

## IMPERO SERVICES AGREEMENT

This Impero Services Agreement (“**ISA**”) is between Impero (as defined in Section 1), and the customer ordering the Impero Services/identified in the Order (“**Customer**” or “**you**”).

**YOUR CONTINUED USE OF THE SERVICES IS SUBJECT TO THE TERMS OF THIS ISA. BY ACCESSING AND/OR CONTINUING TO USE THE SERVICES YOU AGREE TO BE BOUND BY IT TO THE EXCLUSION OF ALL OTHER TERMS.**

**1. DEFINED TERMS.** The following words, when capitalized, have the meaning stated:

“**Affiliate**” means any legal entity that a party owns, that owns a party, or that is under its common ownership. “**Ownership**” means, for the purposes of this definition, control of more than a fifty percent interest in an entity.

“**Agreement**” means, collectively, this ISA and any applicable Order or other addenda which govern the provision of Services.

“**Business Day**” means Monday through Friday, excluding public holidays.

“**Confidential Information**” means non-public information disclosed by one party to the other in any form that: (i) is designated as “Confidential”; (ii) a reasonable person knows or reasonably should understand to be confidential; or (iii) includes either party’s products, customers, marketing and promotions, know-how, or the negotiated terms of the Agreement; and which is not independently developed by the other party without reference to the other’s Confidential Information or otherwise known to the other party on a non-confidential basis prior to disclosure.

“**Configuration Requirements**” means those specifications identified by Impero as required to perform the Services, including details regarding their interoperability, file structure requirements, and user access requirements.

“**Customer Data**” means all data which Customer has itself directly entered or stored into the Impero Platform.

“**Data Protection Legislation**” means unless and until the GDPR is no longer directly applicable in the UK, the General Data Protection Regulation ((EU) 2016/679) and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and then any successor legislation to the GDPR or the Data Protection Act 2018.

“**Deliverables**” means the tangible or intangible materials which are prepared for your use in the course of performing the Services (specifically excluding Device Agents).

**“Device Agents”** means any end-user or per-device software or agents provided by Impero to be used in conjunction with the Services.

**“End User Device”** means any individual computer or mobile device of any type which is used by Customer or its students, employees, or end users in connection with the Services or on which any Device Agent is installed.

**“Impero”** or **“we”** means the Impero or Netop Affiliate identified in the Order, or, if none is identified: (i) Impero Solutions, Inc. if your billing address is located in the United States or (ii) Impero Solutions Limited if your billing address is located outside of the United States.

**“Impero Companies”** means: all the entities identified as Impero Companies listed within the organisation structure available at <https://www.imperosoftware.com/uk/policies-terms/>.

**“Impero Group”** means any and all subsidiary companies of Impala Bidco Limited, a company incorporated in England and Wales with registration number 10878303, registered at Seventh Floor, East West, Tollhouse Hill, Nottingham, NG1 5FS consisting of Impero Companies and Netop Companies.

**“Impero Platform”** means an information technology system provided and hosted by Impero as part of the Services, including any hosted platform or software as a service delivery of the Services.

**“Intellectual Property”** means patents, copyrights, trademarks, trade secrets, and any other proprietary intellectual property rights.

**“Netop Companies”** mean all the entities identified as Netop Companies listed within the organisation structure available at <https://www.imperosoftware.com/uk/policies-terms/>.

**“Order”** means the document which describes the Services provided pursuant to this Agreement, including any online order, process, or tool through which you request or provision Services.

**“Personal Data”** means all data by which an individual can be identified.

**“Representatives”** means a party’s respective service providers, officers, directors, employees, contractors, Affiliates, suppliers, and agents.

**“Sensitive Data”** means any: (i) personally identifiable information or information that is referred to as personal data (including sensitive personal data); PII (or other like term) under applicable data protection or privacy law and includes information that by itself or combined with other information can be used to identify a person; (ii) trade secrets; (iii) financial records; and (iv) other sensitive, regulated, or confidential information.

“**Services**” means the Impero services (including any software) identified in a given Order or otherwise provided subject to the terms of this Agreement, including access to the Impero Platform.

“**Use Limits**” means any limitations, including any maximum permitted use metrics relating to the maximum number of Device Agents, maximum number of End User Devices and maximum number of users of the Impero Platform, placed on the use of the Services by Impero as set out in the Order.

## **2. SERVICES**

**2.1. General.** Impero will provide the Services in accordance with the Agreement and all laws applicable to Impero. Customer must utilize the Services in accordance with any Impero provided documentation. Impero will provide support only to those individuals designated in your account and is not required to provide any support directly to your end users.

**2.2. Usage Limitations.** Customer may use the Services for educational, wellbeing, and other explicitly permitted purposes only, in accordance with all laws applicable to Customer, and may not resell the Services unless explicitly agreed to by Impero in writing.

**2.3. Device Agents.** During the term of the Agreement, Customer may use any software provided by Impero as part of the Services and may install Device Agents on its users’ systems as necessary to receive the benefit of the Services. Device Agents may be subject to additional terms, including third party terms applicable to use of app stores for mobile devices. Customer is responsible for all use of Device Agents in connection with the Services. Fees for Device Agents will be specified on the Order where applicable.

## **3. CUSTOMER OBLIGATIONS**

**3.1. General.** You must cooperate with Impero’s reasonable investigation of outages, security problems, and any suspected breach of the Agreement. You are responsible for keeping your account information and permissions current. You agree that your use of the Services will comply with the Acceptable Use Policy attached as Exhibit A (the “**AUP**”). You agree that you are solely responsible for the suitability of the Services and your and your users’ compliance with any applicable laws, including export laws and data privacy laws.

**3.2. Data Backup.** It is the Customer’s responsibility to ensure the integrity and security of Customer Data and to regularly backup and validate the integrity of backups of Customer Data. Impero has no obligations whatsoever with regards to any data stored on an End User Device.

**4. SECURITY.** Impero undertakes no responsibility for the security of any End User Device. Customer must use reasonable security precautions in connection with its use of the Services. Customer Data is, and at all times shall remain, your exclusive property.

Impero will not use or disclose Customer Data except as materially required to perform the Services or as required by law.

## 5. INTELLECTUAL PROPERTY

**5.1. Pre-Existing.** Each party shall retain exclusive ownership of Intellectual Property created, authored, or invented by it prior to the commencement of the Services. If you provide Impero with your pre-existing Intellectual Property ("**Customer IP**"), then you hereby grant to Impero, during the term of the applicable Order, a limited, worldwide, non-transferable, royalty-free, right and license (with right of sub-license where required to perform the Services) to use the Customer IP solely for the purpose of providing the Services. You represent and warrant that you have all rights in the Customer IP necessary to grant this license, and that Impero's use of such Customer IP shall not infringe on the Intellectual Property rights of any third party.

**5.2. Created by Impero.** Excluding any Customer IP, Impero shall own all Intellectual Property created as part of providing the Services or contained in the Deliverables. Unless otherwise specifically stated in the Agreement, and subject to your payment in full for the applicable Services, Impero grants to you, during the term of the applicable Order, a limited, non-exclusive, non-transferable, right and license (without the right to sublicense) to use any Deliverables, and any Intellectual Property (including Device Agents, but excluding any Third Party Software), provided to you by Impero as part of the Services for your internal use as necessary for you to enjoy the benefit of the Services. You agree that any usage data, usage metrics, and other general information about your use or operation of the Services may be used and disclosed by Impero for product improvement and market analysis purposes.

**5.3. Third Party Software.** Impero may provide third party software for your use as part of the Services or to assist in our delivery of the Services ("**Third-Party Software**"). Unless otherwise permitted by the terms of the applicable license you may not: (i) assign, grant or transfer any interest in the Third Party Software to another individual or entity; (ii) reverse engineer, decompile, copy or modify the Third Party Software; (iii) modify or obscure any copyright, trademark or other proprietary rights notices that are contained in or on the Third Party Software; or (iv) exercise any of the reserved Intellectual Property rights provided under the laws governing this Agreement. Your use of any Third-Party Software may be subject to additional restrictions identified in the Order or an end-user license agreement or similar terms. Upon termination of the Order, you will remove any Impero provided software and Device Agents and any Third-Party Software which has been installed on your (or your users') devices. Impero makes no representation or warranty regarding Third Party Software except that Impero has the right to use or provide the Third-Party Software and that we are in material compliance with the applicable license.

**5.4. Infringement.** If the delivery of the Services infringes the intellectual property rights of a third party and Impero determines that it is not reasonably or commercially practicable to obtain the right to use the infringing element, or modify the Services or Deliverable such that they do not infringe, then Impero may terminate the Order on written notice and will not

have any liability on account of such termination except to refund amounts paid for unused Services (prorated as to portions of Deliverables deemed infringing).

## **6. FEES.**

**6.1. Fees.** Undisputed fees are due within 30 days of the invoice date. If you have arranged for payment by credit card or bank transfer, we may charge your account on or after the invoice date. If any undisputed payment is 15 or more days late, then we may suspend the Services on written notice. Invoices which are not disputed within 30 days of the invoice date are conclusively deemed accurate. Fees must be paid in the currency identified in the Order.

**6.2. Fee Increases.** On 30 days advance written notice, unless otherwise agreed by the Parties, Impero may increase the fees due under any given Order by the greater of (i) 5% or (ii) the percentage change between the United Kingdom's Retail Price Index in the initial month of the applicable Order and the then current month, provided that Impero may not exercise these rights more than once in any 12 month period. If at any time a third party license or infrastructure provider directly or indirectly increases the fee they charge Impero for software or services required to deliver the Services, Impero may increase your fees by the same percentage amount on 90 days advance written notice.

**6.3. Taxes.** All amounts due to Impero under the Agreement are exclusive of any value added, goods and services, sales, use, property, excise and like taxes, import duties, and/or applicable levies (collectively "**Tax**"). You must pay any Taxes due on Impero's provision of the Services or provide Impero with valid evidence of your exemption from such Taxes in advance of invoicing. All fees are due in full without any deduction for any withholding or other taxes except withholding taxes imposed on income attributable to Impero which you are legally required to withhold and remit to the applicable governmental authority ("**Local Withholding Taxes**"). You agree to provide Impero with timely accurate information regarding such Local Withholding Taxes on request.

**6.4. Expenses.** Except as otherwise included in a given Order, if any of the Services are performed at your site or premises then you agree to reimburse Impero for the actual substantiated out-of-pocket expenses of our Representatives.

**6.5. Free of Charge Services.** Where Services are provided free of charge, the provisions of this Agreement continue to apply in full.

## **7. DISCLAIMERS**

**7.1.** We make no commitment to provide any Services other than the Services stated in the Order. Impero is not responsible to you or any third party for unAuthorised access to your Customer Data or for unAuthorised use of the Services that is not solely caused by Impero's failure to comply with its security obligations in the Agreement.

**7.2.** At Customer's request Impero may provide Services that are not required by the Agreement, any such Services shall be provided **AS-IS** with no warranty whatsoever.

**7.3** Impero may provide free of charge Services, any such Services shall be provided **AS-IS** with no warranty whatsoever.

**7.4.** Impero and its Representatives disclaim any and all warranties not expressly stated in the Agreement to the maximum extent permitted by law including implied warranties such as merchantability, satisfactory quality, fitness for a particular purpose and non-infringement.

**7.5.** Impero makes no representation or warranty whatsoever regarding Open Source Software or with regard to any third-party products or Services which we may recommend for your consideration.

## **8. TERM AND TERMINATION**

**8.1. Term.** This Agreement shall continue until terminated in accordance with its terms or the termination of the final Order, whichever is the later. Unless otherwise stated in the Order, Orders shall automatically renew following their initial term (identified on the Order) for consecutive one-year terms, unless and until either party provides the other with written notice of non-renewal at least 90 days prior to the expiration of the then current term.

**8.2. Termination.** Either party may terminate the Agreement or the affected Order(s) for cause on written notice if the other party materially breaches the Agreement and does not remedy the breach within 30 days of the other party's written notice describing the breach. If, following the suspension of your Services for non-payment as provided in Section 6.1 (Fees), your account remains overdue for a further 15 days, we may terminate the Agreement or the applicable Orders for breach on written notice. Where Impero terminates this Agreement for cause as provided for in this Section, all fees due for the then current term shall immediately become due and payable.

**8.3. Transition.** If you request contemporaneously with any notice of termination (by either party), Impero shall make the Customer Data and Personal Data available to you for a period of at least 30 Business Days, in such format as it chooses. You agree that you shall promptly retrieve any Personal Data and Customer Data within this time period as required for you to comply with any applicable laws. If Personal Data and Customer Data is not retrieved within 180 Business Days, Personal Data and Customer Data may be destroyed by Impero.

**8.4. Mutual Consent.** The exercise by either party of its rights to cancel this ISA pursuant to its rights under this clause 8 shall be deemed to be exercised with mutual consent and accordingly a court order shall not be required.

**9. CONFIDENTIAL INFORMATION.** Each party agrees not to use the other's Confidential Information except in connection with the performance or use of the Services, the exercise of its legal rights under this Agreement, or as required by law, and will use reasonable care to protect Confidential Information from unAuthorised disclosure. Each party agrees not to disclose the other's Confidential Information to any third party except: (i) to its Representatives, provided that such Representatives agree to confidentiality measures that are at least as stringent as those stated in this Agreement; (ii) as required by law; or (iii) in response to a subpoena or court order or other compulsory legal process, provided that the party subject to such process shall give the other written notice of at least seven days prior to disclosing Confidential Information unless the law forbids such notice.

## **10. LIMITATIONS ON DAMAGES**

**10.1. Direct Damages.** Notwithstanding anything in the Agreement to the contrary, except for liability arising from: (i) death or personal injury caused by negligence, (ii) willful misconduct, fraudulent misrepresentation, (v) willful default, (vi) unlawful acts, or (vii) any other loss or damages for which such limitation is expressly prohibited by applicable law, the maximum aggregate monetary liability of Impero and any of its Representatives in connection with the Services or the Agreement under any theory of law shall not exceed the total amount of fees paid for the Services in the twelve month period immediately preceding the event(s) giving rise to the claim.

**10.2. Indirect Damages.** Neither party (nor any of our Representatives) is liable to the other for any indirect, special, incidental, exemplary or consequential loss or damages of any kind. Neither of us is liable for any loss that could have been avoided by the damaged party's use of reasonable diligence, even if the party responsible for the damages has been advised or should be aware of the possibility of such damages. In no event shall either of us be liable to the other for any punitive damages or for any loss of profits, data, revenue, business opportunities, customers, contracts, goodwill or reputation.

## **11. INDEMNIFICATION**

**11.1.** If we, our Affiliates, or any of our or their Representatives (the "Indemnitees") is faced with a legal claim by a third party arising out of your actual or alleged: willful misconduct, breach of applicable law, failure to meet the security obligations required by the Agreement, breach of your agreement(s) with or obligation(s) to your customers or end users, violation of the AUP, or your breach of Section 5 (Intellectual Property) then you will pay the cost of defending the claim (including reasonable legal fees) and any damages award, fine or other penalty that is imposed on the Indemnitees as a result of the claim. Your obligations under this Section include claims arising out of the acts or omissions of your employees or agents, any other person to whom you have given access to the Services, and any person who gains access to the Services as a result of your failure to use reasonable security precautions, even if the acts or omissions of such persons were not Authorised by you.

**11.2.** We will choose legal counsel to defend the claim, provided that the choice is reasonable and is communicated to you. You must comply with our reasonable requests for

assistance and cooperation in the defense of the claim. We may not settle the claim without your consent, which may not be unreasonably withheld, delayed or conditioned.

**12. NOTICES.** Your routine communications to Impero regarding the Services should be sent to your account team using the customer portal. To give a notice regarding termination of the Agreement for breach, indemnification, or other legal matter, you must send it by electronic mail and first-class post to:

[terminations@imperosoftware.com](mailto:terminations@imperosoftware.com)

Accounts Receivable  
Impero Software  
Seventh Floor, East West,  
Tollhouse Hill,  
Nottingham,  
NG1 5FS

Impero's routine communications regarding the Services and legal notices will be sent by email or post to the individual(s) you designate as your contact(s) on your account. Notices are deemed received as of the time posted or delivered, or if that time does not fall within a Business Day, as of the beginning of the first Business Day following the time posted or delivered. For purposes of counting days for notice periods, the Business Day on which the notice is deemed received counts as the first day.

**13. PUBLICITY, USE OF MARKS.** Customer agrees that Impero may publicly disclose that it is providing Services to Customer and may use Customer's name and logo to identify Customer in promotional materials, including press releases. Customer may not issue any press release or publicity regarding the Agreement, use the Impero name or logo or other identifying indicia, or publicly disclose that it is using the Services without Impero's prior written consent.

**14. ASSIGNMENT/SUBCONTRACTORS.** Neither party may assign the Agreement or any Orders without the prior written consent of the other party except to an Affiliate or successor as part of a corporate reorganization or a sale of some or all of its business, provided the assigning party notifies the other party of such change of control. Impero may use its Affiliates or subcontractors to perform all or any part of the Services, but Impero remains responsible under the Agreement for work performed by its Affiliates and subcontractors to the same extent as if Impero performed the Services itself. Customer acknowledges and agrees that Impero Affiliates and subcontractors may be based outside of the geographic jurisdiction in which Customer is located.

**15. FORCE MAJEURE.** Neither party will be in violation of the Agreement if the failure to perform the obligation is due to an event beyond its control, such as significant failure of a part of the power grid, failure of the Internet, natural disaster or weather event, war, riot, insurrection, epidemic, strikes or labor action, terrorism, or other events beyond such party's reasonable control.



## **16. GOVERNING LAW**

**16.1. The Impero Companies.** If you are contracting with Impero Solutions, Inc., then the Agreement is governed by the laws of the State of Texas, USA, exclusive of any choice of law principle that would require the application of the law of a different jurisdiction.

Exclusive venue for all disputes arising out of the Agreement shall be in the state or federal courts in Travis County, Texas, and we each agree not to bring any action in any other venue. You waive all objections to this venue and agree not to dispute personal jurisdiction or venue in these courts. If you are contracting with any other of the Impero Companies, then the Agreement is governed by the law of England and Wales and each of us expressly and unconditionally submits to the exclusive jurisdiction of the courts of England and Wales.

**16.2. The Netop Companies.** If you are contracting with Netop Tech, Inc., then the Agreement is governed by the laws of the State of Texas, USA, exclusive of any choice of law principle that would require the application of the law of a different jurisdiction.

Exclusive venue for all disputes arising out of the Agreement shall be in the state or federal courts in Travis County, Texas, and we each agree not to bring any action in any other venue. If you are contracting with any other of the Netop Companies, then the Agreement is governed by the law of England and Wales and each of us expressly and unconditionally submits to the exclusive jurisdiction of the courts of England and Wales.

**16.3. UAE Law.** If Customer is based in the United Arab Emirates, in the event of a dispute arising out of or relating to this Agreement, including any question regarding its existence, validity or termination, the parties shall first seek settlement of that dispute by mediation in accordance with the Mediation Rules of the DIFC LCIA Arbitration Centre, which Rules are deemed to be incorporated by reference into this clause. If the dispute is not settled by mediation within 60 days of the commencement of the mediation, or such further period as the parties shall agree in writing, the dispute shall be referred to and finally resolved by arbitration under the Arbitration Rules of the DIFC-LCIA Arbitration Centre, which Rules are deemed to be incorporated by reference into this clause. The language to be used in the mediation and in the arbitration shall be English. The governing law of the contract shall be the substantive law of Dubai, United Arab Emirates. In any arbitration commenced pursuant to this clause, the number of arbitrators shall be one; and the seat, or legal place, of arbitration shall be the Dubai International Financial Centre (Dubai, United Arab Emirates).

**16.4.** No claim may be brought as a class or collective action, nor may you assert such a claim as a member of a class or collective action that is brought by another claimant. Each of us agrees that we will not bring a claim under the Agreement more than two years after the time that the claim accrued. The Agreement shall not be governed by the United Nations Convention on the International Sale of Goods.

**17. HIPAA.** If Impero is your Business Associate, as defined by 45 C.F.R. §160.103, then the Impero Business Associate Agreement attached as Exhibit B applies and is incorporated herein by reference.

**18. FERPA.** If Customer is an educational agency or institution to which regulations under the Family Education Rights and Privacy Act, 20 U.S.C. §1232g; 34 CFR § 99.33(a), as amended (“**FERPA**”) applies, then Impero acknowledges that for purposes of the Services, Impero is a “school official” with “legitimate educational interests” in the Customer Data (as those terms are defined by FERPA and its implementing regulations), and Impero agrees to comply with the requirements of FERPA as they apply to school officials with legitimate educational interests. Customer is responsible for obtaining any parental consent for any end user’s use of the Services that may be required by applicable law and to provide notification on behalf of Impero to students (or, a student’s parent, as required) of any judicial order or lawfully-issued subpoena requiring the disclosure of Customer Data in Impero’s possession as may be required under applicable law. You are responsible for addressing any records requests made by students or individuals entitled to access Customer Data subject to FERPA, provided that Impero will provide you with commercially reasonable assistance in fulfilling such requests. You are responsible for ensuring that your annual notification of FERPA rights includes the scope of the Services and this Agreement in the definition of “school official” and “legitimate educational interest.”

**19. COPPA.** If the Children’s Online Privacy Protection Act of 1998, 15 U.S.C. §6501-6506 (“**COPPA**”) applies to the Services, you are responsible for obtaining all student and/or parental consent as required by COPPA and must provide verifiable evidence of such consent upon our written request, provided that Impero will provide you with any reasonably requested information necessary to fulfill your obligations in obtaining consent. Where COPPA applies to Impero as part of its provision of the Services to Customer, Impero’s information management practices are attached as Exhibit C.

## **20. GDPR**

**20.1.** If we process “Personal Data” as defined by the Data Protection Legislation as part of delivering the Services to you, in so far as required, both you and we agree that we will comply with all applicable requirements of the Data Protection Legislation. This clause is in addition to, and does not relieve, remove or replace, a party’s obligations under the Data Protection Legislation.

**20.2.** You acknowledge that for the purposes of the Data Protection Legislation, we are the controller of Personal Data we use to manage our relationship with you and to allow your users to access the Services and you are the controller and Impero is the processor of any Personal Data contained in the Customer Data (where controller and processor have the meanings as defined in the Data Protection Legislation). Where we are acting as your processor, Exhibit D sets out the scope, nature and purpose of processing by Impero, the duration of the processing and the types of Personal Data (as defined in the Data Protection Legislation) and categories of Data Subject Further information is contained in the Data Processing Addendum at Exhibit E.

## **21. DATA CONSENTS**

**21.1.** Without prejudice to the generality of clause 20.1, you will ensure that you have all necessary appropriate consents and notices in place to enable lawful transfer of any required Personal Data to Impero for the duration and purposes of this agreement.

## **22. SANCTIONS STATUS**

**22.1.** Neither party nor any of its Subsidiaries or, to the best of its knowledge, any director, officer, manager, or employee of such party or any of its Subsidiaries is a person who (a) is the target of any laws administered by the United States Department of the Treasury's Office of Foreign Assets Control ("OFAC") or any other governmental entity imposing economic sanctions or trade embargoes ("Economic Sanctions Laws"), or (b) is located, organised, or resident in a country or territory that is, or whose government is, the target of sanctions imposed by OFAC or any other governmental entity.

**22.2.** Each Party shall promptly upon becoming aware thereof notify the other party if it or any of its Subsidiaries, or any of its or its Subsidiaries' directors, officers, managers, employees, or agents becomes the target of any Economic Sanctions Laws, or the country or territory where any of them is located, organized, or resident becomes the target of sanctions imposed by OFAC or any other governmental entity.

## **23. MISCELLANEOUS**

**22.1.** Unless otherwise expressly permitted in the Agreement the terms of the Agreement may be varied only by a written agreement signed by both parties that expressly refers to the Agreement. An Order may be amended to modify, add, or remove Services by a formal written agreement signed by both parties, or by an exchange of correspondence (including via the Impero customer management system) that includes the express consent of an Authorised individual for each of us.

The pre-printed terms of your purchase order or other business form or terms that you provide shall be void and of no effect.

**22.2.** If any part of the Agreement is found unenforceable, the rest of the Agreement will continue in effect, and the unenforceable part shall be reformed to the extent possible to make it enforceable and give business efficacy to the Agreement. Each party may enforce its respective rights under the Agreement even if it has waived the right or failed to enforce the same or other rights in the past. The relationship between the parties is that of independent contractors and not business partners. Neither party is the agent for the other and neither party has the right to bind the other on any agreement with a third party. The use of the word "including" means "including without limitation". Other than Representatives for the purposes of Sections 7, 10, and 11, there are no third-party beneficiaries to the Agreement.

**22.3.** The following provisions shall survive expiration or termination of this Agreement: Intellectual Property, Confidential Information, Indemnification, Limitation on Damages,

Governing Law, Notices, Miscellaneous, all terms of the Agreement requiring you to pay any fees for Services provided prior to the time of expiration or termination, or requiring you to pay an early termination fee, and any other provisions that by their nature are intended to survive expiration or termination of the Agreement.

**22.4.** The Agreement constitutes the complete and exclusive understanding between the parties regarding its subject matter and supersedes and replaces any prior or contemporaneous representation(s), agreement(s) or understanding(s), written or oral.

## EXHIBIT A

### 1. IMPERO ACCEPTABLE USE POLICY

**PLEASE READ THE TERMS OF THIS POLICY CAREFULLY BEFORE USING THE SOFTWARE.** This AUP governs your use, access and distribution of the products provided to you by Impero (the “Software”), as well as any other services or activities provided to you (together, the “Services”). By using our Services, you confirm that you accept the terms of this policy and that you agree to comply with them. If you do not agree to these terms, you must not use our Services.

#### **Who we are and how to contact us**

The site [www.imperosoftware.com](http://www.imperosoftware.com) and its related Services are operated on behalf of the Impero Group. The Impero Group forms part of any and all subsidiary companies of Impala Bidco Limited, a company incorporated in England and Wales with registration number 10878303, registered at Seventh Floor, East West, Tollhouse Hill, Nottingham, NG1 5FS, consisting of Impero Companies and Netop Companies, as identified in the Organisation Structure, available at <https://www.imperosoftware.com/uk/policies-terms/>.

To contact us in relation to this AUP, please email [legal@imperosoftware.com](mailto:legal@imperosoftware.com)

#### **Prohibited uses**

You may use our Services only for lawful purposes. You may not use our Services:

- To engage in, foster or promote illegal, abusive, or irresponsible behaviour.
- In any way that breaches any applicable local, national, or international law or regulation.
- In any way that is unlawful or fraudulent or has any unlawful or fraudulent purpose or effect.
- Except to the extent that such content is educational content or is necessary for the purposes of safeguarding the wellbeing of students in a lawful manner, you may not publish, transmit, or store on or via the Services any content or links to any content that:
  - Constitutes, depicts, fosters, promotes or relates in any manner to any sexual activity.
  - Is excessively violent, incites or threatens violence, contains harassing content or hate speech.
  - Is unfair or deceptive.
  - Is defamatory or violates a person’s privacy.
  - May harm or attempts to harm minors in any way.
  - Is used to bully, insult, intimidate or humiliate any person.
- To transmit, or procure the sending of, any unsolicited or unauthorised advertising or promotional material or any other form of similar solicitation (spam).
- To knowingly transmit any data, send or upload any material that contains viruses, Trojan horses, worms, time-bombs, keystroke loggers, spyware, adware or any other

harmful programs or similar computer code designed to adversely affect the operation of any computer software or hardware.

- To engage in any other conduct that restricts or inhibits anyone's use or enjoyment of the Services, or which, as determined by us, may harm users of the Services or expose them to liability.
- You also agree:
  - Not to attempt to probe, scan, penetrate, or test the vulnerability of an Impero system or network, or to breach the Impero security or authentication measures in any form (actively or passively).
  - Not to use the Services in a manner that infringes on or misappropriates the rights of a third party in any work protected by copyright, trade or service mark, invention or other intellectual property or proprietary information. It is Impero's policy to terminate a Customer contract where a Customer or its End Users repeatedly infringe this in appropriate circumstances.
  - Not to access without authority, interfere with, damage or disrupt:
    - any part of our Services;
    - any equipment or network on which our Services is stored;
    - any software used in the provision of our Services; or
    - any equipment or network or software owned or used by any third party.

### **Interactive services**

We may from time to time provide interactive services on our site, including, without limitation:

- Discussion groups.
- Bulletin boards.

We will do our best to assess any possible risks for users from third parties when they use any interactive service provided on our site, and we will decide in each case whether it is appropriate to use moderation of the relevant service (including what kind of moderation to use) in the light of those risks. However, we are under no obligation to oversee, monitor or moderate any interactive service we provide on our site, and we expressly exclude our liability for any loss or damage arising from the use of any interactive service by a user in contravention of our content standards, whether the service is moderated or not.

### **Code of Conduct**

When using the interactive services we expect all users to comply with the following code of conduct:

- Respect others. Focus on the content of posts and not on the people making them. Please extend the benefit of the doubt to newer guests and members; there's no such thing as a stupid question.
- Respect the purpose of the community. Use the community to share successes, challenges, constructive feedback, questions, and goals instead of promote products or services that you provide. If you've found a product or service helpful, please share your experience with the group in a respectful way.

- Use caution when discussing products. Information posted on the discussion groups and in the libraries is available for all to see, and comments are subject to libel, slander, and antitrust laws.
- All defamatory, abusive, profane, threatening, offensive, or illegal materials are strictly prohibited. Do not post anything that you would not want the world to see or that you would not want anyone to know came from you.
- Respect intellectual property. Post content that you have personally created or have permission to use and have properly attributed to the content creator.
- Post your message or documents only to the most appropriate communities. This helps ensure all messages receive the best response by eliminating "noise."

### **Discussion Group Etiquette**

When participating in discussion groups on our site you should:

- state concisely and clearly the topic of your comments in the subject line. This allows members to respond more appropriately to your posting and makes it easier for members to search the archives by subject;
- send messages such as "thanks for the information" or "me, too" to individuals, not to the entire list. Do this by using the "Reply to Sender" link in every message; and
- not send administrative messages, such as "remove me from the list," to the group. Instead, use the web interface to change your settings or to remove yourself from a list. If you are changing email addresses, you do not need to remove yourself from the list and rejoin under your new email address. Simply change your settings in your profile.

### **Content standards**

- These content standards apply to any and all material which you contribute to our site ("**Contribution**") and to any interactive services associated with it.
- The Content Standards must be complied with in spirit as well as to the letter. The standards apply to each part of any Contribution as well as to its whole.
- We will determine, in our discretion, whether a Contribution breaches the Content Standards.
- A Contribution must:
  - Be accurate (where it states facts).
  - Be genuinely held (where it states opinions).
- Comply with the law applicable in England and Wales and in any country from which it is posted.
- A Contribution must not:
  - Be defamatory of any person.
  - Be obscene, offensive, hateful or inflammatory.
  - Bully, insult, intimidate or humiliate.
  - Promote sexually explicit material.
  - Include child sexual abuse material.

- Promote violence.
- Promote discrimination based on race, sex, religion, nationality, disability, sexual orientation or age.
- Infringe any copyright, database right or trade mark of any other person.
- Be likely to deceive any person.
- Breach any legal duty owed to a third party, such as a contractual duty or a duty of confidence.
- Promote any illegal activity.
- Be in contempt of court.
- Be threatening, abuse or invade another's privacy, or cause annoyance, inconvenience or needless anxiety.
- Be likely to harass, upset, embarrass, alarm or annoy any other person.
- Impersonate any person, or misrepresent your identity or affiliation with any person.
- Give the impression that the Contribution emanates from us, if this is not the case.
- Advocate, promote, incite any party to commit, or assist any unlawful or criminal act such as (by way of example only) copyright infringement or computer misuse.
- Contain a statement which you know or believe, or have reasonable grounds for believing, that members of the public to whom the statement is, or is to be, published are likely to understand as a direct or indirect encouragement or other inducement to the commission, preparation or instigation of acts of terrorism.
- Contain any advertising or promote any services or web links to other sites.

### **Breach of this policy**

- When we consider that a breach of this AUP has occurred, we may take such action as we deem appropriate.
- Failure to comply with this AUP constitutes a material breach of the terms of use upon which you are permitted to use our Services, and may result in our taking all or any of the following actions:
  - Immediate, temporary or permanent withdrawal of your right to use our Services.
  - Issue of a warning to you.
  - Legal proceedings against you for reimbursement of all costs on an indemnity basis (including, but not limited to, reasonable administrative and legal costs) resulting from the breach.
  - Further legal action against you.
  - Disclosure of such information to law enforcement authorities as we reasonably feel is necessary or as required by law.



- We exclude our liability for all action we may take in response to breaches of this acceptable use policy. The actions we may take are not limited to those described above, and we may take any other action we reasonably deem appropriate.

### **Which country's laws apply to any disputes?**

- **USA.** If you are based in the USA, and the Customer contract is with Impero Solutions, Inc., then the Agreement is governed by the laws of the State of Texas, USA, exclusive of any choice of law principle that would require the application of the law of a different jurisdiction. Exclusive venue for all disputes arising out of the Agreement shall be in the state or federal courts in Travis County, Texas, and we each agree not to bring any action in any other venue. You waive all objections to this venue and agree not to dispute personal jurisdiction or venue in these courts.
- **UAE.** If Customer is based in the United Arab Emirates, in the event of a dispute arising out of or relating to this Agreement, including any question regarding its existence, validity or termination, the parties shall first seek settlement of that dispute by mediation in accordance with the Mediation Rules of the DIFC LCIA Arbitration Centre, which Rules are deemed to be incorporated by reference into this clause. If the dispute is not settled by mediation within 60 days of the commencement of the mediation, or such further period as the parties shall agree in writing, the dispute shall be referred to and finally resolved by arbitration under the Arbitration Rules of the DIFC-LCIA Arbitration Centre, which Rules are deemed to be incorporated by reference into this clause. The language to be used in the mediation and in the arbitration shall be English. The governing law of the contract shall be the substantive law of Dubai, United Arab Emirates. In any arbitration commenced pursuant to this clause, the number of arbitrators shall be one; and the seat, or legal place, of arbitration shall be the Dubai International Financial Centre (Dubai, United Arab Emirates).
- **UK, EU, Rest of World.** If you are based anywhere else in the world and contracting with any other of the Impero or Netop Companies, then the AUP is governed by the law of England and Wales and each of us expressly and unconditionally submits to the exclusive jurisdiction of the courts of England and Wales

### **We may make changes to the terms of this policy**

We may update this AUP over time as we deem necessary and appropriate in response to legal or regulatory changes, technology advances, or as we identify new forms of behaviour which pose a risk to our users, shared systems, or is inconsistent with our or our customer's legal obligations.

## EXHIBIT B

### BUSINESS ASSOCIATE AGREEMENT

This HIPAA Business Association Agreement (this “**BAA**”) is an addendum to your Agreement (and incorporated therein by reference). This BAA defines the rights and responsibilities of each of us with respect to Protected Health Information as defined in the Health Insurance Portability and Accountability Act of 1996 and the regulations promulgated thereunder, including the HITECH Act and Omnibus Rule, as each may be amended from time to time (collectively, “**HIPAA**”). This BAA shall be applicable only in the event and to the extent Impero meets, with respect to you, the definition of a Business Associate set forth at 45 C.F.R. §160.103, or applicable successor provisions.

**1. Defined Terms.** For the purposes of this BAA, capitalized terms shall have the following meanings, and otherwise as defined in the Agreement:

“**Business Associate**” shall mean Impero.

“**Individual**” shall have the same meaning as the term “individual” in 45 CFR § 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g).

“**Privacy Rule**” shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR part 160 and part 164, subparts A and E.

“**Protected Health Information**” or “**PHI**” shall have the same meaning as the term “protected health information” in 45 CFR § 160.103, limited to the information received by Business Associate from or on behalf of Customer.

“**Required By Law**” shall have the same meaning as the term “required by law” in 45 CFR § 164.103.

“**Security Rule**” shall mean the Security Standards for the Protection of Electronic Protected Health Information, located at 45 CFR Part 160 and Subparts A and C of Part 164.

“**Secretary**” shall mean the Secretary of the Department of Health and Human Services or his or her designee.

#### **2. Obligations and Activities of Business Associate.**

a) Business Associate shall not use or disclose Protected Health Information other than as permitted or required by this BAA or as permitted or Required by Law.

b) Business Associate agrees to provide those physical, technical and administrative safeguards described in the Agreement including those safeguards and services selected by you and described in a Order. If Business Associate agrees as part of this BAA to carry out an obligation of yours under the Privacy Rule, then Business Associate will comply with

the requirements of the Privacy Rule applicable to such obligation.

c) Business Associate agrees to mitigate, to the extent commercially reasonable and reasonably practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate or its agents or subcontractors in violation of the requirements of this BAA.

d) Within five Business Days of becoming aware, Business Associate agrees to report to you (i) Security Incidents (as defined in 45 C.F.R. §164.304 and as further described below), (ii) the Breach of unsecured PHI (as defined in 45 CFR §164.402), or (iii) an access, acquisition, use or disclosure of PHI in violation of this BAA.

e) Both parties acknowledge that there are likely to be a significant number of meaningless or unsuccessful attempts to access the Services, which make a real-time reporting requirement impractical for both parties. The parties acknowledge that Business Associate's ability to report on system activity, including Security Incidents, is limited by, and to, Customer's specific Services and instances thereof, and does not include End User Devices.

f) Business Associate undertakes no obligation to report unsuccessful security incidents or to report network security related incidents which occur on the Impero managed network or systems but do not directly involve Customer Data. The parties agree that the following are illustrative examples of unsuccessful security incidents which, when they do not result in the unauthorized access, use, disclosure, modification or destruction of PHI need not be reported by Business Associate: pings against network devices, port scans, attempts to log on to a system or database with an invalid password or username, malware.

g) Business Associate agrees to obtain from any agent, including a subcontractor to whom it provides Protected Health Information, reasonable assurances that it will adhere to the same restrictions and conditions that apply to Business Associate under this BAA with respect to such information.

h) All Protected Health Information maintained by Business Associate for you will be available to you in a time and manner that reasonably allows you to comply with the requirements under 45 CFR § 164.524. Business Associate shall not be obligated to provide any such information directly to any Individual or person other than you.

i) All Protected Health Information and other information maintained by Business Associate for you will be available to you in a time and manner that reasonably allows you to comply with the requirements under 45 CFR § 164.526.

j) Business Associate agrees to make internal practices, books, and records available to the Secretary, in a time and manner designated by the Secretary, for purposes of the Secretary's determining your compliance with the Privacy Rule; provided, however, that time incurred by Business Associate in complying with any such request that exceeds its normal customer service parameters shall be charged to you at Business Associate's then current hourly rate for additional services.

k) You acknowledge that Business Associate is not required by this BAA to make disclosures of Protected Health Information to Individuals or any person other than you, and that Business Associate does not, therefore, expect to maintain documentation of such disclosure as described in 45 CFR § 164.528. In the event that Business Associate does make such disclosure, it shall document the disclosure as would be required for you to respond to a request by an Individual for an accounting of disclosures in accordance with 45 CFR §164.504(e)(2)(ii)(G) and §164.528, and shall provide such documentation to you

promptly on your request. In the event that a request for an accounting is made directly to Business Associate, Business Associate shall, within 2 Business Days, forward such request to Customer.

**3. Permitted Uses and Disclosures by Business Associate.** Except as otherwise limited by this BAA or other portion of the Agreement, Business Associate may use or disclose Protected Health Information to perform functions, activities, or Services for, or on behalf of, you as specified in the Agreement, provided that such use or disclosure would not violate the Privacy Rule if done by you.

**4. Specific Use and Disclosure Provisions.** Except as otherwise limited in this BAA or other portion of the Agreement, Business Associate may:

- a) use Protected Health Information for the proper management and administration of Business Associate or to carry out its legal responsibilities;
- b) disclose Protected Health Information for the proper management and administration of Business Associate, provided that disclosures are (i) Required By Law, or (ii) Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person will notify Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached; and
- c) use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR §164.502(j)(1).

**5. Your Obligations.** You shall notify Business Associate of:

- a) any limitations(s) in your notice of privacy practices in accordance with 45 CFR § 164.520 to the extent that such changes may affect Business Associate's use or disclosure of Protected Health Information;
- b) any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, to the extent that such changes may affect Business Associate's use or disclosure of Protected Health Information; and
- c) any restriction to the use or disclosure of Protected Health Information that you have agreed to in accordance with 45 CFR § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of Protected Health Information.

You agree that you will not request that Business Associate use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by you.

You agree to comply with those security obligations identified in the Agreement, and to implement or maintain appropriate safeguards and practices as required for you to comply with the Security and Privacy rules as applicable to you.

## **6. Term and Termination**

- a) The term of this BAA shall continue for the term of the Agreement to which this BAA is incorporated by reference, and following termination of such Agreement until all Protected Health Information is destroyed or returned to you or your designee.
- b) If Business Associate materially breaches the terms of this BAA, then you may terminate any related Agreements(s).
- c) Upon termination of the Agreement for any reason Business Associate shall destroy all Protected Health Information which remains on the Impero Platform or otherwise in Business Associates possession. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate as well as Business Associate itself. Business Associate shall retain no copies of the Protected Health Information. In the event that Business Associate determines that destroying the Protected Health Information is infeasible, Business Associate shall promptly provide you notification of the conditions that make destruction infeasible. Business Associate shall extend the protections of this BAA to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the destruction infeasible, for so long as Business Associate maintains such Protected Health Information. You shall bear the cost of storage of such Protected Health Information for as long as storage by Business Associate is required. This Section does not require Business Associate to segregate any Protected Health Information from other information maintained by you on Business Associate's servers and Business Associate may comply with this requirement by deleting all of the Protected Health Information received from you and maintained on the Impero Platform or Business Associate's systems.
- d) If you request contemporaneously with any termination event or notice, Business Associate will allow you to have access to your Customer Data a reasonable period of time following termination as necessary for you to retrieve or delete any Protected Health Information at your then current fees; provided, however, that if the Agreement was terminated for your breach of the AUP or the Agreement, Impero may: (i) provide you with restricted access via a private link to your Customer Data or (ii) use reasonable efforts to copy your data on to media you provide to Impero, and will ship the media to you at your expense. Impero's efforts to copy your data onto your media shall be billable at Impero's then current hourly rates.

## **7. Miscellaneous.**

**7.1. Amendment.** Each of us agrees to take such action as is reasonably necessary to amend this BAA from time to time as is necessary for you to comply with the requirements of HIPAA as they may be amended from time to time; provided, however, that if such an amendment would materially increase the cost of Business Associate providing service under the Agreement, Business Associate shall have the option to terminate the Agreement on thirty (30) days advance notice. Any ambiguity in this BAA shall be resolved to permit you to comply with HIPAA and the Privacy Rule.

**7.2. Survival.** Our respective rights and obligations under this BAA shall survive the termination of the Agreement.

## EXHIBIT C

### NOTICE OF COPPA PRACTICES

Impero Solutions, Inc. (“**Impero**”) provides its customer educational institutions (“**Schools**”) with cloud-based services which enable the Schools to administer their systems, student systems, track student progress and welfare concerns, enhance School staff collaboration, and organize student information (the “**Services**”). Consistent with our obligations under the FTC’s Children’s Online Privacy Protection Act (“**COPPA**”) we provide this Notice of COPPA Practices (this “**Notice**”) to better assist Schools, students, parents, and teachers in understanding how we receive, store, and manage the information we collect in the Services.

**1. Consent.** Impero relies on Schools to obtain consent from parents for the collection and use of personal information of Students (of any age), in compliance with FERPA and their local legal and policy requirements.

**2. Impero’s Required Notices Under COPPA.** Impero is required by COPPA to provide the following information, which Schools may also provide to their students and parents in order to effectively inform the consent requirements under laws applicable to the School. The rest of this Notice is designed to provide further information to Schools, students, and parents about how information collected by the Services is used.

**2.1. Collection & Contact Information.** Impero collects and maintains any personal information received through the Services. Impero may utilize subcontractors and its affiliates to assist it in the delivery of the Services, including for purposes of storing personal information received through the Sites and Services. As of the date of this Notice, Impero utilizes Microsoft’s Azure Cloud to host elements of the Sites and Services and Impero’s UK affiliate, Impero Solutions LTD may assist in the delivery of the Site and Services. Impero handles all requests relating to its provision of the Services. Impero will respond to any inquiries from a School or Parent directed to: [support@imperosoftware.com](mailto:support@imperosoftware.com).

**2.2. Information Collected & Disclosure Practices.** Impero makes use of the information collected in order to provide the Services to Schools as agreed in their given Orders, and for no other commercial purpose.

Children *can not* choose to make their information publicly available, although they can provide information to teachers and the School using the Services.

Impero does not disclose collected information other than to the School, to our subcontractors as necessary to provide the Services in accordance with applicable law, or as required to respond to valid legal process issued by a court of competent jurisdiction.

The information collected by Impero varies by product and by School based on the specific implementation and selected usage. Each Impero service may collect common information about devices and users including names, online contact (username/email), last known IP

address, and the machine name of the device last used. Example categories are detailed below by Service:

- **Impero well:being:** Monitoring of devices and usage to identify inappropriate behavior and technical issues, keyword detection and monitoring, online activity logging, context capture (screenshot/video recording), self-submitted student information.
- **Impero EdLink and Impero web:check:** Monitoring of devices and usage to identify inappropriate behavior and technical issues, utilization monitoring, student identification and device usage, geolocation data, internet usage (including to enable filtering controls).
- **Impero class:room and Impero Education Pro:** Student name and identity, testing administration, curriculum completion, active viewing of current device usage, messaging and live chat content. Monitoring of devices and usage to identify inappropriate behavior and technical issues, utilization monitoring, student identification and device usage.
- **Impero back:drop:** Student profile and demographic information, full name, welfare history, medical history, sibling identity, home address, persistent identifiers, student images.

**2.3. Review & Deletion.** Schools and parents may review or have children's personal information deleted and may refuse to permit further collection or use of a child's information. If you are a parent and have concerns, we suggest that you contact your child's School or teacher so that they can respond directly to your concerns. You may also contact Impero as identified above. Impero may engage in validation procedures, including relaying your request to the School, in order to protect collected information from unAuthorized disclosure or deletion.

**3. What Types of Information Does Impero Collect from Students?** This varies by both the Services purchased and a School's implementation of those Services. Please see the lists above in Section 2.2 (Information Collected & Disclosure Practices) for details by Impero Service.

**4. How Does Impero Use this Personal Information?** Impero uses the collected personal information solely for the purposes of providing the Sites and Services to the School, in accordance with the agreement with the School and applicable law.

**5. Does Impero Use or Share the Information for Commercial Purposes Not Related to the Provision of the Services Requested by the Customer?** No. Impero only collects and uses personal information collected from students for the use and benefit of the School and for no other purpose. This enables Schools to obtain consent directly from parents. We require that Schools provide administrative contacts Authorized to consent on behalf of parents and implement identity management controls to ensure that the School officials are providing the consent (and not a student pretending to be a teacher, for example).

**6. Does Impero Enable the School to Review and Have Deleted the Personal Information Collected From Their Students?** Yes. Schools remain directly in control of the majority of information collected by the Services and are the primary administrator of such data. Where Impero's Services also collect usage data or similar analytics which are presented to the School, Impero will delete such information upon the School's request, which may necessitate termination of the Services.

**7. What Measures Does Impero Take to Protect the Security, Confidentiality, and Integrity of the Personal Data that it Collects?** Impero implements administrative, technical, and physical access controls designed to protect the security, confidentiality, and integrity of the personal data it collects, the systems which store such personal data, and the locations in which such data or systems are stored.

As a global provider of educational technology services and solutions, Impero takes data security and privacy seriously and complies with the EU General Data Protection Regulation (the "GDPR") where applicable. The controls required to comply with the GDPR are implemented throughout Impero's service delivery model.

**8. What are Impero's Data Retention and Deletion Policies for Children's Personal Information?** As a global provider of educational technology services and solutions, Impero takes data security and privacy seriously and complies with the GDPR where applicable. The controls required to comply with the GDPR are implemented throughout Impero's service delivery model. In addition, Impero will delete any personal information of Student's as requested by a School or parent pursuant to COPPA or other applicable law.

**9. What is the Date of this Notice / When Was it Last Revised?** This Notice is current as of April 12, 2021.



## EXHIBIT D

<b>Nature and scope of processing</b>	All processing activities required in relation to the performance of the Services under the Agreement.
<b>Purpose of processing</b>	The provision of the Services to you.
<b>Duration of processing</b>	The duration of the provision of the Services to you.
<b>Data Subjects</b>	Individuals whose Personal Data is included in Customer Data.
<b>Categories of Personal Data</b>	You and your users control what data is uploaded onto the Services and therefore what Personal Data is processed by Impero.

## EXHIBIT E

### DATA PROCESSING ADDENDUM

This Data Processing Addendum, including its Schedules and Appendices (“DPA”) forms part of the ISA (“Agreement”) or other written or electronic agreement between Impero and Customer. By signing the Agreement, Customer enters into this DPA on behalf of itself and its Affiliates, to the extent required under applicable Data Protection Laws and Regulations. For the purposes of this DPA only, and except where indicated otherwise, the term “Customer” shall include Customer and Authorised Affiliates.

In the course of providing the Services to Customer pursuant to the DPA, Impero may Process Personal Data on behalf of Customer and the Parties agree to comply with the following provisions with respect to any Personal Data, each acting reasonably and in good faith.

#### 1. DEFINITIONS

Unless defined in the ISA, where they will take precedence, the following words, when capitalized, have the meaning stated:

“**Authorised Affiliate**” means any of Customer’s Affiliate(s) which (a) is subject to the data protection laws and regulations of the European Union, the European Economic Area and/or their member states, Switzerland and/or the United Kingdom, and (b) is permitted to use the Services pursuant to the Agreement between Customer and Impero, but has not signed its own Order Form with Impero and is not a “Customer” as defined under this DPA;

“**BCR**” means Impero’s processor binding corporate rules for the Processing of Personal Data for the United Kingdom, the most current versions of which are available on Impero’s website, which govern transfers of Personal Data to third countries to and between members of the Impero Group, and to third-party Sub-processors. The scope of application of the BCR is set out in Section 11 of this DPA and Section 1 of Schedule 1.

“**CCPA**” means the California Consumer Privacy Act, Cal. Civ. Code § 1798.100 et seq., and its implementing regulations.

“**Data Protection Laws and Regulations**” means all laws and regulations, including laws and regulations of the European Union, the European Economic Area and their member states, Switzerland, the United Kingdom and the United States and its states, applicable to the Processing of Personal Data under the Agreement as amended from time to time.

“**Data Subject**” means the identified or identifiable person to whom Personal Data relates.

“**Processing**” or “**Process**” means any operation or set of operations which is performed upon Personal Data, whether or not by automatic means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use,

disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

“**Processor**” means the entity which Processes Personal Data on behalf of the Controller, including as applicable any “service provider” as that term is defined by the CCPA.

“**Sub-processor**” means any Processor engaged by Impero or a member of the Impero Group.

## **2. PROCESSING OF PERSONAL DATA**

**2.1. Roles of the Parties.** The parties acknowledge and agree that with regard to the Processing of Personal Data, Customer is the Controller, Impero is the Processor and that Impero or members of Impero Group will engage Sub-processors pursuant to the requirements set forth in Section 5 “Sub-processors” below;

**2.2. Customer’s Processing of Personal Data.** Customer shall, in its use of the Services, Process Personal Data in accordance with the requirements of Data Protection Laws and Regulations, including any applicable requirement to provide notice to Data Subjects of the use of Impero as Processor. For the avoidance of doubt, Customer’s instructions for the Processing of Personal Data shall comply with Data Protection Laws and Regulations. Customer shall have sole responsibility for the accuracy, quality, and legality of Personal Data and the means by which Customer acquired Personal Data. Customer specifically acknowledges that its use of the Services will not violate the rights of any Data Subject that has opted-out from sales or other disclosures of Personal Data, to the extent applicable under the CCPA.

**2.3. Impero’s Processing of Personal Data.** Impero shall treat Personal Data as Confidential Information and shall Process Personal Data on behalf of and only in accordance with Customer’s documented instructions for the following purposes: (i) Processing in accordance with the Agreement and applicable Order Form(s); (ii) Processing initiated by Users in their use of the Services; and (iii) Processing to comply with other documented reasonable instructions provided by Customer (e.g., via email) where such instructions are consistent with the terms of the Agreement.

**2.4. Details of the Processing.** The subject-matter of Processing of Personal Data by Impero is the performance of the Services pursuant to the Agreement. The duration of the Processing, the nature and purpose of the Processing, the types of Personal Data and categories of Data Subjects Processed under this DPA are further specified in Schedule 2 (Details of the Processing) to this DPA.

**2.5. General Provisions.** Impero shall, where acting as a processor in relation to any Personal Data under this ISA:

(a) process that Personal Data only on your written instructions (provided that such instructions are within the scope of the Services set out in the Agreement) unless we are required by the laws of any member of the European Union or by the laws of the European

Union applicable to Impero to process Personal Data (Applicable Laws). Where Impero is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, we shall promptly notify you of this before performing the processing required by the applicable laws unless those applicable laws prohibit us from so notifying you;

(b) ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);

(c) ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential;

(d) not transfer any Personal Data outside of the European Economic Area without ensuring adequate measures are in place to protect the Personal Data as required by applicable Data Protection Legislation;

(e) assist you, at your cost, in responding to any request from a Data Subject and in ensuring compliance with your obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

(f) notify you without undue delay on becoming aware of a breach of security which has resulted in the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of or access to Personal Data;

(g) maintain complete and accurate records and information to show it has complied with this clause 20.4;

(h) permit you (or your third party auditor) not more than once in any twelve month period or more frequently if required by a regulatory authority, to audit Impero's compliance with this clause 20.4 on giving reasonable notice to Impero, provided that any third party auditor mandated by you to conduct such audit has entered into confidentiality undertakings which are satisfactory to Impero and you use reasonable endeavours to ensure that any such audit is designed to minimise disruption to Impero's business;

(g) upon termination of the Agreement, and where requested by you, securely delete your Personal Data or return your Personal Data to you (in a format specified by Impero), unless applicable law prevents us from returning or destroying all or part of the Personal Data. If you choose not to request the deletion of this Personal Data, the Personal Data will be archived and retained for a maximum period of 7 years, after which the Personal Data is deleted.

### **3. RIGHTS OF DATA SUBJECTS**

**3.1. Data Subject Request.** Impero shall, to the extent legally permitted, promptly notify Customer if Impero receives a request from a Data Subject to exercise the Data Subject's

right of access, right to rectification, restriction of Processing, erasure (“right to be forgotten”), data portability, object to the Processing, or its right not to be subject to an automated individual decision making, each such request being a “Data Subject Request”. Taking into account the nature of the Processing, Impero shall assist Customer by appropriate technical and Organisational measures, insofar as this is possible, for the fulfilment of Customer’s obligation to respond to a Data Subject Request under Data Protection Laws and Regulations. In addition, to the extent Customer, in its use of the Services, does not have the ability to address a Data Subject Request, Impero shall upon Customer’s request provide commercially reasonable efforts to assist Customer in responding to such Data Subject Request, to the extent Impero is legally permitted to do so and the response to such Data Subject Request is required under Data Protection Laws and Regulations. To the extent legally permitted, Customer shall be responsible for any costs arising from Impero’s provision of such assistance.

#### **4. IMPERO PERSONNEL**

**4.1. Confidentiality.** Impero shall ensure that its personnel engaged in the Processing of Personal Data are informed of the confidential nature of the Personal Data, have received appropriate training on their responsibilities and have executed written confidentiality agreements. Impero shall ensure that such confidentiality obligations survive the termination of the personnel engagement.

**4.2. Reliability.** Impero shall take commercially reasonable steps to ensure the reliability of any Impero personnel engaged in the Processing of Personal Data.

**4.3. Limitation of Access.** Impero shall ensure that Impero’s access to Personal Data is limited to those personnel performing Services in accordance with the Agreement.

**4.4. Data Protection Officer.** The Impero Group has appointed a data protection officer. The data protection officer can be contacted on [dpo@imperosoftware.com](mailto:dpo@imperosoftware.com).

#### **5. SUB-PROCESSORS**

**5.1. Appointment of Sub-processors.** Customer acknowledges and agrees that (a) Impero’s Affiliates may be retained as Sub-processors; and (b) Impero and Impero’s Affiliates respectively may engage third-party Sub-processors in connection with the provision of the Services. Impero or an Impero Affiliate has entered into a written agreement with each Sub-processor containing data protection obligations not less protective than those in the Agreement with respect to the protection of Customer Data to the extent applicable to the nature of the Services provided by such Sub-processor, including that the Sub-processor will provide sufficient guarantees to implement appropriate technical and organisational measures in such a way that the processing will meet the UK GDPR’s requirements.

**5.2. List of Current Sub-processors.** Impero shall make available to Customer, on Impero’s website, the current list of Sub-processors used, and their country of location.

**5.3. Authorisation.** Customer agrees to provide general written authorisation to allow Impero to appoint new Sub-processors. If a Sub-processor is employed under this general written authorisation, Impero agrees to provide the Customer with details of changes through an update to its website and attempting to notify the Customer by email.

**5.4. Objection.** Customer may object to Impero's use of a new Sub-processor by notifying Impero's promptly in writing within thirty (30) days after receipt of Impero's notice in accordance with the mechanism set out in Section 5.3, giving reasons for such objection, which must be based on legitimate grounds relating to Data Protection Legislation. In the event Customer objects to a new Sub-processor, as permitted in the preceding sentence, Impero will use reasonable efforts to make available to Customer a change in the Services or recommend a commercially reasonable change to Customer's configuration or use of the Services to avoid Processing of Personal Data by the objected-to new Sub-processor without unreasonably burdening Customer. If you object to the appointment of any subprocessor and this is not possible, the parties shall come together in good faith to discuss a resolution to the objection. Such discussions shall not affect Impero's right to use the new subprocessor after the thirty-day period.

**5.5. Liability.** Impero is liable to the Customer for ensuring Sub-processors' compliance with its data protection obligations.

## **6. SECURITY**

**6.1. Controls for the Protection of Customer Data.** Impero shall maintain appropriate technical and organisational measures for protection of the security (including protection against unauthorised or unlawful Processing and against accidental or unlawful destruction, loss or alteration or damage, unauthorised disclosure of, or access to, Customer Data), confidentiality and integrity of Customer Data. Impero regularly monitors compliance with these measures. Impero will not materially decrease the overall security of the Services during a subscription term.

**6.2. Data Protection Impact Assessment.** Upon Customer's request, Impero shall provide Customer with reasonable cooperation and assistance needed to fulfil Customer's obligation under the Data Protection Laws and Regulations to carry out a data protection impact assessment related to Customer's use of the Services, to the extent Customer does not otherwise have access to the relevant information, and to the extent such information is available.

## **7. INCIDENT MANAGEMENT AND NOTIFICATION.**

**7.1.** Impero maintains security incident management policies and procedures and shall notify Customer without undue delay after becoming aware of the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to Customer Data, including Personal Data, transmitted, stored or otherwise Processed by Impero or its Sub-processors of which Impero becomes aware (a "Customer Data Incident"). Impero shall make reasonable efforts to identify the cause of such Customer Data Incident and take those

steps as Impero deems necessary and reasonable in order to remediate the cause of such a Customer Data Incident to the extent the remediation is within Impero's reasonable control. The obligations herein shall not apply to incidents that are caused by Customer or Customer's Users.

## **8. RETURN AND DELETION OF CUSTOMER DATA.**

**8.1.** Impero shall return Customer Data to Customer and, to the extent allowed by applicable law, delete Customer Data in accordance with its Retention Policy and the ISA.

## **9. AUTHORISED AFFILIATES**

**9.1. Contractual Relationship.** The parties acknowledge and agree that, by executing the Agreement, Customer enters into the DPA on behalf of itself and, as applicable, in the name and on behalf of its Authorised Affiliates, thereby establishing a separate DPA between Impero and each such Authorised Affiliate subject to the provisions of the Agreement and this Section 9 and Section 10. Each Authorised Affiliate agrees to be bound by the obligations under this DPA and, to the extent applicable, the Agreement. For the avoidance of doubt, an Authorised Affiliate is not and does not become a party to the Agreement, and is only a party to the DPA. All access to and use of the Services and Content by Authorised Affiliates must comply with the terms and conditions of the Agreement and any violation of the terms and conditions of the Agreement by an Authorised Affiliate shall be deemed a violation by Customer.

**9.2 Communication.** The Customer that is the contracting party to the Agreement shall remain responsible for coordinating all communication with Impero under this DPA and be entitled to make and receive any communication in relation to this DPA on behalf of its Authorised Affiliates.

**9.3 Rights of Authorised Affiliates.** Where an Authorised Affiliate becomes a party to the DPA with Impero, it shall to the extent required under applicable Data Protection Laws and Regulations be entitled to exercise the rights and seek remedies under this DPA, subject to the following:

9.3.1 Except where applicable Data Protection Laws and Regulations require the Authorised Affiliate to exercise a right or seek any remedy under this DPA against Impero directly by itself, the parties agree that (i) solely the Customer that is the contracting party to the Agreement shall exercise any such right or seek any such remedy on behalf of the Authorised Affiliate, and (ii) the Customer that is the contracting party to the Agreement shall exercise any such rights under this DPA not separately for each Authorised Affiliate individually but in a combined manner for itself and all of its Authorised Affiliates together (as set forth, for example, in Section 9.3.2, below).

9.3.2 The parties agree that the Customer that is the contracting party to the Agreement shall, when carrying out an onsite audit of the procedures relevant to the protection of Personal Data, take all reasonable measures to limit any impact on Impero and its Sub-

Processors by combining, to the extent reasonably possible, several audit requests carried out on behalf of itself and all of its Authorised Affiliates in one single audit.

## **10. LIMITATION OF LIABILITY**

10.1. Each party's and all of its Affiliates' liability, taken together in the aggregate, arising out of or related to this DPA, and all DPAs between Authorised Affiliates and Impero, whether in contract, tort or under any other theory of liability, is subject to the 'Limitation of Liability' section of the Agreement, and any reference in such section to the liability of a party means the aggregate liability of that party and all of its Affiliates under the Agreement and all DPAs together. For the avoidance of doubt, Impero's and its Affiliates' total liability for all claims from Customer and all of its Authorised Affiliates arising out of or related to the Agreement and all DPAs shall apply in the aggregate for all claims under both the Agreement and all DPAs established under the Agreement, including by Customer and all Authorised Affiliates, and, in particular, shall not be understood to apply individually and severally to Customer and/or to any Authorised Affiliate that is a contractual party to any such DPA.

## **11. EUROPEAN SPECIFIC PROVISIONS**

**11.1 GDPR.** Impero will Process Personal Data in accordance with the GDPR requirements directly applicable to Impero's provision of its Services.

**11.2 Data Protection Impact Assessment.** Impero shall provide reasonable assistance to Customer in the cooperation or prior consultation with the Supervisory Authority in the performance of its tasks relating to this DPA, to the extent required under the GDPR.

**11.3 Transfer mechanisms for data transfers.** Subject to the additional terms in Schedule 1 of this DPA, Impero makes available the transfer mechanisms listed below which shall apply, in the order of precedence as set out in Section 11.4, to any transfers of Personal Data under this DPA from the European Union, the European Economic Area and/or their member states, Switzerland and the United Kingdom to countries which do not ensure an adequate level of data protection within the meaning of Data Protection Laws and Regulations of the foregoing territories, to the extent such transfers are subject to such Data Protection Laws and Regulations:

1. The Impero BCR apply to the Services listed in the Appendix to the Impero BCR (the "BCR Services"), subject to the additional terms in Section 1 of Schedule 1; and
2. The Standard Contractual Clauses set forth in Schedule 3 to this DPA apply to the Services listed in Appendix 3 to the Standard Contractual Clauses (the "SCC Services"), subject to the additional terms in Section 2 of Schedule 1.

**11.4 Order of precedence.** In the event that Services are covered by more than one transfer mechanism, the transfer of Personal Data will be subject to a single transfer mechanism in accordance with the following order of precedence: (1) the Impero Processor BCR, and (2) the Standard Contractual Clauses.

## **12. PARTIES TO THIS DPA**

12.1 The Section "HOW THIS DPA APPLIES" specifies which Impero entity is party to this DPA. Where the Standard Contractual Clauses are applicable, Impero Solutions Ltd. is the signatory to the Standard Contractual Clauses. Where the Impero entity that is a party to this



DPA is not Impero Solutions Ltd., that Impero entity is carrying out the obligations of the data importer on behalf of Impero Solutions Ltd. Notwithstanding the signatures below of any other Impero entity, such other Impero entities are not a party to this DPA or the Standard Contractual Clauses.

**List of Schedules of this DPA**

Schedule 1: Transfer Mechanisms for European Data Transfers

Schedule 2: Details of the Processing

Schedule 3: Standard Contractual Clauses

## **EXHIBIT E, SCHEDULE 1: Transfer Mechanisms for European Data Transfers**

### **1. ADDITIONAL TERMS FOR BCR SERVICES**

- 1.1 Customers covered by the Impero BCR.** The applicable version of the Impero BCR and the additional terms in this Section 1 of this Schedule 1 shall apply to the Processing of Personal Data of a Customer established in: (i) European Economic Area member states whose processing activities for the relevant data are governed by the GDPR and/or implementing national legislation; Switzerland; or non-European Economic Area member states for which Customer has contractually specified that the GDPR and implementing national legislation shall apply; and (ii) the United Kingdom.
- 1.2. Audits and Certifications for the BCR Services.** Upon Customer's request, and subject to the confidentiality obligations set forth in the Agreement, Impero shall make available to Customer that is not a competitor of Impero (or Customer's independent, third-party auditor that is not a competitor of Impero) information regarding Impero's compliance with the obligations set forth in this DPA in the form of the applicable ISO 27001 certification, or other applicable certifications or reports for the BCR Services, as described in the relevant documentation. Customer may contact Impero in accordance with the "Notices" Section of the Agreement to request an on-site audit of the architecture, systems and procedures relevant to the protection of Personal Data at locations where Personal Data is stored. Customer shall reimburse the Impero Group for any time expended by the Impero Group or its third-party Sub-processors for any such on-site audit at the Impero Group's then-current professional services rates, which shall be made available to Customer upon request. Before the commencement of any such on-site audit, Customer and Impero shall mutually agree upon the scope, timing, and duration of the audit in addition to the reimbursement rate for which Customer shall be responsible. All reimbursement rates shall be reasonable, taking into account the resources expended by the Impero Group, or its third-party Sub-processors. Customer shall promptly notify Impero with information regarding any non-compliance discovered during the course of an audit.
- 1.3. Reference to the Impero BCR.** All provisions contained in the Impero BCR, the most current versions which are available on Impero's website, are incorporated by reference and are an integral part of this DPA.
- 1.4. Liability.** In accordance with the Agreement, Customer shall have the right to enforce the Impero BCR against the Impero Group, including judicial remedies and the right to receive compensation.
- 1.5. Conflict.** In the event of any conflict or inconsistency between this DPA and the Impero Processor BCR, the Impero BCR shall prevail.

### **2. ADDITIONAL TERMS FOR SCC SERVICES**

- 2.1. Customers covered by the Standard Contractual Clauses.** The Standard Contractual Clauses and the additional terms specified in this Section 2 apply to (i) Customer which is subject to the data protection laws and regulations of the European Union, the European Economic Area and/or their member states, Switzerland and/or the United Kingdom and, (ii) its Authorised Affiliates. For the purpose of the Standard Contractual Clauses and this Section 2, the aforementioned entities shall be deemed "data exporters".

- 2.2. Instructions.** This DPA and the Agreement are Customer's complete and final documented instructions at the time of signature of the Agreement to Impero for the Processing of Personal Data. Any additional or alternate instructions must be agreed upon separately. For the purposes of Clause 5(a) of the Standard Contractual Clauses, the following is deemed an instruction by the Customer to process processors; and (b) Impero and Impero's Affiliates respectively may engage third-party Sub-processors in connection with the provision of the SCC Services. Impero shall make available to Customer the current list of Sub-processors in accordance with Section 5.2 of this DPA.
- 2.3. Data Exports from the United Kingdom under the Standard Contractual Clauses.** In case of any transfers of Personal Data under this DPA under the Standard Contractual Clauses from the United Kingdom, to the extent such transfers are subject to Data Protection Laws and Regulations applicable in the United Kingdom ("UK Data Protection Laws"), (i) general and specific references in the Standard Contractual Clauses to Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 shall hereby be deemed to have the same meaning as the equivalent reference in the UK Data Protection Laws; (ii) References in the Standard Contractual Clauses to "the law of the Member State in which the data exporter is established" shall hereby be deemed to mean "the law of the United Kingdom"; and (iii) any other obligation in the Standard Contractual Clauses determined by the Member State in which the data exporter is established shall hereby be deemed to refer to an obligation under UK Data Protection Laws.
- 2.4. Appointment of new Sub-processors and List of current Sub-processors.** Pursuant to Clause 5(h) of the Standard Contractual Clauses, Customer acknowledges and expressly agrees that (a) Impero's Affiliates may be retained as Sub-processors; and (b) Impero and Impero's Affiliates respectively may engage third-party Sub-processors in connection with the provision of the SCC Services. Impero shall make available to Customer the current list of Sub-processors in accordance with Section 5.2 of this DPA.
- 2.5. Notification of New Sub-processors and Objection Right for new Sub-processors.** Pursuant to Clause 5(h) of the Standard Contractual Clauses, Customer acknowledges and expressly agrees that Impero may engage new Sub-processors as described in Sections 5.2 and 5.3 of the DPA.
- 2.6. Copies of Sub-processor Agreements.** The parties agree that the copies of the Sub-processor agreements that must be provided by Impero to Customer pursuant to Clause 5(j) of the Standard Contractual Clauses may have all commercial information, or clauses unrelated to the Standard Contractual Clauses or their equivalent, removed by Impero beforehand; and, that such copies will be provided by Impero, in a manner to be determined in its discretion, only upon request by Customer.
- 2.7. Audits and Certifications.** The parties agree that the audits described in Clause 5(f) and Clause 12(2) of the Standard Contractual Clauses shall be carried out in accordance with the following specifications:

Upon Customer's request, and subject to the confidentiality obligations set forth in the Agreement, Impero shall make available to Customer that is not a competitor of Impero (or Customer's independent, third-party auditor that is not a competitor of Impero) information regarding Impero's compliance with the obligations set forth in this DPA in the form of the third-party certifications and audits set forth in the Security, Privacy and Architecture Documentation to the extent Impero makes them generally available to its customers. Customer may contact Impero in accordance with the "Notices" Section of the Agreement to request an on-site audit of the procedures relevant to the protection of Personal Data. Customer shall reimburse Impero for any time expended for any such on-site audit at the Impero's then-current professional services rates, which shall be made available to Customer upon request. Before the commencement of any such on-

site audit, Customer and Impero shall mutually agree upon the scope, timing, and duration of the audit in addition to the reimbursement rate for which Customer shall be responsible. All reimbursement rates shall be reasonable, taking into account the resources expended by Impero. Customer shall promptly notify Impero with information regarding any non-compliance discovered during the course of an audit.

**2.8. Certification of Deletion.** The parties agree that the certification of deletion of Personal Data that is described in Clause 12(1) of the Standard Contractual Clauses shall be provided by Impero to Customer only upon Customer's request.

**2.9. Conflict.** In the event of any conflict or inconsistency between the body of this DPA and any of its Schedules (not including the Standard Contractual Clauses) and the Standard Contractual Clauses in Schedule 3, the Standard Contractual Clauses shall prevail.

## **EXHIBIT E, SCHEDULE 2: Details of the Processing**

### **Nature and Purpose of Processing**

Impero will Process Personal Data as necessary to perform the Services pursuant to the Agreement as further specified in the DPA, and as further instructed by Customer in its use of the Services.

### **Duration of Processing**

Subject to Section 8 of the DPA, Impero will Process Personal Data for the duration of the Agreement, unless otherwise agreed upon in writing.

### **Categories of Data Subjects**

Customer may submit Personal Data to the Services, the extent of which is determined and controlled by Customer in its sole discretion, and which may include, but is not limited to Personal Data relating to the following categories of data subjects:

- Prospects, customers, business partners and vendors of Customer (who are natural persons)
- Employees or contact persons of Customer's prospects, customers, business partners and vendors
- Employees, agents, advisors, freelancers of Customer (who are natural persons)
- Customer's Users authorised by Customer to use the Services

### **Type of Personal Data**

Customer may submit Personal Data to the Services, the extent of which is determined and controlled by Customer in its sole discretion, and which may include, but is not limited to the following categories of Personal Data:

- Name
- Date of birth
- Gender

- Sex
- Contact details (postal addresses, email addresses, telephone numbers)
- Photographs

**Special Categories of data (if relevant)**

Customer may, subject to the restrictions set out in the Agreement, submit special categories of Personal Data to the Services, the extent of which is determined and controlled by Customer in its sole discretion, and which is for the sake of clarity Personal Data with information revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade-union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation.

**EXHIBIT E, SCHEDULE 3 – STANDARD CONTRACTUAL CLAUSES**

For the purposes of Article 26(2) of Directive 95/46/EC for the transfer of personal data to processors established in third countries which do not ensure an adequate level of data protection.

The Parties have agreed on the following Contractual Clauses (the Clauses) in order to adduce adequate safeguards with respect to the protection of privacy and fundamental rights and freedoms of individuals for the transfer by the data exporter to the data importer of the personal data specified in Appendix 1.

**Clause 1**

***Definitions***

For the purposes of the Clauses:

- a) *'personal data', 'special categories of data', 'process/processing', 'controller', 'processor', 'data subject' and 'supervisory authority'* shall have the same meaning as in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data;
- b) *'the data exporter'* means the controller who transfers the personal data;
- c) *'the data importer'* means the processor who agrees to receive from the data exporter personal data intended for processing on his behalf after the transfer in accordance with his instructions and the terms of the Clauses and who is not subject to a third country's system ensuring adequate protection within the meaning of Article 25(1) of Directive 95/46/EC;
- d) *'the subprocessor'* means any processor engaged by the data importer or by any other subprocessor of the data importer who agrees to receive from the data importer or from any other subprocessor of the data importer personal data exclusively intended for processing activities to be carried out on behalf of the data exporter after the transfer in accordance with his instructions, the terms of the Clauses and the terms of the written subcontract;

e) *'the applicable data protection law'* means the legislation protecting the fundamental rights and freedoms of individuals and, in particular, their right to privacy with respect to the processing of personal data applicable to a data controller in the Member State in which the data exporter is established;

f) *'technical and organisational security measures'* means those measures aimed at protecting personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing.

## Clause 2 *Details of the transfer*

The details of the transfer and in particular the special categories of personal data where applicable are specified in Appendix 1 which forms an integral part of the Clauses.

## Clause 3 *Third-party beneficiary clause*

1. The data subject can enforce against the data exporter this Clause, Clause 4(b) to (i), Clause 5(a) to (e), and (g) to (j), Clause 6(1) and (2), Clause 7, Clause 8(2), and Clauses 9 to 12 as third-party beneficiary.
2. The data subject can enforce against the data importer this Clause, Clause 5(a) to (e) and (g), Clause 6, Clause 7, Clause 8(2), and Clauses 9 to 12, in cases where the data exporter has factually disappeared or has ceased to exist in law unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law, as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce them against such entity.
3. The data subject can enforce against the subprocessor this Clause, Clause 5(a) to (e) and (g), Clause 6, Clause 7, Clause 8(2), and Clauses 9 to 12, in cases where both the data exporter and the data importer have factually disappeared or ceased to exist in law or have become insolvent, unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce them against such entity. Such third-party liability of the subprocessor shall be limited to its own processing operations under the Clauses.
4. The parties do not object to a data subject being represented by an association or other body if the data subject so expressly wishes and if permitted by national law.

## Clause 4 *Obligations of the data exporter*

The data exporter agrees and warrants:

- a) that the processing, including the transfer itself, of the personal data has been and will continue to be carried out in accordance with the relevant provisions of the applicable data protection law (and, where applicable, has been notified to the relevant authorities of the Member State where the data exporter is established) and does not violate the relevant provisions of that State;
- b) that it has instructed and throughout the duration of the personal data processing services will instruct the data importer to process the personal

data transferred only on the data exporter's behalf and in accordance with the applicable data protection law and the Clauses;

- c) that the data importer will provide sufficient guarantees in respect of the technical and organisational security measures specified in Appendix 2 to this contract;
- d) that after assessment of the requirements of the applicable data protection law, the security measures are appropriate to protect personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing, and that these measures ensure a level of security appropriate to the risks presented by the processing and the nature of the data to be protected having regard to the state of the art and the cost of their implementation;
- e) that it will ensure compliance with the security measures;
- f) that, if the transfer involves special categories of data, the data subject has been informed or will be informed before, or as soon as possible after, the transfer that its data could be transmitted to a third country not providing adequate protection within the meaning of Directive 95/46/EC;
- g) to forward any notification received from the data importer or any subprocessor pursuant to Clause 5(b) and Clause 8(3) to the data protection supervisory authority if the data exporter decides to continue the transfer or to lift the suspension;
- h) to make available to the data subjects upon request a copy of the Clauses, with the exception of Appendix 2, and a summary description of the security measures, as well as a copy of any contract for subprocessing services which has to be made in accordance with the Clauses, unless the Clauses or the contract contain commercial information, in which case it may remove such commercial information;
- i) that, in the event of subprocessing, the processing activity is carried out in accordance with Clause 11 by a subprocessor providing at least the same level of protection for the personal data and the rights of data subject as the data importer under the Clauses; and
- j) that it will ensure compliance with Clause 4(a) to (i).

Clause 5  
*Obligations of the data importer*

The data importer agrees and warrants:

- a) to process the personal data only on behalf of the data exporter and in compliance with its instructions and the Clauses; if it cannot provide such compliance for whatever reasons, it agrees to inform promptly the data exporter of its inability to comply, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;

- b) that it has no reason to believe that the legislation applicable to it prevents it from fulfilling the instructions received from the data exporter and its obligations under the contract and that in the event of a change in this legislation which is likely to have a substantial adverse effect on the warranties and obligations provided by the Clauses, it will promptly notify the change to the data exporter as soon as it is aware, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;
- c) that it has implemented the technical and organisational security measures specified in Appendix 2 before processing the personal data transferred;
- d) that it will promptly notify the data exporter about:
  - i. any legally binding request for disclosure of the personal data by a law enforcement authority unless otherwise prohibited, such as a prohibition under criminal law to preserve the confidentiality of a law enforcement investigation,
  - ii. any accidental or unauthorised access, and
  - iii. any request received directly from the data subjects without responding to that request, unless it has been otherwise authorised to do so;
- e) to deal promptly and properly with all inquiries from the data exporter relating to its processing of the personal data subject to the transfer and to abide by the advice of the supervisory authority with regard to the processing of the data transferred;
- f) at the request of the data exporter to submit its data processing facilities for audit of the processing activities covered by the Clauses which shall be carried out by the data exporter or an inspection body composed of independent members and in possession of the required professional qualifications bound by a duty of confidentiality, selected by the data exporter, where applicable, in agreement with the supervisory authority;
- g) to make available to the data subject upon request a copy of the Clauses, or any existing contract for subprocessing, unless the Clauses or contract contain commercial information, in which case it may remove such commercial information, with the exception of Appendix 2 which shall be replaced by a summary description of the security measures in those cases where the data subject is unable to obtain a copy from the data exporter;
- h) that, in the event of subprocessing, it has previously informed the data exporter and obtained its prior written consent;
- i) that the processing services by the subprocessor will be carried out in accordance with Clause 11;
- j) to send promptly a copy of any subprocessor agreement it concludes under the Clauses to the data exporter.

Clause 6  
*Liability*

1. The parties agree that any data subject, who has suffered damage as a result of any breach of the obligations referred to in Clause 3 or in Clause 11 by any party or



subprocessor is entitled to receive compensation from the data exporter for the damage suffered.

2. If a data subject is not able to bring a claim for compensation in accordance with paragraph 1 against the data exporter, arising out of a breach by the data importer or his subprocessor of any of their obligations referred to in Clause 3 or in Clause 11, because the data exporter has factually disappeared or ceased to exist in law or has become insolvent, the data importer agrees that the data subject may issue a claim against the data importer as if it were the data exporter, unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law, in which case the data subject can enforce its rights against such entity.

The data importer may not rely on a breach by a subprocessor of its obligations in order to avoid its own liabilities.

3. If a data subject is not able to bring a claim against the data exporter or the data importer referred to in paragraphs 1 and 2, arising out of a breach by the subprocessor of any of their obligations referred to in Clause 3 or in Clause 11 because both the data exporter and the data importer have factually disappeared or ceased to exist in law or have become insolvent, the subprocessor agrees that the data subject may issue a claim against the data subprocessor with regard to its own processing operations under the Clauses as if it were the data exporter or the data importer, unless any successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of law, in which case the data subject can enforce its rights against such entity. The liability of the subprocessor shall be limited to its own processing operations under the Clauses.

#### Clause 7

##### *Mediation and jurisdiction*

1. The data importer agrees that if the data subject invokes against it third-party beneficiary rights and/or claims compensation for damages under the Clauses, the data importer will accept the decision of the data subject:
  - a. to refer the dispute to mediation, by an independent person or, where applicable, by the supervisory authority;
  - b. to refer the dispute to the courts in the Member State in which the data exporter is established.
2. The parties agree that the choice made by the data subject will not prejudice its substantive or procedural rights to seek remedies in accordance with other provisions of national or international law.

#### Clause 8

##### *Cooperation with supervisory authorities*

1. The data exporter agrees to deposit a copy of this contract with the supervisory authority if it so requests or if such deposit is required under the applicable data protection law.
2. The parties agree that the supervisory authority has the right to conduct an audit of the data importer, and of any subprocessor, which has the same scope and is subject to the same conditions as would apply to an audit of the data exporter under the applicable data protection law.

3. The data importer shall promptly inform the data exporter about the existence of legislation applicable to it or any subprocessor preventing the conduct of an audit of the data importer, or any subprocessor, pursuant to paragraph 2. In such a case the data exporter shall be entitled to take the measures foreseen in Clause 5 (b).

Clause 9  
*Governing Law*

The Clauses shall be governed by the law of the Member State in which the data exporter is established.

Clause 10  
*Variation of the contract*

The parties undertake not to vary or modify the Clauses. This does not preclude from adding clauses on business related issues where required as long as they do not contradict the Clauses.

Clause 11  
*Subprocessing*

1. The data importer shall not subcontract any of its processing operations performed on behalf of the data exporter under the Clauses without the prior written consent of the data exporter. Where the data importer subcontracts its obligations under the Clauses, with the consent of the data exporter, it shall do so only by way of a written agreement with the subprocessor which imposes the same obligations on the subprocessor as are imposed on the data importer under the Clauses. Where the subprocessor fails to fulfil its data protection obligations under such written agreement the data importer shall remain fully liable to the data exporter for the performance of the subprocessor's obligations under such agreement.
2. The prior written contract between the data importer and the subprocessor shall also provide for a third-party beneficiary clause as laid down in Clause 3 for cases where the data subject is not able to bring the claim for compensation referred to in paragraph 1 of Clause 6 against the data exporter or the data importer because they have factually disappeared or have ceased to exist in law or have become insolvent and no successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of law. Such third-party liability of the subprocessor shall be limited to its own processing operations under the Clauses.
3. The provisions relating to data protection aspects for subprocessing of the contract referred to in paragraph 1 shall be governed by the law of the Member State in which the data exporter is established.
4. The data exporter shall keep a list of subprocessing agreements concluded under the Clauses and notified by the data importer pursuant to Clause 5(j), which shall be updated at least once a year. The list shall be available to the data exporter's data protection supervisory authority.

Clause 12  
*Obligations after the termination of personal data processing services*

1. The parties agree that on the termination of the provision of data processing services, the data importer and the subprocessor shall, at the choice of the data exporter, return all the personal data transferred and the copies thereof to the data exporter or shall destroy all the personal data and certify to the data exporter that it has done so, unless legislation imposed upon the data importer prevents it from returning or destroying all or part of the personal data transferred. In that case, the data importer warrants that it will guarantee the confidentiality of the personal data transferred and will not actively process the personal data transferred anymore.
2. The data importer and the subprocessor warrant that upon request of the data exporter and/or of the supervisory authority, it will submit its data processing facilities for an audit of the measures referred to in paragraph 1.

## **APPENDIX 1 TO THE STANDARD CONTRACTUAL CLAUSES**

This Appendix forms part of the Clauses and must be completed and signed by the parties. The Member States may complete or specify, according to their national procedures, any additional necessary information to be contained in this Appendix.

### **Data exporter**

The data exporter is (please specify briefly your activities relevant to the transfer):

Data Exporter is the legal entity specified in Section 2.1 of Schedule 1 of the DPA.

### **Data importer**

The data importer is (please specify briefly activities relevant to the transfer):

Impero is a provider of software solutions which processes personal data upon the instruction of the data exporter in accordance with the terms of the Agreement.

### **Data subjects**

The personal data transferred concern the following categories of data subjects (please specify):

Data exporter may submit Personal Data to the SCC Services, the extent of which is determined and controlled by the data exporter in its sole discretion, and which may include, but is not limited to Personal Data relating to the following categories of data subjects:

- Prospects, customers, business partners and vendors of data exporter (who are natural persons)
- Employees or contact persons of data exporter's prospects, customers, business partners and vendors
- Employees, agents, advisors, freelancers of data exporter (who are natural persons)
- Data exporter's Users authorized by data exporter to use the SCC Services

### **Categories of data**

The personal data transferred concern the following categories of data (please specify):

Data exporter may submit Personal Data to the SCC Services, the extent of which is determined and controlled by the data exporter in its sole discretion, and which may include, but is not limited to the following categories of Personal Data:

- Name
- Date of birth
- Gender
- Sex
- Contact details (postal addresses, email addresses, telephone numbers)
- Photographs

### **Special categories of data (if appropriate)**

The personal data transferred concern the following special categories of data (please specify):

Data exporter may submit special categories of data to the SCC Services, the extent of which is determined and controlled by the data exporter in its sole discretion, and which is for the sake of clarity Personal Data with information revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade-union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation.

### **Processing operations**

The personal data transferred will be subject to the following basic processing activities (please specify):

The objective of Processing of Personal Data by data importer is the performance of the SCC Services pursuant to the Agreement.

## **APPENDIX 2 TO THE STANDARD CONTRACTUAL CLAUSES**

This Appendix forms part of the Clauses and must be completed and signed by the parties

### **Description of the technical and organisational security measures implemented by the data importer in accordance with**

#### **Clauses 4(d) and 5(c) (or document/legislation attached):**

Data importer will maintain administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Personal Data uploaded to the SCC Services, as described in the Security, Privacy and Architecture Documentation applicable to the specific SCC Services purchased by data exporter, and accessible via <http://help.Impero.com> or otherwise made reasonably available by data importer. Data Importer will not materially decrease the overall security of the SCC Services during a subscription term.