**EMPOLIS TERMS AND CONDITIONS**

**1 SUBJECT MATTER OF THE CONTRACT, SCOPE OF SERVICE OF THE SOFTWARE**

1) The subject matter of these General Terms and Conditions is the provision, on the basis of a lease, of the Empolis Service Express software ("Software") for use via the Internet by the customer.

2) These Terms and Conditions apply only vis-a-vis entrepreneurs as defined in Section 14 of the German Civil Code, legal persons under public law and special funds under public law.

3) The scope of service of the Software can be found in the product description, which can be accessed at www.service.express. We are entitled to make adjustments, provided they are reasonable for the customer, to the scope of service of the Software at any time, especially if the scope of service is expanded or the adjustment is necessary to meet statutory requirements or guarantee the security of operation of the Software.

**2 PROVISION OF THE SOFTWARE**

1) We shall provide the Software, including storage space, for saving user data in the scope agreed with the customer, starting on the date agreed with the customer, via the Internet as specified by this contract.

2) At the customer's request, we shall provide, on the basis of a separate agreement, trainings on the set-up, operation and use of the Software, or shall set up the Software completely, in accordance with the agreements concluded with the customer.

3) We use a server located within the European Union to provide and run the Software. The Software and the servers used are protected against unauthorized access, data loss and data eavesdropping in accordance with at least the security precautions that are usual for offers of this type.

4) The customer has no claim to be granted a specific server for its sole use; instead, we may have several instances of the Software running on a server, as feasible given the server's performance capacity and provided our customers' datasets are separated.

5) We shall issue the customer a user name and user password for the first user. The customer should promptly change the password to a password

known only to them. This user account is the first administrator account for the customer. With it, the customer can set up the Software and add additional users.

6) A Chrome or Firefox browser in the newest or at least the most recent previous version must be used in order to utilize the Software.

### 3 NEW VERSIONS OF THE SOFTWARE, QUALITY ASSURANCE

1) We shall make new versions of the Software available at our discretion.

2) We are entitled to use the data stored in the Software by the customer for quality assurance of new versions of the Software before provision thereof to the customer (e.g. test runs) and to train the Software with this data in order to be able to make new functionalities available (e.g. training for automatic recognition of new data categories).

3) We will inform the customer within an appropriate period of time about significant changes to the Software if those changes could result in changes to or limitation of usual cases of application of the Software.

### 4 CUSTOMIZATION OF THE SOFTWARE

1) At the customer's request, we will provide them with offers for individualized extensions of the Software within the scope of the options planned by us ("Cloud Extensions"). We will indicate to the customer if the desired customization could, based on our best judgment, mean that its incorporation into new versions of the Software might be possible only manually, in exchange for remuneration to be agreed separately, rather than automatically.

2) For the term of this contract, the customer shall acquire the same rights to customizations as to the Software. Otherwise, we hold all rights to the customization.

### 5 DATA SECURITY

1) The data stored by the customer using the Software is secured each calendar day between 10:00 p.m. and 4:00 a.m. (UTC). As protection against unintentional deletion of data set up via Empolis Box, such data can be restored up until 60 days after deletion. After that period, restoration is no longer possible.

2) For data indexing systems, data is secured very day via snapshots, each of which is stored for 30 days. Initial data is secured via versioning that retains

the older version for 60 days when documents are changed and deleted. In addition, there is automatic, continuous replication to a second computing center within the European Union.

## 6 AVAILABILITY OF THE SOFTWARE

1) The Empolis software offers Software availability at the transmission point (interface to Internet in the computing center where the Software is running) of 99.5% per contract month.

2) The parties understand Software availability to refer to the possibility of using the Software at the transmission point.

3) The following periods are not taken into consideration when determining whether the assurance of availability was upheld:

a) Disruptions or impairments of the technical infrastructure needed for the use or execution of the Software or of the Internet, unless we or our agents are responsible.

b) Planned non-availability of the Software for the purpose of maintenance work, primarily at low-use times, provided we announce it at least one week in advance. To guarantee the security of the Software systems and the data stored there, maintenance windows may in urgent cases (e.g. important security updates) be announced and implemented with an advance notice period appropriate to each particular case.

## 7 USE OF THE SOFTWARE BY THE CUSTOMER

1) The customer shall receive simple (non-sublicensable and non-transferrable) rights to the Software, limited to the term of this contract, for use of the Software in accordance with the contract. Granting of the possibility of use to employees of group companies as defined in Sections 15, 16 AktG (German Stock Corporation Act) is not permitted unless expressly agreed otherwise with us.

2) The customer shall take usual and appropriate precautions to prevent unauthorized use of the Software via user names and passwords it uses. The customer shall inform us immediately if they suspect that the access data and/or passwords could have become known to unauthorized persons and shall immediately take security measures against such access, to the extent possible, by changing the password. The customer shall immediately delete or

change the access data of departed employees.

3) In the case of misuse of the user names and/or passwords it uses, the customer bears the burden of proving that the customer is not responsible for such misuse. In the event that we have access to the relevant proof, we are obligated to inform the customer accordingly.

4) The customer may not use the Software for illegal purposes or in violation of third-party rights. In particular, they shall refrain from any use that could open us up to accusations of violating applicable laws or third-party rights. They shall hold us harmless with respect to all relevant, justified third-party claims, including reasonable costs of legal investigation and representation.

5) The customer is obligated to report defective contractual services, especially defective Software, to us immediately. If the customer does not report defects promptly for reasons for which the customer is responsible, this shall constitute contributory culpability or contributory negligence. If we are unable, as a result of the failure to report or delay in reporting, to remedy the situation, the customer is not entitled to decrease the agreed amount of remuneration in whole or in part, to request compensation for the damage resulting from the defects or to terminate the contract in an extraordinary fashion without adherence to a notice period. The customer must demonstrate that they are not responsible for the failure to report.

6) If the customer violates the provisions above for reasons for which they are responsible, we may block their access to the Software or to usage data if the violation can thereby be demonstrably remedied. To the extent reasonable for us, we shall request, with indication of an appropriate deadline, that the customer remedy the violation.

7) If the customer continues to violate or repeatedly violates the provisions above despite appropriate warnings, and if they are responsible for this, then we may terminate the contract in an extraordinary fashion without adherence to a notice period.

**8 APPS FOR MOBILE END DEVICES**

1) We shall make an app available at our discretion for various platforms (at this time, current iOS starting with Version 11) to allow for mobile and local offline use of the Software.

2) With the installation of such an app, the customer acquires a simple, non-transferrable right to the particular installed copy to use it on the particular end device for the purposes of this contract. In order to be able to use the apps in combination with the Software, the Software must include the relevant functions.

3) At the end of this contract, the apps shall lose their functionality.

### 9 USE OF API

1) Service Express shall make available an API (software interface) that it can use to create a connection between the Software and other systems.

2) The particular information published by us apply for the use and scope of function of the API.

3) The customer is entitled to use of the API for the term of this contract, provided such use is a component of the price model they have booked.

### 10 USE OF THE "EMPOLIS BOX" SOFTWARE

1) Upon request by the customer, we shall make available to them the "Empolis Box" software, which makes possible the synchronization of data between their system and the software operated for them. The particular information published by us applies for the installation, operation and scope of function of the Empolis Box software.

2) For the term of the contract, the customer shall acquire a simple, non-transferrable right to install, operate and use the Software on their systems for the purposes of this contract, They are entitled to usual and appropriate back-ups for the software installed for them.

### 11 VIOLATION OF PROPERTY RIGHTS

1) We guarantee that copyrights or other third-party property rights are not violated by contractual use of the Software.

2) In the event that this is nevertheless the case, we will, at our discretion, either acquire the necessary rights at our expense or alter the Software at our own expense in such a way that it no longer violates third-party rights, while continuing to provide the services owed to the customer.

### 12 REMUNERATION

1) For our services, we are entitled to the remuneration agreed with the customer. We shall bill for it in advance for each contractual year.

If the contractually agreed storage and traffic contingents are exceeded, we reserve the right to charge for the actual amount of data used by the user in accordance with our current price list.

2) We are entitled to send invoices in digital form to the customer.

**13 NON-FULFILLMENT OF PRIMARY SERVICE OBLIGATIONS OWED BY US**

1) If we are delinquent with initial provision of the Software, the customer is entitled to withdraw from the contract if an appropriately set grace period set passes without results; i.e. if we do not make the agreed Software functionality available within the grace period.

2) If we fail, wholly or in part, to meet the obligations owed by us after operation-ready provision of the Software, and if the owed availability of the Software is not met for a contract month, then the agreed monthly flat fee for use is decreased on a pro-rated basis for the period during which the Software was not available to the customer in the agreed scope.

3) We must prove that we are not responsible for the cause of the delayed provision or the failure to meet the owed availability. If the customer did not report the lack of availability of the Software to us, they must prove, in response to our denial of knowledge thereof, that we became aware of the lack of availability in some other way.

**14 WARRANTY CLAIMS**

1) Unless otherwise agreed below, the statutory provisions apply.

2) We are responsible within the limits of the law for selecting the type of subsequent performance.

3) The statute of limitations for warranty claims is one year. This does not apply for claims due to intent, gross negligence, injury to body, health or life, assumption of a guarantee or claims pursuant to the product liability act.

4) We assume no liability, regardless of culpability, for damages pursuant to Section 536a BGB for defects present when the contract is concluded.

**15 LIABILITY**

1) Liability is based on the provisions of law unless otherwise agreed below.

2) In the event of negligent violation of significant contractual obligations, the amount of liability is limited to foreseeable damages typical for the contract. Significant contractual obligations are those that must be fulfilled for correct

execution of the contract to be possible and that the injured party can generally expect will be met. The statute of limitations for claims pursuant to this paragraph is one year.

3) The amount of liability for foreseeable damages typical for the contract pursuant to Paragraph 2 is limited to six times the fee for use paid by the customer in the particular month.

4) Paragraph 2 does not apply for claims due to injury to body, health or life, assumption of a guarantee or claims pursuant to the product liability act.

**16 TERM, TERMINATION**

1) The contractual relationship shall begin when the contract is drawn up, with a fixed term of one year. During the fixed term, it may only be terminated for good cause.

2) Termination is possible with a notice period of three months at the end of the particular fixed term. If no termination occurs, the fixed term is extend by an additional year in each case.

3) The right to termination for good cause remains unaffected. The following reasons in particular are considered to be good cause when they are present for the other party:

a) The violation of significant contractual obligations by the other party if the violation is not remedied despite a warning and the setting of an appropriate grace period. Warning and setting of a grace period are not necessary if they would involve unreasonable effort.

b) The party's own application for the initiation of insolvency proceedings, initiation of insolvency proceedings or rejection of such initiation due to a lack of assets.

c) Complete default on payment by the customer for two consecutive months or default on payment for a period of more than two months, provided the customer is in default on payment with amounts totaling the remuneration for at least two months.

**17 DISCLOSURE OF CUSTOMER DATA UPON TERMINATION OF THE CONTRACT**

Upon termination of the contract, the Software is deactivated for the customer, and the customer data stored in it is archived for a period of 30 days. During this period, the customer may request a copy of their data for downloading. After the

30 days have passed, the data will be deleted even if it has not yet been downloaded. The customer data will be made available in the format in which it is stored in the Software.

**18 CONFIDENTIALITY**

1) We obligate ourselves to confidentiality with regard to the customer's business secrets. Business secrets are information or knowledge on the part of the customer that are made known to us in the context of this contract (e.g. through storage of data in the Software). It is not necessary for a business secret to be marked as such.

2) Not subject to confidentiality are those business secrets that (i) were generally known at the time of transmission or become generally known thereafter, at no fault of ours; (ii) were already legally known to us at the time of disclosure, with no confidentiality obligation in place for us; (iii) were legally made known to us, without any confidentiality obligation, by third parties after the time of transmission, with the third party itself also not obligated to confidentiality vis-a-vis the customer; (iv) were developed by us independently without any use of confidential customer information; (v) become known to us through permissible analysis of publicly obtainable services or customer products or (vi) must be disclosed due to compelling provisions or decrees of law, the regulatory authorities or the courts.

3) We are obligated to keep the customers' business secrets confidential and to not make possible knowledge thereof for any third parties. We shall only grant access to business secrets of the customer to those employees and third parties that are familiar with the provision of services under this contract and have obligated themselves to confidentiality at least in accordance with the specifications of this contract. Upon request by the customer, we must prove that this is the case.

4) This confidentiality agreement shall not be affected by termination of the contract.

5) For ensuring data protection for personal data, the order processing contract that has been concluded, separately between the parties if applicable, shall apply. In the event that there is no such contract, we undertake to observe the legal provisions with respect to data protection.

**19 DATA PROTECTION**

If the customer wishes to store or process personal data in the Software, we are prepared for order processing pursuant to Art. 28 GDPR for conclusion of our contract.

**20 FINAL PROVISIONS**

1) This contract contains all of the parties' agreements concerning the subject matter of the contract. Any secondary agreements that differ from it and previous agreements on the subject matter of the contract hereby become ineffective.

2) Changes and addenda to this contract must be made in writing unless a more stringent form is prescribed by law. This applies as well for a waiver of the formal requirement.

3) The customer's general terms and conditions are not applicable for this contract. This is true even if inclusion of such terms and conditions is mentioned without objection in later documents related to this contract.

4) If any provision of this contract is or becomes, in whole or in part, void, ineffective or unenforceable, or if a provision that is necessary is not included, the effectiveness and enforceability of all other provisions of this contract shall not be affected.

5) The contract is solely governed by the laws of the Federal Republic of Germany. Private international law, provided it is not mandatory, does not apply.

6) The sole place of jurisdiction for all disputes in connection with this agreement is our registered office. We are entitled to file claims against the customer at one of their statutory places of jurisdiction as well.