



## SAAS AGREEMENT

### 1. THE SAAS AGREEMENT AND THE PARTIES

This SaaS Agreement governs the Subscription to POSONE365 and is a legally binding agreement between the Customer and POS-ONE ApS, reg. no. CVR 44000792, Thriges plads 8, DK-5000 Odense C, Denmark ("POS ONE").

This SaaS Agreement must be accepted with a purchase of a Subscription to POSONE365 as a service and it comes into effect upon Customer's acceptance or when starting using the Service, whichever occurs first. The Customer must also accept the POS ONE Data Processing Agreement as an integrated part of the SaaS Agreement and the Subscription.

This SaaS Agreement defines the user rights provided to the Customer with the Service and the limitations of POS ONE's liabilities. The Subscription is purchased from a Reseller and all customer issues must be directed to the Reseller as the contracting party for purchase of the Subscription.

A Reseller, systems integrator, or other service provider accepting and integrating POSONE365 on behalf of a Customer must ascertain to have collected the Customer's acceptance of this SaaS Agreement or else, not proceed with the integration. The Reseller shall inform POS ONE of the Customer Contact for confirming acceptance.

### 2. ADDITIONAL DEFINITIONS

"**Add-on Services**" means Customer elected POS ONE offerings of additional service solutions subject to supplementary terms;  
 "**Customer**" means the subscriber to the Service;  
 "**Customer Contact**" means the authorized contact person with the Customer to accept the SaaS Agreement and to receive notices hereunder, to be updated by the Customer with written notice to POS ONE;  
 "**Customer's Data**" means the data input collected with Customer's application of the Service, excluding Customer data delivered to POS ONE for Customer's Subscription or other data collected by POS ONE, including as a data controller;  
 "**DPA**" means the POS ONE Data Processing Agreement integrated as a Schedule to the SaaS Agreement and the Subscription;  
 "**Intellectual Property Rights**" means all intellectual property rights globally, whether registered or unregistered, including but not limited to copyright, and rights in design, patents, trademarks and trade secrets, knowhow, technology, goodwill and all other categories of industrial and intellectual property rights;  
 "**POSONE365**" means the POS ONE point of sale system software or other software, services, add-ons, including such Add-on Services, or solutions offered by POS ONE as a software as a service for Subscription. ;  
 "**Quote**" means an offer to the Customer for the Service provided by an authorized Reseller of POSONE365;  
 "**Reseller**" means an authorized reseller of Subscriptions to POSONE365;  
 "**SaaS Agreement**" means this agreement with its Schedules;  
 "**Schedules**" means the DPA and the POS ONE terms for any Add-on Services included;  
 "**Service**" means the right to access and use and the performance of POSONE365 and Add-on Services as subscribed to by the Customer;  
 "**Subscription**" means purchase of the Service for a Subscription Period with automatic renewals unless un-subscribed or otherwise terminated;  
 "**Subscription Period**" means the binding period for the Customer's Subscription to the Service;  
 "**Subscription Fee**" means the Customer's payments for continuous use of the Service;  
 "**Support Services**" means service offered by POS ONE in form of third level support to the Service and, against an hourly fee, other kinds of support.  
 "**Third Party Software**" means software which are not POS ONE created software, including, but not limited to third party applications to POSONE365 and third party platform services applied for usage of POSONE365.

### 3. POSONE365

POSONE365 is a POS ONE offering of generic software made available to the Customer as a service. The Customer may purchase Add-on Services for standard or customized solutions and subject to supplementary terms to the general terms and conditions of this SaaS

Agreement. POS ONE may allow integrations with Third Party Software for applications to POSONE365 but does not offer any warranties for interoperability, compatibility, or integrations with POSONE365.

### 4. THE SUBSCRIPTION AND THE SERVICE

The Customer has agreed to subscribe for the Service, and POS ONE makes the Service available to the Customer granting a limited, non-exclusive, and non-transferable right in designated territories to access and use POSONE365 pursuant to this SaaS Agreement for each Subscription Period.

A Subscription must be maintained as long as the Customer applies POSONE365. POSONE365 is generic software, and the Service performs as presented in accordance with good industry practice for hosting a professional internet-based software as a service under normal use and circumstances. Otherwise, the Service is provided "as-is" without any specific or implied warranties of any kind, and the Subscription is not contingent on the delivery of any future functionality or feature, unless otherwise agreed in writing by POS ONE. POS ONE does not take any responsibility for the Customer's customizing of the Service or integrations of Third Party Software, unless delivered by POS ONE as Add-on Services.

### 5. SUBSCRIPTION PERIODS

The Subscription Period shall be defined in the Quote as accepted by the Customer. If a Subscription Period is not defined, it shall be deemed to cover a period equal to the pre-payments received by POS ONE for the Customer's Subscription. At the end of a term, the Subscription will automatically renew for an additional Subscription Period, or longer periods defined in a new Quote, unless the Subscription is terminated according to the terms of the Quote or terminated in accordance with Sections 16-18.

The Subscription Period is initiated upon activation of POSONE365. The Subscription Periods are binding for both the Customer and POS ONE, meaning the Service or this SaaS Agreement cannot be terminated with effect during a Subscription Period, unless in case of cause for termination, cf. Sections 16-18.

### 6. PRICES AND PAYMENT TERMS

The Subscription Fee is based on units purchased under the Service. The Customer pays the Subscription Fees agreed with the Customer's acceptance of a Quote, and payment is made to the Reseller under the terms of payment as defined in the Quote. The Customer is obligated to pay Subscription Fees for the entire Subscription Period, and Subscription Fees are non-refundable.

### 7. NEW VERSIONS, UPDATES AND UPGRADES

POS ONE will provide new versions, updates, and upgrades at its discretion, and this may include amendments to the front-end and back-end design and changes of functions and functionalities, while POS ONE will not materially decrease the overall functionality of the Service. The downtime shall be minimum considering the contents of the version changes.

### 8. SUPPORT SERVICES

In case of errors or defaults, the Customer must contact its Reseller for Support Services who will evaluate the level of support required and direct issues of third level support to POS ONE. If a default is proven to be caused by other issues than errors or defaults in the Service, POS ONE is entitled to an hourly rate for its Support Services.

### 9. CONFIDENTIALITY

POS ONE shall treat the Customer's Data in POSONE365 confidential, and POS ONE may afford its employees and/or agents and sub-suppliers, who are bound by confidentiality, access to the extent required by POS ONE for providing the Service and Support Services.

This confidentiality obligation of POS ONE shall not include any information which (a) is in or enters the public domain other than by a breach of this SaaS Agreement; (b) was known to POS ONE prior to the disclosure; or (c) is legally transmitted or disclosed by a third party who owes no obligation of confidentiality to the Customer. POS ONE shall have the right to access and to disclose the Customer's Data to the extent such disclosure is required under statutory requirements or orders from the courts or public authorities. POS ONE shall give notice to the Customer before disclosing the information unless prohibited under applicable regulation or a court order.

#### 10. CUSTOMER'S DATA

Customer's Data will in general be stored into Customer's own IT-environment. Any Customer's Data stored into POSONE365 belong exclusively to the Customer and the Customer has unlimited access to the data while using POSONE365. POSONE365 includes applications for the Customer to transmit, in a structured format, all Customer's Data into other Customer applied systems.

The Customer accepts that Customer's Data may be transferred to data centers made available for POSONE365. POS ONE shall be entitled to access Customer's POSONE365 solution when required to provide the Service or Support Services, and the Customer grants to POS ONE a worldwide, non-exclusive, royalty-free, non-sublicensable (except to POS ONE's sub-suppliers and consultants performing services on behalf of POS ONE) right and license to copy, use, display, modify, distribute, store, aggregate, or compile Customer's Data for purpose of delivering the Service and the Support Services to the Customer.

The Customer guarantees that material and data uploaded to its POSONE365 solution do not infringe third-party rights and do not contain material that may be offensive or violate applicable laws.

The Customer is responsible for the accuracy, quality, and legality of the Customer's Data and the means by which the data are acquired, transmitted, and stored by or on behalf of the Customer in connection with or relating to POSONE365.

#### 11. DATA PRIVACY

POS ONE shall perform its duties as a data processor in accordance with the DPA. The Customer is responsible for the Customer's Data are collected and processed by the Customer in compliance with Regulation (EU) 2016/679 on GDPR and applicable national privacy laws governing the Customer, including to meet data subject rights requests and the retention rules applied by the Customer.

If the Customer asserts a potentially unlawful instructions to POS ONE to perform an act or omission, POS ONE may deny to follow the instruction and if POS ONE, without knowing that the instruction is unlawful, follows such instruction, POS ONE shall not incur liability towards the Customer, and the Customer shall indemnify and hold harmless POS ONE for any claim asserted by third parties arising or resulting from the instruction of the Customer.

#### 12. THE CUSTOMER OBLIGATIONS AND RESTRICTIONS

The Customer is obligated to inform POS ONE of the Customer Contact and any changes hereto.

The Customer is responsible for the activities that occur on its POSONE365 solution. The Customer shall (a) ensure that the Service is used only in accordance with ordinary use and its intended purpose and this SaaS Agreement and shall ensure its users are instructed accordingly, (b) prevent un-authorized access or use, and (c) prevent the Customer and/or its users from using the Service in a manner which could in any way harm POS ONE's name, reputation, or goodwill, or which violates applicable laws or regulations.

POS ONE's duty of remedy shall not cover defects caused by fault in installations, integrations, maintenance, and repair not performed by POS ONE or its agents, nor integrations with software and hardware carried out without the consent of POS ONE.

Subject to applicable laws and the provisions of the SaaS Agreement, the Customer may not i) copy, publish, distribute, or otherwise make POSONE365 available for others to copy, ii) amend, improve, modify or further develop POSONE365 or any part hereof, iii) implement the Service or any party thereof into other software, platforms or solutions, iv) create derivative works based on POSONE365 or any features or functions therein, or iv) make or perform any form of reverse engineering, decompiling or disassembly of POSONE365. The prohibitions stated in this section shall equally apply to Add-on Services and other POS ONE deliverables provided for the Service.

#### 13. NO ASSIGNMENTS

The Subscription is available for the legal entity of the Customer, and only employees or agents (the legitimate users) of the Customer may access the Service for the Customer's usage. The Service is non-transferable, and the Customer may not assign, sell, sub-license, rent, lease, lend or make available the Service to third parties. Any assignment or transfer in violation of this Section 13 is void.

POS ONE may assign this SaaS Agreement and its performance of Service and Subscriptions to an affiliate or a successor to all or substantially all of the business or assets to which the SaaS Agreement relates, whether by sale of stock, sale of assets, merger, reorganization or otherwise.

#### 14. POS ONE'S INTELLECTUAL PROPERTY RIGHTS

POS ONE reserves all rights, title, and interest in and to POSONE365 and POS ONE products offered as Add-on Services, including all software, documentation, technology, knowhow, developments, and future versions. These rights include all associated Intellectual Property Rights, except for third party components. Customized POS ONE created software also belongs to POS ONE, unless otherwise agreed in writing, and shall be governed by this SaaS Agreement. POS ONE may at its sole discretion make any customized created software available to other customers or third parties.

Except for the limited rights expressly granted with the Service, the Customer is not granted any other rights, including Intellectual Property Rights, in POSONE365. The Customer shall notify POS ONE of any current or potential violation of POS ONE's intellectual property rights or unauthorized use of the Service of which the Customer becomes aware.

The Customer grants to POS ONE a royalty-free, worldwide irrevocable, perpetual, sublicensable and transferable license to copy, display, modify, distribute, create derivative works of, use, and incorporate into the Service any suggestions, recommendations, or other feedback provided by the Customer to POS ONE with respect to the Service

#### 15. DISCLAIMERS

Except as expressly provided in the SaaS Agreement, POS ONE does not make any representations or warranties of any kind, whether express, implied (either in fact or by operation of law), statutory or otherwise, and POS ONE specifically disclaims all implied warranties, including any warranties of merchantability, fitness for a particular purpose, qualifications, accuracy, title and non-infringement to the maximum extent permitted by applicable law. POS ONE does not warrant against breakdowns, errors, bugs, malfunctions, interruptions, or incidents of cyberattack.

POS ONE disclaims liability for any downtime caused by failure in electricity supply, lack of stability or breakdowns of data centers, or other harm or damages due to defaults in deliveries from third party hosting providers. POS ONE does not accept any liability for the content of the Customer's Data. The Service and POSONE365 must be applied for its intended pu and ordinary usage, and POS ONE does not warrant nor shall incur liability for the Customer's use. It is the sole responsibility of the Customer to verify and monitor its use of the Service against compliance with laws, rules, or regulations in the jurisdictions applicable to the Customer and its users.

POS ONE does not warrant, and POS ONE disclaims all liabilities for, the Customer's use of Third Party Software and any results, functionality, compatibility, and reliability when integrated or interoperated with POSONE365. This disclaimer includes Third Party Software sold by third parties as applications to POSONE365, even if integrated by means of POS ONE software made available for integrations of applications to POS ONE.

POS ONE does not warrant, and POS ONE disclaims all liability for, availability, security, or functionality of the Customer's IT systems and set-up, or data entries. The burden is upon the Customer to prove that a loss suffered by the Customer cannot be attributed to Third Party Software or Customer's other IT systems, set-up, data entries, acts or omissions.

In the event that POS ONE incurs liability to a third party due to the Customer's actions, omissions, or data, the Customer shall indemnify POS ONE for all third-party claims, penalties, and reasonable costs.

## 16. REMEDIES

Following access to the Service and integrations into Customer's IT environment, the Customer must review and test the Service and notify the Reseller immediately on any defaults. During the Subscription Period, the Customer must notify the Reseller, in writing of any claim of errors or defaults immediately and no later than ten (10) working days from detection hereof.

POS ONE shall remedy errors and defaults in the Service, including in the POSONE365 and Add-on Services, and such remedy shall be performed with undue delay. If the error is insignificant or non-material, the error may be remedied with the next version update. A default or error in the Service shall be deemed material only if it creates a substantial disfunction of the Service or it prevents the operation of the Service as a whole. For POSONE365 point of sale systems, a default in the functionality to receive payments shall be deemed material, while a default in availability of registration or bookkeeping functions shall not be deemed material when the payment transaction has been registered in the system, and the default results in delay of recording, only.

Customer's sole and exclusive remedy and POS ONE's entire liability for a material default shall be as follows (i) POS ONE shall following the detection of the default, correct the default to the features and functionality in the Service so that it in all material and reasonable aspects performs with the same or similar functionality reasonably to be expected for the Service (including through workarounds) and, (ii) if POS ONE is unable to correct the default within a commercially reasonable time considering the impact of the material default, and following a party's receipt of written notice of breach, the Customer and/or POS ONE shall be entitled to terminate the Service and the Subscription and the Customer shall receive a refund of any prepaid, unused Subscription Fees applicable to the remaining portion of the Subscription Period following the effective date of termination.

The provisions of this Section 16 constitute the Customer's sole remedies in the event of an error or defect in the Service.

## 17. TERMINATION

POS ONE may terminate the Subscription with a written notice of not less than 90 days to the end of a Subscription Period.

The Customer may terminate the Subscription to take effect at the end of a Subscription Period before commencement of a new Subscription Period. POS ONE will not be liable to the Customer for any refunds of Subscription Fees.

The Customer may terminate the Subscription and SaaS Agreement if a material change to the terms and conditions of the SaaS Agreement to the detriment of the Customer comes into force. Notice of termination shall be delivered to the Reseller before the amended terms takes effect, cf. Section 22. The Customer may also terminate according to Section 16 of this SaaS Agreement.

If the Subscription is terminated, all access rights to the Service is terminated, and the Customer must cease using POSONE365 and Add-on Services.

Following termination of a Subscription, POS ONE has no obligation to store nor preserve Customer's Data if stored into POSONE365 or Add-on Services. To the extent POS ONE stores Customer's Data, POS ONE will delete the data following a retrieval period of thirty (30) days, unless the Customer prior to termination has informed by written notice that the Customer will need a longer retrieval period or has instructed POS ONE to delete the Customer's Data. Notwithstanding the above, and subject to the DPA and applicable privacy laws, and the Customer's instructions otherwise, POS ONE reserves the right for operational and administrative purposes to maintain the Customer's Data up to ninety (90) days following termination of the Service before POS ONE shall permanently delete all Customer's Data held in the production environment, and POS ONE will ensure that Customer's data included in system back-ups on applied servers are stored in encrypted form where it may be held up to ninety (90) days before deleted pursuant to POS ONE's then-current back-up deletion procedures. In case of disputes, POS ONE may keep the Customer's Data in the system back-up if reasonably required to protect POS ONE's position. For any re-activation or retrieval of data following the retrieval period and before deletion, the Customer must pay a fee to POS ONE.

The obligations of the parties under this SaaS Agreement that by their nature would continue beyond termination (including but not limited to use restrictions, liability limitations, confidentiality, Intellectual Property Rights, choice of laws and venue) shall survive and continue to be in effect after a termination of the SaaS Agreement.

## 18. TERMINATION FOR CUSTOMER'S BREACH

In the event that the Customer is in material breach of the terms of this SaaS Agreement, and the Customer has not remedied within seven (7) days following receipt of written notice, POS ONE may, at its discretion, suspend or terminate the Service to the Customer.

Defaults in payments due to POS ONE shall be deemed a material breach of Customer, even if caused by the default of a Reseller to process payments for Customer's Subscription or other Customer related payments.

Notwithstanding the notice procedure above, in the event of Subscription payment has not been received by POS ONE within thirty (30) days following due date and such payment is not the subject of a reasonably based written dispute, POS ONE shall have the right, at its sole option, to suspend Customer's access to the Service until payment is made, or to terminate the Subscription and the SaaS Agreement. Suspension or termination will not relieve the Customer of its payment obligation. POS ONE will provide ten (10) calendar days written notice to the Customer Contact and its Reseller prior to suspension of access to the Service or termination of the Subscription pursuant to this section.

POS ONE has the right to invoice a fee of EUR 100 for each payment notice, and if the Service has been suspended or terminated, POS ONE may, at its option, against an additional set-up fee of EUR 150, reinstate access to the Service following receipt of all payments due, including reminder fees, and accrued costs of debt collection and interests.

Notwithstanding the above, POS ONE may at its discretion suspend or terminate the Service immediately, without notice, in case of the Customer's misuse of the Service and POSONE365, including for unlawful acts or omissions, or misappropriation or infringement of the rights of POS ONE or third parties. The terms in Section 17 on termination, including deletion of Customer's Data, shall apply. POS ONE shall be entitled to claim damages in accordance with the general principles of Danish laws.

## 19. LIMITATIONS OF LIABILITY

POS ONE shall only be liable for loss or damage if it is proven that the loss or damage is foreseeable and, under Danish laws due to liable

acts or omissions of POS ONE in connection with the performance of its duties under this SaaS Agreement. The provisions of this Section 19 with its limitations and exclusions are in effect to the maximum extent permitted by applicable law.

In no event shall POS ONE be liable to the Customer, and its users of the Service, for any indirect, special, incidental, consequential, reliance, or punitive damages or loss, including but not limited to loss of profits, revenue, savings, time, or loss as a consequence of any other kind of business interruption, under any theory of recovery, including liability arising by way of indemnity, in contract or in tort, product liability or otherwise, and whether or not POS ONE has been advised of the possibility of such loss or damage.

The maximum aggregate liability of POS ONE towards the Customer, upon any claims whatsoever, arising out of this SaaS Agreement, the DPA or the Service, regardless of the forum and regardless of whether any action or claim is based on contract, tort, or otherwise, except in the case of gross negligence or willful misconduct by POS ONE, shall not exceed but in any event be limited to the lessor of i) Subscription Fees paid for a period of 12 month preceding the event causing the claim, or ii) a maximum of EUR 10,000.00 (EUR ten-thousand).

POS ONE excludes any liability in relation to loss or damage of data or records of data or other information, unless this is due to the gross negligence or willful misconduct of POS ONE.

POS ONE assumes product liability only to the extent that the product liability may not be contractually waived, but disclaims product liability on any other basis. The exclusions and limitations stated in this Section 19 shall also apply to any product liability.

## 20. FORCE MAJEURE EVENTS

POS ONE shall not be liable to the Customer for delay or non-performance of its obligation or loss or damages if caused by an event which is unforeseeable, beyond the control of POS ONE, and cannot be remedied by the exercise of commercially reasonable efforts ("Force Majeure"). Force Majeure shall include, without limitations acts of God, perils of the sea or air, fire, flood, drought, explosion, terror, sabotage, and shall for this SaaS Agreement be deemed to include cybersecurity attacks, events of computer, tele-communications, internet service provider or hosting facility failures or delays involving hardware, software, or power systems not within POS ONE's possession or reasonable control. POS ONE shall be relieved from its obligations (or part thereof) as long as performance is hindered due to Force Majeure.

## 21. APPLICABLE LAWS AND VENUE

This SaaS Agreement and any supplementary agreements hereunder between the Customer and POS ONE are governed by Danish laws and regulations and shall be construed and enforced in accordance with these laws and regulations, excluding its choice of law rules. The Regulation (EU) 2016/679 on GDPR takes direct effect into Danish law.

Any dispute arising out of or in connection with the SaaS Agreement and any supplementary agreement shall be settled by the city courts in Odense, Denmark. This choice of venue shall not prevent any referral or appeal of the matter to higher courts in Denmark or referral to the Danish Maritime and Commercial Court in accordance with applicable laws.

Notwithstanding the above, each party acknowledges that due to the nature of the SaaS Agreement and the Service, any actual or threatened breach of the SaaS Agreement or unauthorized use of the Service, including POSONE365, may cause immediate and/or irreparable injury or harm and, therefore, a party shall be entitled to seek injunctive relief in any jurisdiction to enforce its intellectual property rights.

## 22. EFFECTIVE DATE AND CHANGES TO THE TERMS

This SaaS Agreement with its general terms and conditions replaces all previous terms for Subscriptions to the Service, unless otherwise agreed, and shall apply to all purchases or renewals of Subscriptions as of 1 January, 2022. You will find previous versions at [www.posone365.com](http://www.posone365.com).

POS ONE may modify the terms and conditions pursuant to this SaaS Agreement with one (1) month notice after such modifications have been posted on the POS ONE website. It is the Customer's obligation to keep up to date on changes to the terms as posted on the POS ONE website.

Notwithstanding the above, if the terms are materially changed to the detriment of the Customer, POS ONE must provide a notice of not less than 30 days to the Customer Contact, and the Customer has the right to terminate in writing the Subscription and the SaaS Agreement in accordance with Section 17. Use of the Service after the change of the terms has come into force constitutes acceptance of such changed terms.