

General Terms & Conditions

Agile project management board with columns: SPRINT BACKLOG, DEV IN PROGRESS, DEV DONE, TESTING, DONE.

CURRENT SPRINT	DEVELOPER	PC	CC	FB	ASJ	MM	AJS	MW
2016 R12S2								
PUBLIC BUILD	FEATURES (EST)	12	8	5	12	9	10	8
	RES. ISSUES (EST)	4	12	5	0	2	2	6
2016 R11S63	FEATURES (ACT)	3	5	0	3	0	0	4
	RES. ISSUES (ACT)	1	3	0	2	0	0	1
COMMUNITY FEATURE PREVIEW BUILD	UNPLANNED ITEMS	1	3	0	0	0	17	33
2016 R11S11	DEV HRS (EST)	42	28	19	30	13	0	10
	DEV HRS (ACT)	7	125	0	95	0	0	42
TEST BUILD	SPRINT CAPACITY	54	8	24	42	42	24	7
2016 R12S27	REM. CAPACITY	12	8	5	12	29	7	9
	REMOVED ITEMS	0	1	0	0	0	0	0

BURNDOWN CHART

RELEASE 12 SPRINT 2 DAY 5 OF 10

ESTIMATED # BACKLOG	ACTUAL # BACKLOG	23
96	ACTUAL # FEATURES	15
61	ACTUAL # RES. ISSUES	8
35	REMOVED # ITEMS	2
ESTIMATED # DEV HOURS	ACTUAL # DEV HOURS	59
166		

IT TESTED

- MF HEADLINE FEAT
- BREAKING CHANGE
- REMOVED
- FROM PREV. SPRINT

GO LIVE PROJECT DATES

SKILLS DAY SCHEDULE



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General Terms and Conditions

G.1 General

Unless the Agreement of which these General Terms and Conditions form part specifies otherwise, the following shall apply in their absence.

G.2 Definitions

In the Agreement the following expressions will have the following meanings -

(a) 'Acceptance'/'Accepted'/'Accepts' means express agreement by the parties in any of the following ways: by the Customer clicking the "Accept" button at the end of this document or in a proposal document, schedule, specification or other document mutually agreed between the parties, or earlier, by the Customer paying the first applicable fees and/or charges or by both parties mutually agreeing to accept the Agreement by signing in 'wet ink', digitally, electronically, by fax or concluded by exchange of emails between them.

(b) the 'Agreement' means this document together with the mutually agreed description of the Software and/or Services to be performed or provided by Intact whether such description is specified in a proposal, Schedule, specification or other document mutually Accepted by Intact and the Customer.

(c) "Commencement Date" means the date upon which the Customer Accepts the Agreement and pays the applicable fees and charges at the 'Go live' stage of the Software.

(d) 'Customer Data' means all information, data and material including but not limited to the Customer's information (but not **Intact's** templates, designs and formats) created by the Customer in whatever form through using the Software and Services in accordance with the Agreement and which is owned by the Customer.

(e) **'Fees and Charges'** means those fees and charges which are payable by the Customer to **Intact** for the Software, Services and other deliverables (where applicable) as set out in any proposal, Schedule or other document agreed between the parties to form part of the Agreement.

(f) **'Schedule(s)'** means the document(s) agreed between **Intact** and the Customer which contains details of the Services and/or Software, the maximum number of Users that may use the Software, Services and other deliverables, fees and charges based on that number of Users, training, implementation and/or additional services that the Customer may contract for and such other details as the parties agree.

(g) **'Services'** means the services to be performed and provided by **Intact** for the Customer as specified in the Agreement or Schedule.

(h) **'Software'** means the software provided by Intact (including third party software) which is specified in the **Agreement** required by the Customer.

(i) **'Term'** means the initial minimum term of 12 months from the Commencement Date and thereafter has the meaning set out in Clause G.13 below unless separately stated in the Agreement.

(j) **'Third Party Provider'** means such third party proprietor who has authorised either party to use and/or incorporate its own systems, software, material, products and/or other information in or for provision of the Software and/or Services as such party may or may not be separately identified in/on any part of the Software and/or Services.

(k) **'Users'** means the Customer and its employees, agents, contractors or advisers who are authorised by the Customer to use the Software and Services for the purposes only of the Customer's business unless any particular definition of user is otherwise specified in any document forming the Agreement.

G.3 License to Intact

To the extent necessary to provide the Services to the Customer, the Customer hereby grants to **Intact** a worldwide, royalty free intellectual property licence to access the Customer's computer systems and software connected to the Customer's system and/or use the Customer Data.

G.4 Customer Data

(a) Where Intact is migrating Customer Data as part of the Professional Services, Intact will migrate current Excel and CSV files only. The export and import of other file formats or historical information is not included in standard Professional Services. Any historical information that the Customer requires to be migrated needs to be investigated by **Intact** and quoted for separately.

(b) Intact will comply with its confidentiality obligations stated in Clause G.9 below with respect to the Customer Data that is identified as confidential.

(c) The Customer retains all ownership of and intellectual property rights in its Customer Data to the extent that it owns the same.

(d) The Customer is solely responsible for the legality, accuracy, completeness and use of Customer Data and the Customer undertakes to indemnify **Intact** in the event that **Intact** suffers any loss or damage whatsoever as a result of the Customer's use of the Services and its Customer Data in accordance with clause G.12 below.

(e) The Customer shall be solely responsible for making regular back-ups of its Customer Data.

G.5 Fees, Charges and Payment

(a) The fees and charges specified in the Agreement or other mutually agreed Schedule as the case may be, are payable on the dates agreed for such payment as specified in the Agreement/Schedule or if not specified, then Intact will invoice the Customer monthly in arrears for Services performed during the preceding month.

(b) In calculating day rates and hours worked:

(i) unused hours will not be invoiced or be refunded and additional hours will be charged at Intact's standard rates.

(ii) all day rates quoted **exclude** travel expenses such as flights, overnight accommodation and subsistence. All expenses will be invoiced to the Customer at cost.

(iii) Where evening or weekend work is required, the rate will be 1.5 times (after 5.50pm or before 08.30am and 2 times the day rate for weekend work).

(c) Intact will have the right to vary the fees and charges by advising the Customer of the change in accordance with the change control procedure specified in clause G.7 below other than pre-agreed annual increases.

(d) All fees and charges payable under the Agreement are quoted as 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 Services or anything else supplied, divulged or made available to the Customer during performance of the Services under the Agreement. Such taxes or duties will be paid by the Customer at the rate and in the manner for the time being prescribed by law.

(e) If any sum payable under this Agreement is not paid within 7 days after the due date then (without prejudice to **Intact's** other rights and remedies including suspension of provision of the Services) Intact reserves the right to charge interest on such sum on a day to day basis (before as well as after any judgement) from the due date to the date of payment (both dates inclusive) at the rate of 4 per cent above the base rate of Allied Irish Banks plc for the time being in force. If the Customer continues to be in breach of payment then **Intact** may serve notice on the Customer in accordance with clause G.13 below.

G.6 Customer's Obligations

(a) The Customer will perform the Customer's responsibilities (if any) and ensure the availability and co-operation of its nominated Customer team in accordance with the Agreement, the Schedule or any other mutually agreed document.

(b) Upon the request of **Intact**, promptly provide any information, facilities, materials or services ("Materials"), decisions and the Customer's co-operation as reasonably required by **Intact** in connection with the Services, as well as any other Materials, decisions and Customer co-operation specified as the Customer's responsibility in the Agreement, Schedule or other mutually agreed document.

(c) The Customer will ensure that the Materials (where applicable):

(i) are accurate, complete and current;

(ii) do not infringe the intellectual property rights or other rights of any person;
and

(iii) are able to be lawfully provided, disclosed and used under the Agreement.

(d) If any part of the Services involves the use, reproduction or modification of the Materials or other materials not supplied by **Intact**, the Customer warrants that it has obtained all necessary authority for Intact to use, reproduce and modify that material for the purpose of performing the Services.

(e) **Intact** will not be responsible for any deficiency or alleged deficiency in the performance of the Services attributable to a breach of the Agreement by the Customer.

G.7 Change Control Procedure

Where any change to these terms and conditions or the Agreement is required by either party after signing, including but not limited to price, products, services, systems, performance, support, training, timescales, location or any other term or condition which has been pre-agreed, the party requesting the change shall submit a written request ("Change Request") to the other party for consideration. The party receiving the Change Request will consider the same within a reasonable period of time (and no longer than 10 working days so as not to unduly delay the project) and if required, call a meeting with the other party to discuss the change and implications of the same. The parties shall in good faith, endeavour to reach agreement on the change. When agreement is reached, the Change Request and agreed outcome will be signed by both parties and the same will form part of the Agreement.

G.8 Copyright, Patents, Trade Marks and Other Intellectual Property Rights

(a) The Customer acknowledges that (other than as contained in Customer 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 the Services including without limitation, all documentation, guides and manuals relating thereto 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 the 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 the 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 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.

G.9 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 Services, 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 Users who do not participate directly in the performance of its duties or exercise of its rights under this Agreement, and will advise its Users who are permitted access to any Confidential Information of the restrictions upon disclosure and use set forth in the Agreement.

(d) 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.

G.10 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 the Agreement or any of the Services, Software, software support or other material furnished or to be furnished by **Intact** under the 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 the 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 the Agreement for the applicable Services, Software, support or other 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, 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 the Agreement in reliance upon the warranty disclaimer specified in clause G.11 below and the limitation of liability set forth in the 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 the 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.

G.11 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 Services and/or Software or (at its sole option) refund to the Customer the fee relating to the part of the Software and/or Services (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 Services and/or Software not performed by Intact or caused by its incorrect use, abuse or corruption of the Services or 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 the Agreement are in lieu of all other warranties, representations and guarantees of any kind by **Intact**. Except as expressly set forth in the 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.

G.12 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 the 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.

G.13 Term and Termination

(a) Term - The Agreement will start on the Commencement Date and continue for the Term specified in Clause G.2(i) above and shall continue thereafter until or unless terminated by either party giving to the other 6 months prior written notice or by notice in accordance with paragraph (b) below.

(b) Notwithstanding the Term of the Agreement, either party may by notice in writing to the other terminate this Agreement if any of the following events will occur:

(A) if the other party is in breach of any term, condition or provision of the 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 the first party;

(B) if the other party, becomes unable to perform its obligations under the Agreement for any reason, including but not limited to, its bankruptcy, insolvency, or liquidation or if it will call a meeting of its creditors, or will have a receiver or administrator of all or any of its undertakings or assets appointed, or will be deemed by the relevant statutory provisions under the Applicable Law to be unable to pay its debts;

(ii) In addition to (i) above, Intact may by 30 days notice in writing to the Customer terminate this Agreement if

(i) there is a significant change of control of the Customer which, in Intact's sole opinion, warrants ceasing to continue with provision of the Services;

(ii) if the Customer suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business.

(c) Termination, howsoever or whenever occasioned will be subject to any rights and remedies the parties may have under the Agreement or the Applicable law.

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

(e) In any event of termination of the Agreement under this Clause, the Customer shall within 14 days return to Intact all copies of Intact Software for which the license fee has not been paid in full and any other products and documentation provided by **Intact** during provision of the Services or under the Agreement or, if requested by Intact, the Customer shall destroy the same and certify to Intact in writing that such material has

been destroyed.

(f) Any termination of the Agreement shall not affect any accrued rights or liabilities of either party.

(g) Clause [G.4(b)-(e), G.8-G.10, G.11(b)-(d), G.12-G.24] will survive termination of this Agreement.

G.14 Assignment

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

G.15 Force Majeure

Intact will be under no liability to the Customer in respect of anything which, apart from this provision, may constitute breach of the 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.

G.16 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 the Agreement nor prejudice either party's rights to take subsequent action.

G.17 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.

G.18 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.

G.19 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.

G.20 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.

G.21 Third Party Rights

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

G.22 Non-Solicitation

To the extent permitted by the Applicable law, the Customer will not, for the duration of the Agreement, and for a period of six months following termination, directly or indirectly induce or attempt to induce any employee of **Intact** who has been engaged in the provision, receipt, review or management of the Agreement, provision of the Services, Support or other services in connection with the Agreement to leave the employment of Intact.

G.23 Document Precedence

In the event of any conflict of terms between these General Terms and Conditions and the specific terms and conditions in Clauses 1-10 of this Agreement including any Schedules, Clauses 1-10 and the Schedules will take precedence.

G.24 Applicable Law

The parties hereby agree that the 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.

If the 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:

