

**Partner Reseller Agreement**

Continia Software A/S

CVR No. 32658083

Stigsborgvej 60

9400 Nørresundby

Denmark

(hereinafter referred to as "Continia")

and

Partner Name	
Address	
Country	
Date	
Signature Name (Printed)	
Title	

(hereinafter referred to as the 'Partner')

have entered into the following Partner Reseller Agreement (hereinafter referred to as the "Agreement") regarding the Partner's reselling of Continia Software Products and Continia Online Services.

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## 1 Background and scope

- 1.1 This document describes the conditions for establishing a re-selling and distribution relationship between Continia A/S, its local subsidiaries and the Partner.

## 2 Definitions

- 2.1 In the Agreement, the following words and expressions have the meanings stated below, unless the context requires otherwise.

Agreement	means this agreement with Schedules.
Continia Online Services	means functionality for the Continia Software Products as well as services for license management, billing and operations, provided from servers hosted by Continia as may be supplied by Continia under the EULA, including any developments, modifications and/or variations thereto.
Continia Software Products	means the Continia software products available in the partners home country that the Partner may use and distribute to End Customers from time to time, subject to the Agreement and the EULA, including any developments, modifications and/or variations thereto.
Data Processing Agreement	means an agreement between Continia and the End Customer regulating the processing of personal data in the form provided by Continia to the Partner from time to time.
Documentation	means any form of documentation related to the Products, inclusive of, but not limited to flow charts, instructions, manuals etc.
End Customer	means the company or companies using Continia Software Products and Third-Party Software thereby having accepted the EULA

Enhancement Plans	means the enhancement plan as described in the EULA provided with respect to each Continia Software Product from time to time.
EULA	means the Software License Terms & Terms of Service
Loss	any individual or collective loss, damages, cost, penalty, liability (including strict liability), judgment, settlement amount, fine or expense (including any court or arbitration cost and reasonable fees for attorneys and other professionals to settle any claim in or out of court)
Partner Commission Plan	means the current effective commission plan.
Software	means the Continia Software Products as may be supplied by Continia pursuant to this Agreement from time to time.
Products	means the Continia Software Products as may be supplied by Continia pursuant to this Agreement from time to time.
Third-Party Software	means the software and services supplied by a third party

### 3 Scope and appointment

- 3.1 Continia hereby appoints the Partner as a non-exclusive distributor of the Continia Software Products to End Customers. The Partner is only entitled to engage in active selling to End Customers in the Partner's home country (where registered) unless otherwise agreed with Continia.

### 4 Prices, License Terms and Commission

#### 4.1 Prices and discounts

- 4.1.1 Continia product pricing is based on current pricelists as described at [www.continia.com](http://www.continia.com). Continia prices do not include Taxes, VAT or any other local fees that may apply.

- 4.1.2 Continia reserves the right to change the pricelist, including existing Enhancement Plans and subscriptions, with 3 months' prior written notice before renewal.
- 4.1.3 Discount and special quotes are only valid when confirmed by Continia.
- 4.2 License Terms
  - 4.2.1 The Software can be licensed to the End Customers either via a Purchase License Model or a Subscription License Model, as described in the EULA.
  - 4.2.2 The Software is licensed based on users, databases, Companies, usage and functionality as described in the current pricelist and the EULA.
  - 4.2.3 The Partner is obliged to hand out the EULA and any applicable information and Data Processing Agreement (as may be made available by Continia from time to time) to the End Customers and ensure that the End User accepts the EULA and the Data Processing Agreement, if applicable, before the Software is made available. The Partner is not entitled to make any changes to the EULA and the Data Processing Agreement.
  - 4.2.4 Continia may in its discretion grant the Partner a non-exclusive and non-transferable license to use the Software under the terms of the EULA solely for the Partner's sales and demonstration purposes and for internal use, see clause 7.3.
  - 4.2.5 The license in the previous sub-clause is the Partner's sole right in relation to the Software. The Partner does not own or have any other rights in relation to the whole or any part of the Software and shall not purport or represent to do so.
- 4.3 Partner Commission
  - 4.3.1 The Partner receives commission for license, subscription and Enhancement Plans sold, based on the current Partner Commission Plan.
  - 4.3.2 The commission covers sales and support effort provided by the Partner. Continia reserves the right to change the Partner Commission Plan with 3 months' prior written notice.

## 5 Placing of orders and invoicing

- 5.1 Placing of orders
  - 5.1.1 The Partner should use the Continia Partner Portal on [www.continia.com](http://www.continia.com) or 3<sup>rd</sup> party marketplace to order.

## 5.2 Pricing.

- 5.2.1 The license and subscription fees for the Products follow from the pricelists and the Partner must charge the End Customer accordingly.
- 5.2.2 Continia will charge the Partner based on the End Customer's orders, usage, etc. and according to the pricelist less the commission in accordance with the Partner Commission Plan.

## 5.3 Invoicing

- 5.3.1 Continia will monthly send out invoices to the Partners due the following month. Payment Terms are 14 days. In the event of late payment, a 2% interest may be charged per month or part thereof.

## 5.4 Collection Fees

- 5.4.1 The Partner shall pay Continia for all costs, including attorneys' fees and court/arbitration expenses/costs, for collection of any unpaid balances or amounts under this Agreement.

# 6 Rights

## 6.1 Copyright

- 6.1.1 The Partner acknowledges that Continia holds copyright to the Products and that the copyright and any other relevant rights remain the exclusive property of Continia. The Partner's rights to the Products are strictly limited to the rights granted under this Agreement.

## 6.2 Reverse engineering

- 6.2.1 The Partner shall not be entitled to decompile, disassemble or in any other way reverse-engineer the Software unless the Partner intends to reverse-engineer or decompile the Software with a view to achieving interoperability with Third-Party Software. In such case, the Partner is to notify Continia of what is needed to achieve such interoperability and to seek written permission for any proposal for any form of reverse engineering, decompilation, modification or adjustment that needs to be carried out. The Partner undertakes not to remove or alter any specification or mark on or in the Software.

## 6.3 Trademarks, logos etc.

- 6.3.1 All trademarks, logos or other words or symbols identifying or associated with the Products or Continia's business shall remain Continia's exclusive property

and will always be used for identifying the Software or other products. The marks are not to be used in combination with trademarks, logos or other words or symbols of any kind that identify or are associated with the Partner's business. The Partner shall undertake no action that weakens Continia's property rights to the design nor shall the Partner seek to acquire or register rights to the marks or to use the trademarks, logos or other words or symbols of any kind which may be confused with the marks in any language.

- 6.3.2 Any use of the marks on the part of the Partner on any kind of media is to be accompanied by the relevant symbols and text acknowledging Continia's property rights and must comply with Continia's current rules on the use of the marks.

## 7 Sales support and marketing

### 7.1 Marketing by the Partner

- 7.1.1 The Partner is obliged, in its normal course of business, to actively market the Products during the term of the Agreement.

### 7.2 Sales support

- 7.2.1 Continia makes sales material available in the form of Videos, Online Demo Portal, PowerPoint presentations and PDF-format product sheets. Any other sales material is to be provided by the Partner itself.
- 7.2.2 In connection with the two first customer cases, Continia makes reasonable assistance and training available free of charge in connection with a demonstration of the Products. However, the Partner is obliged to pay any travel costs in connection with this. Subsequently, time spent on assistance is to be agreed case by case.

### 7.3 Products for demonstration and internal use

- 7.3.1 Continia may in its discretion make Products available to Partner for demonstration purposes and for internal use under this Agreement free of charge (There may be third party components costs, which are passed on to the Partner). The EULA will apply to such use mutatis mutandis.

### 7.4 Staff and training

- 7.4.1 The Partner is obligated to maintain a sales and support organisation with adequate qualifications to effectively and competently market the Products and provide 1<sup>st</sup> Level support on the Products to Partner's End-Customers.

## 8 Product Support

### 8.1 General provisions

- 8.1.1 The Partner undertakes to provide direct support (1<sup>st</sup> Level) on the Products to the Partner's End Customers. For as long as the Agreement is in force, Continia undertakes to provide support on the Products to the Partner. The support is provided to the Partner, not to the End Customer.
- 8.1.2 If a support task turns out to be caused by incorrect installation or configuration, Continia reserves the right to invoice the Partner for the time spent, at its current rates.
- 8.1.3 The support is granted to the Partner over the phone, by email or via the Continia Support Portal within Continia opening hours.

### 8.2 Assistance other than support

- 8.2.1 If the Partner requests assistance from Continia in connection with the Set-up, implementation and custom development, such assistance is to be invoiced and agreed separately.

## 9 Liability

### 9.1 No warranty

- 9.1.1 The Products are not covered by any warranty of any kind to the Partner or the End Customer other than what is determined in the EULA. Continia disclaims any other warranty or liability, whether direct, indirect or statutory, in connection with the Products, including but not limited to marketability, satisfactory quality and suitability for a given purpose.

### 9.2 Remedial action

- 9.2.1 The Partner shall notify Continia Software in writing of any defect in the Products, of which it has knowledge, without undue delay.
- 9.2.2 The primary liability towards the End User rests with the Partner. The Partner is to give Continia all reasonable opportunities to remedy such defect, inclusive of using patches, fixes and workarounds, and to render any reasonable assistance to Continia for remedial action, inclusive of handing over documentation for problems, remote access for Continia, additional computer runs for duplication of the conditions as at the time of the defect, and access to data files, listings, console logs etc.



### 9.3 Indemnification

9.3.1 The Partner shall indemnify Continia against any claim made and legal proceeding instituted by a third party and against any Loss which may be imposed on Continia as the result of circumstances, for which the partner is attributable.

### 9.4 Limitation of liability

9.4.1 Notwithstanding anything in this agreement to the contrary, in no event is Continia and its parent companies, subsidiaries and affiliates, and their officers, representatives, agents, contractors and employees, liable for consequential, indirect, incidental, special, exemplary, punitive or enhanced damages, lost profits or revenues, lost data or diminution in value, arising out of or relating to this agreement or any use of the Continia Software product or Continia Online Services, regardless of (a) whether the damages were foreseeable, (b) whether or not the partner was advised of the possibility of the damages and (c) the legal or equitable theory (contract, tort, restitution or otherwise) on which the claim is based, and notwithstanding the failure of any agreed or other remedy of its essential purpose.

9.4.2 Notwithstanding anything in this agreement to the contrary, in no event shall Continia's and its parent companies', subsidiaries' and affiliates', and their officers', representatives', agents', contractors' and employees', aggregate liability arising out of or related to this agreement or any use of the Continia Software products or Continia Online Services, whether arising out of or related to breach of contract, tort (including negligence), restitution or otherwise, exceed the total of the amounts paid by the partner to Continia in the 12 month period preceding the event giving rise to the claim. the foregoing limitations apply even if remedies under this agreement fail of their essential purpose.

9.4.1 Nothing in the agreement, including these Terms, shall be construed to limit Continia's liability under the mandatory provisions of applicable product liability laws, including the Danish Products Liability Act ("produktansvarsloven"). Any product liability is, however, disclaimed to the furthest extent possible according to applicable laws and the Partner will indemnify Continia against any third party claims.

### 9.5 Force majeure

9.5.1 None of the parties can be held liable for circumstances which render it impossible or unreasonably burdensome to fulfil the obligations under this Agreement, inclusive of, but not limited to war, riots, insurrection, general or local strikes, fire, natural disasters, currency restrictions, import or export bans, disruption of general communications, disruption of or failure in the supply of electricity, supply problems from sub-suppliers, key employees' long-term

illness, widespread virus and the occurrence of force majeure at sub-suppliers. In the event of force majeure, the party affected by such force majeure shall notify the other party in writing, as soon as possible that a force majeure situation has arisen, and both parties are entitled to demand that the time-schedules be re-negotiated. If the force majeure situation has lasted for more than 60 days, either party is entitled to terminate the Agreement without notice prospectively.

## 10 Duration of the Agreement

### 10.1 Term

10.1.1 This agreement enters into force on the date it is signed and continues until it is terminated in accordance with the provisions of this Agreement.

### 10.2 Termination

10.2.1 Either party may terminate this Agreement at any time by providing at least 6 months written notice to the other party.

### 10.3 Termination without notice for cause

10.3.1 Notwithstanding clause 10.2 or anything in this Agreement to the contrary, Continia may terminate this Agreement immediately by providing written notice to Partner:

- if Partner breaches any provision of this Agreement, and either the breach cannot be cured or, if the breach can be cured, it is not cured by Partner within 15 days after Partner's receipt of written notice of the breach;
- if Partner becomes insolvent or files, or has filed against it, a petition for voluntary or involuntary bankruptcy or under any other insolvency law, makes or seeks to make a general assignment for the benefit of its creditors or applies for, or consents to, the appointment of a trustee, receiver or custodian for a substantial part of its property, or is generally unable to pay its debts as they become due; or
- if (i) Partner sells, leases, exchanges, transfers or disposes of a material portion of Partner's assets; (ii) Partner merges or consolidates with or into any other person or entity; or (iii) a change of control of Partner occurs, in any case without the Continia's prior written consent.

### 10.4 Transfer

- 10.4.1 Partner may not assign any of its rights or delegate any of its obligations under this Agreement (including the use of sub-partners/sub-resellers) without the prior written consent of Continia. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves the assigning or delegating party of any of its obligations under this Agreement. Continia may assign any of its rights or delegate any of its obligations under this Agreement to any third party without Partner's consent. However, Continia shall notify the Partner in writing of any delegation of its obligations under this Agreement.
- 10.4.2 For the avoidance of doubt, this clause 10.4, shall not affect the transfer of a License Order from one Partner to another, provided that the requirements for such change of Partner are met.

## 11 Confidentiality

- 11.1 The parties agree that all information concerning the Products that is not intended for End Customers or other third parties shall be confidential.
- 11.2 The parties also agree that this Agreement and the terms thereof shall be confidential unless Continia has consented in writing to a publication hereof.
- 11.3 The confidentiality shall apply for an unlimited period of time or as long as the information is unknown to the general public.

## 12 Applicable law and dispute resolution

- 12.1 **Governing law.** This Agreement and all matters arising out of or relating to this Agreement party's use of the Continia Software Product or Continia Online Services shall be governed by and construed in accordance with the laws of Denmark, provided, however, that the conflict of laws rules must be disregarded to the extent that such rules are non-mandatory.
- 12.2 **Arbitration.**
- 12.2.1 The Parties must seek to settle amicably any dispute arising out of the agreement, including these Terms, including any dispute concerning the existence or validity of the agreement, no later than 30 days after either Party's receipt of notice from the other Party including a detailed description of the dispute. Any dispute arising out of the agreement, including these Terms, including any dispute concerning the existence or validity of the agreement, that cannot be settled amicably between the Parties will be decided by

arbitration by the Danish Institute of Arbitration. The Danish Institute of Arbitration will apply the rules in force when the application for arbitration is submitted.

- 12.2.2 Each Party will appoint 1 arbitrator. The Danish Institute of Arbitration will appoint 1 additional arbitrator who will be chairman of the arbitration tribunal. If either Party fails to appoint an arbitrator no later than 30 days after submitting an application for arbitration or receiving Notice of arbitration, the Danish Institute of Arbitration will also appoint that arbitrator.
- 12.2.3 Neither Party is entitled to disclose confidential information about the arbitration proceedings to others, including information about any decision or award made by the Danish Institute of Arbitration, unless the other Party has consented to any such disclosure of information in writing. Either Party is entitled, however, to disclose information about the arbitration proceedings to others if such disclosure is made to protect the Party's interests against the other Party in the best possible manner, to comply with current legislation or public authority decisions or is required by stock exchange listing agreements.
- 12.3 **Interim remedies.** This clause shall not prevent Continia from seeking interim remedies or any similar remedy available under relevant foreign legislation. The Parties will continue the proceedings in accordance with this clause irrespective of whether any interim remedy has been implemented.

CONTINIA SOFTWARE A/S.

By: 

Henrik Lærke  
CEO

The Partner

By: \_\_\_\_\_

\_\_\_\_\_ date