

## END USER LICENSE AGREEMENT IDYN

**This End User License Agreement (hereafter: EULA) apply to the use of the Software. By accepting this EULA or by installing, have installed, subscribing to or using the Software, you agree to and accept all the terms inserted in this EULA.**

### 1. Definitions

*Agreement:* the agreement with respect to use of the Software, including this EULA.

*Customer:* the customer who enters into the Agreement.

*End-User:* shall have the meaning provided in article 3.2.

*Enhancement:* the delivery of Updates.

*GDPR:* the Regulation of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (repealing the EU Data Protection Directive 95/46/EC), together with the codes of practice, codes of conduct, regulatory guidance and standard clauses and other related legislation resulting from the GDPR as updated from time to time;

*idyn:* idyn BV, a private company with limited liability construed in accordance with the laws of the Netherlands with its principal office located at Binnen 1, 4271 BV Dussen, the Netherlands.

*Party:* Customer or idyn.

*Software:* the software of idyn in object code as specified in the Agreement, including the technical documentation and Updates provided under the Agreement.

*System:* the installation of Business Central, in which the Software of idyn is installed.

*Update:* a release of the Software, issued by idyn at its sole discretion, which may incorporate problem resolutions, new or improved features and/or changes relating to new versions of Microsoft Dynamics NAV or Microsoft Dynamics 365 Business Central.

### 2. Ownership

Customer acknowledges that the Software and all copyrights, trade mark rights, trade secrets and other rights, title and interest therein, are the sole property of idyn or its related entities (or third-party licensor). Customer shall gain no right, title or interest in the Software by virtue of this Agreement other than the non-exclusive right of use granted herein.

### 3. Scope of license

3.1 Subject to the terms and conditions of the Agreement and in consideration of the payment of all applicable license fees, idyn grants Customer a limited, non-exclusive, non-transferable and revocable right and license to install, operate and use the Software in accordance with the agreed license model and during the term agreed upon in the Agreement.

#### LICENSE MODEL

The license of the Software is based on:

- the number of copies of the Software Customer installs in Microsoft Dynamics NAV or Microsoft Dynamics 365 Business Central databases,
- number of users,
- number of legal entities,
- usage of different components, and/or
- additional modules, functionalities or add-ons

The Software is licensed in accordance with license model agreed between the Parties. There are two models:

### **Subscription License Model:**

idyn grants Customer a license with respect to the Software during the subscription term agreed upon. Enhancement is included in the subscription license. The subscription fee will be invoiced and paid in advance.

### **Purchase License Model:**

idyn grants Customer a purchase license with respect to the Software for an unlimited period of time, always under the explicit condition that Customer has paid for the Enhancement.

For the purchase license, Enhancement is mandatory. Enhancement will be provided on a yearly basis and will be invoiced in advance. If Customer decides not to renew the Enhancement or doesn't pay the Enhancement fee, the purchase license shall automatically terminate at the end of the Enhancement period, for which a payment has been made.

3.2 Customer represents, warrants and agrees that the Software will be used only in accordance with the terms of the Agreement, and only for the benefit and for the internal use of Customer and its subsidiaries (companies more than fifty percent (50%) owned and controlled by Customer). Customer is entitled to only authorize the following users to access and use the Software on behalf of Customer: (i) internal users employed by Customer or (ii) external users that must access to the Software for accessing Customer's data and processes ("End Users"). Customer guarantees that that these End Users will comply with the stipulations inserted in the Agreement and will fully indemnify and hold idyn harmless against all costs, damages and claims resulting from a breach of these stipulations by an End User.

## **4. License restrictions**

4.1 Customer is not entitled to (i) decode, decompile or disassemble the Software or apply techniques of reverse engineering or any other

techniques aimed to access the source code of the Software, except where the rights to do so are mandatory by law and idyn has refused to satisfy any conditions to such rights; (ii) modify, adapt and/or create derivative works based on the Software or any part thereof; (iii) reproduce, assign, transfer, distribute, sub-licence, lease, disclose or otherwise make the Software available to third parties; (iv) make a copy of the Software, without the prior written consent of idyn. Which consent will not be withheld in case of a back-up copy, unless idyn decides to provide such back-up copy itself. A back-up copy may only be installed after involuntary loss of possession or damage and must have the same labels and copyright designations as are present on the original version; (v) delete or alter any trademark, trade name, logo, copyright notice, notice of reservation of rights, or limitation or exclusion of liability included in any part of the Software and/or in the documentation associated with it; or (vi) to permit the use of the Software to a greater number of users or servers or in any other way than agreed upon in the Agreement.

4.2 idyn shall be allowed to take technical measures to protect the Software and/or validate Customer's use of the Software, with respect to agreed restrictions for example with respect to the duration of the right to use the Software or the number of users. Customer shall not be allowed to remove or evade such a technical measure.

## **5. Enhancement**

Enhancement gives the Customer right to receive Updates issued by idyn in its sole discretion. For OnPrem customers idyn will deliver the Updates in electronic format and only through its website/portal. SaaS customers can install Updates by Microsoft tenant management or Microsoft AppSource.

## 6. Limited Warranty

**TERM OF WARRANTY.** The limited warranty applies to the Software for a period of 6 (six) months from the date of the Agreement (meaning the order date). If Customers receives Updates during this period, the limited warranty will apply to the Update for the remainder of this warranty period or for a period of 30 days, whichever is longer.

**LIMITED WARRANTY.** idyn's entire liability and Customer's exclusive remedy under this limited warranty shall be for idyn to repair or replace the Software in the event of an error in the Software. An error shall only mean a substantial failure to meet the functional specifications expressly agreed upon in the Agreement. An error shall only exist if the Customer can prove it and if it can be reproduced. The Customer shall be obliged to notify idyn of errors immediately.

**REMEDY FOR BREACH OF WARRANTY.** If idyn cannot repair or replace the Software, it shall credit the license fees paid for the Software minus a reasonable user fee and terminate this Agreement, without becoming liable for any damage.

**EXCLUSIONS FROM WARRANTY.** The warranty does not cover errors or problems caused by Customer's (including End User's) acts, omissions, mistakes or negligence or the acts or mistakes of others or other events beyond idyn's reasonable control.

## 7. Confidentiality and data protection

7.1 Parties warrant that all the information received by them which is known to be or should be known to be confidential in nature shall remain secret and shall not be disclosed unless a legal obligation mandates disclosure of that information. Information with a confidential nature includes, but is not limited to, information with respect to the object and source code, other

technical information, errors, defects, methods and procedures necessary for the use of the Software, commercial information and the content of the Agreement. Parties shall only use the information for the purpose for which it has been provided. Information shall in any event be considered confidential if it is designated by a Party as such. The duty of confidentiality shall not apply to information which is already in the public domain at the time of disclosure.

7.2 Parties will give notice of the commitments deriving from this article to all employees that have access to any confidential information from the other Party, demanding full compliance with the obligation inserted in this Section. Parties will notify the other Party of any unauthorised use of the confidential information that it has had knowledge of by any means.

7.3 If and insofar Customer receives and process personal data which fall within the scope of the GDPR, it guarantees that with regard to such personal data all obligations inserted in the GDPR will be observed and that it is entitled to process such personal data.

7.4 Customer acknowledges and agrees that idyn will measure and analyse Customer's use of the Software and System, for example for the invoicing of the license fee or for improving the Software, services and the marketing of idyn and/or its partners. The analyses or measurements will only entail aggregated and data and will include the Customer's use of components, additional modules, functionalities or add-ons within the system.

## 8. Limitation of Liability

8.1 Except to the extent prohibited by law, idyn disclaims all warranties (other than as expressly stated in article 6 hereof), express or implied, with respect to the Software and Enhancement provided hereunder, including, without limitation,

warranties of merchantability, non-infringement, title or fitness for a particular purpose.

8.2 In no event is idyn liable for any special, indirect or consequential damages (including lost profits) resulting from (a) the use, performance or non-performance of Software or the Enhancement or (b) an attributable failure of idyn's obligations under the Agreement.

8.3 Notwithstanding any provision in the Agreement to the contrary, the entire liability of idyn for any and all claims arising under the Agreement shall be limited to the actual direct damages of Customer and shall not exceed, in the aggregate, (a) the amount of license fees paid in the one year period prior to the date on which the event giving rise to such damages or losses occurred; and (b) EUR 10,000.- (whichever is the lower). Direct damages in this respect exclusively mean:

- (a) all reasonable costs incurred by Customer to have idyn's performances meet its obligations under the Agreement;
- (b) all reasonable costs incurred by Customer to prevent or limit any direct damages as meant in this article;
- (c) all reasonable costs incurred by Customer to establish the nature and scope of the direct damages as meant in this article.

8.4 The limitations of liability stated in this article shall not apply in the case of damage caused deliberately or through intentional misconduct (*'opzet of grove schuld'*), by the managing board of idyn.

8.5 Establishment of any right to compensation shall in each instance be conditional upon Customer reporting such damage in writing to idyn, within three months of its occurrence.

## 9. Intellectual property rights

9.1 All intellectual property rights to the Software, documentation and any other materials

developed and provided under the Agreement (such as analyses and designs), as well as preparatory materials in that regard shall be held solely by idyn (or third party licensors). Customer shall only acquire the rights of use expressly granted in the Agreement and by law. Any other or more extensive right of Customer shall be excluded.

9.2 Customer will not be entitled to use the trademarks, brand names, logos, trade names, designs or know-how, or any other distinctive sign of idyn, without its prior written consent.

## 10. Audit

idyn may, at any time upon reasonable advance notice, conduct an audit at Customer's premises to ascertain whether Customer's use of the Software is in compliance with the provisions of the Agreement. Customer shall provide all necessary assistance and cooperation in the conduct of such audit and shall grant idyn access to all its premises and computer equipment. If such audit reveals any use of the Software by Customer other than in full compliance with the Agreement, Customer shall reimburse idyn for all reasonable costs and expenses related to such audit in addition to any other liabilities Customer may incur because of such non-compliance.

## 11. Term and termination

11.1 The Agreement will be valid for the term agreed upon in the Agreement.

11.2 In the event of a subscription license, the Agreement shall be automatically renewed at the end of the subscription term, for the same period, unless either Party notifies the other in writing at least two months prior to the expiration of the initial subscription term or then-current renewal term of its intent not to renew the Agreement.

11.3 In case of a purchase license, the Enhancement will be provided on a yearly basis. At the end of each year, the Enhancement shall automatically be renewed for consecutive one-year periods, unless Customer notifies idyn in writing at least two months prior to the expiration of the then-current yearly period of its intent not to renew the Enhancement.

If Customer decides not to renew the Enhancement, the Agreement shall automatically terminate at the end of the then current one-year Enhancement period. As a consequence, the purchase license, granted under the Agreement, shall automatically terminate as well. This means that Customer is no longer entitled to use the Software and its access will be automatically terminated or will have to be terminated by Customer itself.

11.4 Furthermore, idyn is entitled to terminate and/or to suspend the Agreement at any time without liability to the Customer if the Customer: (i) commits a breach of any of the terms of the Agreement (e.g. a non-payment), and if such breach is remediable, fails to remedy that breach within 15 (fifteen) days of the Customer being initially notified in writing of the breach; (ii) applies for a moratorium of payments, is declared bankrupt or otherwise ceases to meet its (financial) obligations; or (iii) suspends or discontinues its business activities.

11.5 Upon termination of the Agreement, any license granted under the Agreement shall automatically terminate and idyn will cancel Customer's access to the Software and/or Customer will terminate its use of the Software and destroy the Software any documentation associated with it, as soon as possible and under no circumstances any later than one (1) week after the termination of the Agreement. On request, Customer will confirm in writing and proof that it has complied with its obligations under this article.

11.6 The termination and/or suspension of the Agreement shall not relieve Customer of its

obligations to pay all fees that have accrued or otherwise are owed by Customer under the Agreement. The stipulations in article 7 – 10 survive the termination of this Agreement and will therefore remain in full force and effect.

## **12. Miscellaneous**

12.1 The Agreement constitutes the full agreement between the Parties with respect to the use and license of the Software and it replaces any prior agreements concerning the subject hereof. The Agreement can only be modified by means of a written agreement signed by the Parties.

12.2 Customer is not entitled to assign or otherwise transfer any rights or obligations under the Agreement, without the prior written consent of idyn. idyn shall be entitled to assign or otherwise transfer its rights and obligations under the Agreement without requiring the consent of Customer.

12.3 idyn retains the right to disclose the identity of any Customer on its website or in any sales or funding efforts or processes of idyn, however, always with due consideration to the interests of the Customer.

12.4 The Agreement will be governed and interpreted in accordance with The Agreement is governed by Dutch law. All disputes that may arise under or in connection with this EULA or the Agreement shall be exclusively submitted to the competent court within the District of Amsterdam, the Netherlands.