

MERIT TARKVARA TERMS OF USE

Last review: 31.01.2018

AS Merit Tarkvara offers the services defined below pursuant to the terms and conditions presented in the following:

1. **General.** These terms and conditions (hereinafter the **Terms**) govern the provision of services by AS Merit Tarkvara (hereinafter **Merit** or **We**) to clients (hereinafter the **Client**). By signing up to use our Service, the Client confirms that it has read and agrees to be bound by these Terms. These Terms are binding on any use of the Service by the Client. The Client confirms that any information it submits to Merit is true, accurate and complete, and agrees to keep it up to date.

2. **The Service.** Merit provides an online accounting and personal finance management service (as may be changed or updated from time to time by Merit) available via its website www.merit.ee (hereinafter the **Website**) or via Windows-version installed on a computer. There are different Service levels from which the Client may choose the option suitable for its needs. Merit reserves the right to change the contents of these Service levels. The description for currently available Service levels and respective Fees is accessible on the Website.

3. **Signing up to the Service.** The Client has to sign up to the Service via the Website by filling in the required sign up form. Upon signing up for the Service, the Client will be able to subscribe to the Service level that meets its needs. The sign up form and subscription to a particular Service constitute the subscription of the Client (hereinafter the **Subscription**). The Subscription together with these Terms forms the agreement between the Client and Merit (hereinafter the **Agreement**).

4. **Fee.** Our Services are available to the Client for free (see section 6 below) or for a fee (hereinafter the **Paid Service**) payable by the Client according to the Agreement (hereinafter the **Fee**). The Client may change the chosen Service level at any time. In case the Client downgrades its current Service level, the Client will not be entitled to a refund.

Paid Services are available with either monthly or annual Fee based on the Subscription. Merit may change the Fees at any time with 30-days prior notice. The Client has the right to terminate the Agreement pursuant to section 20 below if it does not agree to the amended Fee. Changes in the Fee will not be applicable to prepaid Service and new Fee level will be applied to the Client from the next Subscription.

5. **Designated Users.** The Client determines the users who will have the right to access the Service on its behalf (hereinafter the **Designated Users**). Nevertheless, the Client is liable for any and all actions and activities by the Designated Users when using the Service. The Client controls the access of the Designated Users to the Service and may revoke or change the access of the Designated Users to the Service at any time in its sole discretion. In case of a dispute between the Client and Designated Users related to the access to the Service, the Client shall decide any access rights to Client Data and Service that the Designated Users will have.

6. **Free Services.** Merit offers a free trial option of the Service in a limited extent without payment of the Fee (hereinafter the **Free Services**). Free Services are described on the Website. We may request the Client's payment details if the Client decides to upgrade from the Free Service to the Paid Service. We may automatically start to charge the Fee from the Client for the Paid Service immediately after the upgrade to Paid Service, on a recurring monthly or annual basis (depending on the Subscription). By providing the Client's payment details for Paid Services, the Client agrees to continue using the Service on a Fee basis until either party

provides a notice of termination pursuant to the Terms, except if the Client downgrades the Service level pursuant to section 4.

7. **Payment.** Fee is payable as an advance payment for the Service. Merit may use third party payment service providers to handle all payments. Merit is not liable for the processing of payments and shall not be liable for any matter in connection with the processing of payments. If the Client does not provide us with the payment details or pay the Fee for Paid Services by the payment deadline as specified in the payment details or the Client's payment method is declined, the Agreement shall automatically expire and access to the Service may be limited or suspended.

8. **Client Data.** Any data the Client stores or inserts through our Service (hereinafter the **Client Data**) belongs to the Client. However, access to the Client Data is dependent on due and full payment of the Fee by the Client. The Client grants Merit a license to use, copy, transmit, store and back-up Client Data for enabling Client to access and use the Service.

The Client is solely responsible for Client Data and liable for any consequences out of or related to inserting or transmitting such content. The Client confirms that it has the right to insert or transmit Client Data and that such actions do not violate these Terms, applicable law, the intellectual property rights or any other rights of any third persons.

9. **Disclosure of Client Data.** Merit maintains all Client Data as confidential from third persons. However, Merit is not subject to any disputes between the Client and the end customers of the Client to whom Client renders its services by using the Service (hereinafter the **End Customers**). The Client acknowledges that in certain situations, Merit is permitted to disclose certain Client Data to respective End Customer who is the entitled person of such Client Data (e.g bookkeeping records of the particular End Customer).

The Client hereby permits Merit to disclose copies of Client Data to the End Customer in case:

- a) the Client has consented to such disclosure via e-mail;
- b) Merit or the End Customer have not been able to get in contact with the Client for at least 1 month despite repeated efforts to the contact details provided by the Client;
- c) the Client has terminated the Agreement with Merit; or
- d) of any other circumstances, where the End Customer has sufficiently proven to Merit that the Client is limiting the access to the respective Client Data in bad faith.

Merit may disclose Client Data to any of the authorised representatives the Client as authorised under law or respective power of attorney or if Merit is obligated to do so according to the law.

10. **No monitoring.** Merit does not monitor the Client Data. The Client is solely liable for the compliance of Client Data to these Terms, third party rights and applicable law. However, without assuming any obligation to do so, Merit may delete any Client Data or suspend or terminate the Agreement at its sole discretion if the Client Data is in violation of these Terms, any third party rights or applicable law. Merit may take such actions without any prior notification to the Client.

11. **Back-up.** Merit is not required to keep back-up copies of Client Data once the Agreement has been terminated or Client Data deleted for whatever reason. We make no guarantee that Client Data will be safely stored. To be safe, the Client should independently back-up the Client Data.

12. **Prohibited activities.** The Client is not permitted to use the Service for illegal, harmful, misleading, fraudulent or other malicious purposes. The Client is prohibited from transmitting material or content that contains viruses or other malicious code, or content which infringes or may infringe intellectual property or other rights of third persons.

13. **Intellectual property.** Any intellectual property rights (including patent, trademark, service mark, logos, copyright, moral right, know-how, domain names and other, anywhere in the world whether or not registered) related to the Service and the Website remain the property of Merit. These Terms do not grant the Client any rights to use the Merit intellectual property without the prior express consent of Merit.

14. **Personal data.** The Client confirms that it has all rights and consents for disclosing to Merit any personal data submitted while using the Service, including if the Client itself is not a data controller with regard to the personal data disclosed to Merit. Such personal data could be the Client's or its end customer's and their employee's, client's, cooperation partner's etc name, contact details, other accountancy related data that is necessary for providing the service. The Client or end customer is the data controller with regards to such personal data and Merit is the data processor. Such personal data will also be considered Client Data according to clause 8.

Merit only processes personal data to provide the Service chosen by the Client. The Client's choice of Service is documented by Merit. Merit ensures that the persons authorised by Merit to process personal data, are obliged to adhere to the confidentiality requirement or an appropriate confidentiality obligation is valid for them.

Personal data disclosed by the Client will not be disclosed to third parties without the consent of the Client, except when it is necessary for the provision of the Service, to enforce or apply the Terms and other agreements between the Client and Merit, or when so required by applicable law. As Merit's business partners or suppliers or service providers (hereinafter **Subprocessors**) may be responsible for certain parts of the overall functioning or operation of the Service and Website, personal data may be disclosed to them. We ensure that in relation to the relevant Subprocessors the same data protection obligations have been established as provided in the current terms. We implement relevant technical and organisational measures to ensure that the processing is in compliance with the applicable law. If the Subprocessor does not fulfil its data protection obligations, we are responsible for the fulfilment of the Subprocessor's obligations.

We will not transfer personal information to countries that are neither in the European Union/European Economic Area nor in the list of countries recognised by the European Commission as providing adequate protection of personal data without the prior consent of the Client.

The Client is aware and agrees to Merit using Microsoft Ireland Operations Limited (address: Atrium Building Block B, Carmenhall Road, Sandymount Industrial Estate, Dublin 18, Ireland) as a Subprocessor in relation to the Microsoft Azure cloud computing services. If Merit intends to change or add Subprocessors, it will notify the Client beforehand via e-mail.

At the end of the Service provision Merit deletes the personal data or returns it to the Client and deletes all existing copies, unless when preserving such data is required by applicable law.

If the Client has informed us of the details of the data controller, we will provide it with data that is required to prove our fulfilment of our legal obligations and allow the data controller or person authorised by it to carry out inspections and audits. We will inform the data controller immediately, if in our opinion the data controller's instructions do not comply with the data protection regulation of the applicable law.

15. **Security.** In relation to processing Client's data, Merit implements all security measures for processing data required by the applicable laws. Merit will make every reasonable effort to ensure the secure collection, transmission and storage of Client Data. Merit has implemented appropriate physical, technical, and organisational measures for the protection of the data.

To the extent possible we help, with the aid of relevant technical and organisational measures, to fulfil the obligation of the data controller in replying to the data subjects applications for

exercising their rights. In addition we help the data controller with fulfilling its obligations in relation to the security of processing, notifying about the violations related to personal data, data protection impact assessment and prior consulting.

16. **No warranty.** Merit disclaims any and all warranties, expressed or implied, in connection with the Service. The Service is provided “as is” and “as available” and at Client’s own risk, and we do not warrant or represent any quality, fitness for purpose, non-infringement, completeness or accuracy of the Service. Regardless of our efforts to provide the Client with services of the highest quality, safety and security, we make no warranty that the Service will be uninterrupted, timely or error-free or that defects will be corrected. Merit does not warrant that the collection, transmission and storage of personal data is secure at all times.

Merit reserves the right, periodically and at any time, to modify or discontinue, temporarily or permanently, functions and features of the Service, all without liability to the Client for any interruption, modification, or discontinuation of the Service or any function or feature thereof. Reasonable advance notification will be provided of discontinuing the Service where possible. Merit is not responsible for any difficulties in operating or using the Service that are caused by the web hosting service provider, internet service provider of the Client or any other third party, unless required by applicable law.

Merit is not an accountant and using the Services does not constitute the receipt of accounting advice or accounting services. The Client is solely liable for compliance with any and all applicable accounting, taxation and other relevant laws. The Client is responsible that storage and access of Client Data via the Service complies to the laws applicable to the Client.

17. **Limitation of liability.** To the maximum extent permitted by law, Merit shall not be liable for any damages resulting from the use or inability to use the Service by the Client or any unauthorised access to or interruption, alteration, loss or deletion of the Client Data. Furthermore, Merit shall in no event be liable for indirect damages, including loss of profit.

In any event, the aggregate liability of Merit is limited to the amount that the Client has paid to Merit for the Services during the twelve (12) months immediately preceding that month in which the event giving rise to Merit’s liability occurred.

18. **Indemnification.** The Client agrees to indemnify, defend, and hold harmless Merit and its third party service providers from and against any claim, demand, loss, damage, cost, or liability (including reasonable legal fees) arising out of or relating to any Client Data submitted, transferred or made available through the Service by the Client, or misuse of the Service by the Client or its Designated Users, the breach or alleged breach of any of these Terms and violation of any rights (including intellectual property rights) of a third party.

19. **Amending the Terms.** Merit reserves the right to amend any part of the Terms at any time. Merit will provide the Client with reasonable prior notice of such changes. If the Client does not agree to these amendments, or any particular amendment, the Client may not be able to continue to use the Service.

20. **Term and termination.** The Agreement is entered into for an indefinite term. The Client may terminate the Agreement at any time without providing a reason by way of ordinary termination, by sending an unsubscribing e-mail to the contacts indicated below.

If the Client terminates the Agreement, Merit will have no obligation to refund the Client any Fees the Client may have paid, except as may be required by applicable law. Upon termination of the Subscription, the Agreement is also terminated and the access rights of the Client to the Service immediately cease to exist, except to Free Services. Access to Free Services is suspended if Subscription is terminated due to the breach of section 12 above.

The Client acknowledges and agrees that Merit may stop (permanently or temporarily) providing the Service at Merit’s sole discretion, without prior notice to the Client, if the Client

breaches these Terms. In case the Client breaches these Terms and we decide to terminate or suspend the Client's account and/or the Agreement, Merit will have no obligation to refund any Fees the Client may have paid.

In addition, Merit may terminate the Agreement and the Client's right to access and use the Service by way of termination by giving the Client a thirty (30) days prior notice.

21. **Applicable law and dispute resolution.** The Terms are governed by the laws of Republic of Estonia. Any disputes arising out of or in connection to these Terms shall be finally settled by the Harju county court (Harju maakohus) in Tallinn, Estonia.

22. **Entire agreement.** These Terms together with Subscription constitute the entire agreement between the Client and Merit with respect to the subject matter of the Agreement, and supersede and replace all previous agreements, written or oral, applicable to the subject matter of the Agreement.

23. **Severability.** If any one or more of the provisions of these Terms is found to be void, invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not be affected or impaired.

24. **Assignment.** Merit may assign any or all of its rights hereunder to any party without the consent of the Client, unless this may reduce the likelihood of the Agreement being performed.

25. **Contact details.** Please send all notices under the Agreement to Merit to the e-mail address listed below.

Contact details:

AS Merit Tarkvara

Pärna 1

Põltsamaa linn

48105 Jõgeva maakond

Estonia

E-mail: merit@merit.ee