

# END USER LICENSE AGREEMENT

## SUBSCRIPTION AGREEMENT REGARDING OnSITE 365

### 1. DEFINITIONS

“**Advania**” means Advania Norge., reg. no. 992009241, Ole Deviksvæi 6C, 0666 Oslo, Norway

“**Confidential Information**” means, with respect to Advania, all information which Advania protects against unrestricted disclosure to others, including but not limited to: (a) the Product and Documentation, including without limitation the following information regarding the Product: (i) computer software (object and source codes), programming techniques and programming concepts, methods of processing, system designs embodied in the Program; (ii) benchmark results, manuals, program listings, data structures, flow charts, logic diagrams, functional specifications, file formats; and (iii) discoveries, inventions, concepts, designs, flow charts, documentation, product specifications, application program interface specifications, techniques and processes relating to the Product; (b) the research and development or investigations of Advania; (c) product offerings, content partners, product pricing, product availability, technical drawings, algorithms, processes, ideas, techniques, formulas, data, schematics, trade secrets, know-how, improvements, marketing plans, forecasts and strategies; and (d) any information about or concerning any third party (which information was provided to Advania subject to an applicable confidentiality obligation to such third party). With respect to End User, “Confidential Information” means all information which End User protects against unrestricted disclosure to others and which (i) if in tangible form, End User clearly identifies as confidential or proprietary at the time of disclosure; and (ii) if in intangible form (including disclosure made orally or visually), End User identifies as confidential at the time of disclosure, summarizes the Confidential Information in writing, and delivers such summary within thirty (30) calendar days of any such disclosure.

“**End User**” shall mean you, a customer of Partner who acquires an EULA to use the Product for its own use and not with the intent to resell, redistribute or use for commercial hosting.

“**EULA**” means this End User License Agreement.

“**Partner**” means an entity who has executed a Partner Agreement with Advania and you are a customer of.

“**Documentation**” means the then-current, generally available, written user manuals and online help and guides for the Product.

“**License**” means the rights to use the Product in accordance with the terms of this EULA.

“**Product**” means: a) the software program OnSite 365 (also called the Base Product); b) the software addition which may be optionally added to the PMAx; and the Documentation, including any associated media and printed materials, and may include any “online” or electronic documentation.

“**Terms and Conditions**” means: General Terms and Conditions of Advania ehf., last reviewed and effective as of 01 February 2020.

“**Territory**” means: [End user location].

“**Subscription**” means a license for the Product on a term basis, for one or more Units

“**Units**” means a metric for a particular subscription license (e.g. licensed user seats, SQM).

### 2. APPLICABILITY OF THE EULA

This EULA is a legal agreement between End User and Advania for the Product. By entering into an agreement for use of the Product, End User agrees to be bound by the terms of this EULA. If End User does not agree to the terms of this EULA, promptly stop using the software product and notify Advania.

The Terms and Conditions also form a part of this EULA. In the case of any discrepancies the provisions of the EULA shall take precedence over the provisions of the Terms and Conditions.

### 3. SUBSCRIPTION LICENSING TERMS

The Product is made available to you on a hosted basis via the internet or is installed on your premises. The Subscription price is based on number of users and number of SQM handled and registered in the solution.

Upon expiration or termination of the Subscription, you will no longer have the right to use the Software Product (provided under such Subscription). You expressly agree to cease use and remove all copies upon expiration or termination of Subscription. If you continue to use the Software Product after the Subscription expires, then you could be held liable for infringement of intellectual property rights, which could result in significant damages being assessed against you or other legal remedies.

**Subscription Validation.** Advania and/or Partner reserve the rights, from time to time, to perform a validation check of the Product. Validation verifies that the Product is properly licensed. It also verifies that no unauthorized changes have been made to the Product.

**Invoicing.** For Subscriptions, Partner will invoice you in regular increments by sending an invoice to a registered address. The invoice will identify the Subscription fees payable by you in accordance with the pricing applicable to each Subscription. Advania may terminate your Subscription for Partner’s non-payment or legal/regulatory reasons, or as otherwise permitted under the Agreement. If Advania terminates your Subscription, Advania will stop billing Partner for that Subscription. Partner may cancel your Subscription at any time, but Advania (if applicable) will not provide you a refund or credit after you have been provisioned with a Subscription. Advania may also charge an early termination fee.

**Subscription Compliance.** If Advania sends Partner notice that you are using the Software Product after subscription license has expired, Partner must either place an order for a renewal or contact you to obtain an order for a renewal. If you do not want to renew your subscription, Partner will notify you that you do not have the right to use the Software Product. Advania (and Microsoft if applicable) reserves the right to contact you directly regarding this issue

In the event that End User changes Dynamics 365 Partner he will become obliged to pay the software subscription fee directly to Advania.

Advania is obliged to provide new releases, scheduled patches/corrections or upgrades to the Software under this End User License Agreement as they become available.

### 4. PRODUCT SUPPORT

**First point of contact.** Partner is your first point of contact and reference in respect of queries, complaints and technical support and will render as much assistance as practically possible.

**Upgrades.** Partner will install any update or improvement of the Software Product as soon as you require, and Partner will keep you fully informed of any available upgrades or improvements.

**Support.** For the purpose of this Agreement, Partner will provide you with the support services in relation to the Product in its own name and for its own account, in accordance with a separate agreement between Partner and you, whereby the services are defined.

### 5. TERM AND TERMINATION.

Unless otherwise specified in writing between Advania and the End User, this EULA is effective until terminated for in accordance with paragraph 2 of this Clause 4.

This EULA will terminate automatically if End-User: (a) becomes insolvent; (b) files any proceeding in bankruptcy or acquires the status of a bankrupt; (c) has a receiver or receiver manager appointed with respect to it or any of its assets; (d) seeks the benefit of any statute providing protection from creditors. Advania may also terminate this EULA for default if End User breaches any provision of this EULA. Any termination of this EULA shall be without prejudice to each right and/or remedy which Advania may possess

against End User under this EULA, at law and/or otherwise. Upon any termination or expiration of this EULA: i) all licenses granted by Advania shall immediately terminate; and ii) End User shall immediately cease use of the Product and return the Product including all copies of the Product and the Documentation to Advania.

#### 6. OWNERSHIP RIGHTS

The Base Product (including but not limited to any images, photographs, animations, video, audio, music, text and "applets" incorporated in to the Product), the Documentation and any copies of the Product are owned by Advania and is protected by Norwegian copyright laws, and other applicable laws in the countries in which it is being used.

Advania retains all right, title and interest in and to the Base Product, including all copyrights, patents, trade secret rights, trademarks and other intellectual property rights therein. The End User's possession, installation, or Use of the Product does not transfer to the End User any title to the intellectual property in the Product, and the End User will not acquire any rights to the Product except as expressly set forth in this EULA. Therefore, the End User must treat the Product like any other copyrighted material. The End user may not copy the Documentation. Any copy of the Product and Documentation authorized to be made hereunder must contain the same proprietary notices that appear on and in the Product and Documentation.

#### 7. RESTRICTIONS

This EULA grants End User non-exclusive and non-assignable named user license to use the Product as provided for in this EULA. End User may not rent or lease the Product or otherwise transfer the rights under this EULA to a third party without the express written consent of Advania to be provided at Advania's sole discretion. End User may not reverse engineer, decompile, or disassemble the Product, except and only to the extent that such activity is expressly permitted by applicable law notwithstanding this limitation.

No other authorization's are given, and all other uses are prohibited. This does not exclude any rights to the extent that they are conferred by and may not be excluded under applicable law.

#### 8. WARRANTY.

The Product is provided "as is" and Advania makes no warranty as to its use or performance. Advania warrants that the Product will conform to the Documentation and that any physical media provided by Advania will be free from manufacturing defects in materials and workmanship until the expiration of the warranty period. Advania does not warrant that the operation of the Product shall be uninterrupted or error free or that all defects can be corrected. All other warranties than specifically and expressly provided for in this Section and this EULA are specifically excluded, including, but not limited to, the implied warranties of merchantability, satisfactory quality, fitness for a particular purpose, title and non-infringement, and any warranty arising by statute, operation of law, course of dealing or performance, or usage of trade. Advania makes no warranty as to third party software, such rights to be claimed from such third party.

The Product as delivered to the End User is warranted to conform substantially as described for a period of ninety (90) days from the date of installation or delivery to the End User, whichever comes first.

#### 9. LIMITATION OF LIABILITY.

Advania will not be responsible under this Agreement

- (i) if the Product is not used in accordance with the Documentation; or
- (ii) if the defect or liability is caused by End-User, a modification or add-on (other than a modification or add-on made by Advania which is provided through an Advania support service or under warranty), or third-party software.
- (iii) if the claim or damages arise from inherently dangerous use of the Product.

To the extent permitted by applicable law and except for claims regarding violation of Advania's intellectual property rights or violation of its confidentiality obligations herein, Advania's total liability and End User's sole and exclusive remedy for any claim of any type whatsoever, arising out of the Product, will be limited to proven direct damages caused by

Advania's sole negligence in an amount not to exceed the price paid by End User for the Product from which such claim arises.

To the extent permitted by applicable law, neither End User nor Advania (including Advania's suppliers) will (i) have liability whatsoever for any special, consequential, punitive, exemplary, incidental, or indirect damages (including, but not limited to, pure economic loss, costs, charges expenses, loss of profits, loss of business, depletion of goodwill or similar losses, loss of goods, loss of contract, loss of use, loss or corruption of data revenues, data and/or use) even if advised of the possibility thereof (ii) be liable for the cost of purchasing replacement services, lost profits or loss of goodwill.

The limitation of liability in this Section 9 shall not apply to liability for death or personal injury to the extent that applicable law prohibits such limitation. Solely to the extent that an applicable jurisdiction does not allow the exclusion or limitation of incidental or consequential damages, this limitation and exclusion does not apply.

The foregoing provisions of this Section 9 shall be enforceable to the maximum extent permitted by applicable law.

Any claim End User may bring under this EULA must be brought within one (1) year after End User licensing of the Program.

#### 10. INDEMNITY

End User will indemnify, hold harmless and, upon Advania's request, defend Advania against any claims, liabilities and expenses (including court costs and reasonable attorney's fees) arising from or related to any failure by End User to comply with any provision of this EULA or arising from or related to the acts or omissions of End User.

Advania will defend the End User from all third party claims, actions and lawsuits that are caused by the Product's infringement of a copyright, trademark or patent in Iceland and in the Territory. Advania's obligations under this Section are subject to (a) End User providing Advania with prompt written notice of any claim or lawsuit, (b) Advania having sole control of the defense and all negotiations for settlement or compromise thereof and (c) End User reasonably cooperating in the defense of such claim or lawsuit. Advania agrees to pay all settlements entered into by Advania, judgments finally awarded against End User and all attorney's fees and expenses for counsel hired by Advania. End User may elect to participate in any such action with counsel of its own choice and expense. Advania will have no liability if the alleged infringement is based upon: (i) a combination of non Advania products, (ii) use for a purpose or in a manner not proscribed by Advania, (iii) use of an older version of Product when use of a newer Product would have avoided infringement (iv) any modification not made with Advania's written approval or any modification made by Advania due to Advania's specific instructions, or (v) any intellectual property right owned or license by End User, its end users or any of its/their affiliates.

#### 11. CONFIDENTIALITY

Confidential Information shall not be reproduced in any form except as required to accomplish the intent of this Agreement. Any reproduction of any Confidential Information of the other shall remain the property of the disclosing party and shall contain any and all confidential or proprietary notices or legends which appear on the original. With respect to the Confidential Information of the other, each party: (a) shall take all Reasonable Steps (defined below) to keep all Confidential Information strictly confidential; and (b) shall not disclose any Confidential Information of the other to any person other than its bona fide individuals whose access is necessary to enable it to exercise its rights hereunder. As used herein "Reasonable Steps" means those steps the receiving party takes to protect its own similar proprietary and confidential information, which shall not be less than a reasonable standard of care. Confidential Information of either party disclosed prior to execution of this Agreement shall be subject to the protections afforded hereunder.

The above restrictions on the use or disclosure of the Confidential Information shall not apply to any Confidential Information that: (a) is independently developed by the receiving party without reference to the disclosing party's Confidential Information, or is lawfully received free of restriction from a third party having the right to furnish such Confidential Information; (b) has become generally available to the public without breach of this Agreement by the receiving party; (c) at the time of disclosure, was known to the receiving party free of restriction; (d) is required to be disclosed by the effect of law, regulation, order of a court or another governmental or administrative body or (e) the disclosing party agrees in writing is free of such restrictions.

**12. MISCELLANEOUS**

This EULA constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof, superseding any and all previous proposals, representations or statement, oral or written. Any previous agreements between the parties regarding the subject matter of this EULA are hereby expressly cancelled and terminated. The terms of this EULA shall supersede the terms of any invoice or purchase order issued by either party. Any modifications to these conditions must be in writing and signed by the authorized representatives of both parties hereto.

The waiver by either party of a breach or default of any of the provisions of this EULA by the other party shall not be construed as a waiver of any succeeding breach of the same or other provisions, nor shall any delay or omission on the part of either party to exercise or avail itself of any right, power or privilege that it has or may have hereunder operate as a waiver of any breach or default by the other party.

If any provision of this EULA is found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect the other provisions of this EULA, and all provisions not affected by such invalidity or unenforceability shall remain in full force and effect. The parties hereby agree to attempt to substitute for any invalid or unenforceable provision a valid or enforceable provision, which achieves to the greatest extent possible the economic legal and commercial objectives of the invalid or unenforceable provision.

**13. FORCE MAJEURE**

Except for payment obligations pursuant to this EULA or any obligations relating to the protection of or restrictions applicable to the other party's confidential information or intellectual property, neither party shall be liable to the other in breach of this EULA by reason of any failure or delay in performance of its obligations to the extent such failure or delay arises (and only for the duration that the affected party is precluded from performing) as a result of acts of God, fire, disaster, explosion, vandalism, storm, adverse weather conditions, national strikes, labor disputes or disruptions, epidemic, wars, national emergencies, riots, civil disturbances, shortages of materials, actions or inactions of Government authorities, terrorist acts, lockout, work stoppages, border delays, failures or interruptions of utilities or telecommunications equipment or services, system failures or any other cause or event that is beyond the reasonable control of the party („Force Majeure“).

The normal trade between the parties shall be restored as soon as any event of Force Majeure ceases. Where an event of force majeure continues for more than 90 days the party not directly involved in the event constituting force majeure, shall be entitled to for with terminate this EULA subject to a written notification to that effect. Where this EULA is terminated under this provision neither party shall be entitled to claim compensation or damages from the other party by reason of the termination.

**14. GOVERNING LAW AND JURISDICTION**

This EULA is governed by and construed in accordance with the substantive laws of Norway.

Any dispute or claim arising out of or in connections with this EULA or in connection with any breach, termination or invalidity thereof, shall be settled by the Court of Oslo, Norway.

This EULA will not be governed by the conflict of laws rules of any jurisdiction or the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded.

.....  
For and on behalf of [Company name]

.....  
Date