

LICENSE AGREEMENT

PARTIES

This License Agreement is made between

Name of the Licensee (full company name)

(hereinafter referred to as "the Licensee")

Name of SIGNATORY FOR THE LICENSEE (BLOCK LETTERS)

and

**FSB Development ApS
CVR. No. 29 83 90 93
Østergade 53, 3
1100 Copenhagen
Denmark**

(hereinafter referred to as "the Licensor")

(hereinafter jointly referred to as "the Parties")

SOFTWARE DESCRIPTION:

The Licensee shall hereby be granted the right to use the Licensor's standard software 'Smart Reservation' module (hereinafter referred to as "the Software") in accordance with Clause 1.1.

MICROSOFT PROGRAM:

The Software shall only be used in connection with Microsoft Dynamics AX/365 and it is a condition of the sale of the Software that the Licensee has purchased rights to use the Microsoft Dynamics AX/D365 program from Microsoft.

Serial No., Name, Version and Service Pack No. is: _____

This License Agreement shall come into force and the Licensee shall be entitled to install and use the Software only when this License Agreement has been accepted by the Licensee:

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DEFINITIONS

The general definitions in this License Agreement are as follows:

Database shall mean an electronic entity upon which the Software data is stored.

Documentation shall mean the current technical documentation developed by the Licensor for the Software, which the Licensee has acquired the right to use.

License Agreement shall mean this License Agreement issued by the Licensor.

License Files/Codes shall mean the files/codes required to open the Software with the key enabling the Licensee to use the Software.

Business Partner shall mean any other company which are given the right by FSB Development to resell and support FSB Development Software.

Microsoft program shall mean the program specified on page 1 in this License Agreement.

The FSB Development Group shall mean any subsidiary, sister company or affiliated company of FSB Development ApS.

The Software shall mean the current or later versions of Inventory II of which the Licensee has acquired and paid for the right of use.

Subsidiaries shall mean companies the Licensee has granted access to and use of the Licensees central Microsoft Dynamics AX solution.

Updates shall mean new versions of the Software, which the Licensor may release.

Third party software shall mean software to which the Licensor does not hold any intellectual property rights.

Applicability of defined terms: Where the context so admits, any reference to the singular shall include the plural and any reference to one gender shall include all. In this License Agreement, reference to a Clause shall indicate reference to a Clause in this License Agreement. The Headings of this License Agreement are for convenience only and shall not constrain nor affect how the License Agreement is construed or interpreted in any way whatsoever.

1. SCOPE OF THE LICENSE

1.1 GRANTING OF LICENSE

1.1.1. The Licensor hereby grants to the Licensee a perpetual, non-assignable, non-transferable and non-exclusive right to use the Software on one Microsoft Dynamics AX/365 serial number.

1.1.2. The Licensee is granted the right to use the Software for the number of purchased users and/or AX-AOS's/Servers (ref FSB Development standard pricelist) on the terms and conditions set out in this License Agreement.

1.1.3. Insofar as the Licensee permits the subsidiaries to access and use the Software, it shall be the sole responsibility of the Licensee to ensure that the subsidiaries do not breach the terms and conditions of this License Agreement. In default, the Licensee shall be deemed to be in breach of this License Agreement, and such breach shall entitle the Licensor to terminate this License Agreement, cf. Clause 12.2.1. and to pursue all remedies available to it. The Licensee agrees to indemnify the Licensor for any claim, loss or damage arising from any breach caused by such subsidiaries.

1.2. FUNCTIONS

1.2.1. The Software is a standard product, and it shall be the sole responsibility of the Licensee to ensure that the functions in the Software fulfill the requirements of the Licensee.

1.2.2. The Licensee shall have the right to adapt or otherwise modify the Software insofar as this is required to use the Software as stipulated in this License Agreement, and insofar as the Licensee has acquired and paid for the tools from Microsoft to perform such adaptation or modification where this is required by the Licensor.

1.3. UPDATES

1.3.1. The Licensee can acquire updates of the Software to the extent that upgrades are issued by the Licensor.

1.3.2. In connection with implementation of upgrades, the licensor shall not represent or warrant that the Licensee will be able to make full use of any adjustments or other modifications in the Software.

1.4. PERMITTED COPYING

1.4.1. The Licensee shall be entitled to make copies of the Software for the following purposes: 1) copies for archival or backup purposes, 2) copies for production, development and test purposes and 3) copies of the Software where and insofar as dictated for legislative reasons, and where the Licensee is required to comply with such legislation in all respects.

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1.4.2. Use of the above-identified copies of the Software shall be subject to the terms and conditions of this License Agreement.

2. COPYRIGHT / INTELLECTUAL PROPERTY RIGHTS

2.1 The Licensor or its Licensors hold full copyright, title and all and any other intellectual property rights to the Software and all future versions and updates hereof. The Software is protected by copyright laws and international treaty provisions. Any breach of the rights of the Licensor or its Licensors, including inappropriate access to the Software which might enable a third party to copy License Files/Codes to the Software shall be deemed to be a material breach of this License Agreement and shall duly entitle the Licensor to terminate this License Agreement cf. Clause 12.2.1. and to pursue all remedies available to it.

2.2 The Licensee shall not break or change any License Files/Codes, nor shall the Licensee change or remove any marks and/or notices concerning copyright, trademarks or any other rights, or references hereto stated in the Software or on the medium on which the Software may have been delivered.

3. RESTRICTIONS IN THE SOFTWARE

Unless otherwise provided by mandatory rules of applicable law the software shall be subject to the following restrictions:

3.1 THIRD PARTY USE

The Software may not be used: 1) by a third party, including service agencies, facility management, ASP providers or other service providers; 2) by the Licensee as part of data processing carried out on behalf of third parties, including as a facility management service.

The Licensee shall ensure that no unauthorised person gains access to or uses the Software.

3.2 NON-TRANSFERABLE SOFTWARE

The Licensee may not sell, distribute, license, rent, lease, lend, pledge or otherwise transfer or assign the Software or the related rights of use to a third party without the prior written permission of the Licensor.

3.3 DEVELOPMENT, DECOMPILATION, ETC.

The Licensee may not use the Software in the development of any software or model having the same functionality or characteristics as the Software or in the

development of competitive or derivative products.

The Licensee may not in any way, including by decompilation, reconstruction or disassembly of the Software, examine or remake the source code or object code of the Software or its structural framework.

4. DELIVERY OF THE SOFTWARE

4.1 The Licensor shall deliver the Software on a machine-readable medium. The Licensee or the Business Partner shall install the Software themselves and is responsible for the correct installation of the Software in accordance with the instructions given by the Licensor.

4.2 The Software will be pre-delivered with installation license codes. The installation license codes will expire ninety (90) days after delivery date. Full and final delivery of the Software with non-expiry license codes will happen upon payment of the Software

5. PAYMENT OF SOFTWARE FEE

5.1 If the Software is sold and delivered via a Business partner, it's the Licensee obligation to pay the Business partner for the Software. The Business partner shall hereafter ensure payment for the Software to the Licensor.

6. INFRINGEMENT OF THIRD PARTY RIGHTS

6.1 If a third party claims that the Licensee's use of the Software infringes said third party's intellectual property rights (hereinafter referred to as "Infringement Claim"), the Licensor has the right to choose whether to take over the case, including the costs and expenses incidental thereto, and may decide whether to take the case to trial or to settle the Infringement Claim. The Licensee shall promptly 1) notify the Licensor in writing of the Infringement Claim as soon as the Licensee becomes aware thereof; 2) allow the Licensor full control of the defense and any related settlement negotiations if the Licensor makes such a request; and 3) collaborate with the Licensor in the defense and any related settlement negotiations by providing the Licensor with appropriate information and any assistance required for said defense or settlement.

Where the terms and conditions under 1) to 3) have not been fulfilled, the Licensor shall in any event be entitled, but not obliged, to defend the Infringement Claim at its own expense, and after having

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notified the Licensee that it intends to do so, the Licensor shall be irrevocably authorized by the Licensee, insofar as legally possible, to assume the defense of the legal suit or proceedings brought against the Licensee, and may institute proceedings or enter into settlements concerning the Infringement Claim. The Licensee shall provide the Licensor with appropriate information or assistance for any such defense or settlement.

- 6.2 In the event of an Infringement Claim, the Licensor shall be entitled either to: 1) procure the Licensee the right to continued use of the Software; 2) bring the infringement to an end by modifying the Software or replacing the Software with other software which has essentially the same functionality as the Software in contention; or 3) terminate this License Agreement by giving written notice and by paying the Licensee an amount equal to the Software fee already paid by the Business Partner to the Licensor for the Software. The terms and conditions under 1) - 3) in this Clause shall only apply within a period of five (5) years after the date of the Licensee's signature of the License Agreement. If an Infringement Claim is brought against the Licensee after the expiry of the stated period of five (5) years the Licensor shall be entitled to terminate this License Agreement without payment of any amount to the Licensee. The performance of the Licensor's obligations under this Clause 6.2. shall comprise the Licensor's full liability and obligation to the Licensee following all and any Infringement Claims, and the Licensee shall have no other claim against the Licensor as a result thereof. Upon termination of this License Agreement, the Licensee shall promptly cease using the Software and shall fulfill the terms and conditions for termination stated in Clause 12.1.1.
- 6.3 The Licensor's obligations under this Clause 6.1. and 6.2. shall be void if the Infringement Claim is caused wholly or partly by accident, abuse or misapplication. Any modification of the Software by anyone other than the Licensor shall render void the foregoing warranty for any portion of the Software modified or affected thereby.

7. LIMITED WARRANTY

- 7.1 Where the Licensee within a period of twelve (12) months from the Licensor's delivery of License codes provides written documentation to the Licensor evidencing that the Software does not perform substantially in accordance with its technical documentation, and that there is a significant defect in the Software, (i.e. a defect characterized by one or more of the Software's vital business functions being unable to operate due to the defect rendering the Software inoperable), the

Licensor shall either: 1) provide free of charge a new version of the Software without the defect. Any replacement of the Software will be subject to this limited warranty for the remainder of the original limited warranty period, or one (1) month whichever is longer; 2) rectify the defect free of charge or suggest methods of use/procedures whereby the defect will have no significant effect on the use of the Software; or 3) terminate this License Agreement and return license fee paid by the Business partner. Performance of the Licensor's obligations under this Clause 7.1. shall comprise the Licensor's total maximum liability and the Licensor's entire obligation to the Licensee due to all and any defects in the Software, and the Licensee shall have no other claim against the Licensor as a result of such defects. This limited warranty shall not be applicable if defects in the Software or data media are caused wholly or partly by: 1) accidental circumstances, including damage to the Software by a third party; 2) misuse of the Software; 3) use of the Software contrary to the License Agreement; 4) use of the Software with any other form of program/software, equipment or mechanism which has not been delivered - or specifically approved - by the Licensor; 5) the Licensee's failure to use an update, new version etc. of the Software or of the Microsoft Business Solution program which the Licensor has previously offered the Licensee on the usual terms and conditions; 6) damage to the data medium, unless such damage is caused by a defect in the medium; or 7) any kind of modifications to the Software by any person other than the Licensor, whether or not the Licensor has given its permission to such modifications.

- 7.2 Other than as provided in Clause 7.1, license is granted to the Software "as is" with no other warranties, representations, obligations of remedy or rights other than those described above. Accordingly, the Licensee shall have no right to make claims against the Licensor if the Software contains defects and faults not covered by Clause 7.1.
- 7.3 The limited warranty shall not be applicable after the expiry of the above-mentioned twelve (12) month period or if the Licensee fails to fulfil its obligation to pay license fees.
- 7.4 It is a condition for the Licensee's use of the Software that the Licensee has lawfully acquired the right to use other necessary or required resources including software and hardware.

8. LIMITATION OF LIABILITY

- 8.1 In no event and irrespective of the circumstances shall the Licensor be liable

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for any loss of any profit, loss of any anticipated profit, loss of data or recovery of data, loss caused by non-availability of the Software or incorrect information in or reproduced by the Software, damage to records or data, operating loss, or any indirect, special, incidental or consequential damages or loss (collectively "losses") (which for purposes of this License Agreement shall be deemed to include, but not be limited to, the loss of goodwill, or loss as a consequence of any kind of interruption to business operations) arising out of or in connection with this License Agreement or the use or performance of the Software or services connected thereto even if the Licensor has been advised of the possibility of such losses and regardless of whether the cause of action shall be in contract or tort. Accordingly, the Licensee shall not be entitled to claim, demand or seek recovery from the Licensor for any of the foregoing losses, and the Licensor shall not indemnify the Licensee for such claims.

8.2 To the maximum extent permitted by applicable law, the Licensor disclaims any product liability. The Licensor is only liable for damage caused directly by the Software and is only subject to product liability to the extent such liability follows from mandatory rules under applicable law.

8.3 In any event, irrespective of the circumstances, the Licensor's total aggregate liability for loss or damage arising out of or in connection with this License Agreement or the use or performance of the Software or services connected thereto shall be limited to an amount equal to 100% of the license fee paid by the Business Partner for the Software.

8.4 The Licensor shall not be liable for any loss suffered in connection with the Licensee's installation of the Software. The Licensor shall have no responsibility or liability for any adaptations or other modifications to the Software or any service and support for the Software performed by the Licensee itself or provided by third parties or partners of the Licensor. Further, the Licensor shall have no responsibility or liability for any defects, which are a consequence of external factors, including other programs, or a consequence of the integration of or interaction between the Software and/or other hardware and software environments.

9. EXCLUSION OF LIABILITY

9.1 Where any liability has been limited in this License Agreement, such limitation shall be to the full extent allowed in applicable law. In some jurisdictions, mandatory statutory legislation does not allow such exclusion or limitation of liability, which may mean that

the limitations stated herein shall not apply to the Licensee, either in whole or in part.

9.2 Legal proceedings concerning any of the claims under Cl. 7 or 8 shall be initiated within fourteen (14) days after the actionable act has occurred and no later than twelve (12) months after the signing of this License Agreement, after which the Licensee shall no longer be entitled to raise any such claims against the Licensor.

9.3 Except as provided in Clause 7, the Licensor makes no express, implied, or statutory, oral or written warranties with respect to the Software, any components thereof, or other goods or services provided by the Licensor, including but not limited to, the implied warranties of merchantability against infringement, quiet enjoyment, accuracy of data, system integration, or fitness of the Software for the purpose, desired or intended, by the Licensee.

10. FORCE MAJEURE

10.1 Neither party shall be held liable for any damage sustained by the other party as a direct or indirect consequence of the non-performing party being delayed, prevented or hindered in the performance of its obligations under this License Agreement as a result of force majeure situation. Force majeure situations include war and mobilization, natural disasters, strikes, lock-outs, fires, damage to production system, death of key personnel, import and export regulations, errors or inconsistencies in third party software and other unforeseeable circumstances beyond the control of the party concerned. This also applies if any subcontractors are subjected to force majeure situations.

11. ASSIGNMENT

11.1 BY THE LICENSEE

11.1.1 The Licensee shall have no right to sell, rent, lend or in any other way transfer or assign the right to use the Software or any right or obligation under this License Agreement to any third party without the prior written consent of the Licensor. Where such consent is obtained, assignment shall be made in accordance with the Licensor's guidelines therefore.

11.1.2 Unless otherwise stated under Cl. 1 no rights or obligations under this License Agreement can be assigned in any way as a result of mergers, selling, restructuring etc. of the Licensee or any part thereof without the prior written consent of the Licensor.

11.2 BY THE LICENSOR

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11.2.1 The Licensor may without the consent of the Licensee assign its rights and obligations under this License Agreement in whole or in part to another company within the FSB Development Group or a third party.

12. TERMINATION

12.1 BY THE LICENSEE

12.1.1 The Licensee shall have the right to terminate this License Agreement by giving one (1) month's prior written notice to the Licensor. The Licensee shall not be entitled to a refund of license fees upon such termination. Upon such termination, the Licensee shall promptly cease using the Software and promptly delete, erase and destroy the Software, including any copies thereof, unless otherwise stipulated in mandatory statutory legislation, and where the Licensee is required to comply with such legislation in all respects.

12.1.2 In the event of the Licensor's material breach of this License Agreement the Licensee is entitled to terminate the License Agreement provided that the Licensee notifies the Licensor of the breach with thirty (30) days' written notice and provided the breach is not remedied by the Licensor within this time limit. Upon such termination the Licensor shall repay any license fee paid by the Business Partner with a reduction of 20% per year as of the date of the Licensee's signature of the License Agreement.

12.2 BY THE LICENSOR

12.2.1 In the event of the Licensee's material breach of this License Agreement, the Licensor shall have the right to terminate this License Agreement immediately by giving written notice and shall have all the remedies available in law or in equity available to it. In such case, the Licensee shall immediately cease using the Software and promptly delete, erase and destroy the Software, including any copies thereof as stated in Clause 12.1.1. In the event of termination under this Clause, the Licensor shall have no obligation to refund any prepaid license fees whatsoever.

13. VALIDITY AND SEVERABILITY

13.1 If any provision of this License Agreement is held to be illegal, invalid or unenforceable, such provision shall nonetheless be enforced to the fullest extent permitted by applicable law so as to reflect the original intent of the Parties.

14. SURVIVAL CLAUSE

14.1 Any terms of this License Agreement, which, by their nature, extend beyond the date when this License Agreement expires shall remain in effect and thus be binding upon the Parties.

15. CONFIDENTIALITY

15.1 The Licensee acknowledges that the Software, specifications of the Software, functions, structures, methodology, diagrams, routines, characteristics, results of testing or benchmark, provisions of the Agreement and all information pertaining thereto are confidential and form an integral part of the Licensor's trade secrets. The Licensee may not disclose such information without prior written consent of the Licensor.

15.2 The Licensee shall use its best efforts to protect confidential information as contained in 15.1 and ensure that any third party does not gain access to or use such information. In this respect the Licensee shall use its best efforts to protect the intellectual property rights and confidential information of the Licensor.

15.3 The duty of confidentiality does not apply to: 1) the disclosure of information to advisors or the arbitration tribunal for the purpose of resolving disputes between the Parties; 2) information which is already or will become within the public domain without this being a consequence of a breach of the duty of confidentiality; 3) information received by a third party who is in possession of such information without this being a consequence of a breach of duty of confidentiality; 4) information that either party is obliged to disclose according to applicable law or previous court decisions.

15.4 The Licensor shall be entitled to announce on the website of the Licensor the name, website and logo of the Licensee.

15.5 The clause 15.1, 15.2 and 15.3 shall apply even after the termination of the License Agreement irrespective of any cause or reason thereof.

16. APPLICABLE LAW AND JURISTITION

16.1 Any dispute or claim arising out of or in connection with this Agreement, or breach, termination or invalidity thereof, shall be settled by arbitration in accordance with the Rules of Procedure of the Danish Institute of Arbitration (Copenhagen Arbitration).

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- 16.2 The arbitration tribunal shall be composed of a sole arbitrator.
- 16.3 Members of the arbitration tribunal shall be appointed by the Institute.
- 16.4 The place of arbitration shall be Copenhagen, Denmark.
- 16.5 The language of the arbitration shall be English.
- 16.6 This Agreement shall be governed by the laws of the Kingdom of Denmark.

17. U.S. GOVERNMENT RESTRICTED RIGHTS NOTICE

- 17.1 If the Licensee of the Software is a unit or an agency of the United States Government, the terms of this Clause shall apply.
- 17.2 FOR CIVILIAN AGENCIES:
The Software:
 - a) has been developed at private expense; is existing computer software and no part of it has been developed with government funds;
 - b) is a trade secret of the Licensor for all purposes of the Freedom of Information Act;
 - c) is a commercial item and thus, pursuant to Section 12.212 of the Federal Acquisition Regulations (FAR), the Government's use, duplication or disclosure of the Software is subject to the restrictions set forth in the Licensor's standard commercial license agreement incorporated into the contract or purchase order between the Licensor and the U.S. government agency;
 - d) in all respects is proprietary data of the Licensor; and
 - e) is unpublished and all rights are reserved under the copyright laws of the United States.
- 17.3 For units of the Department of Defense: The Software is commercial computer software (and commercial computer software documentation), and pursuant to DFAR § 227.7202, use, duplication or disclosure of the Software is subject to the restrictions set forth in the Licensor's standard commercial license agreement incorporated into the contract or purchase order between the Licensor and the U.S. Government agency. In the event of any technical data not being covered by these provisions, it shall be deemed "technical data – commercial items" pursuant to DFAR § 252.227-7015(a). Any use, modification, reproduction, release, performance, display or disclosure of such technical data shall be governed by the terms of DFAR § 252.227-7015(b).

18. PRIORITY

- 18.1 This License Agreement shall be signed in connection with the Licensee's purchase of the Software and shall be the legally binding version. In the event of any discrepancy between the hardcopy version of the License Agreement received by the Licensee and the contents of the said License Agreement stated electronically in the Software, the License Agreement signed in hardcopy shall prevail.

19. OTHER GENERAL TERMS

19.1 ENTIRE AGREEMENT

This License Agreement together with all appendices sets forth the entire understanding between the Parties and supersedes any oral or written agreements or understandings between the Parties as to the subject matter of this License Agreement.

19.2 AMENDMENTS

This License Agreement can only be amended, modified or superseded with the express written consent of both Parties. To be valid the written consent must be signed by both Parties and be in the form of an addendum to this License Agreement.

19.3 INDEPENDENT ENTITIES

The Parties are independent entities and this License Agreement shall not establish any form of partnership, joint venture, employment, franchise or agency between said Parties. Neither party shall have the power to bind the other or incur obligations on the other's behalf.

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