



More Dynamics Licensing B.V.

End User License Agreement
AXtension® solutions

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More Dynamics Licensing B.V.
Noorderpoort 9d
5916 PJ Venlo
The Netherlands
Phone : +31 (0)88 4242828
Trade register number : 12060564

1. NOTICE TO CUSTOMER

These license terms ("End User License Agreement" or "EULA") are an agreement between you ("you" or "Customer") and More Dynamics Licensing B.V. ("Licensor"), if you have a valid, signed agreement with AXtension or a Reseller which applies to the use of a specific Solution provided with the trademark AXtension®. Licensor is the intellectual property owner of the Solutions.

By installing, having installed, attempting to install, or using the Solution, you accept this EULA. This EULA is the parties' entire agreement on this subject and merges and supersedes all related prior and contemporaneous agreements. By agreeing to these terms, you represent and warrant that you have the authority to accept this EULA, and you also agree to be bound by its terms.

Capitalized terms used in this EULA and not otherwise defined herein are defined in Exhibit A "Definitions".

2. LICENSE TO SOLUTION

1. **License grant.** Solutions are licensed and not sold. Upon Licensor's acceptance of each Order Confirmation (from a Reseller or from Customer directly), and subject to your compliance with this EULA, Licensor grants you a nonexclusive and limited license to use the Solution ordered. These licenses are solely for your own use and business purposes and are nontransferable except as expressly permitted under this EULA or applicable law.
2. **Duration of licenses.** Licenses granted on a subscription basis expire at the end of the applicable subscription period set forth in the Order Confirmation, unless renewed. You must de-install the Solution from all of your (hosted) systems when your right to use the Solution ends and, if requested, provide proof of de-installation.
3. **End Users.** Customer will control access to and use of the Solution by End Users and is responsible for any use of the Solutions that does not comply with this EULA and the Order Confirmation.
4. **Affiliates.** Customer may order Solutions for use by its Affiliates, if authorized to do so in the Order Confirmation. If licenses are granted for use by Customer's Affiliates under the Order Confirmation, this EULA will apply to such Affiliates, but Customer will have the sole right to enforce this EULA against Licensor. Customer will remain responsible for all obligations under this EULA and for its Affiliates' compliance with this EULA and any applicable Order Confirmation(s).
5. **Reservation of rights.** Licensor reserves all rights not expressly granted in this EULA. Solutions are protected by copyright and intellectual property laws and international treaties. No right will be granted or implied by waiver of estoppel. Rights to access or use Solutions on a device do not give Customer any right to implement Customer's patents or other intellectual property in the device itself or in any other software or devices.
6. **Restrictions.** Except as expressly permitted in this EULA, Customer (or a third party on behalf of Customer) must not (and is not licensed to):
 - copy, modify, reverse engineer, decompile, or disassemble any Solution, or attempt to do so;

- install or use any third-party software or technology in any way that would subject Licensor's intellectual property or technology to any other license terms;
 - work around any technical limitations or restriction in a Solution;
 - upgrade or downgrade parts of a Solution at different times;
 - use a Solution for any unlawful purpose;
 - transfer parts of a Solution separately; or
 - distribute, sublicense, rent, lease, or lend any Solution, in whole or in parts, or use them to offer (hosting) services to a third party;
 - publish (parts of) the Solution for others to copy;
 - download the Solution or its source code except as explicitly authorized.
7. **Microsoft dependence.** The Solutions are designed to be an add-on to Microsoft Dynamics 365. Hence the Solutions shall only function in cooperation with an appropriate Microsoft Dynamics 365 license and in accordance with the Microsoft Online Service Terms (OST). In order to be able to use the Solutions you shall ensure to have a valid and appropriate Microsoft Dynamics 365 license. The Microsoft license and the AXtension license may have a different duration. If the Microsoft license is terminated this does not automatically terminate the AXtension license and vice versa.
8. **Third-party software.** Solutions may contain third-party proprietary software components. If separate license terms accompany those components, these license terms are applicable to those components.

3. CONFIDENTIALITY

1. **Confidential Information.** "Confidential Information" is non public information that is designated "confidential" or that a reasonable person should understand is confidential, including, but not limited to customer data, the terms of this EULA and Customer's account authentication credentials. Confidential Information does not include information that: (1) becomes publicly available without a breach of a confidentiality obligation; (2) the receiving party received lawfully from another source without a confidentiality obligation; (3) is independently developed; or (4) is a comment or suggestion volunteered about the other party's business, products or services.
2. **Protection of Confidential Information.** Each party will take reasonable steps to protect the other's Confidential Information and will use the other party's Confidential Information only for purposes of the parties' business relationship. Neither party will disclose Confidential Information to third parties, except to its Representatives, and then only on a need-to-know basis under nondisclosure obligations at least as protective as this EULA. Each party remains responsible for the use of Confidential Information by its Representatives and, in the event of discovery of any unauthorized use or disclosure, must promptly notify the other party.
3. **Disclosure required by law.** A party may disclose the other's Confidential Information if required by law, but only after it notifies the other party (if legally permissible) to enable the other party to seek a protective order.

4. **Duration of Confidentiality obligation.** These obligations apply for a period of three years after a party receives the Confidential Information.

4. INSTALLATION AND IMPLEMENTATION

1. **Lifecycle Services.** Solutions shall be deployed via the LCS portal. You shall have an LCS portal in place to be able to install the Solutions and to receive any Subscription Services. Licensor and/or AXtension need(s), at least temporarily, access to your LCS portal to be able to provide you with the Solution and any Subscription Services.
2. **Installation and implementation requisites.** Installation and implementation of the Solution has to be done by a Trained Party. Customer is obligated to contract a Trained Party to execute the installation and implementation.
3. **License keys.** It is not allowed to duplicate license keys without Licensor's prior written consent.

5. SUBSCRIPTION SERVICES

1. **Subscription Services.** Licensor will, at its discretion, improve the Solution(s) in order to be able to meet any future demands of its End Users. Customer is entitled to the Subscription Services, provided through the LCS portal, during the subscription period set forth in the Order Confirmation and any renewal term. During the subscription term, you are obligated to contract a Trained Party to assist you on the Subscription Services. Licensor reserves the right to provide bug Fixes by means of a new version of the Solution(s).
2. **Compatibility.** Downward compatibility of (new) versions of the Solution(s) with any related software is not warranted. Licensor shall use best endeavors to ensure that the most recent version of the Solution(s) is compatible with the most recent version of the applicable Microsoft Dynamics 365 application. However, since Licensor potentially has to update its Solution(s) after new versions of Microsoft Dynamics 365 have become available, there may be some delay in availability of compatible versions of the Solution(s). Licensor cannot be held accountable in any way for such delay temporarily preventing any update of Microsoft Dynamics 365.

6. PROFESSIONAL SERVICES

1. **Professional Services.** If you need support on the Solutions, you must purchase it through a Trained Party. Trained Parties have the right - if necessary - to purchase Professional Services from AXtension to enable them to provide you with support services. During the subscription period set forth in the Order Confirmation and any renewal term, you are obligated to contract a Trained Party to provide this additional support to you. The AXtension Customer Success Team can only be approached via a Trained Party.
2. **Contact information.** Customer will provide the relevant contact information of the contracted Trained Party via support@xtension.com. Customer is responsible for keeping this information up to date.

3. **Customer specific modification.** AXtension is not obliged to make customer-specific changes to a Solution. If you request Licensor or AXtension to create a customer specific modification to the Solution, Licensor reserves the right to, at some point in time, integrate (part of) this modification or equivalent functionality into a new version of the Solution. Licensor nor AXtension will be obliged to pay you any restitution or compensation for said modification.

7. VERIFYING COMPLIANCE

1. **Compliance.** Customer must keep records relating to Solution(s) it (and if agreed with Licensor its Affiliates) uses. Licensor has the right to verify compliance with this EULA and the Order Confirmation, upon 30 days' notice. To do so, Licensor may engage an independent auditor (under nondisclosure obligations) or ask Customer to complete a self-audit process. Customer must promptly provide any information and documents that Licensor or the auditor reasonably requests related to the verification and access to systems running the Solution(s). If verification or self-audit reveals any unlicensed use, Customer must, within 30 days, order sufficient licenses to cover the period of its unlicensed use. Without limiting Customers' other remedies, if unlicensed use is 5% or more of Customer's total use of all Solutions, Customer must reimburse Licensor for its reasonable costs incurred in verification and acquire sufficient licenses to cover its unlicensed use at 125% of the then-current Customer price or the maximum allowed under applicable law, if less. All information and reports related to the verification process will be Confidential Information and used solely to verify compliance.
2. Licensor may (automatically) check the version, the number and the types of End Users of any of its Solutions. You agree to keep any mechanism in the Solution to provide and transmit such information fully operable.

8. PRICING AND PAYMENT

1. Customer's pricing and payment terms for a given order are set forth and governed by the Order Confirmation. Customer is obliged to pay the applicable fees (via a Reseller) to AXtension. Note that Licensor has the possibility, at its sole discretion, to suspend performance of any licensed Solution, until all overdue amounts have been received by AXtension. Licensor or AXtension will notify you in advance of any intended suspension.
2. All amounts due under this EULA may not be withheld or offset by Customer against amounts owed by Licensor or AXtension for any reason. All fees payable to Licensor or AXtension hereunder are non-refundable unless otherwise agreed to in writing between the parties.
3. License fees shall be paid prior to a(n) (extended) subscription period. Invoiced fees are non-refundable, except in case of the situation in clause 4c of Section 9.

9. TERM AND TERMINATION

1. **Term.** This EULA is effective until terminated by a party, as described below. The term for each Order Confirmation will be set forth therein.
2. **Subscription period.** Unless a different term has been agreed in writing in the Order Confirmation, the term of each subscription period is either one (1), three (3) or five (5) year(s). Each subscription period will automatically be renewed for an additional similar term against applicable conditions at the moment of renewal, unless (i) you (or your Reseller on your behalf) provide AXtension with duly signed written notice no later than sixty (60) days prior to the end of the subscription period of your wish not to renew your subscription, or (ii) you (or your Reseller on your behalf) provide AXtension with duly signed written notice no later than sixty (60) days prior to the end of the subscription period of your wish to renew the subscription period for a different term against applicable conditions at the moment of renewal, or (iii) AXtension or Licensor provides you with written notice no later than ninety (90) days prior to the end of the subscription period of its wish not to renew such subscription period.
3. **AXtension Care Package.** An AXtension Care Package (Start Care Package or Up Care Package) is valid from the effective commencement date until the moment the Solution is placed on your production environment (Go Live).
4. **Termination for cause.** Without limiting other remedies it may have, either party may terminate this EULA immediately on notice if (i) the other party materially breaches the EULA, and fails to cure the breach within 30 days after receipt of notice of the breach; or (ii) the other party becomes Insolvent. Upon such termination, the following will apply:
 - a. All licenses granted under this EULA will terminate immediately.
 - b. All amounts due under any unpaid invoices will become due and payable immediately. For Order Confirmations billed periodically, Customer must immediately pay for unpaid periods as of the termination date.
 - c. If Licensor is in breach, Customer will receive a credit for any subscription fees, including pre-paid fees, for any term after the termination date.
5. **Termination of subscription licenses.** It is not possible for Customer to terminate any subscription licenses prematurely, except when clause 4 of this section applies.
6. **Suspension.** Licensor may suspend use of a Solution without terminating this EULA during any period of material breach. Licensor will give Customer reasonable notice before suspending a Solution. Suspension will only be to the extent reasonably necessary.
7. **Survival.** The terms of this EULA that survive termination or expiration of the EULA are those which by their nature are intended to survive, including but not limited to your obligation to pay due invoices.

10. LIMITED WARRANTIES AND REMEDIES

1. Licensor continuously represents and warrants that:
 - a. it has full rights and authority to enter into, perform under, and grant the rights in, this EULA;
 - b. its performance will not violate any agreement or obligation between Licensor and any third party;
 - c. the Solution will not:
 - i. to the best of Licensor's knowledge, infringe or violate any third-party patent, copyright, trademark, trade secret, or other proprietary right; or
 - ii. to the best of Licensor's knowledge, contain viruses or other malicious code that will degrade or infect any products, services, software or Customer's network or systems, and
 - d. while performing under this EULA, Licensor will comply with law, including anti-corruption laws.
2. **Solutions.** The Solution(s) are complex computer software. Its performance will vary depending on the Microsoft platform, software interactions, the configuration of the Solution, and other factors. The Solution(s) is neither fault tolerant nor free from errors, conflicts, or interruptions. If you follow the instructions, the Solution(s) will perform as described in the Solution Catalogue. If it does not, and you or your Reseller notifies Licensor immediately, Licensor will, at its discretion, (i) terminate the EULA and refund any related pre-paid fees or (ii) repair or replace the Solution. The remedies above are Customer's sole remedies for breach of the warranties in this section.
3. **Disclaimer.** Except as expressly stated in this EULA, the Solution is provided as is. To the maximum extent permitted by law, Licensor disclaims any and all other warranties (express, implied or statutory, or otherwise) including of merchantability or fitness for a particular purpose, whether arising by a course of dealing, usage or trade practice, or course of performance.

11. DEFENSE OF THIRD-PARTY CLAIMS

When it has been established in court as an incontrovertible fact that the Solution or other materials developed by Licensor and provided to Customer infringe an intellectual property right held by a third party, Licensor shall – at its sole discretion – (i) change the Solution or material to the extent that it does not infringe such third-party rights, (ii) provide different software to Customer with similar functionality that does not infringe such third-party rights, (iii) at its expense acquire a license from such third party in order for Customer to continue using the Solution or material, (iv) or provide any other reasonable solution to Customer. Any further liability of Licensor with respect to infringement of third-party rights is excluded.

12. LIMITATION ON AND EXCLUSION OF DAMAGES

For each Solution, Licensor's aggregate liability under this EULA is limited to direct damages finally awarded in an amount not to exceed the amounts Customer was required to pay for the Solutions during the term of the applicable licenses, subject to the following:

1. **Subscriptions.** For Solutions ordered on a subscription basis, Licensor's maximum liability to Customer for any incident (or series of connected incidents) giving rise to a claim will not exceed the amount Customer paid for the applicable Solution directly causing the damage during the 12 months before the incident. Any 12 months period in this respect commences on the subscription term start date or any of its (annual) renewal dates.
2. **AXtension Care Package.** For AXtension Care Packages (Start Care Packages and Up Care Packages), Licensor's maximum liability for any incident (or series of connected incidents) giving rise to a claim will not exceed the amount paid as purchase price for the AXtension Care Package for the applicable Solution directly causing the damage.
3. **Exclusions.** In no event will either party be liable for indirect, incidental, special, punitive, or consequential damages, or loss of use, loss of profits, loss of data or interruption of business, however caused or on any theory of liability.
4. **Exceptions.** No limitation or exclusions will apply to liability caused by intent or gross negligence.

13. DATA

1. Licensor may receive certain information (i) in the course of verifying compliance as stipulated in section 7, and (ii) to improve the Solutions and to troubleshoot problems regarding the Solutions. This information includes the version of the Solution used, the user account, product ID information, user ID information, a machine ID, and the internet protocol address of the device. By using the Solution, you consent to the transmission of the information described in this section to Licensor or a third party verifying compliance on behalf of Licensor. Licensor and Licensor's auditors will use the information obtained in compliance verification only to enforce Licensor's rights and to determine whether you are in compliance with the terms of this EULA.
2. Licensor has no access to customer data generated by the Solution(s). Licensor is not a processor or subprocessor of personal data subject to the GDPR.
3. The ability to access and extract data produced as a result of using the Solutions will first and foremost be organized by Microsoft in accordance with the applicable Microsoft Online Service Terms. This equally applies to the terms and conditions for retaining customer data. Licensor can neither be held accountable nor liable in this respect.

14. MISCELLANEOUS

1. **Entire agreement.** This EULA supersedes all prior and contemporaneous communications, whether written or oral, regarding the subject matter covered in this EULA. Additions or changes to this EULA shall only be binding on the parties if they have been agreed upon in writing by a separate (new) agreement.

2. **Amendments.** Unless otherwise agreed in a writing signed by both parties, Licensor will not change the terms of this EULA during the term of this EULA. Solution updates may be licensed to you by Licensor with additional or different terms.
3. **Severability.** If any part of this EULA is held to be unenforceable, the rest of the EULA will 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 that achieves to the greatest extent possible the economic, legal and commercial objectives of the invalid and unenforceable provision.
4. **Applicable law.** This EULA is governed exclusively by the laws of the Netherlands. The Vienna Sale Convention of 1980 does not apply. Any dispute or claim arising from or in connection with this EULA shall be settled in the Netherlands by arbitration in accordance with the rules of procedure of the SGOA, the Dutch Foundation for the resolution of ICT disputes (www.sgoa.eu). The language of the arbitration is English, unless both parties are native Dutch, in which case Dutch will be the language of arbitration.

EXHIBIT A DEFINITIONS

The definitions of certain terms used in this EULA are set forth below.

- “Affiliate” means any legal entity that controls, is controlled by, or is under common control with a party. Control in this definition means ownership of more than 50% interest of voting securities in an entity or the power to direct the management and policies of an entity.
- “AXtension” means AXtension B.V., a limited liability company with its main address located at Noorderpoort 9d, 5916 PJ Venlo, The Netherlands. AXtension is direct reseller of the Solutions with the right to grant other parties an indirect right to resell the Solutions.
- “AXtension Customer Success Team” means the Solutions experts support desk, following up on support calls reported by a Trained Party.
- “Customer” or “you” means the entity or company, which is the contractual counterparty of the EULA as mentioned in the Order Confirmation.
- “End User” means the individual user or user account entitled to use the Solution(s) under the terms of the EULA.
- “Fix” means a change to the Solution code designed to solve an error, flaw or fault in the Solution itself that causes it to produce an incorrect or unexpected result, or to behave in unintended ways (bug).
- “Insolvent” means admitting in writing the inability to pay debts as they mature; making a general assignment for the benefit of creditors; suffering or permitting the appointment of a trustee or receiver for all or any of its (i.e., the non-terminating party’s) assets, unless such appointment is vacated or dismissed within 60 days from the date of appointment; filing (or having filed) any petition as a debtor under any provision of law relating to insolvency, unless such petition and all related proceedings are dismissed within 60 days of such filing; being adjudicated insolvent or bankrupt; having wound up or liquidated; or ceasing to carry on business.
- “LCS portal” means Lifecycle Services portal. LCS is a Microsoft application management portal that provides tools and services for managing the application lifecycle of your Microsoft Dynamics 365 implementations in the cloud.
- “Licensor” means More Dynamics Licensing B.V., a limited liability company with its registered office at Noorderpoort 9d, 5916 PJ Venlo, The Netherlands and the owner of the intellectual property rights of the Solutions.
- “Order Confirmation” means the ordering document stating specific order information on licenses, AXtension Care Packages and services, including applicable fees.
- “Partner” means a Reseller, part of AXtension’s Partner network.
- “Release” means a subsequent version of the Solution, provided by Licensor through the LCS portal. Releases will be synchronized with the release schedule of Microsoft Dynamics 365.

- “Reseller” means the entity that has been authorized by AXtension to resell the Solutions under the Reseller Terms. Reseller always acts for its own account and risk.
- “Representative” means a party’s employees, Affiliates, contractors, advisors and consultants.
- “Solution” means one of the AXtension Business Solutions meant to be used in combination with Microsoft software, as listed and indicated in the Solutions Catalogue. Solution also means any subsequently released new version of the AXtension Business Solution.
- “Solution Catalogue” means the most recent version of the reference book, containing documentation regarding the Solutions, amended from time to time.
- “Subscription Services” means Updates, Releases and bug Fixes the Customer is entitled to under a valid subscription license.
- “Start Care Package” means a combination of a temporarily subscription license for the applicable Solution(to be used on the non-production environment) as well as two quality assurance sessions (one before UAT and one before GoLive) procured by a Trained Party from AXtension. The Start Care Package grants the Trained Party full access to the Solution(s) for the purpose of extensive configuration and testing of the Solution(s) on Customer’s platform during the implementation (not for the production environment). The Start Care Package contains an unlimited number of users only for test purposes during implementation. A Start Care Package expires the moment the Solution is moved to the production environment (Go Live). A Start Care Package contains an unlimited number of licenses only for test purposes during implementation.
- “Trained Party” means a Partner or other IT service provider or Customer’s IT department, educated by AXtension to work with the Solutions. A Trained Party will be designated as a Trained Party by AXtension if they meet AXtension’s requirements.
- “Up Care Package” means a combination of a temporary subscription license for the applicable Solution (to be used on the non-production environment) as well as two quality assurance sessions (one before UAT and one before GoLive) procured by a Trained Party from AXtension to support Trained Party in the transition from Microsoft Dynamics AX2012 to Microsoft Dynamics 365. The Up Care Package grants the Trained Party full access to the Solution(s) for the purpose of extensive configuration and testing of the Solution(s) on the Customer’s platform during the implementation (not for the production environment). The Up Care Package contains an unlimited number of users only for test purposes during implementation. A Up Care Package expires the moment the Solution is moved to the production environment (“Go Live”).
- “Update” means major and minor Solution updates, made available via the LCS portal. Updates may contain new functionalities, software improvements and bug fixes.