End-User Software License Agreement

THE GALLERY

THE 2% MINDSET:
- Live Outside Your Comfort Zone
- Never Settle for Average
- Change is an opportunity

DANGER

COMFORT

LEARNING

DELIVERED INTELLIGENCE

WHERE CAN WE TAKE OUR CUSTOMERS?

DRINK COFFEE

"YOU CAN'T MANAGE WHAT YOU DON'T MEASURE."

#delightourcustomers

☺ DON'T BE AN

intact
SOFTWARE

Contents

End-User Software License Agreement ("EULA")

Terms & Conditions

Before you select and click on the "accept" button at the end of this document, the proposal document, quotation or other document of which this EULA forms part, which will enable you to download/access the software, or if you otherwise use the software which has been installed for you, carefully read the full terms and conditions of this licence agreement (EULA).

By clicking on the "accept" button or **otherwise using the software (whether as a trial or full version), you are consenting to be bound as the licensee customer or bind your employer/organisation as the licensee that you warrant to be authorised to represent.**

If you do not agree to all of the terms of this licence **or do not have the authority to bind your employer or organisation** or are otherwise barred from entering into a binding agreement, do not click the "accept" button but instead click the "do not accept" button or do not use the software if installed for you, and do not attempt to download, access or use the software.

If you click "accept" or use the software please save a copy of this licence for future reference.

You can also view these terms and conditions again in full on our website **EULA.intactsoftware.com**

2022 Version

1. Parties and Acceptance of this Agreement

(a) Acceptance of this EULA will occur when (i) you "click" the "Accept" button consenting to become the Licensee Customer or otherwise use the Software, and (ii) **Intact** has accepted your order and (iii) you have paid the applicable License fees and charges. ("Acceptance").

(b) Upon Acceptance, we, **Intact** Software, a trading division of Aptech Business Systems Ltd whose registered office is at Units 12-15, Blackthorn Business Park, Coes Road, Dundalk, Co. Louth, Republic of Ireland ("**Intact**" which shall include all or any of our subsidiaries, successors or assigns) (hereinafter referred to as "we", the "Licensor" or "us") grant "you", the "Customer" or "Licensee" a non-exclusive, non-transferable licence for the software product(s) listed in the Licensee's License Certificate issued to it by **Intact**(the "Software") which you will be able to download, access and use as the Licensee of that Software solely for your internal business purposes and strictly in accordance with the terms of this EULA.

(c) Acceptance by Intact will be deemed acceptance on its behalf of any of its authorised distributors, agents or Value Added Resellers (VAR).

2. Software Licence and Permitted Use of Software

(a) This Agreement entitles the Customer to "Use" the Software (as "Use" is defined below), on its compatible computer system (physical or virtual) (the "System") upon the terms and subject to the conditions contained of this Agreement.

(b) Permitted "Use" under this Agreement shall mean loading, installing and using the Software on the Customer's System (physical or virtual), for the Customer's own internal business use and either for single use by the Customer alone or by the number of Concurrent Users for whom the Customer has paid additional Licence Fees, and as more specifically as follows:

> (i) installing the Software on one or more single core or multi-core Central Processing Unit ("CPU") on a single motherboard of the System if the System is single-user; or

> (ii) if the System is a networked floating licensed system, the Software may be loaded onto one or more single core or multi-core CPUs on a single motherboard that form a part of the System;

(iii) concurrently use the Software on that number of computers, processors, servers, terminals and other computer equipment ("Physical Machines") or software-based virtual servers, computers and processors ("Virtual Machines") equal to the number of licenses purchased by the Customer as specified in the **Licensee's License Certificate.** For example, if the Customer has a license to access and use the Software on two (2) machines, the Customer may access and use the Software on only two (2) in total of Physical Machines and/or Virtual Machines at any one time;

(iv) if the Customer uses a Virtual Machine to host its licenses for the Software, the Customer agrees that only one instance of this Virtual Machine exists;

(v) make no more than two (2) copies of the Software for back-up or disaster recovery purposes without the prior written consent of **Intact** or as otherwise permitted by the Applicable Law;

(d) For the purposes of this Agreement "Concurrent Use" shall mean simultaneous use of the Software by the number of users/employees of the Customer for which the appropriate licence fee has been paid as specified in the Licensee's License Certificate ("Concurrent Users"). Additional Concurrent Users may be added by accepting a separate, additional software licence and payment of additional fees.

(e) The Customer and Concurrent Users will also be permitted to Use the Software on a portable device, lap-top, tablet or home computer where the Software is permanently installed on the hard drive or other storage device of the System and the Customer or its relevant Concurrent User as the case may be, is the predominant user of the Software and such Use will not breach the applicable Concurrent User limit.

(f) The Customer May Not sell, lend, rent, lease, sub-license, transfer, assign or otherwise provide the Software to nor permit any third parties to use the Software, including but not limited to providing access to the Software enabling such third parties to benefit from its use without entering into a licence with **Intact** as the Licensor, or do any other acts which would prejudicially affect **Intact's** rights as the owner of the Software.

(g) The Customer agrees that if it wishes any changes to this Agreement including without limitation: upgraded versions of the Software, additional modules or changed Software, then it must contact **Intact**. Any addition will result in a Trial Licence being issued. The activation code for the Trial Licence to convert it to a fully paid licence will be released on full payment being received by **Intact** for the software module and any additional work to be carried out by **Intact** to implement the additional module.

3. Delivery and Installation

If not already delivered or installed, **Intact** will, as soon as possible after the Acceptance of this EULA by the parties, arrange for the delivery and installation of the Software to the Customer.

4. Fees and Charges

(a) In consideration of the grant of this Agreement, the Customer agrees to pay **Intact** the appropriate License Fees quoted to the Customer either as part of a Proposal document or quotation or as otherwise specified by **Intact**. If payment terms are not otherwise specified, then full payment is due within ninety (90) days from the date of acceptance by **Intact** of this Agreement.

(b) The Licence Fees are calculated on the number of Customer users (including mobile users), modules, integrations, companies or as otherwise specified by **Intact** and agreed with the Customer. Additional Licence Fees are payable for changes which the Customer wishes to these details.

(c) The Customer also agrees to pay the annual Product Update cover and Software Support fees to **Intact** in accordance with the terms of **Intact** Support Agreement.

(d) The Customer agrees to pay **Intact** for any additional training, project management, consultancy or other services provided by **Intact** based upon **Intact's** standard charges and to reimburse **Intact** for all reasonable and actual expenses incurred by **Intact** in providing such services under this Agreement.

(e) In the event that the Customer's System upon which the Software is installed is inoperable or requires or is under repair, the Customer shall report the same to **Intact** for permission to use the Software on a back-up system at another location specified by the Customer. There will be no extra License Fee payable for the back-up system provided the configuration, functionality, number of users and other details are the same and no extra charge for support Provided the back-up system location is within the same geographical area for the provision of support.

(f) The fees and any other charges payable under this Agreement are exclusive of and net of any taxes or duties including (but without prejudice to the foregoing generality) VAT levied on **Intact** or the Customer by reference to the Software or anything else supplied or made available or services provided to the Customer under this Agreement. Such taxes or duties shall be paid by the Customer at the rate and in the manner for the time being prescribed by the Applicable Law.

(g) If any sum payable under this Agreement is not paid within 30 days after the due date then (without prejudice to **Intact**'s other rights and remedies) **Intact** reserves the right to charge interest on such sum on a day to day basis (as well before as after as after any judgment) from the due date to the date of payment (both dates inclusive) at the rate of 4 per cent above the base rate of the Allied Irish Banks plc for the time being in force.

5. Licensee Undertakings

(a) The Customer undertakes not to perform any of the acts referred to in this sub-clause (a) except to the extent and only to the extent permitted by the Applicable Law to the Customer as a lawful user (i.e. a party with a right to use) of the Software and only then for the specific limited purpose stated in such Applicable Law or hereunder. The Customer undertakes:

> (i) not to copy the Software (other than for normal System operation and as specified in Clause 2 above) nor otherwise reproduce the same Provided that the Customer may copy the Software for back-up purposes or incidentally, in the course of converting the Software in accordance with (a)(iii) below;

> (ii) not to transfer, translate, adapt, vary or modify the Software;

> (iii) not to disassemble, decompile or reverse engineer the Software Provided however that in the case of decompilation, the Customer may incidentally decompile the Software only if it is essential so to do in order to achieve interoperability of the Software with another software program ("Permitted Purpose") and Provided the information obtained by the Customer during such decompilation is only used for the Permitted Purpose and is not disclosed or communicated to any third-party whom it is not necessary to disclose or communicate such information without **Intact**'s prior written consent and is not used to create any software which is substantially similar to the expression of the Software nor used in any manner which would be restricted by copyright.

The Customer also undertakes:

(b) to maintain accurate and up-to-date records of the number and location of all copies of the Software;

(c) to keep the Customer's System up-to-date, fit for purpose to enable it to use the Software to its optimal advantage, legally compliant and free from 'pollutants' of viruses, malware, spyware and other disruptive/invasive programs or devices;

(d) to supervise and control Use of the Software in accordance with the terms of this

Agreement.

(e) to ensure that its employees, agents and other contracted parties who will use the Software are notified of this Agreement and the terms hereof prior to such employee, agent or party using the same.

(f) to reproduce and include the copyright notice of **Intact** or such other party as may be specified in or on the Software (the "Third Party Provider") on all and any copies, whether in whole or in part, in any form, including partial copies or modifications of the Software made herein.

(g) not to provide or otherwise make available the Software in whole or in part (including where applicable, but not limited to program listings, object code and source program listings, object code and source code), in any form to any person other than the Customer's employees or as specified in (e) above without prior written consent from **Intact**.

(h) comply with the provisions of clause 12(e) below on expiry, termination or discontinuance of this Agreement for whatever reason.

6. Training and Support Services

During the continuance of this Agreement, the Customer may request **Intact** to provide additional support, training, consultancy, project management and other services subject to the payment by the Customer of the appropriate fees as will be agreed with the Customer in advance.

7. Copyright, Patents, Trade Marks and Other Intellectual Property Rights

(a) The Customer acknowledges that (other than as contained in the Customer's own data) any and all of the copyright, trade marks, trade names, templates, formats, patents and other intellectual property rights subsisting in or used in connection with **Intact**'s Software and/or the services to be provided by **Intact** are and will remain the sole property of **Intact** and/or any Third Party Provider identified on such material (as appropriate).

(b) The Customer will not during or at any time after the expiry or termination of this Agreement in any way question or dispute the ownership by **Intact** and/or such Third Party Provider.

(c) In the event that new inventions, designs, processes, services, software and products, configuration settings, templates, formats or other material in any form or media evolve in performance of or as a result of this Agreement, the Customer acknowledges that the same will be the property of **Intact** unless provided or produced by the Customer or as otherwise agreed in writing by **Intact**.

(d) The Customer will indemnify **Intact** and/or the Third Party Provider (as the case may be) fully against all liabilities, costs and expenses which **Intact** and/or Third Party Provider may incur as a result of any work done in accordance with the Customer's specifications or requirements involving infringement of any patent or other proprietary right.

8. Confidential Information

(a) The term "Confidential Information" will mean and include information or material that a receiving party knows, or reasonably, under the circumstances of disclosure, should know, or the disclosing party considers to be of a confidential or sensitive trade secret nature, including without limitation:

> (i) all information, data, drawings, products, specifications, templates, formats, documentation, software listings, source or object code, data files or datasets which the disclosing party may have provided and may from time to time provide to the receiving party relating to the Software and/or its support and other services;

> (ii) all other forms and types of confidential or non-public financial, business, scientific, technical, economic, marketing, engineering or system-related information, including patterns, plans, compilations, programs, devices, formulas, designs, prototypes, methods, techniques, processes, procedures, programs, codes, or know-how, and information concerning either party's other internal business practices and/or actual or potential customers, whether any of the foregoing is in tangible or intangible form, and whether or how stored, compiled or memorialised physically, electronically, graphically, photographically, or in writing;

> (iii) which derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; and

> (iv) identified by the disclosing party as confidential prior to or at the time of disclosure.

(b) Confidential Information does not include any information or material: (i) which is or

subsequently becomes available to the general public other than through a breach by the receiving party; (ii) which is already known to the receiving party before disclosure by the disclosing party; (iii) which is independently developed by the disclosing party without use of or reference to the Confidential Information of the other; or (iv) which the receiving party rightfully receives from third parties without restriction as to use or disclosure.

(c) Each party will maintain all Confidential Information of the other in strict confidence and will not at any time or for any reason disclose any Confidential Information to any third-party without the disclosing party's prior written consent. Neither party will use any Confidential Information of the other for any purpose whatsoever except in performing its duties and exercising its rights under this Agreement nor disclose any Confidential Information to any of its agents or authorised users who do not participate directly in the performance of its duties or exercise of its rights under this Agreement, and will advise its authorised users who are permitted access to any Confidential Information of the restrictions upon disclosure and use set forth in this Agreement.

(e) Notwithstanding the foregoing, the receiving party may disclose the Confidential Information if it is required to do so under any Applicable Law, rule, or regulation which lawfully requires the disclosure, provided that it makes a reasonable effort to give the disclosing party as much advanced notice of the same as may be practicable or permitted in the circumstances of such disclosure.

9. Liability

(a) Absolute Cap on Liability. The maximum, aggregate liability of **Intact** and/or any Third Party Provider for any claims howsoever arising out of or relating to this Agreement or any of the Software, software support or other services or material furnished or to be furnished by **Intact** under this Agreement or any schedules, including but not limited to **Intact's** or any Third Party Provider's entire liability in contract, tort (including negligence and breach of statutory duty) and including misrepresentation or otherwise in respect of all matters arising under or in connection with this Agreement will in any event be absolutely limited to the direct damages actually incurred by the Customer up to the amount paid by the Customer to **Intact** under this Agreement for the applicable Software, support or other services or material during the preceding 12 month period.

(b) Exclusion of Indirect Damages. To the maximum extent permitted by the Applicable Law, in no event will **Intact** and/or any Third Party Provider be liable to the Customer, authorised user or any other person for any indirect damages of any kind, including without limitation, lost profits, lost savings, lost data, loss of contracts, business, revenue, goodwill, anticipated savings or other special, direct, indirect, punitive,

consequential, or incidental damages arising out of or relating to this Agreement or any Services, Software, support or other material, furnished or to be furnished under this Agreement, even if **Intact** has been advised of the possibility of such loss or damage.

(c) Basis of the Bargain; Failure of Essential Purpose. The Customer acknowledges that **Intact** has set its fees, charges and prices and entered into this Agreement in reliance upon the warranty disclaimer specified in clause 10 below and the limitation of liability set forth in this Agreement, and that the same form an essential basis of the bargain between the parties. The parties agree that the limitation of liability specified in this Agreement will survive and apply even if the warranty disclaimer or any limitation of remedies is found to have failed of its essential purpose. Notwithstanding the foregoing, nothing contained herein will limit **Intact's** liability for its own willful or wanton misconduct.

(d) Neither party excludes liability for death or personal injury to the extent only that the same arises as a result of its own negligence.

10. Warranty

(a) In the event that the Customer discovers a material error in the Software which substantially affects the Customer's ability to use the Software and notifies **Intact** of the error within 90 days from the later of, final payment of the Licence fees or (if applicable) the project implementation final fee (the "Warranty Period") **Intact** will at its sole option either use all reasonable endeavours to correct the erroneous part of the Software or (at its sole option) refund to the Customer the fee relating to the part of the Software (if not the whole) that does not comply with its specification of use PROVIDED THAT such non-compliance has not been caused by any modification, variation or addition to the Software not performed by **Intact** or caused by its incorrect use, abuse or corruption of the Software by the Customer or any party other than **Intact**.

(b) WARRANTY DISCLAIMER. To the extent permitted by the Applicable Law, the express Warranties contained in this Agreement are in lieu of all other warranties, representations and guarantees of any kind by **Intact**. Except as expressly set forth in this Agreement, all services, Software, support or other material (if any) are furnished by **Intact** and accepted by the Customer "as is". All other warranties, whether statutory, express or implied, are specifically excluded and disclaimed by **Intact**, including without limitation any implied or other warranties of or against:

> (i) interference with quiet enjoyment, non-infringement, workmanlike effort, quality, accuracy, timeliness, completeness, compatibility, integration, no encumbrances,

no liens, title, merchantability or fitness for any particular purpose,
(ii) that any Services, Software, support or other material will conform to any demonstration or promise by **Intact** or
(iii) or that may arise through any course of dealing between the parties.

(c) The Customer acknowledges that where any Third Party Providers are involved in provision or performance of the Software and/or services, **Intact** cannot and does not warrant Third Party Provider software and/or services nor will **Intact** be liable for their products, services or delay or failure of the same.

(d) INDEMNIFICATION DISCLAIMER. To the extent permitted by the Applicable Law, **Intact** has no indemnification obligations to the Customer whether express, implied or statutory and that any such indemnification obligations are hereby expressly excluded and disclaimed.

11. Indemnity

(a) The Customer shall defend, indemnify and hold harmless **Intact** its officers, directors and employees, agents and sub-contractors against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with the Customer's breach of this Agreement including but not limited to infringement of third party patent, copyright, trade marks or other intellectual property rights.

(b) Intact will

(i) give the Customer prompt notice of any such claim;

(ii) provide reasonable co-operation to the Customer in the defence and settlement
of such claim, at the Customer's expense; and

(iii) give the Customer sole authority to defend or settle the claim.

12. Term and Termination

(a) This Agreement shall remain in effect for so long as the Customer continues to pay the Software License fees, Support and other charges applicable from time to time and neither party has otherwise terminated this Agreement.

(b) Intact may terminate this Agreement forthwith upon giving immediate written notice to the Customer if:

> (i) the Customer shall be in breach of any term, condition or provision of this Agreement or required by the Applicable Law and fails to remedy such breach (if capable of remedy) within 30 days of having received written notice of such breach from **Intact**; or

> (ii) the Customer, being a body corporate, shall present a petition or have a petition presented by a creditor for its winding up, or shall convene a meeting to pass a resolution for voluntary winding up, or shall enter into any liquidation (other than for the purposes of a bona fide reconstruction or amalgamation); shall call a meeting of its creditors, or shall have a receiver of all or any of its undertakings or assets appointed, or shall be deemed by the relevant statutory provisions under the Applicable Law to be unable to pay its debts.

(c) Termination, howsoever or whenever occasioned will be subject to any rights and remedies the parties may have under this Agreement or the Applicable Law including any accrued rights or liabilities of either party.

(d) The right to terminate set forth in this Clause will not constitute an exclusive legal remedy.

(e) In any event of termination of this Agreement by **Intact** under(b) above, the Customer shall within 14 days destroy the Software and all updates, upgrades or copies, in wholeand in part, in any form including partial copies or modifications of the Software received from **Intact** or made in connection with this Agreement together with any documentation relating thereto and certify in writing to **Intact** that the same has been destroyed.

(f) Clause 2(f), 4, 5(a)-(g), 7-9, 10(b)-(d), 11-23 will survive termination of this Agreement.

13. Assignment

The Customer will not assign or otherwise transfer all or part of this Agreement without the prior written consent of **Intact**.

14. Force Majeure

Intact will be under no liability to the Customer in respect of anything which, apart from this provision, may constitute breach of this Agreement arising by reason of force majeure, namely, circumstances beyond the control of **Intact** which will include (but will not be limited to) delay or failure for Third Party Providers, acts of God, perils of the sea or air, fire, flood, drought, explosion, sabotage, acts of war (declared or undeclared), terrorism, accident, embargo, riot, civil commotion, energy outage, work to rule, overtime bars, strikes and lockouts and whether between either of the parties hereto and any Third party Provider.

15. Waiver

Failure or neglect by either party to enforce at any time any of the provisions hereof will not be construed nor will it be deemed to be a waiver of such party's rights hereunder nor in any way affect the validity of the whole or any part of this Agreement nor prejudice either party's rights to take subsequent action.

16. Headings

The headings of the terms and conditions herein contained are inserted for convenience of reference only and are not intended to be part of or to affect the meaning or interpretation of any of the terms and conditions of this Agreement.

17. Severability

In the event that any of these terms, conditions or provisions will be determined by any competent authority to be invalid, unlawful or unenforceable to any extent, such term, condition or provision will to that extent be severed from the remaining terms, conditions and provisions which will continue to be valid to the fullest extent permitted by the Applicable Law.

18. Notices

All notices to or by the respective parties hereto will be in writing, in the English language and will be deemed to have been duly given when delivered by hand, posted by recorded delivery post/certified mail, sent by facsimile or email to the specified address, facsimile number or email address of the party as appearing herein or such other address, facsimile number or email address as such party may from time to time have communicated to the other in writing.

Notices delivered by hand, sent by facsimile or email will be deemed received on the first working day following such delivery or sending provided in the case of facsimile, a valid transmission receipt evidences successful transmission and in the case of email, a successful recipient receipt email. Notices which have been posted as above will be deemed received on the [third] working day (being a day other than Saturday, Sunday or a public holiday in Ireland or England) following posting.

19. Relationship of the Parties

The relationship between **Intact** and the Customer is one of independent contractor and principal and not one of employment, partnership or joint venture.

20. Third Party Rights

A person who is not party to this Agreement will not have any rights to enforce any term of this Agreement.

21. Non-Solicitation

To the extent permitted by the Applicable Law, the Customer will not, for the duration of this Agreement, and for a period of 12 months following the later date of final payment of the Licence fees or (if applicable) the project implementation final fee, directly or indirectly induce or attempt to induce any employee of **Intact** who has been engaged in the provision, receipt, review or management of this Agreement, provision of the Software, Support or other services in connection with this Agreement to leave the employment of **Intact**.

22. Document Precedence

In the event of any conflict of terms between this EULA and the general terms and conditions of any Proposal, quotation or other document of which this EULA forms part, then the terms of this EULA will take precedence.

23. Applicable Law

The parties hereby agree that this Agreement concluded between them including any Schedules, proposal or any other mutually agreed document, will be construed in accordance with the laws of the Republic of Ireland and the parties agree to submit to the exclusive jurisdiction of the court of the Republic of Ireland.

I**f this Agreement of which these terms and conditions form part, has not already been signed/Accepted in any other manner, then the parties may sign below by 'wet ink', digitally, electronically, by fax or concluded by exchange of email between the parties.**

ACCEPT   **DO NOT ACCEPT**

Or if to be signed:

Signed for and on behalf of Intact: _____

By: (Print name of authorised signatory)   _____

Designation: _____

Date: _____

Signed for & on behalf of the Customer: _____

By: (Print name of authorised signatory):   _____

Designation: _____

Date: _____