



# Subscription Terms

## 1. Usage

1.1 These subscription terms (hereafter Terms) applies to all offers, sales, support agreements and other agreements between OCTOPUS PMS (hereafter referred to as OC) and the customer (hereafter referred to as Customer), unless otherwise agreed in writing between the parties. In this case, the terms of such written agreements take precedence if they explicitly state otherwise than following terms and conditions. In case of disagreement between the present Terms and the Customer's own terms and conditions, the present terms shall be given priority unless the deviating terms and conditions are accepted in writing by both Parties.

1.2 It is a prerequisite for the conclusion of agreements between OC and the Customer that the Customer is registered as a company with own Company identification number. One subscription will be created per cadastral number. An agreement is concluded between OC and Customer and it is the responsibility of the Customer that persons who have access to the system are informed of the relevant terms of the agreement. The Customer agrees that OC may send notifications regarding the agreement by e-mail. The Customer commits oneself to ensure that the provided contact information: Company name, contact person, e-mail address and postal address is constantly up-to-date.

## 2. Contractual basis

2.1 A specific offer given by OC is binding for 30 days after the offer has been submitted/forwarded by mail, fax or e-mail to the Customer.

2.2 An agreement is only binding to OC when the Customer has received a written order confirmation. The price is the actual price at the time for OC's order confirmation. The Customer is obliged to review the order confirmation immediately after it is received and contact OC immediately if the order confirmation does not match the agreement between the parties. Otherwise the order confirmation will be considered binding with the content delivered.

## 3. Duration and billing of the subscription

3.1 The subscription will be effective upon order and will not expire until terminated in accordance with the terms.

3.2 The first billing period runs from order date to end of the current calendar quarter. Afterwards it is billed quarterly in advance, however, if OC receives data, due to consumption related payment, after invoice for the period is issued, then those data will be charged quarterly backwards.

## 4. Scope and usage of the subscription

4.1 The Customer obtains, in accordance with these Terms and Conditions, a non-exclusive right to use the OCTOPUS PMS hotel program and its associated websites (hereinafter the Application) made available as a Software as a service.

4.2 The access to the Application applies exclusively to the Customer and its advisers and the Application may not be used by any other than the Customer or to provide services to anyone other than the Customer. The Customer vouches for, and is fully responsible for, any third parties to whom the Customer gives access to the Application or who uses the Customer User Access to the Application.

4.3 Apart from what is stated in 4.2, the Customer is not entitled to transfer the subscription to third parties, neither wholly or partially, or grant access to the Application to third parties.

4.4 The Customer shall ensure that the Application is not used in a way that can damage the OC's name, reputation or goodwill, or which violates applicable laws or regulations.

## 5. Prices and payment terms

5.1 Reservations are made in relation to printing errors in offer and order confirmations.

5.2 Payment terms are 14 days net from invoice date.

5.3 If the invoice is overdue, the 1st reminder is sent free of charge. If there still is no payment for the invoice the 2nd reminder is sent with an added fee of DKK 410.00. This fee consists of a reminder fee of DKK 100.00 plus a compensation fee of DKK 310.00 according to applicable EU legislation. In addition, interest will be added to the due amount.

5.4 OC may, in case of missing payment of one or more overdue invoices, terminate the Customer's access to the application. OC can not be held liable for operating loss, loss of profits, consequential damages or any other indirect loss of any kind in relation to the restricted access to the application. Loss of data is considered an indirect loss. Access to the application will reopen after receiving payment unless OC has previously canceled the subscription.

5.5 The Customer accepts that invoices and reminders sent by e-mail to the e-mail address provided by the Customer are considered to be delivered when sent by OC.

5.6 Price changes are notified by e-mail. Changes that are only for the benefit of the Customer may take effect without notice. All prices are excl. VAT.

5.7 Calls outside opening hours, defined as calls outside the time frame 7:00 AM to 9:00 PM Monday to Friday, are invoiced separately with DKK 495.00 per call.

5.8 OC charges an invoicing fee per invoice of DKK 49.00

## 6. Termination

6.1 The Customer can terminate the subscription in writing and with 30 days' notice until the end of a month

6.2 OC can terminate the subscription in writing and with 30 days' notice until the end of a month or without notice upon Customers significant violation of these Terms or at Customers bankruptcy or insolvency.

## 7. Customers data

7.1 Both Parties agree that the Customer owns and freely disposes of their own data in the Application. The Application provides the Customer with the possibility to export all directories, data etc. via the export function in the Application and the Customer accepts that such export must be carried out by the Customer himself before terminating the subscription. In the case that the subscription expires or is terminated by the Customer, OC shall, where reasonable and commercially justifiable, provide the Customer with a period of 10 days after termination where the export function may be used.

7.2 OC reserves the right to delete Customers data 90 days after the termination date of the subscription, regardless the reason for the termination and OC has no obligation to store data after this time.

7.3 OC is entitled to store Customer data after termination in order to use these in anonymous form for statistics and analysis.

7.4 OC can, under certain circumstances, where OC considers it justifiable and reasonable, grant access to the Customer's data to third parties and authorities in connection with court judgments, statutory requirements, Customer's bankruptcy, death or similar.

7.5 By agreement, the Customer authorizes OC to use submitted images as illustrative material on OC's website, in publications or similar.

## 8. Operational stability

8.1 OC aims for the highest possible operational stability, but is not responsible for breakdowns or operational disruptions, including operational disruptions caused by factors beyond the control of OC. Hereby understood among others power failure, equipment failure, internet connection failure, telecommunication connection failure or similar force majeure situations. The Application and the service is delivered as is, and OC disclaims any guarantee, insurance, warranty, claim or other terms whatever directly or indirectly.

8.2 In case of breakdown or disturbance OC aims to restore normal operational stability as fast as possible.

8.3 Scheduled disruptions will preferably be placed in the period 22-6 CET. Should it be necessary to disconnect access to the Application outside the mentioned period, this will be notified in advance to the extent it is possible.

## 9. Changes

9.1 OC is entitled continuously to make updates and improvements to the Application. OC is also entitled to change the composition and structure of the Application and Services. Such updates, improvements and changes may occur with or without notice and can affect services, including information and data uploaded to, or submitted by, the Application.

## 10. Immaterial rights

10.1 The Application and information given from the Application, except Customer's own data, are protected by copyright and belongs to or is licensed to OC. Individually developed software also belongs to OC, unless otherwise agreed in writing. The Customer shall inform OC of any current or potential violation of OC's immaterial rights or unauthorized use of the Application that the Customer becomes acquainted with.

10.2 There is no transfer of immaterial rights to the Customer.

10.3 In relation to the data uploaded by the Customer and all Customer's data, the Customer grants OC and OC's supplier permission and a global license sufficient to enable OC to properly run and operate the Application and thereby fulfill its obligations and perform marketing towards the Customer. The Customer vouches that the material uploaded by the Customer does not violate third party rights and does not contain material that can be seen as offensive or violates relevant legislation.

## 11. Entrusting

11.1 OC is in its right to entrust its rights and obligations towards the Customer to associated company or third party.

11.2 The Customer agrees that OC is entitled to use subsupplier in all conditions, including execution and operation of the Application and for storing Customers data.

## 12. OC's responsibility

12.1 OC disclaims any liability for loss in relation to these Terms, services or use of the Application, whether arising in contract or outside contract, including operation loss, consequential damages or other indirect loss, loss of data, loss due to product responsibility or loss caused by simple negligence.

12.2 OC is not responsible for third party solutions that are available and/or integrated with the Application, including currency feeds/calculators. OC can not be held liable for the accuracy, completeness, quality and reliability of information, nor the results obtained through these third-party solutions. Similarly, OC cannot be held liable for the availability, security or functionality of third party solutions, including possible damage and/or loss caused by third party solutions. It is the responsibility of the Customer to prove that a loss suffered by the Customer cannot be attributed to third party solutions.

12.3 Regardless of the type of loss or liability basis, OC's total liability is limited to the Customer's payment for 12 months prior to the liability, however in any case maximum DKK 12.000. The Customer accepts to indemnify OC for product liability, third party loss and other third-party claims because of the Customer's use of the Application.

12.4 The Customer agrees to indemnify OC from any claim or loss due to product liability, third-party loss or third-party liability to the extent that it is caused by Customer's use of the Application.

## 13. Change of Terms

13.1 OC is entitled to change these Terms in all areas. The currently valid Terms will be available on the OC website ([www.octopuspms.com](http://www.octopuspms.com)). OC aims to provide a reasonable warning (1 month) in connection with any change, by

posts on the website. Use of the Application after a change of these Terms constitutes acceptance of such changed Terms. It is the obligation of the Customer to keep oneself up date on changes to the Terms

## 14. Professional secrecy and data security

14.1 OC only treats the Customer's data according to its instructions and therefore not for its own unauthorized purpose.

14.2 OC has professional secrecy about all information that OC may have about the Customer, and is not entitled to disclose such information to third parties, unless such information is publicly available or where OC is required to disclose that information by law or by order from an authority or court.

14.3 OC has taken the necessary technical and organizational safeguards against the fact that the information in the Application, incidentally or illegally, is destroyed, lost or detracted, and against unauthorized disclosure, misuse or otherwise treated in violation of the Personal Data Processing Act.

14.4 OC provides at the Customer's request - and against payment of OC's at any time applicable hourly rates for such work - sufficient information to enable Customer to ensure that the mentioned technical and organizational security measures have been taken.

14.5 To the extent that the Customer uses information, usernames or passwords that concerns third party information or services in relation to OC, the Customer agrees that the passing on of such information and OC's processing of such information does not violate rights or agreements with third parties. The Customer shall indemnify OC for any loss in connection with this determining.

## 15. Disputes

15.1 Complaints originating from the subscription must be submitted in writing to [info@octopuspms.com](mailto:info@octopuspms.com)

15.2 In the event of legal disputes according to the subscription, the parties are committed to enter good faith negotiations. If a settlement cannot be reached after a personal meeting, the dispute shall be settled under Danish law, with the court in Sønderborg as a court of law.

## 16. Validation

16.1 These Terms are valid from 20-02-2018 and replaces previous terms.

# General Sales-, Support- & Delivery Terms

## 1. Usage

1.1 These Sales and Delivery Terms and Conditions apply to all offers, sales, deliveries, support agreements, and other agreements between OCTOPUS PMS ApS (hereinafter referred to as OC) and Buyer (hereinafter referred to as Buyer), unless otherwise agreed in writing between the Parties. In this case, the terms of such written agreements take precedence if they explicitly state otherwise than the following sales, support and delivery terms.

1.2 In case of disagreement between the present Sales Support and Delivery Terms and Buyer's own Terms, if applicable, the present Terms shall be given priority unless the deviating terms are accepted in writing by both Parties.

## 2. General

2.1 A specific offer made by OC is binding for 30 days after the offer has been submitted/forwarded per. mail, fax or e-mail to the Customer.

2.2 An agreement is only binding to OC when the Customer has received a written order confirmation. The price is the actual price at the time for OC's order confirmation. The Customer is obliged to review the order confirmation immediately after it is received and contact OC immediately after if the order confirmation does not match the agreement between the parties. Otherwise the order confirmation will be considered binding with the content delivered.

## 3. Prices

3.1 OC reserves the right, until delivery, to regulate the prices proportionally if there is an increase in costs associated with freight, insurance, taxes, exchange rates or the like which OC has no influence on.

3.2 The prices quoted on the order confirmation are stated in Danish kroner excl. transportation insurance, VAT and possibly other taxes.

3.3 If OC's costs are increased because of Buyer's conditions, OC is entitled to claim compensation.

3.4 Price changes are notified by e-mail. Changes that are only for the benefit of the Buyer may take affect without notice. All prices are excl. VAT.

## 4. Product information and changes

4.1 Reservations are made in relation to errors in and changes of brochures, website and other types of sales material. Therefore, potential errors cannot be claimed to OC.

4.2 Similarly, OC reserves the right to make construction- and/or design changes on the products in question until the agreed delivery date. Finally, OC reserves the right to replace parts of a delivery on condition that these parts are of the same quality as the original parts. OC informs Buyer in writing of such replacements if they may cause a deterioration to the Buyer. OC is entitled to make minor changes in the delivery, which, according to OC estimates, are technically necessary and/or sound.

## 5. Delivery

5.1 Delivery takes place ex OC's warehouse and all shipment beyond this area is at the Buyer's expense and risk. OC is entitled to make a delivery through an OC chosen supplier.

5.2 Delivery will take place at the time specified on the order confirmation unless Buyer's conditions prevent this.

5.3 In the case of installation by technician, delivery is considered to have occurred when the equipment is set up and ready.

## 6. Return rights - Hardware

6.1 Hardware is defined as physical equipment provided by OC.

6.2 Until 30 days after delivery, Buyer is entitled to return the hardware to OC if Buyer is not satisfied. The returned hardware must be received by OC, before the 30 days have expired.

6.3 If the right of return is applied, Buyer is responsible for returns and all costs associated with it and bear the risk of the hardware until it reaches OC.

6.4 OC repays already paid purchase price within 14 days of receipt of hardware returned in accordance with the above.

## 7. Complaints - Hardware

7.1 Hardware is defined as in 6.1.

7.2 The deadline for complaints regarding hardware provided by OC is 12 months.

## 8. Payment

8.1 Payment must be made within 14 days of delivery.

8.2 If delivery is postponed due to Buyer's condition, Buyer is required to pay the agreed payment as if delivery had been made at the agreed time.

8.3 In case of late payment, interest is calculated with 2% per month from due date until payment is made.

8.4 The Buyer's obligation to pay timely consists, even if Buyer advertises defects, unless Buyer deposits the purchase price on a labeled account, or at the Buyer's attorney.

8.5 Buyer is refused to set off, or otherwise withhold any part of the purchase price based on any Claims of any kind, without OC's prior written consent.

8.6 When paying by check, bill or debt certificate, final payment is not considered to have taken place before full payment has been made.

8.7 Calls outside opening hours, defined as calls outside the time frame 7:00 AM to 9:00 PM Monday to Friday, are invoiced separately with DKK 495.00 per call.

8.8 OC charges a billing fee per. invoice of DKK 49.00

8.9 OC may, in case of missing payment of one or more due invoices, terminate Buyer's access to the OCTOPUS PMS application.

## 9. Reservation of ownership

9.1 OC reserves the right to ownership of the goods delivered until final and full payment has been made, plus accrued interest and costs, according to the Credit Contracts Act. Upon withdrawal according to the reservation of ownership, Buyer shall indemnify any loss and all costs, including attorneys' fees that OC may incur. The buyer is unjustified to resale, pledge, lend, rent or the like of the delivered before full payment has been made. If prosecution is brought against the delivered from third parties, including expenses, Buyer is required to notify OC immediately.

## 10. Unforeseen events

10.1 The parties are not responsible for non-fulfillment and cannot therefore be considered to have violated their obligations if a non-fulfilled obligation is due to circumstances beyond the control of the party concerned (force majeure) including but not limited to war, warlike situations, rebellion, fire, government intervention, public injunctions, natural conditions, strikes, lockouts, export or import bans, transport accidents, damage to production equipment, hacker attacks, lack of labor, commodities, fuel or power, or anything beyond the control of the parties, including delayed delivery from subcontractors, or inadequate delivery from the same, and which temporarily or definitively prevent fulfillment of the agreement. In such cases, the parties have the right to a reasonable extension of time limits, except that both parties are entitled to terminate the agreement if the condition in question lasts for more than 30 consecutive business days.

10.2 A party shall notify the other party in writing and without any delay, if the party wishes to invoke matters as mentioned in section. 10.1.

## 11. Delay

11.1 If delivery does not take place as agreed, cf. section 5, Buyer provides OC a further 14 days to deliver the ordered goods.

11.2 Within this time limit, the Buyer is not entitled to make breach powers applicable. If this additional period expires without contractual delivery, Buyer is entitled to terminate the purchase agreement, however, so that the delay, for whatever reason, not justify the Buyer to a compensation for neither direct nor indirect loss. Thus, Buyer cannot make any responsibility or any liability for damages applicable because of delayed delivery.

## 12. Defects

12.1 The buyer must immediately carry out a thorough and in-depth examination of the goods delivered. If the Buyer finds or ought to find that the delivery is defective, Buyer shall notify OC in writing and without delay. In this connection, it must be stated clearly in which the defect consists. Otherwise, Buyer loses the right to later make the defects applicable.

12.2 If the Buyer can prove defects on the delivered goods, OC is entitled to make a replacement or remedy, at its discretion and within a reasonable time. If OC makes timely replacement or remedy, Buyer shall not have the right to cancel the agreement, or claim compensation, or any other financial compensation because of the defect. In connection with a possible replacement or remediation, Buyer must loyally assist in the execution of such measures.

12.3 In the event that OC cannot find fault, in accordance with Buyer's claim, for the goods delivered where OC is responsible, OC is entitled to receive compensation for the working hours and costs inflicted on OC because of Buyer's claim. OC is entitled to make one or more remedies or replacements.

12.4 If replacement or remediation does not take place in a timely manner, Buyer may terminate the agreement or demand a proportionate reduction in the purchase price. The buyer's breach powers are limited to this.

12.5 In case of complaint, the buyer is obliged to hand in the purchased goods, etc. to OC. This must only be done by prior agreement. Buyer carries the risk of transportation of the goods in this connection.

12.6 A defect is deemed not to exist if Buyer has used the delivered products incorrectly or inappropriately, including in violation of the OC guidelines, or if the buyer or third party without the consent of the OC has made changes or has intervened in the delivered.

## 13. Limitation of liability

13.1 OC is liable for damages under the general rules of Danish law, but the liability of OC is limited to cases where OC has shown gross negligence or intent and does not include indirect loss of any kind including, but not limited to, operating and loss of profits, loss of data, loss resulting from Buyer's legal relationship with third parties, loss due to unauthorized access to Buyer's computer system. In addition, a claim for compensation or other financial compensation may neither exceed the invoice amount excluding VAT for the delivered items or DKK 75,000.00. The same limitation of liability applies to OC's services, including advice and guidance.

13.2 OC is not responsible for disturbance, interruptions etc., if the disturbance, interruptions or errors are attributable to the Buyer relationship.

## 14. Individual Information

14.1 OC's processing of personal information is covered by the Personal Data Act (Law No. 429 of 31 May 2000 regarding the processing of personal information)

14.2 OC processes personal information on behalf of the Buyer based on instructions from Buyer. OC has taken the necessary technical and organizational safeguards against the fact that the information incidentally or illegally, is destroyed, lost or detracted, and against unauthorized disclosure, misuse or otherwise treated in violation of the Personal Data Processing Act.

14.3 OC provides at the Customer's request - and against payment of OCs at any time applicable hourly rates for such work - sufficient information to enable Customer to ensure that the mentioned technical and organizational security measures have been taken.

## 15. Intellectual Property Rights

15.1 OC retains all intellectual property rights to the goods delivered.

## 16. Communication

16.1 Notifications in connection with the concluded agreement may be submitted by the Buyer with binding effect to info@octopuspms.com

## 17. Changed legislation, etc.

17.1 In the event that one or more of the regulations of the concluded agreement is invalid or otherwise cannot be maintained because of changes in legislation or notified authority requirements, the parties agree upon that the agreement shall not in its entirety be considered invalid or terminated. The parties also agree to make such changes and agreements that may be necessary or appropriate and, as far as possible, do not influence the legal relationship between them as expressed in the concluded agreement.

## 18. Transfer

18.1 OC is entitled at any time to transfer its rights and obligations in accordance with the concluded agreement to third parties.

18.2 Buyer is not entitled to transfer its rights and obligations in accordance with the concluded agreement to third parties without OC's prior written consent.

## 19. Changes and additions

19.1 Only written changes and additions to the concluded agreement shall have legal effect.

## 20. Termination of the Agreement - including cancellation and breach

20.1 The termination of the Service Agreement can be notified by both parties in writing by 30 days to the end of one month.

20.2 In the event that the Buyer has a rental or leasing agreement with OC, special terms for cancellation notice may apply, as specified in the rent/lease agreement.

20.3 Service agreements on equipment rented or leased cannot be terminated by Buyer if the rental/lease agreement is applicable.

20.4 In the event of a material breach by one party, the other party is entitled to terminate the agreement with immediate effect. Substantial breach is considered, among other but not limited to the following conditions:

- During the conduct of their business, the parties do not act loyally and reasonably or violate their obligations to the other party in accordance with the concluded agreement or against third parties.
- The buyer will stop the payments, initiate negotiations with creditors or dies.
- The buyer goes bankrupt and the liquidator within 8 days of the bankruptcy's entry does not inform OC that the bankruptcy estate wishes to conclude the agreement.
- In addition, the parties are guilty of significant material breach of the contract or its prerequisites.

20.5 Buyer's right to terminate is limited, as Buyer can, as a rule, only terminate the agreement related to the part of the total delivery that may be delayed or suffer from lacks.

## 21. Disputes

21.1 Complaints arising from the agreement must be submitted in writing to info@octopuspms.com

21.2 In case of litigation in accordance with the concluded agreement, the parties commit themselves to negotiate in good faith. If a settlement cannot be reached after a personal meeting, the dispute shall be settled under Danish law, with the court in Sønderborg as a court of law.

## 22. Validity

22.1 These Terms are valid from 20-02-2018 and replaces previous terms.