

# ***Matriks Annual Maintenance Agreement***

*September 2018*

*Matriks IT ApS*

These license terms ("agreement") are an agreement between Matriks IT ApS and you (The License holder). Please read these terms carefully. Except as otherwise expressly specified, this agreement applies to all of the Matriks Software products, which includes the media on which you received it, if any. It also applies to any Matriks Software

- Updates
- Supplements
- Cloud-Based services
- Support services

for this software, unless other terms accompany those items. If so, those terms apply. This agreement supersedes the license terms embedded in the software

By installing, having installed, subscribing to, or using the software, you accept this agreement (including any modifications made to it from time to time). If you do not accept this agreement, do not install, have installed, subscribe to, or use the software.

If an individual enters into this agreement on behalf of a legal entity, that individual represents that he or she has the authority to bind that entity to this agreement.

## 1. Scope of the Annual Maintenance Agreement

- 1.1. The Annual Maintenance Agreement includes solely the license holder, with the right of use to the "Program" delivered by Matriks IT ApS according to the accepted International Program License Agreement (in the following referred to as IPLA).
- 1.2. The Annual Maintenance Agreement includes:
  - Access to upgrades of the program to ensure compliance to local law to the best of our ability.
  - Access to upgrades containing enhanced functionality, when upgrades are released.
  - Access to Hot fixes of the program, when the bug fixes are released.

## 2. Payment

- 2.1. Co-instantaneous with entering into the IPLA the License holder enter into the Annual Maintenance Agreement for the following twelve (12) month, equivalent to the first subscription year. **The subscription will automatically remain in effect, as long as it has not been terminated according to cf. Clause 9.2 in the Annual Maintenance Agreement.** At the end of the subscription year, subscription for the following twelve (12) month is invoiced. The subscription fee shall be based on the current pricelist from the Dealer who delivers the Annual Maintenance Agreement to License holder.
- 2.2. Since the subscription is made directly with a Dealer/Matriks Solution Provider, the fee is invoiced by the Dealer.

## 3. Precautions regarding the implementation of the Annual Maintenance Agreement

- 3.1. The License holder is bound to follow the guidelines regarding installation and use of the Updates.

## 4. Compatibility of Upgrades

- 4.1. In connection with the implementation of Hot Fixes, Upgrades and New Versions, Matriks IT ApS shall not warrant that the License holder will be able to make full use of any adjustments or other modifications created by License holder or third parties, as components in the Application Code of the Program.
- 4.2. Matriks IT ApS shall not warrant that there is retrospective compatibility between Hot Fixes, Upgrades and New Versions or their functionality, or between language and country specific functionality.

## 5. Intellectual Property Rights/Copyrights

- 5.1. Matriks IT ApS hold full copyright, title and all and any other rights to the Program. The Program is protected by copyright laws and international treaty provisions. Any disregard of Matriks IT ApS and/or its Dealers rights, including inappropriate access to the Program which might render copying of License files/Codes to the Program possible for third parties, shall be deemed to be a material breach of this Annual Maintenance Agreement and shall entitle Matriks IT ApS to terminate this Agreement for cause, cf. Clause 9, and pursue all remedies available to it.
- 5.2. The License holder shall not break or change any License Files/Codes. Nor shall the License holder change or remove any marks and/or notices concerning copyright, trademarks or other rights, or references hereto stated in the Program or on the medium upon which the Program may have been delivered.

5.3. The copyright mentioned applies to all and any upgrades of the Program.

## 6. Limitation of Liability

- 6.1. In no event and no matter the circumstances shall Matriks IT ApS be liable for any loss of anticipated profit, loss of data, damage to records or data or any indirect, special, incidental or consequential damages or loss (collectively "losses") (which for purposes of this Annual Maintenance Agreement shall be deemed to include, but not be limited to the loss of goodwill, or loss as a consequence of any kind of business interruption) arising out of or in connection with this Annual Maintenance Agreement or the use or performance of the Program or services connected thereto even if Matriks IT ApS was advised of the possibility of such losses and regardless of whether the cause of action is in contract or tort. Accordingly, the license holder cannot claim, demand or seek recovery from Matriks IT ApS for any of the foregoing losses, and Matriks IT ApS will not indemnify the License holder for such claims.
- 6.2. To the maximum extent permitted by applicable law, Matriks IT ApS disclaims any product liability as a consequence of loss or damage to property which, in view of its nature, is normally intended for commercial use.
- 6.3. In all and any event, no matter the circumstances, Matriks IT ApS total aggregate liability for loss or damage arising out or in connection with this Annual Maintenance Agreement or the use or performance of the Program or services connected thereto shall not exceed the amount of the Annual Maintenance Agreement fee actually paid by the License holder for twelve (12) month according to the Annual Maintenance Agreement.

## 7. Force majeure

- 7.1. 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 Annual Maintenance Agreement as a result of a force majeure situation. Force majeure situations include war and mobilization, catastrophes of nature, strikes, lock-out, fire, damage to production plant, import and export regulations and other unforeseeable circumstances beyond the control of the party concerned.

## 8. Transfer

- 8.1. The License holder shall have no rights to sell/rent out/lend or in any other way transfer or assign the right to use the Annual Maintenance Agreement or any right or obligation under this Agreement to any third party without the prior written consent from Matriks IT ApS. Where such consent is obtained, the transfer shall be executed according to the guidelines for such transfer set by Matriks IT ApS.
- 8.2. Matriks IT ApS reserves the right to transfer its rights and obligations under this Annual Maintenance Agreement in whole or in part to a third party.

## 9. Term and termination of the Annual Maintenance Agreement

- 9.1. The duration of this Annual Maintenance Agreement shall remain in effect for twelve (12) month, starting with the date of acceptance of the Agreement.
- 9.2. In the event that the Annual Maintenance Agreement has not been terminated, upon a written notice and minimum three (3) month prior to the end of a twelve (12) month period, it will automatically be extended with a new twelve (12) month period.
- 9.3. In the event that Matriks IT ApS should cease the development of the Program, Matriks IT ApS shall have the rights to terminate this Agreement with three (3) month warning.

## 10. IPLA

- 10.1. The valid regulations for the use of the Program according to the IPLA are also valid for the Upgrades.

## 11. Governing Law and Venue

- 11.1. This Agreement shall be governed in accordance with the laws of the country of Denmark without reference to conflict of law principles or statutes leading to the application of other law than Danish law and excluding the Danish International Commercial Code (International Købelov no. 733 of December 1988) implementing CISG into Danish law.

11.2. Any dispute, controversy or claim arising out of or in connection with this agreement or the breach, termination or invalidity hereof shall be submitted to the exclusive jurisdiction of the Maritime and Commercial Court in Copenhagen as venue in the first instance.

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