the Controller's prior written consent which may be subject to conditions at the Controller's discretion (unless the Processor or Authorised Sub-Processors are required to transfer the Contract Data, to comply with UK Laws and such laws prohibit notice to the Controller on public interest grounds);
- (a) with respect to any transfers of Personal Data out of the United Kingdom that may be required in relation to or in connection with the Agreement and the provision of the ImproveWell Solution hereunder, the parties shall comply with and be subject to all obligations imposed by Data Protection Legislation;
- (b) ensure that all ImproveWell personnel involved in the processing of Personal Data are subject to confidentiality obligations in respect of the Personal Data;
- (c) make available information necessary for Customer to demonstrate compliance with Customer's article 28 obligations (if applicable to Customer) where such information is held by ImproveWell and is not otherwise available to Customer through Customer's account and Authorised User areas or on ImproveWell websites, provided that Customer provide ImproveWell with at least 14 days' written notice of such an information request;
- (d) cooperate as reasonably requested by Customer to enable Customer to comply with any exercise of rights by a Data Subject afforded to Data Subjects by Data Protection Legislation in respect of Personal Data processed by ImproveWell in providing the ImproveWell Solution;
- (e) provide assistance, where necessary, with all requests received directly from a Data Subject in respect of a Data Subject's Personal Data submitted through the ImproveWell Solution;
- (f) upon termination by Customer, not retain Personal Data from within Customer's account other than in order to comply with applicable laws and regulations and as may otherwise be kept in routine backup copies made for disaster recovery and business continuity purposes subject to ImproveWell's retention policies;
- (g) cooperate with any supervisory authority or any replacement or successor body from time to time (or, to the extent required by Customer, any other

data protection or privacy regulator under Data Protection Legislation) in the performance of such supervisory authority's tasks where required;

- (h) not store Personal Data (in a format that permits identification of relevant Data Subjects) for longer than is necessary for the purposes for which the data are processed save to the extent such retention is required for legitimate business purposes (with respect to, for example, security and billing), in order to comply with applicable laws and regulations and as may otherwise be kept in routine backup copies made for disaster recovery and business continuity purposes;
- (i) where required by Data Protection Legislation, inform Customer if it comes to ImproveWell's attention that any instructions received from Customer infringe the provisions of Data Protection Legislation, provided that notwithstanding the foregoing, ImproveWell shall have no obligation to review the lawfulness of any instruction received from Customer; and
- (j) assist Customer as reasonably required where Customer (i) conducts a Data Protection Impact Assessment involving the ImproveWell Solution (which may include by provision of documentation to allow Customer to conduct Customer's own assessment); or (ii) is required to notify a Security Incident (as defined below at clause 14) to a supervisory authority or a relevant data subject.

12. SUBPROCESSING

12.1 Customers provide a general authorisation to ImproveWell to engage onward subprocessors, subject to compliance with the requirements in this clause 12.

13. SUBPROCESSOR LIST

13.1 ImproveWell will, subject to any confidentiality provisions under this Agreement or otherwise imposed by ImproveWell:

- (a) make available to Customer a list of the ImproveWell subprocessors ("Subprocessors") who are involved in processing or subprocessing Personal Data in connection with the provision of the ImproveWell Solution, together with a description of the nature of services provided by each Subprocessor ("Subprocessor List"). A copy of this Subprocessor List may be accessed at <https://improvement.com/transparency-notice#who-does-improvement-share-my-information-with>
- (b) ensure that all Subprocessors on the Subprocessor List are bound by contractual terms that are in all material respects no less onerous than those contained in this Agreement; and
- (c) be liable for the acts and omissions of its Subprocessors to the same extent ImproveWell would be liable if performing the services of each of those Subprocessors directly under the terms

- of this Agreement, except as otherwise set forth in this Agreement.
- 13.2 New / Replacement Subprocessors. ImproveWell will provide Customer with written notice of the addition of any new Subprocessor or replacement of an existing Subprocessor at any time during the term of the Agreement (“New Subprocessor Notice”) If Customer has a reasonable basis to object to ImproveWell’s use of a new or replacement Subprocessor, Customer will notify ImproveWell promptly in writing and in any event within 30 days after receipt of a New Subprocessor Notice. In the event of such reasonable objection, either Customer or ImproveWell may terminate the portion of any Agreement relating to the ImproveWell Solution that cannot be reasonably provided without the objected-to new Subprocessor (which may involve termination of the entire Agreement) with immediate effect by providing written notice to the other party.
- 14. SECURITY INCIDENT**
- 14.1 If ImproveWell becomes aware of any unauthorised or unlawful access to, or acquisition, alteration, use, disclosure, loss or destruction of, Personal Data (“Security Incident”), ImproveWell will notify Customer without undue delay. Such notification shall not be interpreted or construed as an admission of fault or liability by ImproveWell. A Security Incident does not include unsuccessful attempts or activities that do not compromise the security of Personal Data, including unsuccessful log-in attempts, pings, port scans, denial of service attacks, or other network attacks on firewalls or networked system. ImproveWell will also reasonably cooperate with Customer with respect to any investigations relating to a Security Incident with preparing any required notices, and provide any information reasonably requested by Customer in relation to any Security Incident.
- 15. AUDIT**
- 15.1 Customer will provide ImproveWell with at least one month’s prior written notice of any audit, which may be conducted an independent auditor appointed by Customer (provided that no person conducting the audit shall be, or shall act on behalf of, a competitor of ImproveWell) (“Auditor”). The scope of an audit will be as follows:
- (a) Customer will only be entitled to conduct an audit once per year (during the course of a 12-month subscription) unless otherwise legally compelled or required by a regulator with established authority over Customer to perform or facilitate the performance of more than one audit in that same year (in which circumstances Customer and ImproveWell will, in advance of any such audits, agree upon a reasonable reimbursement rate for ImproveWell’s audit expenses.
- (b) ImproveWell agrees, subject to any appropriate and reasonable confidentiality restrictions, to provide evidence of any certifications and compliance standards it maintains and will, on request, make available to Customer an executive summary of ImproveWell’s most recent annual penetration tests, which summary shall include remedial actions taken by ImproveWell resulting from such penetration tests.
- (c) The scope of an audit will be limited to ImproveWell systems, processes, and documentation relevant to the processing and protection of Personal Data, and Auditors will conduct audits subject to any appropriate and reasonable confidentiality restrictions requested by ImproveWell.
- (d) Customer will promptly notify and provide ImproveWell with full details regarding any perceived non-compliance or security concerns discovered during the course of an audit.
- (e) The parties agree that, except as otherwise required by order or other binding decree of a regulator with authority over the Customer, this clause 15 sets out the entire scope of the Customer’s audit rights as against ImproveWell.
- 16. CUSTOMER’S PRIVACY OBLIGATIONS**
- 16.1 Customer shall ensure and hereby warrants and represents that it is entitled to transfer any Personal Data under this Agreement to ImproveWell so that ImproveWell may on behalf of Customer, lawfully process and transfer the Customer Data in accordance with this Agreement. Customer shall ensure that relevant Data Subjects have been informed of, and have given their consent to, such use, processing, and transfer as required by all applicable data protection legislation.
- 17. TYPES DATA PROCESSING**
- 17.1 The parties agree that the purpose and nature of the processing of Personal Data, the types of Personal Data and categories of Data Subjects are as set out in Appendix A.
- 18. FREEDOM OF INFORMATION**
- The Parties acknowledge their respective duties under the Freedom of Information Act 2000 legislation and shall assist and co-operate with each other where appropriate, reasonable and/or necessary to comply with such duties and only to the extent required by such legislation.
- 19. DURATION AND TERMINATION**
- 19.1 This Agreement will begin on the Commencement Date and shall continue for the Initial Term unless terminated earlier by a Party in accordance with the termination rights set out in this Agreement.
- 19.2 The Parties agree that, unless otherwise agreed in writing, this Agreement shall terminate upon the expiry of the Initial Term.

19.3 Without prejudice to its other rights and remedies, either Party may by written notice to the other Party terminate this Agreement immediately if:

- (a) that other Party commits a material breach of this Agreement and, where such breach is capable of remedy, fails to remedy the same within 30 Business Days after receipt of a written notice from the terminating Party giving particulars of the breach and requiring it to be remedied; or
- (b) any step, application, order, proceeding or appointment is taken or made by or in respect of that other Party for a distress, execution, composition or arrangement with creditors, winding up, dissolution, administration, receivership (administrative or otherwise) or bankruptcy, or if that other Party is unable to pay its debts or if any event occurs which, under the applicable laws of any jurisdiction to which it is subject, has an effect similar to that of any of the events referred to in this clause 19.3 (b).

19.4 On termination for any reason:

- (a) the licences granted in clauses 2 or elsewhere in this Agreement shall immediately terminate;
- (b) all documents and other records (in whatever form) containing Confidential Information supplied to or acquired by one Party from the other shall be returned promptly to the disclosing Party on termination or expiry of this Agreement, and no copies shall be kept. To the extent that any such copies are held in electronic form, all such copies must be irrecoverably deleted; and
- (c) Customer shall immediately pay to ImproveWell any sums due to ImproveWell under this Agreement.

19.5 Termination or expiry of this Agreement shall not affect any accrued rights and liabilities of either party at any time up to the date of termination or expiry and clauses 1, 2, 3, 4, 6, 8, 10, 11, 13, 14, 16 and 23, shall survive termination or expiry of this Agreement.

20. WAIVER

No failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy.

21. ENTIRE AGREEMENT

This Agreement contains the whole agreement between the Parties in respect of the subject matter of this Agreement and supersedes all prior written or oral agreements, arrangements and understandings between them relating to that subject matter.

22. VARIATION

No variation of this Agreement shall be effective unless it is in writing and signed by the Parties (or their authorised representatives).

23. SEVERANCE

If any provision of this Agreement is held by any court or other competent authority to be invalid or unenforceable in whole or in part, this Agreement shall continue to be valid as to its other provisions and the remainder of the affected provision.

24. COUNTERPARTS

This Agreement may be signed in any number of counterparts, all of which taken together shall constitute one and the same agreement.

25. THIRD-PARTY RIGHTS

No provision of this Agreement shall be enforceable by any Third Party under the Contracts (Rights of Third Parties) Act 1999.

26. NO PARTNERSHIP OR AGENCY

Nothing in this Agreement shall create, or be deemed to create a partnership, joint venture or other relationship between the parties other than the contractual relationship expressly provided for in this Agreement.

27. FORCE MAJEURE

Neither Party shall be in breach of this Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this Agreement if such delay or failure result from events, circumstances or causes beyond its reasonable control. In such circumstances the affected Party shall be entitled to a reasonable extension of the time for performing such obligations. If the period of delay or non-performance continues for eight weeks, the Party not affected may terminate this Agreement immediately by written notice to the affected Party.

28. FURTHER ASSURANCE

Each Party shall, at its own cost and expense, and shall use all reasonable endeavours to procure that any necessary third party shall, promptly execute and deliver such documents and perform such acts as may be required for the purpose of giving full effect to this Agreement.

29. GOVERNING LAW AND JURISDICTION

29.1 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of England and Wales.

29.2 The Parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter (including non-contractual disputes or claims).

30. NOTICES

30.1 All notices and other formal communications hereunder will be made in writing, delivered by: (i) certified mail, return receipt requested; (ii) reputable overnight courier; or (iii) hand delivery, and sent to the following address:

- (a) As to ImproveWell: address as set out on the signature sheet; and
- (b) As to Customer: address as set out on the signature sheet.

This Agreement has been entered into on the date stated at the beginning of it.

APPENDIX A

<p>Purpose of Processing</p> <p>The ImproveWell platform has a smartphone application and data dashboard website with three core feedback systems. The data subject could be a professional from a different organisation, or a service user / patient, customer employee or other stakeholder. The data subject enters minimal Personal Data (largely by virtue of an email address and general role description) into the App and submits (i) theme-based ideas for improvement; (ii) whether they have had a good day, sometimes with reasons why; and (iii) answers to surveys. These data are then used to manage quality improvement by the participating organisation and for aggregated purposes by ImproveWell LTD.</p> <p>REGISTRATION</p> <ul style="list-style-type: none">1. App User downloads the ImproveWell App and selects 'Register for an Account'2. Full name, email address, password are provided and authentication email is issued3. Clicked link in authentication email completes creation of new account4. Account data are sent by encrypted transmission to AWS (Amazon Web Services) <p>LOGIN</p> <ul style="list-style-type: none">1. On accessing the App, User is presented with Login page2. User enters email and password3. Reads and clicks to accept Privacy Policy4. Sets user profile5. Login complete <p>AMENDMENT OF PERSONAL DATA</p> <ul style="list-style-type: none">1. User clicks profile icon2. User is presented with Profile page3. User clicks 'edit profile'4. Changed data are sent by encrypted HTTPS transmission to secure storage (AWS)5. Amendment complete <p>CUSTOMER SUPPORT ENQUIRY</p> <ul style="list-style-type: none">1. Customer visits www.improvewell.com2. Clicks 'customer support'3. Enters full name, contact email4. Sent by encrypted HTTPS transmission to secure storage (Zendesk)5. Submission complete
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FEEDBACK SYSTEM 1: IMPROVEMENT IDEA SUBMISSION

1. User clicks 'Share idea for improvement'
2. Enters ideas for improvement
3. Sent by encrypted transmission to secure storage (AWS)
4. Liaises with managers or group leads for idea development and follow up
5. Idea submission complete

MESSAGE SUBMISSION

1. User clicks 'My messages'
2. Enters message related to the improvement idea (some modules)
3. Sent by encrypted transmission to secure storage (Google Firebase)
4. Message submission complete

FEEDBACK SYSTEM 2: SENTIMENT SUBMISSION

1. User opens ImproveWell App home page
2. Selects appropriate icon to share how their day is going (some modules)
3. Enters up to five words for reasons why (some modules)
4. Sent by encrypted transmission to secure storage (AWS)
5. Sentiment submission completed

FEEDBACK SYSTEM 3: SURVEY SUBMISSION

1. User opens ImproveWell App
2. Selects survey to complete
3. Sent by encrypted transmission to secure storage (AWS)
4. Survey submission completed

IMPROVEWELL INSIGHTS MODULE

1. Data subjects are provided access to a unique web-link, by the participating organisation, to ImproveWell Insights
2. Users then have the option to share improvement ideas, share how their day is going (some modules), or complete a survey via a web form
3. User completes web form submission
4. Sent by encrypted transmission to secure storage (AWS)
5. ImproveWell Insights submission completed
6. Participating organisation is able to access submissions through the data dashboard website
7. Submissions appear in anonymised form

Data Subjects

The data subject could be an employee, a professional from a different organisation, or a service user / expert patient or other stakeholder.

Data Sets

Full name, email address, password, job title, idea submissions, feedback, survey contents (as defined and configured by The Controller).

Lawful Basis / Consent Model

UK GDPR Article 6 (1) (a) Data subject has given consent.

It is recognised that The Controller may configure surveys that collect Special Category Personal Data. ImproveWell cannot identify which UK GDPR Article 9 condition The Controller will rely upon for their configured surveys. It is therefore determined to be The Controller's responsibility to ensure that transparency materials are provided to data subjects and / or that consent, where relied upon, is lawful.

Arrangements for Data on Exit from Contract

In the event that The Controller ceases their instructions to process Personal Data, ImproveWell shall render the data anonymous using the approach described below;

Following data fields are removed:

- Full name
- Email address
- Password

Leaving:

- Organisation
- Date Stamp
- Profile level 1 (e.g. Directorate / Division) [amalgamated if <5 similar profiles]
- Profile level 2 (e.g. Ward / Team) [amalgamated if <5 similar profiles]
- Profile Level 3 (Role) [amalgamated if <5 similar profiles]
- Innovations
- Sentiment (5 Emojis “how was work today?”)
- Good Day Measure (Have you had a good day – Yes / No and then free text)
- Reference number
- Chat data (redacted where Personal Data are present)

Anonymous data shall be used beyond the term of the contract for analytics and product development such as machine learning. The data shall not be published or actively linked with other data sets that could render it Personal Data at a later date.

Approved Subprocessors

Amazon Web Services, Zendesk, Amplitude: <https://improvement.com/transparency-notice#who-does-improvement-share-my-information-with>

Approved International Transfers

Data are transferred and hosted in the European Union (Ireland) and is therefore subject to a UK and EU Adequacy Decision. In the event that the current safeguard is no longer viable, ImproveWell LTD commits to implement appropriate alternatives as directed by the UK Information Commissioner.