

## 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 Service Order (“**Customer**” or “**you**”).

**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 Service 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.

“**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.

“**Customer Data**” means all data which Customer (or its students, employees or end users) receive, store, or transmit on or using 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 Affiliate identified in the Service Order, or, if none is identified: (i) Impero Solutions, Inc. if your billing address is located in the United States or (ii) Impero Solutions LTD if your billing address is located outside of the United States.

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

“**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.

“**Impero 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.

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

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

“**Service 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.

## **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 Service 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 Service 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 Service 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 Service Order or an end-user license agreement or similar terms. Upon termination of the Service 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 Service 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 Service Order.

**6.2. Fee Increases.** On 90 days advance written notice, Impero may increase the fees due under any given Service 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 Service 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 Service 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 Service Order. Impero is not responsible to you or any third party for unauthorized access to your Customer Data or for unauthorized 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 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.

**7.4.** 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 Service Order, whichever is the later. Unless otherwise stated in the Service Order, Service Orders shall automatically renew following their initial term (identified on the Service 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 Service 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 Service 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 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 Customer Data within this time period as required for you to comply with any applicable laws.

**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 unauthorized 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, (iv) fraudulent misrepresentation or (v) 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 authorized 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. You must pay costs and expenses due under this Section as we incur them.

**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  
Oak House  
Mere Way  
Ruddington Fields Business Park  
Ruddington  
Nottingham  
England  
NG11 6JS

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 Service 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. Impero Solutions, Inc.** 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.

**16.2. Impero Solutions Ltd.** If you are contracting with Impero Solutions Ltd, then the Agreement is governed by English law and each of us expressly and unconditionally submits to the exclusive jurisdiction of the courts of England and Wales.

**16.3.** 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.

## **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. For more information regarding how we process Personal Data as a controller, please see our privacy notice at <https://www.imperosoftware.com/uk/data-protection/>

**20.3.** 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.

**20.4.** 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.

**20.5.** Where Impero is acting as a processor of your Personal Data, you consent to it using subprocessors to process your Personal Data provided that Impero shall:

(a) ensure that any such subprocessor is subject to terms substantially the same as those set out in clause 20.3 in relation to their processing of your Personal Data;

(b) inform you of any intended changes to any subprocessor;

(c) remain liable for any breach of clause 20.3 by any such subprocessors.

**20.6.** You must inform Impero within thirty days of receipt of notice of a change to any subprocessor in accordance with clause 20.5(b) if you object to their appointment by Impero, giving reasons for such objection, which must be based on legitimate grounds relating to Data Protection Legislation.

**20.7.** If you object to the appointment of any subprocessor in accordance with clause 19.6 above, 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.

## **21. MISCELLANEOUS**

**21.1.** 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. A Service 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 authorized 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.

**21.2.** 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.

**21.3.** 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.

**21.4.** 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**  
**ACCEPTABLE USE POLICY**

Your use of the Services is subject to this Acceptable Use Policy (this “**AUP**”), and you are responsible for ensuring that your users and anyone you give access to the Services complies with this AUP and the Agreement. 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 behavior which pose a risk to our users, shared systems, or is inconsistent with our or our customer’s legal obligations.

1. You may not use the Services to engage in, foster, or promote illegal, abusive, or irresponsible behavior.
2. 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 violence, threatens violence, contains harassing content or hate speech.
  - Is unfair or deceptive.
  - Is defamatory or violates a person’s privacy.
3. You may not 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).
4. You may not 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 customers who are repeat infringers in appropriate circumstances.

**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 Service 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.

(1) 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.

(2) 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.

(e) 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.

(f) 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.

(g) 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.

(h) 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.

(i) 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.**

(a) **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.

**(b) 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: [edaware@imperosoftware.com](mailto:edaware@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 service 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 EdProtect:** 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:** 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 EdTeach:** Student name and identity, testing administration, curriculum completion, active viewing of current device usage, messaging and live chat content.
- **Impero EdAware:** Student profile and demographic information, full name, welfare history, medical history, sibling identity, home address, persistent identifiers, student images.
- **Impero EdAdmin:** Monitoring of devices and usage to identify inappropriate behavior and technical issues, utilization monitoring, student identification and device usage.

**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 provide review of the raw data to the School upon their request and will delete such information upon the Schools request.

**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 January 22, 2019.

**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>	<b>of</b>	The provision of the Services to you.
<b>Duration of processing</b>	<b>of</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>	<b>of</b>	You and your users control what data is uploaded onto the Services and therefore what Personal Data is processed by Impero.