

Annex I: EULA

EULA

This End User License Agreement (the "EULA"), effective as of the date set forth below (the "Effective Date"), is between INRUPT, INC. a ("Company"), and the licensee identified below and in Schedule 1, attached hereto ("Client"). Client agrees as follows:

1. DEFINITIONS.

1.1 Company Code means Company's proprietary computer programs that are included in the Software.

1.2 Client Agreement means the written agreement accepted by the Client regarding and including the onboarding conditions of which this EULA forms an integral part.

1.2 Documentation means the user guide, help information, information files (e.g., "About" files) and other technical documentation (but not marketing collateral) delivered by Company to Client with the Software, in paper or electronic format.

1.3 Feedback means all analyses, suggestions, data and other feedback and information that are provided by Client and related to the Software or Documentation.

1.4 Services means the software product(s) provided by or on behalf of Company.

2. SERVICES.

2.1 License. Subject to all terms and conditions herein, Company grants Client a non-exclusive, non-transferable right and license to use the Services, in accordance with the Documentation and without modification, solely for Client's internal business purposes.

2.2 Documentation. During the term of this Agreement and subject to all terms and conditions herein, Company grants Client a non-exclusive, non-transferable right and license to use the Documentation, solely in connection with using the Services. Client may make exact copies of the Documentation as reasonably needed to support its authorized use of the Services.

2.3 Conditions. The Services is licensed as a single product and Client may not use its component parts separately unless expressly approved in advance in writing by Company. Client shall not sublicense or distribute any Services or Documentation to any of its clients or other third parties. In addition, Client agrees that its use of the Services shall comply with all other limitations, prohibitions and conditions set forth in the Schedule 1 or elsewhere in this Agreement, including without limitation, any restriction regarding: the number or identity of authorized users; the time period during which the Services may be used; the number of active implementations, territories or other places (such as, a designated Client facility) where the Services may be used; the size or configuration of the system or network with which the Services may be used (based on number of CPUs, number of clusters, data size or other metrics); the purpose for which the Services may be used (such as, trial use or evaluation).

3. CONFIDENTIALITY.

3.1 Scope. The term **Confidential Information** means all trade secrets, know-how, inventions, developments, software and other financial, business or technical information that are disclosed by or for Company in relation to this Agreement. All Services, Documentation and pricing information, and the results of any functional, performance or benchmark testing of the Services, are deemed to be Company's Confidential Information.

3.2 Confidentiality. Client shall use reasonable care to keep Company's Confidential Information secret and, except for the specific rights granted by this Agreement, Client shall not possess, access, use, reproduce or disclose any Confidential Information without Company's prior written consent. Client may disclose Confidential Information only to its employees and contractors who have a need to know in connection with exercising Client's rights hereunder for its internal business purposes and who are bound to safeguard the Confidential Information pursuant to obligations that are at least as protective as the restrictions in this Agreement. Client shall be responsible for any breach of confidentiality by its employees and contractors. Promptly after any termination of this Agreement (or at Company's request at any other time), Client shall return all of Company's tangible Confidential Information, permanently erase all Confidential Information from any storage media and destroy all information, records and materials developed therefrom.

4. PROPRIETARY RIGHTS.

4.1 Restrictions. Unless and only to the extent expressly specified in this Agreement, Client shall not directly or indirectly (a) use any Company Confidential Information to specify, design or develop any software, platform or documentation that is similar to any of the Services or Documentation, (b) disassemble, decompile, reverse engineer or otherwise try to discover any source code or underlying designs, organization, structures, ideas or algorithms of the Services (except and only to the extent these restrictions are expressly prohibited by applicable statutory law), or otherwise circumvent any technological measure that controls access thereto, (c) encumber, rent, lease, sublicense, transfer or distribute any Services or Documentation, or use the Services for the benefit of any third party (including without limitation, on a time-share, service bureau, software-as-a-service or other similar basis), (d) copy, adapt, translate, localize, port, combine, integrate, bundle, create derivative works of or otherwise modify any Services or Documentation, (e) use or allow the transfer, transmission, export or re-export of all or any part of the Services or any product thereof, in violation of any export control laws or regulations of the United States or any other relevant jurisdiction or (f) permit any third party to do any of the foregoing.

4.2 Company. Except for the limited rights and licenses expressly granted hereunder, no other right, license or option is granted (by implication, estoppel or otherwise), no other use is permitted and Company (and its licensors) shall own and retain all rights, title and interests (including all patent rights, copyright rights, trade secret rights and other intellectual property and proprietary rights) in and to the Services and Documentation. Client agrees not to take any action inconsistent with such title and ownership. Client agrees that Company is free to use and exploit the Feedback, and all generalized knowledge, expertise know-how and technologies related to or acquired in connection with this Agreement, in any manner for all purposes (including developing new or improved products and services).

4.3 Markings. Client shall not obscure, alter or remove any printed or on-screen proprietary or legal notice displayed by or contained on or in any copy of the Services or Documentation.

4.4 Third Party Software. The Company Code may interface, inter-operate, link or be delivered with or include software or other technology ("In-Licensed Code") that is licensed from and owned by third parties ("In-Licensors"), the use of which may be subject to additional or different terms set forth in the applicable open source or other license ("In-Licenses"). Client unconditionally agrees that the In-Licensors (a) make no representation or warranty to Client concerning the In-Licensed Code or Services, (b) have no obligation or liability to Client as a result of this Agreement and (c) are intended third party beneficiaries of this Agreement with regard to their own In-Licensed Code.



5. WARRANTY AND DISCLAIMERS.

EXCEPT , AS SET OUT HEREIN, THE SOFTWARE, AND DOCUMENTATION ARE PROVIDED "AS IS" WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND. THERE ARE NO WARRANTIES THAT THE SOFTWARE WILL BE COMPATIBLE WITH ANY APPLICATION, HARDWARE OR ENVIRONMENT, OR THAT THE SOFTWARE WILL MEET LICENSEE'S BUSINESS REQUIREMENTS, OR (EXCEPT AS SET FORTH IN COMPANY'S THEN-CURRENT STANDARD SERVICE LEVEL AGREEMENT) THAT OPERATION OF THE SOFTWARE WILL ACHIEVE ANY RESULTS OR BE UNINTERRUPTED OR ERROR-FREE. TO THE FULLEST EXTENT PERMITTED BY LAW, COMPANY (FOR ITSELF AND ITS LICENSORS) HEREBY DISCLAIMS ALL OTHER REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, REGARDING THE SOFTWARE, DOCUMENTATION AND SERVICES INCLUDING, WITHOUT LIMITATION, ALL IMPLIED WARRANTIES OF ACCURACY, INTEGRATION, TITLE, NON-INFRINGEMENT, QUIET ENJOYMENT, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE AND ALL WARRANTIES ARISING FROM ANY COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE.

6 LIMITATION OF LIABILITY.

EXCEPT TO THE EXTENT THAT ANY EXCLUSION OR LIMITATION OF LIABILITY IS VOID, PROHIBITED OR UNENFORCEABLE BY APPLICABLE LAW, IN NO EVENT SHALL COMPANY (OR ITS LICENSORS) BE LIABLE CONCERNING THE SUBJECT MATTER OF THIS AGREEMENT, REGARDLESS OF THE FORM OF ANY CLAIM OR ACTION (WHETHER IN CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE), FOR ANY (A) MATTER BEYOND ITS REASONABLE CONTROL, (B) LOSS OF DATA, LOSS OR INTERRUPTION OF USE, OR COST TO PROCURE SUBSTITUTE TECHNOLOGIES, GOODS OR SERVICES, (C) INDIRECT, PUNITIVE, INCIDENTAL, RELIANCE, SPECIAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES INCLUDING, BUT NOT LIMITED TO, LOSS OF BUSINESS, REVENUES, PROFITS, INVESTMENTS OR GOODWILL OR (D) DAMAGES IN THE AGGREGATE IN EXCESS OF \$1,000, EVEN IF COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THESE LIMITATIONS ARE INDEPENDENT FROM ALL OTHER PROVISIONS OF THIS AGREEMENT AND SHALL APPLY NOTWITHSTANDING THE FAILURE OF ANY REMEDY PROVIDED HEREIN.

7. GENERAL PROVISIONS.

7.1 Entire Agreement. This Agreement (including the exhibit) constitutes the entire agreement, and supersedes all prior negotiations, understandings or agreements (oral or written), between the parties about the subject matter of this Agreement. Any different or additional terms on any related purchase order, confirmation or similar form, even if signed by the parties hereafter, shall have no effect under this Agreement. This Agreement may be executed in one or more counterparts, each of which shall be an original, but taken together constituting one and the same instrument. Execution of a facsimile copy (including PDF) or by electronic signature (such as DocuSign) shall have the same force and effect as execution of an original, and a facsimile or electronic signature shall be deemed an original and valid signature. No change, consent or waiver under this Agreement will be effective unless in writing and signed by the party against which enforcement is sought. The failure of Company to enforce its rights under this Agreement at any time for any period will not be construed as a waiver of such rights. Except as expressly specified otherwise, each right and remedy in this Agreement is in addition to any other right or remedy, at law or in equity. If any provision of this Agreement is determined to be illegal or unenforceable, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable. This Agreement is in English only, which language shall be controlling in all respects. No version of this Agreement in another language shall be binding or of any effect.

7.2 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Ireland without regard to its conflicts of law provisions. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement. All disputes hereunder shall be finally settled by arbitration in accordance with the Rules of Arbitration of the International Chamber of Commerce as currently in force (the "Arbitration Rules"). The place of arbitration shall be Dublin, Ireland. There shall be one (1) arbitrator. The language to be used in the arbitral proceedings shall be English. All decisions of the arbitrator shall be in accordance with the terms of this Agreement. Judgment upon the award so rendered may be entered in a court having jurisdiction or application may be made to such court for judicial acceptance of any award and an order of enforcement, as the case may be.

7.3 Relief. The parties agree that, in the event of any breach or threatened breach of Section 3 or 4, Company will suffer irreparable damage for which it will have no adequate remedy at law. Accordingly, in addition to any other remedy, Company shall be entitled to injunctive and other equitable remedies to prevent or restrain such breach or threatened breach, without the necessity of proving actual damages or posting any bond or surety.

7.4 Notices. Any notice or other communication hereunder shall be in writing and either personally delivered or sent via confirmed facsimile, recognized express delivery courier or certified or registered mail (prepaid and return receipt requested), addressed to the other party at its address specified herein, or at such other address designated in a subsequent notice. All notices shall be in English, effective upon receipt.

7.5 Assignment. This Agreement and the rights and obligations hereunder may not be assigned or otherwise transferred by Client without the prior written consent of Company. Any attempted transfer in violation hereof will be void and of no effect. This Agreement will be binding upon, and inure to the benefit of, the successors, representatives, and permitted assigns of the parties.

7.6 Independent Contractors. The parties shall be independent contractors in their performance under this Agreement, and nothing contained herein will constitute either party as the employer, employee, agent or representative of the other party, or both parties as joint venturers or partners for any purpose.

IN WITNESS WHEREOF, intending to be legally bound, Client has caused its duly authorized officer to execute this Agreement as a sealed instrument, as of the Effective Date.

CLIENT

By: _____
Name:
Title:

