



WRITEBACK

Free Software EULA End-User License Agreement

WB.EN.05.01

ONLY APPLICABLE TO XPAND IT FREE SOFTWARE

This End-User License Agreement (“EULA”) states the terms and conditions agreed between you, (“User”) (either an individual or, an entity and its affiliates whose details are provided to Xpand IT), and Xpand IT (“Provider”), to use free Software. This EULA applies from the date when the User receives the Software from a third-party entity or Xpand IT (“Download”). An amendment or addendum to this EULA may accompany the Software and any such amendment or addendum whose terms shall be considered part and shall of, prevail over the EULA.

By installing, copying, downloading or otherwise using in any way the Software, or by clicking a box indicating your acceptance, you agree to be bound by the terms of this EULA as a User. If you are entering into this agreement on behalf of an entity, you represent that you have the authority to bind such entity to the EULA and are agreeing to the EULA on its behalf.

IF YOU DO NOT AGREE TO THE TERMS OF THIS EULA, YOU MAY NOT INSTALL, COPY, DOWNLOAD OR OTHERWISE USE THE SOFTWARE.

1. Definitions

“**Accessible Code**” means source code that is unprotected and accessible.

“**Affiliate**” means another entity controlled by or under common control with the subject entity. “Control,” for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests or of the voting directors of the subject entity.

“**Authorized User**” means a person who accesses and uses the Software under a User License.

“**Cloud Products**” mean Xpand IT Software hosted in the cloud.

“**Data Functions**” mean functions included in the Software to obtain information about its usage and data from the servers where the Software is installed. The User may freely disconnect the Data Functions at any moment.

“**Embedded Software**” means any third-party software that may contain Accessible Code, Protected Code or Media licensed by Provider from a third- party and embedded in the Software.

Free Software EULA

“**Fees**” mean all fees and expenses payable by the User to Provider to use the Software and any Maintenance or User Licenses as applicable.

“**Free License**” means a license for which the Fees are waived by the Provider.

“**Maintenance**” means the provision by the Provider to the User of Software updates and/or enhancements made generally available to customers from time to time, and online technical support for the sole purpose of addressing technical issues relating to the use of the Software.

“**Media**” means all images, icons, text files, pdfs or other static non-code assets contained within the Software.

“**OEM Distribution**” means distribution of the Software either as a bundled add-on to, or embedded component of, another application with such application being made available to its users as, but not limited to, an on-premises application, a hosted application, a Software-as-a-Service offering or a subscription.

“**Paid License**” means a license for which Fees have not been waived by the Provider.

“**Parties**” means either the Provider or the User or both.

“**Products**” means the Software, Maintenance, Cloud Products and other services or data, distributed by Xpand IT or any Reseller.

“**Protected Code**” means any source code that is protected against access by the User and any third party without the Provider’s prior written permission and is otherwise not accessible under this EULA.

“**Download**” means the process of obtaining the Software from either Xpand IT or any other website.

“**Software**” means the Provider’s “Xpand IT” branded software that accompanies this EULA, which may include computer software, Accessible Code and Protected Code, associated media, Media, printed materials, electronic or online documentation, Internet-based services and Embedded Software.

“**Term**” means the moment up to which one License is valid.

“**User License**” means a license granted under this EULA to the User to permit an Authorized User to use the Software.

“**Xpand IT**” means Xpand Solutions - Informática e Novas Tecnologias, Lda.

2. Grant of License

The Software is licensed, not sold. Upon User’s acceptance of this EULA, the Provider grants the User the non-exclusive and a non-transferable right to use the Software subject to the following conditions:

2.1. General License Terms

2.1.1. Scope

Each License granted by the Provider under this EULA is unless otherwise specified in this EULA or agreed by the Provider in writing a worldwide, non-exclusive and non-transferable authorization to use the Software up to its Term.

User must not, whether through negligent act or omission, or without the prior written consent of the Provider, which may be withheld at its sole discretion and conditions: (a) decompile; reverse engineer; disassemble; modify; adapt; create derivative works from; or otherwise attempt to derive; any part or whole of the Software; (b) directly or indirectly access or use any Embedded Software independently of the rest of the Software; (c) sell; sublicense; rent, redistribute; reproduce; transmit; circulate; disseminate; translate or reduce to or from any electronic medium or machine readable form the Software or any data/information not owned by the User which is provided to the User through the Software to a person who is not an Authorized User; (d) vary or amend the Software (including any Embedded Software; Protected Code or Accessible Code); (e) except as otherwise permitted in this EULA, publish; promote; broadcast; circulate or refer publicly of the Provider’s name; trade name; trademark; service mark or logo; (f) commit any act or omission the likely result of which is that the Provider or any of its third-party suppliers reputation will be brought into disrepute or which could reasonably be expected to have or does have a material and adverse effect on the Provider’s interests; (g) distribute the Software via OEM

Free Software EULA

Distribution without entering into a separate OEM Distribution Agreement with this Provider; or
(h) copy or embed elements of the Accessible Code contained in the Software into other software.

2.1.2. Duration

Subject to the terms of this EULA and unless terminated earlier in accordance with this EULA, the term granted hereunder shall be perpetual.

2.1.3. Protection Mechanisms

The Software includes license protection mechanisms that are designed to manage and protect the intellectual property rights of Provider and its third party suppliers. User must not modify, alter, attempt to defeat or defeat such protection mechanisms or the use rules that the protection mechanisms are designed to enforce. Any such violation by the User will result in the immediate termination of the License.

2.1.4. Data Functions

The Software does not contain any functions created to obtain data regarding the server and usage of the Software.

2.1.5. Responsibility for Non-Controlled Systems

If the Provider permits the User to install the Software or make the Software available for use on hardware systems not owned, leased or controlled by the User ("Non-controlled Systems"), the User will ensure users of such Non-Controlled Systems will comply to the terms of this EULA; and the User will indemnify the Provider against all costs, damages and loss it suffers arising from such installation or use of the Software on Non-controlled Systems.

3. Fees

This is a free software and thus there are no fees associated with the Download.

4. Maintenance and Support

4.1. Additional Software

This EULA applies to updates, supplements, add-on components, or Internet-based services components, of the Software (“Supplementary Software”) that the Provider may provide to the User or make available to the User after the date the User obtains its initial copy of the Software, unless the Provider provides other terms along with any Supplementary Software. The Provider reserves the right to discontinue any Internet-based services provided to the User or made available to the User through the use of the Software.

4.2. Support Services

Provider may at its sole discretion, offer support services but there will be no SLA associated with these services.

4.3. Product Enhancements and Consultancy

The User may agree to pay the Provider for additional services either to implement specific features on the product or to provide consultancy. Such services will be subject separate agreement or commercial proposal and will consider the payment of additional fees.

5. Intellectual Property

5.1. Ownership and Reservation of Rights

The Provider retains all rights, title and interest in and to the Software (other than Embedded Software), as well as all intellectual property rights (such as copyright, patent and trademark) in and to the Software not expressly granted to User in this EULA. The Software is protected by copyright and other intellectual property laws and treaties. The User does not acquire any rights of ownership in the Software hereunder.

5.2. Embedded Software

The User acknowledges that the Software contains Embedded Software and that in addition to the obligations of this EULA, additional obligations may apply in relation to any use of Embedded

Software by the User, which is not in accordance with the use of the Software as permitted under the terms of this EULA. In such circumstances, the User must consult the relevant third-party to acquire any necessary licenses and consents in relation to its use of any Embedded Software.

5.3. Benchmarking

While the User is permitted to conduct performance and comparison “benchmarking” in relation to the Software as a whole against other software, the User must not conduct any “benchmarking” in relation to the Software or any part thereof.

5.4. User Shall Not Remove Markings

User may not remove any titles, trademarks or trade names, copyright notices, legends, or other proprietary markings on or in the Software. User is not granted any rights to any trademarks or service marks of Provider.

6. Warranty and Disclaimer

6.1. Due Authority

Each party represents and warrants that it has the legal power and authority to enter into this Agreement, and that, if you are an entity, this Agreement and each Order is entered into by an employee or agent of such party that is empowered with all necessary authority to bind such party to the terms and conditions of this Agreement.

6.2. Warranty Disclaimer

ALL PRODUCTS ARE PROVIDED “AS IS,” AND XPAND IT AND ITS PARTNERS EXPRESSLY DISCLAIM ANY AND ALL WARRANTIES AND REPRESENTATIONS OF ANY KIND, INCLUDING ANY WARRANTY OF NON-INFRINGEMENT, TITLE, FITNESS FOR A PARTICULAR PURPOSE, FUNCTIONALITY, OR MERCHANTABILITY, WHETHER EXPRESS, IMPLIED, OR STATUTORY WITH REGARD TO THAT PRODUCTS. YOU MAY HAVE OTHER STATUTORY RIGHTS, BUT THE DURATION OF STATUTORILY REQUIRED WARRANTIES, IF ANY, SHALL BE LIMITED TO THE SHORTEST PERIOD PERMITTED BY LAW. XPAND IT SHALL NOT BE LIABLE FOR DELAYS, INTERRUPTIONS, SERVICE FAILURES AND OTHER PROBLEMS INHERENT IN USE OF THE

Free Software EULA

INTERNET AND ELECTRONIC COMMUNICATIONS OR OTHER SYSTEMS OUTSIDE THE REASONABLE CONTROL OF XPAND IT. TO THE MAXIMUM EXTENT PERMITTED BY LAW, NEITHER XPAND IT NOR ANY OF ITS THIRD PARTY SUPPLIERS MAKES ANY REPRESENTATION, WARRANTY OR GUARANTEE AS TO THE RELIABILITY, TIMELINESS, QUALITY, SUITABILITY, TRUTH, AVAILABILITY, ACCURACY OR COMPLETENESS OF ANY PRODUCTS OR ANY CONTENT THEREIN OR GENERATED THEREWITH, OR THAT: (A) THE USE OF ANY PRODUCTS WILL BE SECURE, TIMELY, UNINTERRUPTED OR ERROR-FREE; (B) THE PRODUCTS WILL OPERATE IN COMBINATION WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEM, OR DATA; (C) THE PRODUCTS (OR ANY PRODUCTS, SERVICES, INFORMATION, OR OTHER MATERIAL DOWNLOADED OR OBTAINED BY YOU THROUGH THE PRODUCTS) WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS); (D) ANY STORED DATA WILL BE ACCURATE OR RELIABLE OR THAT ANY STORED DATA WILL NOT BE LOST OR CORRUPTED; (E) ERRORS OR DEFECTS WILL BE CORRECTED; OR (F) THE PRODUCTS (OR ANY SERVER(S) THAT MAKE A HOSTED SERVICE AVAILABLE) ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS.

7. Breach by User

7.1. General

If the User discovers it has breached any of its obligations under this EULA and in particular, but not limited, to the obligations in Clause 7, the User must immediately report such breach to the Provider in writing.

8. Investigation of Unauthorised Use and Distribution

If the Provider reasonably suspects that the Software has been distributed to or obtained by any person or party without the Provider's prior written consent, that Embedded Software is being varied or accessed or used independently of the Software or that User is otherwise breaching a term of this EULA and in particular, but without limitation, its obligations under Clause 7, the Provider reserves the right to require the User to provide an unqualified certificate executed by

the User's auditor verifying compliance with the terms of this EULA. Such requests shall be made no more frequently than once per calendar year. If such an unqualified certificate is not received by the Provider within ninety (90) calendar days of being required, it will be considered that a breach of this EULA has occurred, allowing the Provider to terminate the licenses granted under this EULA.

9. Termination

9.1. Without prejudice to any other rights and in addition to any other termination rights in this EULA, the Provider may terminate with immediate effect this EULA, through a written notification sent to the User, if

(a) the User fails to comply with the terms and conditions of this EULA and does not amend that breach within fifteen (15) days from the date the User receives from the Provider the notification of said breach; or (b) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of User (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the User with one or more other companies or the solvent reconstruction of the User; or (c) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over User (being a company).

9.2. Immediately upon termination of a license granted under this EULA, the User must at its own cost:

(a) cease permitting access to and ensure that all Authorized Users immediately cease all use of the Software; and (b) remove all copies of the Software from its computer systems or any Uncontrolled Systems; and (c) provide the Provider with written certification that it has destroyed all copies of the Software including but not limited to all Accessible Code in its possession, custody or control.

9.3. Upon at least thirty (30) days' notice, the Provider reserves the right to terminate any Internet-based services provided to the User or made available to the User through the use of the Software.

10. Indemnification

10.1. Indemnification by Provider

Subject to Clause 12, the Provider will indemnify and hold harmless the User against all costs, expenses, losses and claims made against the User as a result of any infringement of a third party's intellectual property rights arising from the User's or its Authorized Users use of the Software. The User must notify promptly the Provider of the charge of infringement or of the legal proceeding, give the Provider sole control of the defense and related settlement negotiations, and the User must provide the Provider, at the Provider's expense, with reasonable assistance and information, but no cost or expense shall be incurred for the account of the User without its prior written consent.

If the Software becomes, or in the opinion of the Provider may become, the subject of a claim of infringement of any third party's intellectual property rights, the Provider may, at its option and in its discretion: (a) procure for the User the right to use the Software free of any liability; (b) replace or modify the Software to make it non-infringing. The foregoing states the sole liability of XPAND IT and the exclusive User remedy for any infringement of intellectual property rights by the Software or any other items provided by XPAND IT under this EULA.

10.2. Indemnification by User

The User will indemnify and hold harmless the Provider against all costs, expenses, losses and claims made against Provider as a result of any infringement of a third party's intellectual property rights arising from the User's or its Authorized User's unauthorized use of the Software under this EULA.

The Provider must notify promptly the User of the charge of infringement or of the legal proceeding, give the User sole control of the defense and related settlement negotiations, and the Provider must provide the User, at User's expense, with reasonable assistance and information, but no cost or expense shall be incurred for the account of the Provider without its prior written consent.

11. Limitation of Liability

11.1. Provider shall not be liable to the User where faults arise from:

- (a) the possession, use, development, modification or maintenance of the Software (or any part thereof) by the User other than in accordance with this EULA, if the infringement would have been otherwise avoided;
- (b) misuse, incorrect use of or damage to the Software from whatever cause (other than any act or omission by;
- (c) any breach of the User's obligations under this EULA;
- (d) any modification not authorized by the Provider resulting in a departure from this EULA; or
- (e) any operator error on the part of the User.

11.2. Limitation on Damages

Notwithstanding anything in this Agreement and except for liabilities arising from (i) the indemnity obligations under Clause 10 (indemnity), (ii) the gross negligence or willful misconduct of a party, or (iii) the breach of a party's obligations under Clause 5 (IP), in no event shall (a) the Provider or its third-party suppliers be liable with respect to any subject matter of this Agreement under any contract; tort including negligence or strict liability; indemnity or other legal, contractual or equitable theory for any indirect, special, punitive, incidental or consequential damages, however caused and whether or not advised in advance of the possibility of such damages; damages for lost profits or lost data; or cost of procurement of substitute goods, technology or services; or (b) the Provider's aggregate liability arising under, with respect to, or in connection with this Agreement exceed three times the Fees actually paid by the User for the Software.

12. Data Protection

The Licensee agrees to execute the Data Processing Addendum.

13. Amendment

This EULA may not be amended except with the written and specified agreement of the Provider whose consent may be withheld at its complete discretion without any requirement to provide reasons.

14. Assignment

User may assign this EULA to: (i) succeeding parties in the case of a merger, acquisition or change of control; or (ii) if User is a supplier to a government agency; provided, however, that in each case, (a) XPAND IT is notified in writing within ninety (90) days of such assignment, (b) the assignee agrees to be bound by the terms and conditions contained in this EULA and (c) upon such assignment the assignee makes no further use of the Software licensed under this EULA.

The Provider may assign its rights and obligation under this EULA without the consent of the User. Any permitted assignee shall be bound by the terms and conditions of this Agreement.

15. Export Restrictions

The export of the Software from the country of original Download may be subject to control or restriction by applicable local law. The User is responsible for determining the existence and application of any such law to any proposed export and for obtaining any needed authorization. The User agrees not to export the Software from any country in violation of applicable legal restrictions on such export.

16. Governing Law and Exclusions

16.1. Governing Law and Venue

This EULA and any disputes or claims arising out of or in connection with its subject matter or formation (including non-contractual disputes or claims) are governed by and construed in accordance with the laws of Portugal and any legal action or proceeding arising out of it will be

brought exclusively in the Tribunal da Comarca de Lisboa and each party irrevocably submits to the jurisdiction and venue of that court.

16.2. Exception from Jurisdiction

Notwithstanding the foregoing, the parties reserve the right to seek and obtain injunctive relief, whether in the form of a temporary restraining order, preliminary injunction, injunction to enforce an arbitration award, or other order of similar import, including obtaining full payment of all fees and costs under this Agreement from any court of competent jurisdiction (e.g., local courts at the User's place of residence) prior to, during, or after commencement or prosecution of any other court or arbitration proceedings or the final decision and award of the arbitrators.

16.3. Exclusion of UN Convention

The terms of the United Nations Convention on Contracts for the Sale of Goods do not apply to this EULA.

17. Entire Agreement

17.1. This EULA (and any addendum or amendment to this EULA that is included with the Software) is the entire agreement between the User and Provider relating to the Software and they supersede all prior or contemporaneous oral or written communications, proposals and representations with respect to the Software or any other subject matter covered by this EULA.

17.2. Each party acknowledges that, in entering into this EULA (and the documents referred to in it), neither relies on any statement, representation, assurance or warranty ("Representation") of any person (whether a party to this EULA or not) other than as expressly set out in this EULA or those documents.

17.3. Nothing in this clause shall limit or exclude any liability for fraud.

18. Notices

All notices to Provider must be sent to:

Xpand IT - Edifício Ageas Tejo, Praça Príncipe Perfeito nº 2 3º piso, 1990 – 278 Lisboa

E-mail: mail@xpand-it.com

All notices to the User will be sent to the physical address or the e-mail address provided by User upon Download of the software.

Notice will be deemed received and properly served twenty-four (24) hours after an electronic communication (including e-mail) is sent, or three (3) days after the date of posting of any letter. In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that such letter was properly addressed, stamped and placed in the post and, in the case of an electronic communication, that such e-mail was sent to the specified e-mail address of the addressee.

19. Waiver

19.1. If the Provider fails, at any time during the term of this EULA, to insist upon strict performance of any of the User's obligations under this EULA, or if the Provider fails to exercise any of the rights or remedies to which it is entitled under this EULA, this shall not constitute a waiver of such rights or remedies and shall not relieve the User from compliance with such obligations.

19.2. A waiver by the Provider of any default shall not constitute a waiver of any subsequent default.

19.3. No waiver by the Provider of any of these terms and conditions shall be effective unless it is expressly stated to be a waiver and is communicated to the User in writing.

20. Severability

20.1. If any provision of the EULA (or part of a provision) is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.

20.2. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable and to give effect to the commercial intention of the parties.

21. No Partnership

Nothing in the EULA is intended to, or shall be deemed to, establish any agency, partnership or joint venture between any of the parties, constitute any party the agent of another party, nor authorize any party to make or enter into any commitments for or on behalf of any other party.

22. Rules of Interpretation

In this EULA, the following rules apply: (a) a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality); (b) a reference to a party includes its personal representatives, successors or permitted assigns; (c) the headings in this EULA are inserted for convenience only and shall not affect its construction; (d) a reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it; (e) a reference to one gender includes a reference to the other gender; (f) any phrase introduced by the terms including, include, in particular or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and (g) a reference to writing or written includes faxes, e-mails, communications via websites and comparable means of communication.

23. Survival

Clauses 1, 2, 3, 4, 4.1, 5.1, 5.2, 5.4, 6, 9, 10, 11, 16, 17, 18 and 22 shall survive any termination of this EULA.

Change History

Version	Review date	Comments