MICROSOFT SOFTWARE LICENSE TERMS

MICROSOFT DYNAMICS AX 2012 R3

These license terms, together with the related documents specified in section 3 and incorporated herein by this reference, are an agreement ("agreement") between Microsoft Corporation (or based on where you are located, one of its affiliates) and you. Please read them. **This agreement supersedes any license terms embedded in the software.** It applies to the software named above, including the media on which you received it, if any. This agreement also applies to any Microsoft

- updates,
- supplements,
- Internet-based services, and
- support services

for the software, unless other terms accompany those items. If so, those terms apply.

By installing, having installed, attempting to install, or using the software, you accept this agreement. If you do not accept this agreement, you may not install, have installed, attempt to install, or use the software.

If you comply with this agreement, you have the rights below.

1. **OVERVIEW.**

   a. **Software.** The software may include

      - server software;
      - client software that can be installed on devices and/or used with the server software; and
      - additional components that may be separately licensed.

2. **DEFINITIONS.**

   The definitions of certain terms used in this agreement are set forth below. Other terms used in this agreement will have the meaning given to them in the documents specified in section 3.

      - "**affiliate**" means any legal entity that owns, is owned by, or that is under common ownership with a party.
      - "**business process outsourcing**" means the contracting of a specific critical or non-critical business task, function, or process to a third-party service provider, where the services provided include direct or indirect access to the software.
      - "**device**" means a single personal computer, workstation, terminal, handheld computer, mobile phone, personal digital assistant, or other electronic device.
      - "**ERP solution**" means the software that controls your users and financial reporting units.
      - "**internal business purpose**" means managing your business, but not that of an independent third party.
      - "**own**" means more than 50% ownership.
      - "**partner**" means the entity that has signed a channel partner agreement with Microsoft authorizing it to market and distribute copies of the software. As used in this agreement or related documents, references to "partner" refer solely to marketing relationships and do not refer to or imply a legal partnership.
      - "**production environment**" means any environment where you are running an instance of the software to conduct activities for your internal business purpose. It does not include any environment where you are running an instance of the software to develop, test, debug, or perform non-production activities with the software or programs for the software.
      - "**third-party user**" means any user that is not your employee, contractor, customer, or agent.
      - "**you**" means the legal entity that has entered into this agreement with Microsoft, and that entity's affiliates.

3. **INSTALLATION AND USE RIGHTS.**

   a. **Related Documents.** Your rights to use the software are subject to the terms and conditions in (i) the applicable portions of the Product Use Rights document, the current version of which may be accessed via www.microsoft.com/licensing/pur/products.aspx, (ii) the relevant portions of the Product List document, the current

version of which may be accessed via www.microsoft.com/licensing/about-licensing/product-licensing.aspx#tab=2, and (iii) the software license terms referenced in section 3.b. You may also obtain these documents from your Partner. You should review them before you install, have installed, attempt to install, or use the software.

b. Pre-Release Code. The software may include code marked as "pre-release". You may use the pre-release code only in a development or test environment for the software. The pre-release code is not for use with the software in a production environment. Your use of any pre-release code is governed by the software license terms located here: go.microsoft.com/fwlink/?LinkID=330106&clcid=0x409.

4. **ADDITIONAL LICENSING REQUIREMENTS AND/OR USE RIGHTS.**

a. Extensible Code. The software may include code, text, or image files that you are permitted to modify ("Modifiable Code") and use only for your internal business purposes if you comply with the terms below.

i. Right to Use and Modify. The following Modifiable Code is included in the software:

- **Model Files.** You may copy the model files, modify copies of the model files, and incorporate copies of the modified version of those model files only in the software or in programs that you develop for the software.

- **Icons.** You may copy the icons and incorporate copies of the unmodified icons only in programs that you develop for the software.

- **Templates.** You may copy the templates, modify copies of the templates, and incorporate copies of the modified version of those templates only in the software or in programs that you develop for the software.

- **Images.** You may: (i) copy the images and animations ("Images") and incorporate copies of those Images in programs that you develop to demonstrate the software's functionality ("Demo Application"); (ii) manipulate, blend, crop, or modify the copies of the Images to make adjustments to the size, color, brightness, or contrast as necessary to optimize digitization of the Images in the Software or your Demo Application; (iii) incorporate the modified Images into the Software or your Demo Application; and (iv) publicly perform, or publicly display copies of the Images (modified or unmodified) only as part of your Demo Application.

- **Retail Software Development Kit (Retail SDK).** The software may include the following retail components (collectively the "Retail SDK"):

  o   eCommerce Components;

  o   Point of Sale Components;

  o   Mobile Point of Sale Components;

  o   Retail Server Components; and

  o   Retail Services Components.

  The Retail SDK components are described in further detail here: go.microsoft.com/fwlink/?LinkID=330395&clcid=0x409. Microsoft may add or remove components from the Retail SDK from time to time. You may: (w) copy and modify copies of the Retail SDK components; (x) incorporate the modified copies of the Retail SDK components only in programs that you develop for the software; (y) test and deploy your programs that include a Retail SDK component only with the software; or (z) use your program that includes any Retail SDK component only with the software and, if applicable, Microsoft SharePoint.

- **Sample Code.** You may modify, copy, and incorporate the modified source and object code form of code marked as "sample" only in your programs.

ii. Requirements. Microsoft is not responsible for any problems that result from modifications made to the Modifiable Code. Microsoft will not provide technical or other support for any modifications made to the Modifiable Code. For any Modifiable Code that is modified, you must indemnify, defend, and hold harmless Microsoft from any claims, including attorneys' fees, related to the modification or use of your programs that include any Modifiable Code that was modified.

iii. Restrictions. You may not

- alter any copyright, trademark, or patent notice in the Modifiable Code;

- use Microsoft's trademarks in your programs' names or in a way that suggests your programs come from or are endorsed by Microsoft;

- modify any Modifiable Code to run on a platform other than Microsoft operating systems, run-time technologies, or application platforms;

- include Modifiable Code in malicious, deceptive, or unlawful programs; or

- modify the source code of any Modifiable Code so that any part of it becomes subject to an Excluded License. An Excluded License is one that requires, as a condition of use, modification, or distribution, that

  - the code be disclosed or distributed in source code form; or

  - others have the right to modify it.

c. **Third-Party Notices.** The software may include third-party materials (i.e., code or documentation) that Microsoft licenses to you under this agreement. Notices, if any, for the third-party materials are included for your information only.

d. **Included Microsoft Programs.** The software contains other Microsoft programs. If separate license terms accompany those components, the license terms with those components apply to your use of the components instead of these license terms.

- **Microsoft SQL-branded Components.** The software is accompanied by Microsoft SQL Server-branded components, which are licensed to you under the terms of the respective SQL Server licenses located in the "Licenses" folder in the software's installation directory. If you do not accept the applicable Microsoft SQL Server-branded component license terms, you may not use that component.

- **Windows Identity Foundation.** The software contains Microsoft Windows Identity Foundation (KB974405) software ("WIF"). This software is part of Windows. You may use WIF with each validly licensed copy of Windows. You may not use WIF if you do not have a license for Windows. Privacy statement: go.microsoft.com/fwlink/?LinkId=164072.

- **Microsoft .NET Framework Software and Benchmark Testing.** The software includes one or more components of the .NET Framework software which is part of Windows (".NET Components"). The license terms for Windows apply to your use of the .NET Framework software. You may conduct internal benchmark testing of the .NET components. You may disclose the results of any benchmark test of those components, but only if you comply with the conditions set forth at go.microsoft.com/fwlink/?LinkID=66406. Notwithstanding any other agreement you may have with Microsoft, if you disclose such benchmark test results, Microsoft will have the right to disclose the results of benchmark tests it conducts of your products that compete with the applicable .NET Component, but only if it complies with the same conditions set forth at go.microsoft.com/fwlink/?LinkID=66406.

e. **Fictitious Data.** The uniform resource locators (URLs), addresses, names of individuals, companies, cities, states, and other items depicted and referenced in the software or documentation are fictitious in nature. They are provided as examples and illustrations only. No real association or connection is intended or should be inferred.

f. **License Mobility and Outsourcing Software Management.**

- **License Mobility.** You may reassign your ERP Solution licenses, for which you are under a current maintenance plan, to (i) any servers running physical or virtual OSEs dedicated to you and located within the same Server Farm as often as needed, or (ii) from one Server Farm to another, but not on a short-term basis (i.e., not within 90 days of the last assignment).

- **Outsourcing Software Management.** You may install and use permitted copies of the software on servers and other devices that are under the day-to-day management and control of third parties, provided all such servers and other devices are and remain fully dedicated to your use. You are responsible for all of the obligations under your licensing agreement regardless of the physical location of the hardware upon which the software is used.

g. **Complex Software.** The software is complex computer software. Its performance will vary depending on your hardware platform, software interactions, the configuration of the software, and other factors. The software is neither fault tolerant nor free from errors, conflicts, or interruptions.

5. **INTERNET-BASED SERVICES.** Microsoft provides Internet-based services with the software. Microsoft may change or cancel them at any time.

6. **SCOPE OF LICENSE.** The software is licensed, not sold. This agreement only gives you some rights to use the software. Microsoft reserves all other rights. Unless applicable law or a separate written contract with Microsoft gives you more rights despite this limitation, you may use the software only as expressly permitted in this agreement. In doing so, you must comply with any technical limitations in the software that allow you to use it only in certain ways. You may use the software only for your internal business purposes. You also must not:

- work around any technical limitations in the software;

- reverse engineer, decompile, or disassemble the software, except and only to the extent that applicable law expressly permits, despite this limitation;

- make more instances of the software than specified in this agreement, the documents referenced in section 3.a, or allowed by applicable law, despite this limitation;

- publish the software for others to copy;

- distribute, rent, lease, or lend the software; or

- use the software for commercial software hosting services.

Your rights to use the software are perpetual but may be revoked if you do not comply with the terms of this agreement. Rights to use the software do not give you any right to implement Microsoft patents or other Microsoft intellectual property.

7. **BACKUP COPY.** You may make multiple instances of the software for backup, development, and testing purposes, so long as such instances are not used in a production environment and the development is for your internal business purposes only. Your instances may be hosted by a third party on your behalf.

8. **LICENSE TRANSFER.** You may not transfer the software to a third party without Microsoft's prior written consent. If permitted, there may be additional charges for transferring the software to a third party.

9. **ACADEMIC EDITION SOFTWARE.** You must be a "Qualified Educational User" to use software marked as "Academic Edition" or "AE." If you do not know whether you are a Qualified Educational User, visit www.microsoft.com/education or contact the Microsoft affiliate serving your country.

10. **DOWNGRADE.** You have no rights under this agreement to use earlier versions of the software and Microsoft is not obligated to supply earlier versions to you.

11. **EXPORT RESTRICTIONS.** The software is subject to United States export laws and regulations. You must comply with all domestic and international export laws and regulations that apply to the software. These laws include restrictions on destinations, end users, and end use. For additional information, see www.microsoft.com/exporting.

12. **SUPPORT SERVICES.** Microsoft provides support and maintenance services for the software as described at www.microsoft.com/en-us/dynamics/service-plans.aspx. Any such support and maintenance service does not apply to pre-release code included in the software.

13. **ENTIRE AGREEMENT.** This agreement (including the warranty below), and the terms for supplements, updates, Internet-based services, and support services that you use, and the incorporated portions of the Product Use Rights document, the Product List document, and (solely as applicable to pre-release code) the software license terms for any pre-release code are the entire agreement for the software and support services. If there is a conflict between this agreement and the license grant (or the limitations on that license grant) in the incorporated portions of the Product Use Rights document, or the Product List document, then those applicable terms in the Product Use Rights document, or the Product List document will control. If there is any other conflict between this agreement and the Product Use Rights document or the Product List document the terms of this agreement will control.

14. **APPLICABLE LAW.**

   a. **United States.** If you acquired the software in the United States, Washington state law governs the interpretation of this agreement and applies to claims for breach of it, regardless of conflict of laws principles. The laws of the state where you are located govern all other claims, including without limitation claims under state consumer protection laws, unfair competition laws, and in tort.

   b. **Outside the United States.** If you acquired the software in any other country, the laws of that country apply.

   c. **Attorneys' Fees and Costs.** If you or Microsoft files a lawsuit, brings an action, or otherwise pursues a claim against the other in connection with or arising out of this agreement or the software, the prevailing party will be entitled to recover its reasonable attorneys' fees, costs, and other expenses (including any appeal).

15. **LEGAL EFFECT.** This agreement describes certain legal rights. You may have other rights under the laws of your state or country. You may also have rights with respect to the party from whom you acquired the software. This agreement does not change your rights under the laws of your state or country if the laws of your state or country do not permit it to do so.

16. **DEFENSE OF INFRINGEMENT AND MISAPPROPRIATION CLAIMS.** Microsoft will defend you against any claims made by an unaffiliated third party that the software infringes its patent, copyright, or trademark, or misappropriates its trade secret, and will pay the amount of any resulting adverse final judgment (or settlement to which Microsoft consents).

You must notify us promptly in writing of the claim and give us sole control over its defense or settlement. You agree to provide us with reasonable assistance in defending the claim, and Microsoft will reimburse you for reasonable out of pocket expenses that you incur in providing that assistance. The terms "misappropriation" and "trade secret" are used as defined in the Uniform Trade Secrets Act, except in the case of claims arising outside the United States, in which case "trade secret" will mean "undisclosed information" as described in Article 39.2 of the TRIPs agreement and "misappropriation" will mean intentionally unlawful use.

Our obligations will not apply to the extent that the claim or adverse final judgment is based on: (i) your use of the software after Microsoft notifies you to discontinue use due to such a claim; (ii) your combining the software with a non-Microsoft product, data, or business process including third party add-ons or programs; (iii) damages attributable to the value of the use of a non-Microsoft product, data, or business process; (iv)any modification to the software; (v) your distribution of the software to, or its use for the benefit of, any third party; (vi) your use of any pre-release code; (vii) your use of Microsoft trademark(s) without express written consent to do so; or (viii) for any trade secret claim, your acquiring a trade secret (a) through improper means; (b) under circumstances giving rise to a duty to maintain its secrecy or limit its use; or (c) from a person (other than Microsoft or its affiliates) who owed to the party asserting the claim a duty to maintain the secrecy or limit the use of the trade secret. You will reimburse us for any costs or damages that result from these actions.

If Microsoft receives information concerning an infringement or misappropriation claim related to the software, Microsoft may, at its expense and without obligation to do so, either (i) procure for you the right to continue to run the software, or (ii) modify the software or replace it with a functional equivalent, to make it non-infringing, in which case you will stop running the software immediately. If, as a result of an infringement or misappropriation claim, your use of the software is enjoined by a court of competent jurisdiction, Microsoft will, at its option, either procure the right to continue its use, replace it with a functional equivalent, modify it to make it non-infringing, or refund the amount paid and terminate this license.

If any other type of third-party claim is brought against you regarding Microsoft's intellectual property, you must notify us promptly in writing. Microsoft may, at its option, choose to treat these claims as being covered by this section. This section 16 provides your exclusive remedy for third-party infringement and trade secret misappropriation claims.

17. **LIMITATION ON AND EXCLUSION OF DAMAGES. You can recover from Microsoft and its suppliers only direct damages up to the amount you paid for the software, except for claims covered by section 16. You cannot recover any other damages, including without limitation consequential, lost profits, special, indirect, punitive, or incidental damages.**

This limitation applies to:

- anything related to the: (i) software, (ii) services, (iii) content (including without limitation code) on any third party Internet sites, or (iv) third-party programs; and

- claims for breach of contract; breach of warranty, guarantee, or condition; or strict liability, negligence, loss of data, damage to records or data, loss of goodwill, loss as a consequence of a business interruption, or any other tort to the extent permitted by applicable law.

It also applies even if:

- repair, replacement, or a refund for the software does not fully compensate you for any losses; or

- Microsoft knew or should have known about the possibility of the damages.

Some jurisdictions do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation or exclusion may not apply to you.

18. **SELF-AUDIT.** The software includes features that identify the number of users accessing the ERP solution, access rights, and tasks run by each user compared to the licenses acquired by you ("access and usage report"). You must run the access and usage report using the latest version of the usage report tool at least once a year starting from the date you first licensed the software. You may voluntarily share the results of the access and usage report with Microsoft or any other third party, but you are not required to do so except if required under section 19.a.

19. **VERIFYING COMPLIANCE.**

   a. **Right to verify compliance.** You are required to keep records (including proof of purchase) relating to the software you use under this agreement. Microsoft has the right to verify compliance with this agreement, at Microsoft's expense. You agree to provide reasonable cooperation in the event of a compliance audit, including by allowing Microsoft, on request, to access the access and usage report as a tool in conducting the audit.

   b. **Verification process and limitations.** To verify compliance, Microsoft will engage an independent accountant from an internationally recognized public accounting firm, which will be subject to a confidentiality obligation. Verification will take place upon not fewer than 30 days' notice, during normal business hours and in a manner that

does not interfere unreasonably with your operations. As an alternative, Microsoft can require you to complete Microsoft's self-audit questionnaire relating to the software you use under this agreement, but reserves the right to use a verification process as set out above.

    c.   **Verification frequency.** If Microsoft undertakes verification and does not find material unlicensed use (license shortage of 5% or more), Microsoft will not undertake another verification of the same entity for at least one year.

    d.   **Use of Results.** Microsoft and Microsoft's auditors will use the information obtained in compliance verification only to enforce Microsoft's rights and to determine whether you are in compliance with the terms of this agreement. By invoking the rights and procedures described above, Microsoft does not waive its rights to enforce this agreement or to protect its intellectual property by any other means permitted by law.

    e.   **Remedies for non-compliance.** If verification or self-audit reveals any unlicensed use, you must promptly order sufficient licenses to cover your use. If material unlicensed use is found, you must reimburse Microsoft for the costs Microsoft has incurred in verification and acquire the necessary additional licenses at single retail license cost within 30 days.

    f.   **IP Protection Features.** The software may enable third-party intellectual property protection features ("IP Protection Features") that restrict your access to third-party solutions you use, but that are not included with the software. Your use of such third-party solutions is governed by the license terms that accompany those solutions. You agree that Microsoft is not responsible for any failures or problems associated with such IP Protection Features. Microsoft does not, and will not, have any obligation to provide technical or other support for such IP Protection Features. Microsoft does not make any representation or warranty with regards to the functionality associated with those IP Protection Features.

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LIMITED WARRANTY

A. LIMITED WARRANTY. If you follow the instructions, the software will perform substantially as described in the Microsoft materials that you receive in or with the software.

References to "limited warranty" are references to the express warranty provided by Microsoft immediately above. This warranty is given in addition to other rights and remedies you may have under law, including your rights and remedies in accordance with the statutory guarantees under local consumer law.

B. TERM OF WARRANTY; WARRANTY RECIPIENT; LENGTH OF ANY IMPLIED WARRANTIES. The limited warranty covers the software for one year after acquired by the first user. If you receive supplements, updates, or replacement software during that year, they will be covered for the remainder of the warranty or 30 days, whichever is longer. If the first user transfers the software, the remainder of the warranty will apply to the recipient.

To the extent permitted by law, any implied warranties, guarantees, or conditions last only during the term of the limited warranty. Some states do not allow limitations on how long an implied warranty lasts, so these limitations may not apply to you. They also might not apply to you because some jurisdictions may not allow limitations on how long an implied warranty, guarantee, or condition lasts.

C. EXCLUSIONS FROM WARRANTY. This limited warranty does not cover problems caused by your acts (or failures to act), the acts of others, or events beyond Microsoft's reasonable control.

D. REMEDY FOR BREACH OF WARRANTY. Microsoft will repair or replace the software at no charge. If it is not practicable for Microsoft to repair or replace it, Microsoft will refund the amount shown on your receipt for the software. It will also repair or replace supplements, updates, and replacement software at no charge. If it is not practicable for Microsoft to repair or replace them, it will refund the amount you paid for them, if any. You must uninstall the software and return any media and other associated materials to Microsoft with proof of purchase to obtain a refund. These are your only remedies for breach of the limited warranty.

E. CONSUMER RIGHTS NOT AFFECTED. You may have additional consumer rights under your local laws, which this agreement cannot change.

F. WARRANTY PROCEDURES. You need proof of purchase for warranty service.

1. **United States and Canada.** For warranty service or information about how to obtain a refund for software acquired in the United States and Canada, contact Microsoft at:

   - Tel: (800) MICROSOFT;

   - Microsoft Customer Service and Support, One Microsoft Way, Redmond, WA 98052-6399; or

   - visit www.microsoft.com/info/nareturns.htm.

2. **Europe, Middle East, and Africa.** If you acquired the software in Europe, the Middle East, or Africa, Microsoft Ireland Operations Limited makes this limited warranty. To make a claim under this limited warranty, contact either:

   - Microsoft Ireland Operations Limited, Customer Care Centre, Atrium Building Block B, Carmanhall Road, Sandyford Industrial Estate, Dublin 18, Ireland; or

   - the Microsoft affiliate serving your country (see www.microsoft.com/worldwide).

3. **Australia.** If you acquired the software in Australia, contact Microsoft to make a claim at:

   - Tel: 13 20 58; or

   - Microsoft Pty Ltd, 1 Epping Road, North Ryde NSW 2113, Australia.

4. **Outside United States, Canada, Europe, Middle East, Africa, and Australia.** If you acquired the software outside the United States, Canada, Europe, the Middle East, Africa, and Australia, contact the Microsoft affiliate serving your country (see www.microsoft.com/worldwide).

G. NO OTHER WARRANTIES. The limited warranty is the only direct warranty from Microsoft. Microsoft gives no other express warranties, guarantees, or conditions. Where allowed by your local laws, Microsoft excludes implied warranties of merchantability, fitness for a particular purpose, and non-infringement. If your local laws give you any implied warranties, guarantees, or conditions, despite this exclusion, your remedies are described in the Remedy for Breach of Warranty clause above, to the extent permitted by your local

laws.

FOR AUSTRALIA ONLY. In this paragraph, "goods" refers to the software for which Microsoft provides the express warranty. Our goods come with guarantees that cannot be excluded under the Australian Consumer Law. You are entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure. Goods presented for repair may be replaced by refurbished goods of the same type rather than being replaced. Refurbished parts may be used to repair the goods.

H. LIMITATION ON AND EXCLUSION OF DAMAGES FOR BREACH OF WARRANTY. The Limitation on and Exclusion of Damages clause above applies to breaches of this limited warranty.

This limited warranty gives you specific legal rights, and you may also have other rights that vary from state to state and from country to country.

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