



End User License Agreement

End User License Agreement (EULA)

1. DEFINITIONS

- 1.1. "Licensee" shall mean a physical person or legal entity that has acquired a license to the Software.
- 1.2. "EULA" shall mean this standard End User License Agreement.
- 1.3. "NICerp" shall mean NICerp Systems Inc.
- 1.4. "Initial Update Term" shall have the meaning set out in clause 6.3 below.
- 1.5. "Partner" shall mean the authorized reseller or distributor of NICerp from whom the Licensee has purchased the license to the Software.
- 1.6. "Software" shall mean any software (whether provided as downloadable or as an online service), tool, utility, documentation or similar delivered by NICerp including the license file, and any revision, update or upgrade hereto which are made available by NICerp to the End User under the terms and conditions set out in this EULA.
- 1.7. "Working day" shall mean Monday to Friday, except for national holidays in Canada.

2. SCOPE OF THE END USER LICENSE

- 2.1. NICerp hereby grants to the Licensee a non-assignable and non-exclusive right to use the Software in accordance with the terms and conditions set out in this EULA solely for Licensee's own internal business operations. The license is effective upon installation by the Licensee and remains in force until termination by either party.
- 2.2. The Software can be licensed as (i) a perpetual license or (ii) a subscription license that needs to be renewed annually (every 12 months).
 - 2.2.1. A perpetual license gives the Licensee a right to use the licensed version of the Software perpetually.
 - 2.2.2. A subscription license gives the Licensee a right to use the Software (current or at any time latest version) for one (1) year from the date of purchase. The NICerp Pricelist will determine which options are available. If the subscription license is not renewed, the Licensee no longer has any right to use the Software.
- 2.3. The Software is a standard product. It shall be the sole responsibility of the Licensee to ensure that the functions of the Software fulfill the requirements and expectations of Licensee.



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- 2.4. The Licensee's right to use the Software requires that the Licensee has accepted the terms and conditions in this EULA. One license (perpetual or subscription) gives the Licensee the right to use the Software for one physical person or one legal entity, for the number of users and user types acquired, and for one database or one tenant.
- 2.5. Licensee agrees that NICerp may audit Licensee's use of the Software for compliance with this EULA at any time, upon reasonable notice. In the event that such an audit reveals any use of the Software by Licensee other than in full compliance with the terms of this EULA, Licensee shall reimburse NICerp for all reasonable expenses related to such an audit in addition to any other liabilities Licensee may incur as a result of such noncompliance.
- 2.6. In case of termination of the agreement with the Partner, NICerp may with regard to NICerp's Software take over or reassign Licensee of the Partner to another partner.
- 2.7. In case Licensee wants to reassign to another partner than the Partner, Licensee must inform NICerp hereof in writing no later than two (2) months before the end of an update term, cf. clause 6 below.

3. INTELLECTUAL PROPERTY RIGHTS

- 3.1. Licensee shall obtain no rights to the Software. NICerp retains all intellectual property rights to the Software, updates, documentation and all data enclosed in it, including, but not limited to, copyright, trademarks and other rights, titles and interests in the Software.
- 3.2. The Licensee is not permitted to publish the Software without the explicit, written consent of NICerp. This also applies to any documentation delivered by NICerp.
- 3.3. The Licensee may not reverse engineer, decompile or disassemble the Software except when otherwise allowed by mandatory statutory provisions. The Licensee shall always notify NICerp in writing in advance of such acts.
- 3.4. Upon an infringement of NICerp's intellectual property rights, NICerp shall be entitled to terminate this Agreement for cause with immediate effect, as per clause 11.2.

4. USE OF THE SOFTWARE

- 4.1. By installing, copying, or otherwise using the Software, the Licensee agrees to be bound by the terms of this EULA.
- 4.2. The Licensee acknowledges that the use of some parts of the Software and licensing may require connection to the Internet.
- 4.3. Should the Licensee use the Software, including any documentation, for another physical person or legal entity than Licensee, NICerp is entitled to a penalty amounting to two times NICerp's list price for the unpaid End User license. The penalty shall be calculated in accordance with the list price of the End User license valid at the time NICerp becomes aware of the unauthorized use of the Software.



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- 4.4. The Licensee alone is responsible for the backup of all data, configurations and settings stored in the Software.
- 4.5. The usage of NICerp online services on Microsoft Azure (or other cloud computing platforms) is covered by NICerp, based on "fair usage" consumption. This is defined as executing 100 pages (print to printer, PDF, Microsoft Word, preview, Save As...) per user per day, measured as an average over 30 days. Should the number of pages exceed this, NICerp reserves the right to invoice the Licensee for additional cloud computing usage.
- 4.6. When using the NICerp online services, data are transferred to and from the service. This data is not stored or logged by NICerp. The Licensee accepts that NICerp can have access to data as part of a support incident, preventive troubleshooting, debugging or other activities to ensure stable operation of the NICerp online services. NICerp may collect telemetry data about usage of the software for performance, optimization, improvement and statistics.
5. UPDATES
 - 5.1. NICerp will use its best endeavors to ensure on-going development of the Software, including correction of errors and inexpediency and, at the discretion of NICerp, to change the Software with the aim of making the Software compatible with new versions of third-party's standard software.
 - 5.2. Subscription license:
 - 5.2.1. When purchasing a subscription license to the Software an update fee is included in the subscription license, thus the Licensee will have access to relevant updates.
 - 5.3. Perpetual license:
 - 5.3.1. When purchasing a perpetual license to the Software, the purchase of relevant updates is mandatory the first year (the "Initial Update Term"). The Initial Update Term runs from the date of purchase for the following 12 months. The Licensee must pay an update fee for the Initial Update Term corresponding to 16% of the license fee for the Software, according to the NICerp Pricelist.
 - 5.3.2. After the expiry of the Initial Update Term, the Licensee will have access to relevant updates, unless the Licensee has informed the Partner otherwise by giving three months' written notice to the end of an update term (a 12 months' period). The Licensee must pay an update fee for access to these updates corresponding to 16% of the license fee for the Software, according to the NICerp Pricelist.
 - 5.3.3. Should the Licensee decide not to renew, the Licensee will no longer be eligible for any new updates, to support, nor to purchase any additional users or features to the license.
 - 5.4. In the event that the Licensee has terminated this Agreement with or without cause in accordance with the provision in clause 11 and wants to reactivate it, the



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- 5.5. The Licensee acknowledges that updates to the Software may not work with the Licensee's hardware, add-on, third-party software or custom fit adjustments or modifications.
- 5.6. The use of updates is the sole responsibility of the Licensee, and NICerp can under no circumstances be held liable for any problems or inexpediency that updates may cause.
6. SUPPORT
 - 6.1. The Partner is the Licensee's first point of contact and reference in respect to all matters concerning the Software, including but not limited to support.
 - 6.2. NICerp offers online support, by email to Info@NICerp.com. NICerp will use its best efforts to respond to any support question within one (1) working day.
 - 6.3. Support enquiries that are not related to errors that are reproducible in the most recent version of the Software and in the most recent version of the Microsoft Dynamics 365 Business Central standard database and that cannot be answered electronically or that require more in-depth conversation or meetings, will be invoiced according to the NICerp Pricelist.
7. ASSIGNMENT
 - 7.1. The Licensee is not entitled to lend, lease, sublicense, transfer or otherwise assign its rights and obligations given under this Agreement without NICerp's prior written consent. Any assignment shall not be legal without NICerp's prior written consent. Assignment also includes transfer or adoption in connection with a merger, demerger, outsourcing and similar events or activities within and outside the group of companies to which the Licensee belongs.
 - 7.2. NICerp may at any time in full or in part assign its rights and obligations under this Agreement to any third party.
8. INFRINGEMENTS OF THIRD-PARTY RIGHTS
 - 8.1. NICerp represents and warrants that it has the right to license the Software, including any documentation, to the Licensee, and that NICerp holds the necessary rights, titles and licenses to allow the Licensee to perform all rights contemplated by this Agreement, and that the Software does not infringe any third-party's right that is valid within and enforceable in Canada.
 - 8.2. The above representations and warranties do not apply to infringements or misappropriations resulting from modifications of the Software, including any documentation, by the Licensee, or the Licensee's operation or use of the Software with devices, data or software furnished by the Licensee. If the Licensee embeds fonts or any other third-party intellectual properties using the Software, it is the sole responsibility of the Licensee to have the necessary rights to do so.
 - 8.3. If a third party towards the Licensee claims that the Software infringes third-party rights, the Licensee shall immediately inform NICerp in writing and NICerp shall take over the



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defense of the claim. NICerp shall at its cost have full control of any proceedings arising out of any infringement of third-party rights.

8.4. If the Licensee becomes aware of any infringement or potential infringement of the Software it shall promptly notify NICerp in writing.

9. PROVIDED "AS IS"

9.1. The Software and any related documentation is provided "as is" without warranty of any kind, either express or implied, including, without limitation, the implied warranties or merchantability, fitness for a particular purpose. The entire risk arising out of use or performance of the Software remains with Licensee.

9.2. The Software delivered under this Agreement is a standard product, and the Licensee is aware that no software product is faultless in all situations and combinations.

9.3. NICerp shall not be liable for any defects. This Agreement includes neither warranty against defects, nor any warranty of fitness or suitability for a particular purpose.

9.4. Immediately after a reproducible error or defect is discovered or should be discovered the Licensee must give notice to NICerp's Partner whom the Licensee is cooperating at the time of the notification. Upon notification, the Licensee must specify the error or defect.

9.5. NICerp will use its best endeavors to remedy errors and defects which are reproducible in the most recent version of the Software and in the most recent version of the Microsoft Dynamics 365 Business Central standard database.

9.6. The actual scope and procedure for remedy of any errors or defects is at the free and independent discretion of NICerp, who may remedy essential errors and defects by releasing an update of the Software. NICerp will remedy non-essential errors and defects to the extent NICerp finds it necessary.

10. TERMINATION

10.1. The Licensee may terminate this EULA for the future at any time by ceasing the use of the Software and promptly destroying and deleting all copies, including any documentation. The Licensee shall not be entitled to any refund of the license fee.

10.2. In the event that the Licensee fails to comply with any of the terms or conditions of this Agreement, NICerp may terminate for cause the Licensee's right to use the Software, including any documentation, at any time upon a written notice of 30 days. Upon such termination the Licensee must destroy and delete all copies of the Software, including any documentation. The Licensee shall not be entitled to any refund of the license fee upon such termination.

11. LIABILITY OF THE LICENSEE



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11.1. General rules of Canadian law are applicable to the Licensee's breach of contract. In the event of Licensee's breach of any of its obligations set out in this EULA, NICerp shall be entitled to terminate this EULA with immediate effect.

12. LIMITATION OF LIABILITY

12.1. NICerp expressly disclaims any liability, whether expressed or implied with regard to (i) defects and errors, which are not related to the Software, but which are related to external factors, including other software products of the Licensee, (ii) acts or omissions of the Partners of NICerp (iii) the interaction between the Software and any other hardware and/or software environment and organization at the Licensee's location or at any remote location, including but not limited to hosting or data centers (iv) errors, defects and inexpediency of third-party's standard products, delivered by NICerp (v) the Licensee's changes and/or modifications in or with the Software, and (vi) compatibility between the Software and any new version, update etc. of third-party's software.

12.2. NICerp shall not in any way be liable for circumstances related to the non-fulfilment of the Licensee's duties in respect of this Agreement. In no event shall NICerp be held liable for any damage resulting from loss of data, loss of profits or goodwill or other consequential damages. NICerp's liability can under no circumstances exceed the license fee paid by Licensee under the Agreement excluding any update fee paid in accordance with clause 6 above.

13. CHANGES OF THIS AGREEMENT

13.1. NICerp's Partner or distributor of the Software may not under any circumstances deviate from or make changes to these terms and conditions without NICerp's explicit consent in writing, which must be made in accordance with the provisions in NICerp's articles of association relating to the power to bind NICerp.

14. VALIDITY

14.1. If any provision in this Agreement is held to be illegal, invalid or unenforceable, such provision(s) shall nonetheless be enforced to the fullest extent permitted by applicable law, so as to reflect the original intent of the parties. Such provision(s) shall not affect the legality and validity of the other provisions in this Agreement.

15. GOVERNING LAW AND DISPUTE RESOLUTION

15.1. This EULA shall be governed and construed by Canadian law, and supersedes all prior and contemporaneous oral and written proposals and communications respecting the subject matter hereof.

15.2. The Parties will use all reasonable efforts to solve any controversy that may arise from this EULA amicably at senior management levels of both parties. Disputes that cannot be settled amicably shall be settled at the Copenhagen City Court.

16. INTERPRETATION



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- 16.1. If any provision of this EULA is held illegal or unenforceable by any court of competent jurisdiction, such provision shall be deemed separable from the remaining provisions of this agreement and shall not effect or impair the validity or enforceability of the remaining provisions of this agreement.