

EMPIRIBOX LIMITED
STANDARD SERVICE TERMS AND CONDITIONS

1. DEFINITIONS AND INTERPRETATION

1.1 In these Terms and Conditions the following terms and expressions shall have the following meanings:

Access Details means the password required to access the Online Portal as allocated by the Supplier to each End User specified by you on the Order Form or otherwise notified to us in writing;

Applicable Laws means, in respect of a party, all laws, regulations, rules, and orders of governmental bodies or regulatory agencies, in each case which are applicable to the Services and that party's performance of their obligations under this Contract;

Charges means the charges payable by the Customer for the supply of the Service in accordance with clause 6 and the Order Form;

Consumable Equipment means all Equipment which is designated as a "consumable" on the delivery manifest or as otherwise notified as a "consumable" to the Customer by the Supplier;

Contract Effective Date has the meaning set out in clause 2.1;

Contract means the contract between the Supplier and the Customer for the supply of the Service in accordance with the applicable Order Form and these Terms and Conditions;

Control shall have the meaning as set out in section 1124 of the Corporation Tax Act 2010, and the expression change of Control shall be construed accordingly;

Customer means the school that is the purchaser of the Service from the Supplier as set out in the Customer Order Form;

Customer Default has the meaning set out in clause 5.2;

End User means an individual that is employed or engaged by the Customer, who has access to and uses the Service pursuant to and in accordance with these Terms and Conditions;

Equipment means the equipment, apparatus and tools provided by the Supplier to the Customer from time to time as part of the provision of the Services;

Fair Derivative Works means works using or derived from any Service Content, which have been fairly and reasonably created by the Customer in the ordinary course of the Customer's activities for the purpose of recording, marking, assessing, documenting, reporting or evidencing pupil attainment and/or progression for any and all formal, informal, statutory or similar purposes and not for any other purpose;

Initial Term means the period of time indicated in the "Number of Years" section on the Order Form, and which shall commence on the Service Commencement Date;

Intellectual Property Rights means patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;

Non-Consumable Equipment means all Equipment which is not Consumable Equipment;

Order Form means the order form setting out the details of the Customer's order for Services and which expressly states that it is subject to these Terms and Conditions;

Online Portal means the online portal through which certain content, including Safety Information and lesson plans are made available and which is accessible via the Supplier Website to the End Users to whom Access Details have been provided;

Renewal Term has the meaning given in clause 7.1;

Safety Information means risk assessments, health and safety guidance and any other health and safety or risk related data, information, recommendations or advice, in each case in connection with the Service;

Service means the "Empiribox Science Service for Schools" as supplied by the Supplier to the Customer, including the provision of the Service Content, Equipment, Substances and Support as set out in these Terms and Conditions;

Service Commencement Date means the date as specified in the Order Form on which the Supplier shall commence the supply of the

Service to the Customer;

Service Content means any and all materials, including Safety Information lesson plans and support and training resources (but not including the Equipment or the Substances), which are provided to the Customer by the Supplier and/or made available to the Customer via the Online Portal;

Substances means the chemicals and substances provided by the Supplier to the Customer from time to time as part of the provision of the Services;

Supplier means Empiribox Limited, registered in England & Wales with company number 10815944 and registered address, Rutherford Appleton Laboratory, Building R71, Room G17a, Harwell Science Campus, Oxfordshire, OX11 0QX;

Supplier Website means the Supplier's website(s), currently at www.empiribox.org and www.empiribox.com, and all content, data and information on or made available through that website;

Support means the support and training provided by the Supplier to the Customer from time to time;

Term means the duration of the Contract;

Terms and Conditions means these terms and conditions as amended from time to time in accordance their terms; and

Use means use, store, process, display, transmit, copy, reproduce, disassemble and create Fair Derivative Works from.

1.2 A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.

1.3 Any phrase introduced by the terms **including, include, in particular** or any similar expression, shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

1.4 A reference to **writing** or **written** includes email.

2. BASIS OF CONTRACT

2.1 A Contract shall come into existence on the date specified in an Order Form that has been agreed and duly executed by both parties (the **Contract Effective Date**).

2.2 These Terms and Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.3 Any quotation given by the Supplier shall not constitute an offer, and is only valid for a period of twenty (20) days from its date of issue, unless expressly stated otherwise.

3. SUPPLY OF SERVICE

3.1 The Supplier shall, subject to the Customer's compliance with clause 5.1, provide the Service to the Customer as from the Service Commencement Date.

3.2 The Supplier shall use all reasonable endeavours to meet any performance dates or times specified in the Order Form, but any such dates shall be estimates only and time shall not be of the essence for performance of the Service.

3.3 The Supplier shall have the right to make changes to the Service which do not materially affect the nature or quality of the Service and any changes which are necessary to comply with any Applicable Laws or safety requirements.

3.4 The Supplier warrants to the Customer that the Service will be provided using reasonable care and skill.

3.5 The Supplier shall be entitled to suspend the provision of the Service at any time where it reasonably believes the Customer has committed or is likely to commit any breach of the Contract.

3.6 If the Customer reasonably believes that the Supplier has committed a breach of its obligations under this clause 3, it must first notify the Supplier in writing, providing details of such breach. The Supplier shall be entitled to a period of 30 days to remedy such breach. The Customer acknowledges and agrees that it shall give the Supplier the opportunity to so remedy such breach by providing additional or substitute resources, training or other solution the Supplier reasonably considers to be necessary to provide such remedy and the Customer shall provide all reasonable co-operation in connection with the same. Such co-operation shall include the Customer facilitating any additional time required for supplementary training of its End Users at a time to be mutually agreed between the Customer and Supplier. Where the Customer does not so facilitate any such training during the 30 day remedy period referred to in this clause 3.6 then such period shall be extended until such time as such training can be completed and its impact appropriately assessed.

4. INTELLECTUAL PROPERTY RIGHTS AND LICENCE

4.1 All Intellectual Property Rights in or arising out of or in connection with the Service shall be owned by the Supplier and all Service

Content (and the Intellectual Property Rights therein) is, as between the parties, the exclusive property of the Supplier.

4.2 The Supplier hereby grants to the Customer for the Term a non-exclusive, non-transferable, non-sub-licensable, licence in the United Kingdom for End Users to access and Use for the Customer's own internal purposes the Service and Service Content, at all times subject to the terms and conditions of this Contract.

4.3 The Customer shall not: (a) use the Service or any Service Content in any manner to assist or take part in the development, marketing, or sale of a product or service which is competitive or potentially competitive with the Service or otherwise creates a product or service which is (in whole or in part) the same as or similar to the Service; (b) distribute any Service Content, whether on its own or combined with any other data or information (including the Customer's own data or information) to third parties, unless it constitutes a Fair Derivative Work or is otherwise expressly permitted in these Terms and Conditions or the Customer obtains the prior written consent of the Supplier.

5. CUSTOMER OBLIGATIONS

5.1 The Customer shall:

- (a) co-operate with the Supplier in all matters relating to the Services and comply with all reasonable instructions of the Supplier in connection with its use of the Service;
- (b) provide the Supplier in a timely manner with such information and materials as the Supplier may reasonably require in order to supply the Service, and shall ensure that such information is accurate and complete;
- (c) where requested to advise the Supplier of any dates in connection with the Supplier's provision of the Service, provide such dates in a timely manner, ensure such dates are reasonable and shall ensure relevant End Users and other personnel are present and/or available to Supplier as Supplier may reasonably request;
- (d) ensure all Equipment and Substances are stored and used responsibly, only for their intended purpose, and in accordance with all Applicable Laws and all requirements and recommendations, as are set out in the Service Content provided or made available by the Supplier from time to time, and in accordance with the Customer's own policies;
- (d) be responsible for the safe and appropriate installation, storage and use of all aspects of the Service, including the Equipment and Substances and shall take all appropriate precautions to ensure the same;
- (e) take all steps necessary to minimise the risks to health and / or safety arising out of the installation, storage and use of the Service, including the Equipment and Substances. Such steps shall include compliance with all requirements and recommendations in the Service Content, in addition to compliance with the Customer's own policies;
- (f) ensure that each End User which has been allocated Access Details uses only the specific Access Details that have been allocated to that End User and also does not permit any other person to use those Access Details;
- (g) ensure that it and each End User shall keep the Access Details safe and secure and treat them as Confidential Information;
- (h) regularly access the Online Portal to check for updated Safety Information and review and appropriately act upon the same;
- (i) within three (3) days of receipt of any Equipment from the Supplier, notify the Supplier of any errors, omissions, defects or damage to that Equipment;
- (j) maintain in good condition all Equipment in the possession of the Customer, and ensure it is kept secure at the Customer's premises;
- (k) maintain throughout the Term appropriate insurance in respect of the damage, loss or theft of the Equipment and the Substances, and shall note the Supplier's interest on the applicable insurance policy, as the Equipment and Substances shall be at the Customer's risk as from the date of delivery of the same to the Customer;
- (l) compensate the Supplier in respect of any of the Non-Consumable Equipment that is lost or stolen or suffers any damage other than the normal wear and tear that would be expected if such Equipment was used as envisaged under this Contract;
- (m) not claim any title to or ownership of any Non-Consumable Equipment and the Customer acknowledges that all title to and ownership in the Non-Consumable Equipment will remain with the Supplier at all times;
- (n) pack the Non-Consumable Equipment into appropriate protective packaging, and make it available for collection by or on behalf of the Supplier on the dates that are from time to time agreed between the Customer and the Supplier (each party acting reasonably).

5.2 If the Supplier's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any of its obligations (**Customer Default**):

- (a) the Supplier shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays the Supplier's performance of any of its obligations;

- (b) the Supplier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations as set out in this clause 5.2; and
- (c) the Customer shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default.

6. CHARGES AND PAYMENT

- 6.1 The Customer shall pay to the Supplier the Charges as set out in and in accordance with the Order Form and this clause 6.
- 6.2 The Supplier shall invoice the Customer for the Charges in advance on an annual basis. The Customer shall pay the Supplier within twenty one (21) days of the date of invoice and in full and in cleared funds to a bank account nominated in writing by the Supplier.
- 6.3 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax or other sales tax chargeable for the time being (**VAT**). The Customer shall be responsible for, and will promptly pay, all taxes of any kind (including VAT and other sales and use taxes) associated with the Contract or Customer's receipt or use of the Service, except for any taxes based on Supplier's net income.
- 6.4 If the Customer fails to make any payment due to the Supplier under the Contract by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate of 4% per cent per annum above the LIBOR rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.
- 6.5 The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). The Supplier may at any time, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer.
- 6.6 The Supplier reserves the right to increase the Charges specified in the Order Form, provided that such charges may only be increased as from the commencement of each Renewal Term (if any). The Supplier will give the Customer written notice of any such increase at least 90 (ninety) days before the proposed date of the increase.
- 6.7 All Charges payable under this Agreement are non-refundable, except with the prior written agreement and at the sole discretion of the Supplier. The Customer acknowledges and agrees that it will not seek to obtain a refund of any Charges without having first used all reasonable efforts to resolve any issues or alleged breaches, including as set out in clause 3.6.

7. TERM, RENEWAL AND TERMINATION

- 7.1 The Contract will commence on the Contract Effective Date and will, subject to clause 7.2, remain in full force and effect until the end of the Initial Term unless terminated earlier in accordance with the terms of the Contract. On the expiry of the Initial Term and on each successive anniversary of the expiry of the Initial Term the Contract shall be automatically renewed for a further period of twelve (12) months (each a **Renewal Term**) unless either party gives the other party written notice of its intention not to so renew the Contract at least sixty (60) days prior to the expiry of the Initial Term or the relevant Renewal Term.
- 7.2 Without limiting its other rights or remedies, either party may terminate the Contract with immediate effect by giving written notice to the other party if the other party:
- (a) commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within thirty (30) days of that party being notified in writing to do so, and provided, where applicable, that the parties have complied with the provisions of clause 3.6;
 - (b) the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
 - (c) the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
 - (d) the other party's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under this Contract has been placed in jeopardy.
- 7.3 Without limiting its other rights or remedies, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if there is a change of Control of the Customer.
- 7.4 On expiry or termination of the Contract for any reason:
- (a) subject to clause 7.6, the Customer shall immediately cease to access or Use the Service or any Service Content and other than any licence granted pursuant to clause 4.3 any licences granted hereunder shall immediately terminate;

(b) within sixty (60) days, the Customer shall pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of any Service supplied but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt;

(b) subject to clause 7.6, each party shall return or destroy all of the other party's Confidential Information;

(c) the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall be unaffected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and

(d) clauses which expressly or by implication survive expiry or termination shall continue in full force and effect, including clauses 1, 4.1, 4.3, 6, 7, 8, 9, 10, 11 and 12

7.6 The Customer shall be entitled to continue to Use Fair Derivative Works after the date of expiry or termination of the Contract provided:

(a) such Use is fair and reasonable and in the ordinary course of the Customer's activities and otherwise in accordance with these Terms and Conditions and in particular the licence terms set out in clause 4;

(b) any Service Content which has been incorporated into such Fair Derivative Works at all times remains incorporated in that same Fair Derivative Work and all such Use of such Service Content is only as part of that same Fair Derivative Work; and

(c) any Service Content which has been incorporated into such Fair Derivative Works is not in any way used to create any other or further derivative works.

8. DISCLAIMER

8.1 The Service, Service Content, Equipment and Substances are intended for use by the Customer only and any use of the outside the terms of this Contract is strictly prohibited. The Supplier does not guarantee the completeness or accuracy of any of the Safety Information in the Service Content. The Safety Information, including any opinions and/or analysis of the Supplier, is variously based on Supplier's own experience, knowledge and data and information as well as third party and publicly available data and information sources, in each case as was known to the Supplier at the time. The Supplier has made reasonable enquiries and used reasonable care and skill in preparing the Safety Information, but the Supplier does not guarantee its completeness or accuracy or that it is up to date. The Customer is responsible for making its own enquiries in connection with its use of the Service, Service Content, Equipment and Substances and should satisfy itself as to the accuracy and completeness of the Safety Information and to ensure that it is up to date. The Customer should particularly note that the Safety Information is subject to change and while the Supplier may make updated Safety Information available via the Online Portal the Supplier is not under any duty or obligation to do so or to otherwise advise the Customer of any such changes. Subject to clause 9.1, the Supplier shall not have any liability to the Customer in connection with any reliance the Customer places on such Safety Information or for where the Customer carries out or permits to be carried out activities which are not in accordance with the Safety Information.

8.2 The Customer acknowledges that the Service, Service Content, Equipment and Substances are provided to the Customer on the assumption that all activities carried out in connection with the same are done so on the Customer's premises, in accordance with the applicable Service Content and by personnel who are appropriately qualified and trained (which must include the appropriate training from the Supplier), and accordingly the Customer shall ensure that this is the case. The Customer shall ensure that its personnel involved in any way with the carrying out of any activities in connection with the Service, Service Content, Equipment and Substances are made aware of the Safety Information and all guidance and disclaimers set out in that Service Content and these Terms and Conditions.

9. LIMITATION OF LIABILITY

9.1 Nothing in the Contract shall limit or exclude the Supplier's liability for:

(a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;

(b) fraud or fraudulent misrepresentation; or

(c) any other liability which cannot be limited or excluded by applicable law.

9.2 Subject to clause 9.1, the Supplier shall not be liable to the Customer, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with the Contract for any (a) loss of profits, sales or business, agreements or contracts, anticipated savings, use or corruption of software, data or information; or (b) damage to goodwill; or (c) indirect or consequential loss.

9.3 Subject to clause 9.1, the Supplier's total liability to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract shall be limited to the greater of £5,000 (five thousand GB pounds sterling) and 100% of the total Charges paid under the Contract.

9.4 The express provisions of this Contract are in place of all warranties, conditions, terms, undertakings and obligations implied by statutes, common law, custom, trade usage, course of dealing or otherwise, all of which are hereby excluded to the maximum extent permitted by law.

10. CONFIDENTIALITY

10.1 **Confidential Information** means, subject to clause 10.2, the following information whether in written, electronic or oral form and whether or not it is designated by the disclosing party as "confidential" or "proprietary": (a) the terms and existence of this Contract; (b) details of any part of the Service and/or the Service Content; and (c) any business or technical information of Supplier or Customer, including but not limited to any information relating to Supplier's or Customer's product plans, designs, costs, product prices and names, finances, marketing plans, business opportunities, personnel, research, development or know-how; and (d) the Customer's evaluation or opinion of the Supplier's performance under this Contract.

10.2 Confidential Information does not include information that: (a) is or becomes generally known to the public through no fault or breach of the Contract by the receiving party; (b) is known to the receiving party at the time of disclosure without an obligation of confidentiality; (c) is independently developed by the receiving party without use of the disclosing party's Confidential Information; (d) the receiving party rightfully obtains from a third party without restriction on use or disclosure; or (e) is disclosed with the prior written approval of the disclosing party.

10.3 During the Term, and for a period of five (5) years after any expiry or termination of this Contract, each party will not use the other party's Confidential Information except as permitted herein, and will not disclose such Confidential Information to any third party except to employees and consultants as is reasonably required in connection with the exercise of its rights and obligations under this Contract. However, each party may disclose Confidential Information of the other party: (a) pursuant to the order or requirement of a court, administrative agency, or other governmental body, provided that the disclosing party gives reasonable notice to the other party to contest such order or requirement; and (b) on a confidential basis to legal or financial advisors.

10.4 Notwithstanding clause 10.3, each party may disclose the terms of this Contract pursuant to an acquisition, merger, sale of substantially all of such party's assets, financing, or as required by securities laws or regulations; provided that the receiving party shall be bound to a confidentiality agreement to the extent possible.

11. DATA PROTECTION

11.1 The parties agree that the Customer is a Controller and that the Supplier is a Processor for the purposes of processing personal data received from or on behalf of the Customer in connection with the performance of the Supplier's obligations under this Contract (the "**Personal Data**"). The Customer shall at all times comply with the Data Protection Laws in connection with its processing of personal data and the provision of it to the Supplier, and shall have obtained all necessary consents in respect of the same. The Customer shall ensure all instructions given by it to the Supplier in respect of the Personal Data shall at all times be in accordance with Data Protection Laws.

11.2 The Supplier shall process any Personal Data in compliance with the obligations placed on it under Data Protection Laws and the terms of this Contract.

11.3 The Supplier shall only process the Personal Data in accordance with this Contract and any processing instructions agreed between the parties, except where otherwise required by applicable law. The Supplier shall only process the Personal Data for the purposes of and to the extent and for the period necessary for providing the Services and performing its obligations under this Contract.

11.4 Taking into account the state of technical development and the nature of processing, the Supplier shall implement and maintain Appropriate Technical and Organisational Measures to protect the Personal Data against accidental, unauthorised or unlawful destruction, loss, alteration, disclosure or access. For the purposes of this clause, "**Appropriate Technical and Organisational Measures**" shall mean such technical and organisation measures which are appropriate to the risks and, in accordance with the Data Protection Laws, take into account the state of the art, the costs of implementation and the nature, scope, context and purposes of the processing of the Personal Data to be carried out under or in connection with this Contract, balanced against the rights and freedoms of natural persons and the risks that are presented by the processing, especially from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to the Personal Data transmitted, stored or otherwise processed.

11.5 The Supplier shall (at Customer's cost), insofar as this is reasonably possible, for the fulfilment of the Customer's obligations to respond to requests for exercising data subjects' rights under applicable Data Protection Laws in respect of any Personal Data.

11.6 The Supplier shall not process and/or transfer, or otherwise disclose, any Personal Data in or to countries outside the United Kingdom without the prior written consent of the Customer.

11.7 On expiry or termination of this Contract (at the Customer's cost), the Supplier shall either return all of the Personal Data to the Customer or securely dispose of the Personal Data (and to the extent possible thereafter promptly delete all existing copies of it) except to the extent that any applicable law requires the Supplier to store such Personal Data.

11.8 For the purposes of this clause 11, the terms "processor", "controller", "processing", "data subject" and "personal data", shall have the respective meanings given to them in applicable Data Protection Laws from time to time (and related expressions, including process, processed, and processes shall be construed accordingly).

12. GENERAL

12.1 Each party warrants to the other that it has the requisite power and authority to enter into and perform its obligations under this Contract and that this Contract will constitute valid, lawful and binding obligations on it. The Customer warrants that it shall at all times comply with all Applicable Laws in connection with its use of the Service, the Service Content, the Equipment and the Substances.

12.2 The Customer shall not subcontract, assign or transfer the whole or any part of this Contract without the Supplier's prior written consent. Any attempt to assign, subcontract or transfer the whole or any part of this Contract without such consent will be null and void. The Supplier shall be entitled to subcontract, assign or transfer the whole or any part of this Contract at any time without the consent of the Customer.

12.3 Neither party shall be responsible for any failure or delay in the performance of any of its obligations under this Contract due to any circumstance, event or cause beyond its reasonable control.

12.4 The parties to this Contract are independent contractors and this Contract will not establish any relationship of partnership, joint venture, employment, franchise, or agency between the parties. Neither party will have the power to bind the other or incur obligations on the other's behalf.

12.5 No variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

12.6 The Supplier shall be entitled to prepare and issue a press release announcing the existence of this Contract and to refer to the Customer as its customer and a user of the Service in its marketing and publicity materials.

12.7 If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract

12.8 A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not: (a) waive that or any other right or remedy; or (b) prevent or restrict the further exercise of that or any other right or remedy.

12.9 These Terms and Conditions and the Order Form together form the Contract and constitute the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

12.10 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in the Contract.

12.11 No one other than a party to the Contract shall have any right to enforce any of its terms.

12.12 Any notice given to a party under or in connection with this Contract shall be in writing and shall be: delivered by hand or by next working day delivery service at its registered office (if a company) or its principal place of business (in any other case, including if a school), and in the case of notices to the Supplier with a copy also sent by email to support@empiribox.org. A notice or other communication shall be deemed to have been received: if delivered by hand, on signature of a delivery receipt; if sent by next working day delivery service, at the time recorded by the delivery service; or, if sent by email, on the next business day after transmission. This clause 12.12 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

12.13 The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by, and construed in accordance with the law of England and Wales. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.

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