

# **Service Level Agreement “SLA”**

## THE GALLERY

### THE 2% MINDSET:

- Live Outside Your Comfort Zone
- Never Settle for Average
- Change is an opportunity



DELIVERED INTELLIGENCE

WHERE CAN WE TAKE OUR CUSTOMERS?



DRINK  
COFFEE

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

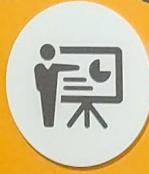
#delightourcustomers



DON'T BE AN



  
**intact**  
SOFTWARE



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# Intact Software Support Service Level Agreement ("SLA")

## Between

**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 subsidiaries, agents, successors and assigns)

And

**the Customer**, being the licensee of Intact Software who Accepts this Agreement in accordance with clause 11.2(a) below (the "Customer").





# 1. Support for the Intact Software modules and products.

**(a)** Support is offered for the Intact Software modules and products licensed by the Customer under the End-User Software Licence Agreement (“EULA”) between Intact and the Customer and which are listed in the attached Schedule 3 to this SLA (“Supported Products”).

**(b)** Intact will not support any products or software not licensed, supplied or listed in Schedule 3.

**(c)** The Customer can select the type (level) of support that it requires in accordance with Clauses 3 to 7 and Schedule 1 of this SLA. The Customer can change the type of support contracted for by agreement with Intact and payment of the appropriate support fees.

## 2. Customer Listed Users

**(a)** Support is only provided to the Customer’s named users listed in Schedule 2 (‘Listed Users’) who have had training on and are using the Supported Products. These Listed Users are supported via the on-line helpdesk portal and remote access support as detailed in Clause 3 below (‘standard support services’) and, if contracted for by the Customer, the additional support services as detailed in Clauses 4 to 7 and Schedule 1.

**(b)** The Listed Users and Supported Products listed in the Schedules may be changed by the Customer notifying Intact in writing of the intention to do so. The maximum number of directly supported Listed Users is determined by the type (level) of support contracted for by the Customer and specified in Schedule 1.

# 3. The ‘standard support services’ supplied to Supported Products under this SLA

## (a) Supported Product Updates

These are regular updates to Intact Software released and made available to supported customers to ensure that their system is kept up-to-date with any legislative or technological changes.

## (b) On-line Helpdesk Portal

(i) This is a 24/7 online support ticketing system.

(ii) This is the preferred method of reporting problems relating to Supported Products to Intact.

(iii) Answers to problems will usually be given via the online portal and the person who raised the ticket (Listed User) will receive an email notifying them of any replies.

(iv) While Intact will make every effort to answer all Supported Products problems submitted, Intact cannot answer queries related to any products and software not licensed or supplied by Intact nor listed in Schedule 3 nor issues which are not caused by an error in a Supported Product (eg operator error, lack of knowledge or training or problems with associated hardware, software or connectivity upon which the Supported Products rely).

## (c) Online/Remote access

(i) On being notified of a Supported Product problem by a Listed User, Intact may only be able to resolve the problem if it can utilise an online connection to the Customer.

(ii) This is an Internet based help, support and maintenance service where Intact support personnel connect to the Customer’s supported workstation or server, taking control of that computer to identify, analyse, provide support and attempt to resolve a query.

(iii) Intact support staff will normally advise customers on the methods by which a remote connection can be made. Where none of these methods are possible, the onus is on the Customer to make available an alternative method.

(iv) The Listed User notifying the problem should be available to initiate and assist with the connection when necessary.



(v) If the Customer does not permit Intact online access in circumstances where Intact considers this method is the only possible way to resolve a Customer problem, then Intact will not be held liable in any way for failure to resolve that problem under this SLA.

#### **(d) Off-site Data**

In certain circumstances to resolve a particular Customer problem, it may be necessary for Intact to take a copy of the Customer's dataset and transfer it back to the Intact server. This is particularly necessary when Intact support or development team need to run diagnostic tests on data. Intact uses 256bit encryption technology while transferring data. In circumstances where the Customer does not allow Intact to take this copy, Resolution Times for queries may be adversely effected and Intact will not be liable for any failure to meet such targets or to provide a resolution and the ticket will be considered outside of the scope of this SLA.

## **4. 'Additional Support Services' which may be contracted for or later requested by the Customer:**

Where the Customer has only contracted and paid for the standard support services specified above, or the following 'added value' services are not part of the type (level) of support contracted for by the Customer, the Customer may request Intact to provide any of these additional services from time to time or Intact may, at its sole discretion, suggest that such additional services may be more suitable in relation to resolution of a particular problem.

The additional cost to the Customer of such ad hoc additional support services (if not included in the level of support contracted for by the Customer) shall be agreed in advance and a PO will be required from the Customer prior to Intact commencing the additional work.

## **(a) Telephone Hotline**

- (i) This is a telephone help and support service.
- (ii) This service is intended to resolve immediate Supported Product usage problems resulting in system failure or errors.
- (iii) It is not intended for any person or Listed User who has not been properly trained in the Supported Products nor should it be used as a substitute for training or a means for answering very long and involved problems.
- (iv) Intact reserves the right to request that additional training is undertaken before supplying hotline support services to any Listed User.
- (v) Intact reserves the right to request that very long and involved queries are submitted using Intact's online helpdesk portal instead of the hotline service.

## **(b) On-site Support.**

On-site support may be offered by Intact at its own discretion. If the Customer wishes Intact to attend on site, Intact will attend and invoice the normal hourly/daily rate plus out-of-pocket expenses. A purchase order must be supplied prior to commencement of any on-site work undertaken.

## **(c) Configuration Change Request ("CCRs")**

A configuration change request may be defined as any change to existing setup that is not considered to be a support ticket. Such changes may include but not limited to -

Users/Security Policies/Roles, Printer Forms and Reports, Screen Layouts, Workflow Queries / Conditions, Dashboards, Analytics or Control Desks, Output rules, Object Output schemas i.e. for SEPA/BACS, Agility, installation of software on PC, Tablet, Phone or Server, server and data migration etc.

## **(d) Year End Services**

Year End Services is a routine that is carried out when a company wishes to 'close off their year'. This routine includes backup, clearing out P & L transactions, creating end of year adjustments, setting the new starting periods and balance forward values.

This service must be carried out while there is no one operating the system so depending on business continuity, may require to be carried as out-of-hours services - at additional costs. This will typically be done twice, once on a backup and when reconciled and agreed, this will then be performed on the live data/system.

#### **(e) Dedicated Support Point of Contact**

Should your business require a single Intact point of contact, this is an available service though not recommended by Intact. It is our belief that in doing so, this thins the knowledge base of your business and system across the Intact support team.

#### **(f) Intact Account Manager**

Should your support type (level) not include an Intact account manager and you believe this to be important, it is possible to request with a PO, the services of an account manager. This will include onsite visits and regular new feature updates.

#### **(g) Intact Customer Installation**

Should you purchase new computers, a new server, mobile phones and you require someone to assist in or to carry out the installation for you, Intact can provide such services.

#### **(h) Bundled ProServe Days**

Bundled Professional Service days are prearranged and discounted days that can be called off over a 12 month period but not carried forward.

## **5. Support procedures and Urgency Classifications**

**(a)** All support services are provided in accordance with Schedule 1 and are dependent on the type (level) of support that the Customer has contracted for. The Customer can change the type of support contracted for by agreement with Intact.

**(b)** Only the Listed Users detailed in Schedule 2 who have received training in the Supported Products may log queries with Intact, all queries should be filtered through these Listed Users and appropriately assessed before being logged with Intact.

**(c)** Queries should be logged by the methods outlined in Clause 3 above with the following information:-

- (i) An indication as to whether they are support or re-configuration queries as only Supported Product queries are subject to this SLA.
- (ii) The Customer's own reference for the query.
- (iii) The Customer's assessed urgency classification for a query as outlined in (d) below ("Urgency Classification").
- (iv) The member of the Customer's staff that reported the query.

(v) A full description of the query along with screen shots and associated data that has been affected.

(vi) The Supported Product version being used.

**(d)** The following “**Urgency Classifications**” will be used when submitting queries:-

**(i) Severe Impact** – Customer’s entire system is not usable because of a Supported Product critical error or malfunction resulting in no Customer Users being able to work with no reasonable workaround.

Tickets submitted as ‘Severe’ and which are deemed by Intact to be Severe have a guaranteed Resolution Time relating to the type (level) of support contracted for by the Customer as listed in Schedule 1. However, if it found that queries are being repeatedly flagged as Severe which are not in fact, Severe, Intact reserve the right to automatically downgrade the severity of the query.

**(ii) High Impact** – a Supported Product error or malfunction resulting in the Customer being unable to perform a business critical transactional function with no reasonable workaround;

**(iii) Medium Impact** - a Supported Product error or malfunction resulting in the Customer being unable to perform a non-critical, non-transactional function.

**(iv) Low Impact** - a Supported Product query about eg improved performance or functionality, but which does not affect the Customer’s business.

**(e)** In the event that Intact disputes the Urgency Classification of a query, that query will be dealt with on the Intact assigned Urgency Classification level unless the Customer provides compelling evidence to the support their urgency claim.

## 6. Response and Response Times

**(a)** A “Response” by Intact is defined as an acknowledgement of the Customer query from Intact to the Customer. This acknowledgement will include:-

- (i) A Ticket number for the query.
  - (ii) An acceptance that the query is covered by this SLA or reasons why it is not.
  - (iii) An acceptance of the Urgency Classification of the query or reasons why Intact disputes this Urgency Classification and states the urgency under which Intact will handle it.
  - (iv) If a query is indicated as outside the scope of this SLA it ceases to become subject to these terms and conditions.
- (b)** “Response Time” means the time by which Intact is required to respond to the Customer for each Urgency Classification as specified in Schedule 1 and is dependent on the type (level) of support that the Customer has contracted for.

## 7. Resolution Procedure and Resolution Times

**(a)** “Resolution Time” means the time by which Intact will endeavour to provide a resolution/answer to the query within the Resolution time period applicable to the type (level) of support contracted for by the Customer.

**(b)** For reported queries which are subject to this SLA, Intact will continue the support resolution process as follows:-

- (i) Where necessary, a diagnostic investigation will be carried out to determine the nature of the query and whether a software patch or configuration is required.
- (ii) If a software patch is required and when this patch is available, a date and time within the scope of the SLA will be arranged to apply this patch to the Customer’s system.
- (iii) Additional information may be required and asked for from the Customer. The query and Resolution Time will be in a pending state until the information has been received by Intact.
- (iv) When configuration is required, depending in the nature of the configuration, it will be carried out by the appropriate Intact staff.

(c) While Intact will make every effort to resolve all Supported Product problems submitted which are covered by this SLA, Intact reserves the right to cease/withdraw/end support if it transpires that the problem relates to or is caused by products, software or services not supplied by Intact or any other matter specified in Clause 9 or 11.15 below.

## 8. Support Fees, Payment and Review

(a) The support fees specified in Schedule 1 are based on the type (level) of support service that the Customer has selected and the other details listed in the Schedules. Such fees are subject to adjustment if any changes are made to these details at any time.

(b) Intact support invoices must be paid within the agreed terms. Failure to do so will invalidate this SLA and no support services will be provided until payment is received by Intact.

(c) Intact will be entitled to increase its support fees by up to 3% annually by giving 60 days' notice to the Customer prior to each anniversary date of this SLA.

(d) See also Clause 11.5.

## 9. Scope of Cover

(a) In the event that a dispute arises in respect of whether a query falls within the scope of this SLA, (ie that it is not covered by this SLA, for example, if the Customer's system is down but it transpires it is a connectivity not a Supported Product problem (see also (b) below) that query will not be subject to this SLA (nor any targets) until that dispute has been resolved.

Intact will make every effort to resolve any such dispute within a reasonable time period however, Intact's decision, as to whether or not the query is within the scope of the SLA, is final.

**(b) For the avoidance of doubt, this SLA does not cover the following:**

(i) Hardware failure, hardware maintenance, data corruption due to hardware failure or data corruption due to non-Supported Products, ransomware or any other type of malware,

(ii) Computer Network configuration issues resulting in Intact software not

running or not running properly.

(iii) Additional configuration or reconfiguration of Intact Software unless expressly specified in this SLA, Schedule 1 or by separate agreement with Intact as an additional service,

(iv) Installation of Intact Software on a Customer machine unless expressly specified in this SLA, Schedule 1 or by separate agreement with Intact as an additional service,

(v) Broadband or other means of connection failure resulting in loss of connection between Customer's head office and departments, branches, staff, customers, suppliers or any other parties or locations;

(vi) Issues specified in (c) below and other excluded issues referred to in this SLA.

**(c) This SLA is not a disaster recovery solution.**

In the event of major system failure, software loss, data loss, equipment theft or damage etc, Intact support personnel will only be obliged to give advice on how to recover from such failure and/or loss and not to carry out disaster recovery services themselves under this SLA but may, if requested so to do by the Customer, assist in such as additional services under a separate mutually agreed contract. It is the sole responsibility of the Customer to ensure that adequate and frequent backups of their system and all data are taken to prevent such loss.

## 10. Third Party Contractor Support

This SLA specifically relates to support supplied by Intact's internal support resources. In the unlikely event that any support required needs to be referred to a third party organisation, Intact reserves the right to charge on to the Customer any costs incurred by Intact involved with that referral for example, server performance, network performance or connectivity issues.

An estimate of such costs will be advised/agreed in advance with the Customer.

# Intact General Terms and Conditions

## Intact General Terms and Conditions

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

### 11. 2 Definitions

Unless the Agreement of which these General Terms and Conditions form part specifies otherwise, 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 the Intact and the Customer.

**(c) "Commencement Date"** means the date upon which the Customer signs or accepts the Agreement or (as applicable) 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 11.13 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's Listed Users 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.

## 11.3 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.

## 11.4 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 11.9 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 11.12 below.

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

## 11.5 Fees, Charges and Payment

**(a)** The fees and charges specified in the Agreement or other mutually agreed Schedules 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 5.30pm 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 11.7 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 11.13 below.

## 11.6 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 Schedules 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.

## 11.7 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 (other than pre-agreed price increases specified in the Agreement), 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.

## 11.8 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 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.

## 11.9 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.

## 11.10 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 11.11 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.

## **11.11 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 the Customer's failure to properly specify their requirements or properly and rigorously test the Software prior to 'Go Live', or caused by the Customer's 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.

## 11.12 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.

## 11.13 Term and Termination

(a) **Term** - The Agreement will start on the Commencement Date and continue for the Term specified in Clause 11.2(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:

- (i) 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;



(ii) 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;

(iii) or by Intact to the Customer if there is a change of control of the Customer;

(iv) by Intact to the Customer, 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 [9, 11.4(c)-(e), 11.8-11.10, 11.11(b)-(d), 11.12-11.24 ] will survive termination of this Agreement.

## 11.14 Assignment

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

## 11.15 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.

## 11.16 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.

## 11.17 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.

## 11.18 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.

## 11.19 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.

## 11.20 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.

## 11.21 Third Party Rights

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

## 11.22 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.

## 11.23 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.

## 11.24 Applicable Law

The parties hereby agree that the Agreement concluded between them including any Schedules, proposal, accepted quotation, EULA 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 Signed for and on behalf of Intact:**

By: (Print name of authorised signatory)

\_\_\_\_\_

Designation:

\_\_\_\_\_

Date:

\_\_\_\_\_

**Signed for and on behalf of the Customer**

By: (Print name of authorised signatory):

\_\_\_\_\_

Designation:

\_\_\_\_\_





Date:

\_\_\_\_\_



# SCHEDULE 1

Schedule to be issued in advance of SLA commencing

Schedule 1 - Service Level Agreements		
All levels of support include essential product update cover.		
Target Response Times (business hours)	Response is defined in SLA Clause 7.	
 <b>Severe:</b>	A severe issue is an issue where the Customer has a s This is defined as all users cannot log into their Intact of a problem with a Supported Product.**	
 <b>High:</b>	A high level issue is an issue where a Customer cannot critical function because of a problem with a Support only given to issues which relate to transactional issu	
 <b>Medium:</b>	A medium level issue is an issue where the Customer transactional related problem or question relating to These are usually related to reporting, reconciling, etc	
 <b>Low:</b>	A low level issue would be a general query relating to would not effect the running of the business.**	
Target Resolution Time	Target Resolution Time for <b>Severe Tickets only</b> as de	
Hours of Support	Monday To Friday	
Supervised Updates within business hours	Software Updates 8:30 to 5:00pm Monday to Thursda	
Supervised Updates outside business hours	Software Updates outside normal business hours	
Number of Tickets	Number of Support Tickets allowed per year	
Number of Listed Users / Contacts	Number of named 'Listed Users' to liaise with Intact S	
Methods of contact	Online Helpdesk Support Portal	
Telephone Hotline		
Configuration Change Request*	Configuration Change Request allowed without PO - 1 change - per year	
Year End Services*	One Year End per Company per Year (Business hours checklist has been completed)	
Dedicated Intact Support Point of Contact*		
Intact Account Manager*		
Intact Customer Installation*	Install Intact Software on Customer PCs	
<b>Options</b>		
Bundled ProServe Days *	Consultant to visit with reduced charge	
<b>Optional Support Services</b>	Extended Out Of Hours Support	Weekend Critical (8-12 Saturday, 10-12 Sunday)
	Extended Out Of Hours Support	Bank Holiday Critical (excludes Christmas Day)
	Out of Hours Updates	
	Year End Requests*	Within Working Hours (Applies to Bronze Only)
	Year End Requests*	Outside Working Hours (Silver\Gold)

## Support Options

	BRONZE	SILVER	GOLD	PLATINUM
	Target Response Times			
System DOWN situation. Software System because	12 hours	6 hours	4 hours	1 hours
not perform a business Critical Product. This level is Critical. **	18 hours	10 hours	5 hours	3 hours
System is having a non-Critical Supported Product. Critical. **	48 hours	16 hours	8 hours	6 hours
Critical Supported Product that	0 hours	72 hours	48 hours	32 hours
defined in SLA Clause 7.	48 hours	24 hours	6 hours	4 hours
	8 to 5:30	8 to 5:30	8 to 5:30	8 to 5:30
Priority	Yes	Yes	Yes	Yes
	Chargeable	Chargeable	Yes	Yes
	10	50	100	N/A
Software Support helpdesk	1	3	5	5
	Yes	Yes	Yes	Yes
	Emergency Only	Yes	Yes	Yes
30 minute limit for each	Chargeable	Chargeable	6	12
only & Provided that end	No	Yes	Yes	Yes
	No	No	Yes	Yes
	No	No	Yes	Yes
	Chargeable	Chargeable	Yes	Yes
	N/A	N/A	4 days	6 days

Quotation Provided Upon Request

\* See SLA Clause 4

\*\* See SLA Clause 5(d) for fuller definitions





# SCHEDULE 3

Schedule to be issued in advance of SLA commencing