

# General Terms and Conditions for End-Users of Clock PMS Suite Labelled Software

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Version 4.1

*Welcome to Clock Software! Thank you for choosing to use our Software, Subscriptions and Support!*

We (“we”, “us”, “our”) are Clock Software Ltd., with a registered office at 27 Redcliffe Gardens, London, SW109BH, United Kingdom and company number: 08008667; Klok OOD registered in Bulgaria, with a registered office at 20 Strandzha Street, 9000 Varna, Bulgaria, with company number 103135417, and any affiliated company of theirs (“Clock Group”).

If you are an End-User, we provide our Software to you. By using our Software, you agree to the provisions of the present General Terms and Conditions for Clock PMS Suite labelled software (the “Terms”) and the provisions of our:

- Data processing agreement (“DPA”);
- Information security policy;
- Support terms;
- Privacy policy (“Privacy policy”).

Please read them carefully and regularly check for updates. If using the Products on behalf of a business or other legal entity, that business or entity accepts the Terms.

By subscribing to use our Software you agree to hold harmless and indemnify us and our affiliates, officers, agents, and employees against any claim, suit or action arising from or related to the use of the Software in violation of these Terms, including any liability or expense arising from claims, losses, damages, suits, judgments, litigation costs and attorneys’ fees.

Certain Software or Software features may require the acceptance of additional terms. Where applicable, such terms shall be provided to you. Such additional terms shall be an integral part of these Terms and vice versa. In case of contradiction between these Terms and the additional terms, the relevant additional terms shall prevail.

## Common definitions

You are an “End-User”, if you have an active Subscription or are licensed to use the Software but not to distribute it.

“Sales Agents” or “Resellers” (“Agent/Agents”) are each and all third parties, contractually entitled by us to promote our Software and/or provide Support.

“End-user agreement” or “Agreement” is any individual agreement made by and between you and us or our Agent, signed electronically or on paper, or any de-facto or formally accepted proposal, issued

by us or by our Agent, granting you a Subscription and listing the software features, licence restrictions, relevant terms and conditions, and inclusive support as delivered and specified by us.

“Software” means Clock PMS Suite labelled software products hosted and operated on hardware under our control and provided to you via Internet, any locally installable Clock PMS Suite labelled software, as well as the software updates and the relevant interfaces. The term Software also includes the associated documentation (Software user manuals, reference manuals, inline help resources or parts of them) published on-line by us under these Terms or the relevant Subscription, which documentation might be updated periodically. In particular instances, the term “Software” also means third-party software components, operating in conjunction with Clock PMS Suite labelled software if such are delivered by Clock, but not by our Sales agents, as part of your Agreement. The term “Software” does not include any other third-party software or software components, including such developed by our Sales agents. Our Sales agents undertake to specify clearly in all correspondence with End-users, in all Proposals and in all Agreements which components are not a “Software” under the above terms.

„Licence” is a personal, non-exclusive, non-sublicensable and non-transferable right to use the Software.

“Subscription” is our undertaking to grant you a combination of Licence and/or Support under the terms and conditions of your Agreement.

“Support” are any and all services, delivered by us or by our Sales Agents to you personally or electronically, on-site or remotely in respect to our Software, which include, but are not limited to, training, maintenance, remedy of malfunctions, training videos, product or feature setup or activation, online issue resolution, ongoing support, product articles, inline assistance resources, knowledge database records.

“Support Terms” are our terms and conditions for provisioning of support services related to Clock PMS Suite labelled software, including those relevant to the initial implementation of our Software, which are published on the Support page of Our Web Site and which might be updated from time to time.

“Privacy policy” and “Data processing agreement “ mean Clock’s Privacy policy and Clock’s Data Processing Agreement available on Clock’s website.

“Our web site” shall be published and made available for you online at [www.clock-software.com](http://www.clock-software.com).

## Subscription and End-User Agreements

Should you like to use our Software for automating the operations and daily management of business units (hotels, accommodation units, restaurants, etc.), you must hold an active Subscription, granted to you under an end-user agreement.

Each Subscription will grant access to our Software for a named period of time (“Subscription term”, “End-user agreement term” or just “Term”) and for a named business entity (hotel, accommodation property, restaurant, etc.). You will not be able to use our Software without a Subscription, including not being able to access the data recorded prior to the expiration of your last Subscription.

We believe you shall be entitled to decide which features of our Software and what Support services (“Support plans”) you like to be included in your Subscription and respectively in your Subscription fees. We also believe it is fair to calculate the fees for our Software based on the volume of your

business entity (eg. number of hotel rooms, number of restaurants, etc.) or whereas possible on the real usage. Hence, we will let you decide with each Agreement which specific features of our Software (“Add-ons”, “Modules”, “Products” - all for brevity “Software features”) you include in your Subscription or what named entity-, volume-, protocol-, transaction - and quantitative- based allowances or restrictions will apply to your Subscription. All Software features, allowances and restrictions (“Licence restrictions”) will clearly be specified in your Agreement.

After the particular Subscription expires, you can renew it or choose a different one. Your Subscription may also be automatically renewed if you have agreed so in your Agreement.

If you like to change your Licence restrictions you shall update your existing Subscription under the terms of your Agreement.

Some of our Software features may require that you have active service accounts and/or licences for software provided by other vendors, for example, a Facebook account, current representation agreement with an online travel agent, a PayPal account or a Microsoft Office licence. If you can't acquire or retain such third party accounts you can change your Subscription after it expires under the terms of your Agreement with us, but that will not discharge you from the obligation to pay your fees for the current Subscription term or will not be a reason for any discounts or compensations from us meanwhile.

Our Subscriptions and Software are subject to system requirements. You shall use our Software only on hardware, operating systems, network environment and technical devices which meet our System Requirements, as published on Our Web Site or as advised by us in writing.

You are only entitled to use our Software through the graphical user interface (“GUI”) or application programming interface (“API”) provided you follow our instructions and policies. You shall not use our Software in ways not permitted by law or under the applicable Licence restrictions. If you violate those rules, we may suspend or terminate the provision of our Software to you without any compensation and without discharging you from the obligation to pay the applicable fees for the current Subscription term in compliance with your Agreement. You will solely be liable for such non-permitted or unlawful use in front of us, our Sales agents, any state authority or any third party.

## Modification and termination of existing Subscriptions

As we work constantly to improve our Software and Support plans, we will be entitled to introduce new, modify or discontinue some of our existing Software features or Support plans We will be entitled to modify the Licence restrictions or the fees for some of the existing Software features. If we do so, we will inform you in writing.

If we modify an existing Software feature, included in your Subscription, or its applicable fee or Licence restrictions, the updated Subscription terms will become effective for you upon the expiry of your active Subscription, but not less than 90 days subsequent to our written notification, delivered to you. In the unlikely case that we discontinue a Software feature or Support plan, which has been included in your Subscription, we will automatically replace it with the closest equivalent or remove it from the applicable Subscription fees as of the moment it has been discontinued. If you do not agree to the modified Subscription terms, you can switch to a different Subscription after the current Subscription expires or discontinue the use of our Software.

You can discontinue the use of our Software at any time. If you do so, we will be very sorry to see you leaving. However, we will not reimburse any paid fees for the remainder of the current Subscription term.

In case of misuse of our Software beyond the Licence restrictions, for which you have been notified in writing but have not taken action, including, but not limited to, continued misuse of our GUI, API or of extraordinary volume of requests from your IP to your account, we remain entitled to suspend or terminate the provision of our Software to you. In such case, you will not be discharged from your obligation to pay the fees for the current Subscription term under your Agreement and you will not be entitled to any discount or compensation.

## Copyright

We and/or the other companies within the Clock group of companies are exclusive holders of the title and the copyright to the Software. Any other content, including any data, visualized on our web site or within the Software, may also be copyright-protected and belong to us, to our affiliates or to third parties. By using our Software or Support, you shall not have any title or intellectual property, neither shall you have the right to use that content or data for any purposes other than using the Software.

When the title and the copyright to Software and/or Support is not our exclusive property, we guarantee we have duly been entitled to distribute the said Software and/or Support, including the rights to grant to you Subscription and/or End-User Agreement, and we will remain so entitled without any limitations for the entire Subscription term and/or End-User Agreement Term.

Your Subscription does not prevent or restrict us to grant Subscriptions or Licences to any third parties to use our Software. Providing Software and Subscriptions is and shall always remain an exclusive right of ours.

We shall remain entitled to protect our copyright by any technical or other means, including deactivation of your Subscription or the banning of requests from your IP in case of repeated/continuous misuse.

## “As-it-is’ licence and modification of the Software and the Support

By using our Software, you understand and accept that we have developed it as uniform and serial Software for the general public, not for you in particular. The Software is distributed under Clock group’s trademark and titles.

As we work constantly to improve our Software and Support plans, we shall be entitled to add, modify or remove Software features to/from our Software or Support plans at any time. However, although we always appreciate suggestions and improvement ideas, we shall not be obliged to implement any changes or modifications to our Software or Support, including to the extent permitted by law fixture of possible Software bugs. If we stop providing a particular Software feature or Support plan, we will try to notify you in advance within reasonable time and replace it with its closest equivalent. The modification of the Software and Support plans remains an exclusive right of Clock group.

If you submit feedback or suggestions about our Software or Support as a whole, we may use your feedback or suggestions without prejudice, entering into no obligation to you. We are entitled to use your feedback, feature requests and other ideas and/or recommendations for extending or improving the functionality of the Software or the Support. In such an event, you are not entitled to any reward and/or compensation and/or share of the copyright.

## Update of the Software

We will modify and update our Software by releasing System updates. We will run these System updates at our discretion, so the next time you log in to your account you will be using an updated version of our Software. The update of the Software may cause short interruptions of your access to your account, which we will always try to minimise. We will notify you in advance for any such planned procedures, unless in the cases of system updates designed to fix critical system defects or issues.

## Actions which you are not allowed to perform

Under no circumstances, you will be entitled to use our Software for purposes different from those they are designed for. You will not be entitled to access or attempt to access the physical databases or application files located on our technical means. You shall not attempt to access or modify any data stored on servers or technical means under our control by means different from our standard GUI or API and by means or to extent not permitted by your Licence restrictions included in your Subscription.

## Disclaimer as to content and data not uploaded by us

You can submit data or content, including but not limited to logos, property descriptions, room descriptions, visualised to the general public or to specific recipients through our Software. It is your sole responsibility to ensure that the submitted data or content does not contain any copyrighted materials of a third party or any false or misleading information. If notified of such by a concerned party, we shall be entitled to remove such data or content.

Our Software might visualise some data or content that are not ours, for example, information about properties or prices, uploaded or submitted by other End-Users of our Software. The person that makes such data or content available is exclusively responsible for it. We are entitled to review and remove any data or content that we consider inappropriate or in violation of the law. However, you shall not assume we do so. You agree that if you find any false data or content or information, for example, wrong or misleading property or rates descriptions, you shall direct your complaint and resolve your dispute directly with the entity which has made this information available. You agree that we or our affiliates are not responsible for any direct or indirect loss, damage or consequence, resulting from such data or content.

By using our Software you agree that you will only submit truthful and correct data or content. You agree that while using the Software, you will not violate any law, you will not infringe the intellectual property of any third party, you will not violate any obligatory undertakings that you hold to third parties and you will not submit any wrong, misleading, irrelevant, discriminating, abusive or otherwise illegal data or content. If you, however, do so, we are entitled to remove such data or content or even suspend the provision of our Software to you without discharging you of your obligation to pay the fees for the current Subscription term or any discount or compensation for you.

By using our Software, you give us and our affiliates the right to use, host, visualise, modify, transmit, publish, display and distribute any data or content that you submit or upload to our Software. This right is valid worldwide and will be used by us only in relation to operating our Software. It remains valid even after your Subscription expires or you stop using our Software. Where possible and reasonable, we may allow you to remove data or content from our Software. You shall not submit to our Software any data or content, for which you cannot grant such right to us. If you however do so, it will be on your own responsibility and at your own risk and you shall hold harmless and indemnify us and our affiliates, officers, agents, contractors and employees in respect of any claim, suit or action

arising from such submission, including any liability or as a result of any such claims, losses, damages, suits, judgments, litigation costs and attorneys' fees.

If you are interested in finding out more about how we store data or content, please read our DPA and Privacy Policy.

If you are a holder of infringed copyright on data or content visualized through our Software, please contact us and we will remove such data or content.

Occasionally, our Software may contain links to copyright-protected services, software or data or content of third parties. Where possible and reasonable, we will try to notify you about that.

## Warranties and limitations

As a warranty of our Software, we undertake to remedy only those software bugs or defects that cause complete or significant interruptions of the operation of our Software or loss of data. We will be granting such warranty during the entire term of your Subscription or End-User Agreement.

As a responsible software developer, we will try to remedy as many software bugs or defects as possible, even those not meeting the above criteria. However, we do not undertake such obligation within our warranty.

To remedy programme bugs or defects, we will release new versions and apply them to our Software within reasonable terms.

Neither we nor our affiliates grant any other warranties related to our Products. We provide our Software in the state "as it is", and we do not grant its ability of meeting your specific needs. In some unlikely and extraordinary cases our Software might be temporarily inaccessible.

Where some jurisdictions provide warranties, such as explicit or implied fitness of the software to particular purpose/s, we shall exclude all warranties for our Software to the extent permitted by law.

To the extent permitted by the applicable law, we and our affiliates shall not be responsible or liable for lost data, revenues, profits, other financial losses, and/or indirect, consequential, exemplary, special or punitive damages.

The aggregate liability of ours and of our affiliates for claims under these Terms and under the relevant Subscriptions and/or End-User Agreements shall be limited to the amount actually paid by you for using our Software in the last Term. In such cases we shall have the option to compensate you by granting benefits for using our Products

In any and all cases we and our affiliates shall not be liable for any loss or damage, which is not reasonably foreseeable, including, but not limited to, any loss of profit, consequential damages, etc.

Without prejudice to the above we and our affiliates shall be liable only for deliberation or gross negligence.

## Support

We clearly understand the importance of the Support we provide for you. That is why we have established strict Support Terms. By subscribing to, by ordering or by using our Support you accept

and agree to our Support Terms. The Support plan included into your Subscription (if any) will be clearly defined in your Agreement.

## Personal, Credit card or other sensitive data

We may need to collect personal, credit card or other sensitive data, for example, while signing up for your Subscription, while you are booking a room in a property using our Software or when we are processing credit card data on your behalf. By using our Software, you agree that we or our affiliates can use, process and transfer your personal, credit card or sensitive data in accordance with our Privacy policy, Data processing Agreement and Information security policy.

By using our Software to record or receive bookings, you agree that you will treat any personal data, transmitted to you by us or stored in our Software, in compliance with the data protection regulations, the Data processing agreements and the good practices. If you fail to do so, it will be your sole responsibility. It will also be your responsibility to establish, maintain and review internal data security procedures to minimise the risks of sensitive data misuse and you should undertake actions to restrict the access of your employees to such data only to the respective staff members whose obligations are directly related to its processing. You also agree that it is your sole responsibility to upload truthful and correct descriptions of your properties, cancellation and guarantee policies, rooms/units, packages, rates etc. You will also periodically verify how the settings, introduced by you in the Software, are visualized and available at the respective front end.

By using our Software to book rooms/units on-line, you agree that your personal, credit card and other sensitive data is transferred to the operators of the properties you chose to book. You agree that, since we do not have control over those third parties, we cannot be held responsible for the protection and privacy of the transferred information after the transfer completion.

Our Data processing agreement and Privacy policy published at our web site explain how we treat your personal, credit card and other sensitive data and protect your privacy when you use our Software and Support.

## Confidentiality

By using our Software you agree and undertake that information, disclosed and/or exchanged between us, except information intended for public announcement by virtue is strictly confidential and in no circumstances shall be released to any third party or used for any other purposes than executing the rights or performing the obligations under the respective Subscription or End-User Agreement.

The above confidentiality terms shall be valid for the Term of your Subscription or End-User Agreement and for a period of 2 (two) years subsequent to its termination.

## Modification of Terms

We remain entitled to modify these Terms and the additional terms at any time, for example, to update them with the introduction of changes to our Software and Support. The terms will be published on our web site. We will notify you in writing in case we modify our Terms. You will be able to check them and opt out from the modified Terms until the end of your current Agreement term.

Modifications of the Terms do not affect your rights under the current Subscription, unless you agree to the modification in writing.

If you do not agree with the modified Terms after the end of your Agreement, you may have to discontinue the use of some of our Products when your current Subscription expires.

## Law and jurisdiction

Any Subscription and/or End-User Agreement shall be governed by and construed in accordance with the laws of England, English conflict law excluded. The courts in England shall have the exclusive jurisdiction over all disputes which may arise out of or may be in connection with any such Subscription and/or End-User Agreement. However, we shall be always entitled to commence legal proceedings in the courts of any other country and in such a case we shall have the option to rely on the law of the court.

## Other provisions

By using our Products you agree that we may from time to time send you promotional or administrative information regarding our Products.

By using our Products you agree that we are mutually entitled to refer to each other as Software provider/End-User in promotional materials, including our respective web sites, without any remuneration or compensation for the referred party.

These Terms regulate the relationship between you and us, including our Agents. The Terms do not create any third party beneficiary rights.

If you do not comply with these Terms, and we do not take action right away, this does not mean that we are giving up any rights that we may have (such as taking action in the future).

If it turns out that a particular Term is not valid, this will not affect the entire Terms. For certification of information about how to contact us or our Sales Agent, please visit our web site.

For the End-user/Customer:

Name:	
Position:	
Legal entity name:	
Registered address:	
Country:	
Company reg. number/ VAT number:	
Date:	
By signing this document I do hereby declare that I am fully entitled to sign on behalf of the legal entity described as Customer above. I do hereby accept and undertake on behalf of the business to execute all obligations under present Terms.	Signature: