

# MERIT TARKVARA TERMS OF USE

Last revised: 12 December 2024

AS Merit Tarkvara provides the services defined below subject to the following terms and conditions:

1. **General.** These terms and conditions (hereinafter the **Terms**) govern the provision of services by Merit Tarkvara AS (hereinafter **Merit, we, us or our**) to its customers (hereinafter the **Customer**). By registering to use our services, the Customer acknowledges that they have read these Terms and agrees to be bound by them. These Terms shall be binding on the Customer in relation to any use of the services. The Customer confirms that the information provided by them to Merit is true, accurate and complete and they agree to keep it up to date.

2. **The service.** Merit provides a web-based accounting and personal finance management service (which Merit may modify or update as necessary) accessible through its website, [www.merit.ee](http://www.merit.ee) (hereinafter the **Website**), or through a Windows version installed on a computer. There are different levels of service from which the Customer can choose the solution best suited to their needs. Merit reserves the right to modify the content of these service levels. A description of the service levels currently offered and the corresponding fees can be found on the Website.

3. **Registering to use the service.** The Customer must register to use the service via the Website by completing the required registration form. When registering to use the service, the customer can subscribe to the level of service that best suits their needs. The registration form and the order for a specific service constitute the Customer's subscription (hereinafter the **Subscription**). The Subscription, together with these Terms, constitutes the agreement between the Customer and Merit (hereinafter the **Agreement**). In order to modify the Subscription, including the number of users allocated, the Customer must notify Merit in the self-service environment or using the contact details indicated by Merit.

4. **Fee.** Our services are free of charge for the Customer (see section 6 below) or for a fee (hereinafter the **Chargeable Service**) payable by the Customer in accordance with the Agreement (hereinafter the **Fee**). The Customer may change the chosen level of service at any time. If the Customer switches from the current service level to a lower service level, the Customer is not entitled to a refund.

Chargeable Services are available on a monthly or annual subscription basis. Merit may change the Fees at any time upon thirty (30) days prior notice. If the Customer does not agree to the revised Fee, they have the right to terminate the Agreement in accordance with section 21 below. Fee changes shall not apply to the prepaid service and the new Fee shall be applied to the Customer from the next Subscription.

5. **Allocated users.** The Customer shall designate the users who are entitled to access the service on the Customer's behalf (hereinafter **Allocated Users**). However, the Customer shall remain responsible for any and all activities of the Allocated Users while using the service. The Customer controls the Allocated Users' access to the service and may revoke or modify the Allocated Users' access to the service at any time in its sole discretion. In the event of a dispute between the Customer and the Allocated Users relating to access to the service, the Customer shall determine the Allocated Users' access rights to the Customer's data and the service.

6. **Free services.** Merit offers a limited free trial version of the service without charge (hereinafter the **Free Service**). The functionality of the Free Service is limited. Merit reserves

the right to limit the use of multiple trial versions by a single customer. A description of the Free Service and the applicable restrictions can be found on the Website.

We may ask for a Customer's payment details if the Customer decides to switch from Free Service to Chargeable Service. Immediately after switching to a Chargeable Service, we may automatically start charging the Customer for the Chargeable Service on a monthly or annual basis (depending on the Subscription). By submitting a Customer's payment information for a Chargeable Service, the Customer agrees to continue to use the Chargeable Service until one of the parties provides a qualifying termination notice, unless the Customer switches to a lower level of service in accordance with section 4.

7. **Payment.** The Fee is payable in advance. Merit may use third-party payment service providers to process all payments. Merit shall not be responsible for the processing of payments and shall not be liable for any matters relating to the processing of payments. If a Customer fails to provide us with payment details or fails to pay a Fee for a Chargeable Service by the due date specified in the payment details, or if a Customer's payment method is rejected, the Agreement will automatically terminate and access to the service may be restricted or suspended.

8. **Customer's data.** Any data that a Customer stores or enters through the service (hereinafter **Customer Data**) belongs to the Customer. However, access to Customer Data is subject to proper and full payment of the Fee by the Customer. The Customer authorises Merit to use, copy, transmit, store and back-up the Customer Data to enable the Customer to access and use the service. Such authorisation shall also include Merit's right to use the Customer Data for the further development of the service, including the anonymisation and pseudonymisation of the Customer Data for the aforementioned purpose.

The Customer is solely responsible for the Customer Data and is liable for the consequences arising from or in connection with the input or transmission of such content. The Customer represents and warrants that they have the right to enter or transmit the Customer Data and that such activities do not violate these Terms, applicable law, intellectual property rights or any other rights of third parties.

9. **Disclosure of Customer Data.** Merit will keep all Customer Data confidential from third parties. However, Merit is not concerned by disputes between the Customer and the Customer's own end clients to whom the Customer provides services using the service (hereinafter **End Clients**). The Customer acknowledges that in certain circumstances, Merit may be permitted to disclose certain Customer Data to the relevant End Client, who is the rightful owner of the relevant Customer Data (e.g. the accounting records of an individual End Client).

The Customer hereby authorises Merit to disclose copies of the Customer Data to the End Client if:

- a) the Customer has consented to such disclosure by e-mail;
- b) neither Merit nor the End Client has been able to contact the Customer for at least one (1) month, despite repeated attempts using the contact details provided by the Customer;
- c) the Customer has terminated the Agreement with Merit; or
- d) there are other circumstances in which the End Client has sufficiently demonstrated to Merit that the Customer is restricting access to the relevant Customer Data in bad faith.

Merit may disclose Customer Data to authorized representatives who are authorized to represent the Customer in accordance with the law or under a power of attorney. Merit may also disclose Customer Data where Merit is required to do so by law.

10. **No monitoring.** Merit does not monitor Customer Data. The Customer is solely responsible for ensuring that the Customer Data is in compliance with these Terms, the rights

of third parties and applicable law. However, without assuming any obligation to do so, Merit may delete Customer Data or suspend or terminate the Agreement at its sole discretion if Customer Data is in breach of these Terms, third-party rights or applicable law. Merit may take such action without prior notice to the Customer.

11. **Backups.** Merit has no obligation to retain backups of Customer Data in the event of termination of the Agreement (including due to Customer's delay in payment for the services) or deletion of Customer Data for any reason. Merit will back up Customer Data for a maximum period of thirty (30) days after termination of the Agreement, after which Customer Data will be deleted. We do not guarantee that Customer Data will be stored securely. For security purposes, the Customer should back up the Customer Data independently. If the Customer has not used the services for at least six (6) consecutive months, Merit has the right to delete the Customer Data, irrespective of whether the Customer's Agreement has been terminated or not. For additional back-up of data, the Customer may use the data archiving service in accordance with Merit's price list.

12. **Prohibited activities.** The Customer may not use the services for any unlawful, harmful, misleading, fraudulent or otherwise improper purpose. The Customer is prohibited from transmitting any material or content that contains viruses or other malicious code, or content that infringes or may infringe the intellectual property or other rights of any third party. Merit's service is subject to reasonable use restrictions. The Customer is prohibited from using the services in any manner that is inappropriate or in any manner that could harm Merit or other Customers, including through excessive use of the service.

13. **User support.** Merit provides user support to resolve service failures and advise the Customers. User support is provided at no additional charge unless otherwise agreed. As with other services, user support is subject to reasonable use restrictions, and Merit reserves the right to restrict a Customer's access to user support if the Customer's usage exceeds reasonable limits or is otherwise inconsistent with good practice. For an additional Fee, the Customer may subscribe for services that exceed the reasonable use limits or fall outside the normal scope of user support.

14. **Intellectual property.** Intellectual property rights (including patents, trademarks, service marks, logos, copyrights, non-proprietary rights, know-how, domain names and other intellectual property rights, whether registered or unregistered, in and to the service and the Website, worldwide) remain the property of Merit. These Terms do not grant the Customer any right to use Merit's intellectual property without Merit's prior express permission.

15. **Processing of personal data.** In the event that Merit processes the Customer's personal data on behalf of and in accordance with the instructions of the Customer in the context of the provision of the service chosen by the Customer (including by processing the Customer's personal data as set out in section 8), the Customer or the End Client shall be the data controller and Merit shall be the processor of the relevant personal data. In such a case, the processing of the Customer's personal data shall be subject to Annex 1 (Data Processing Agreement) to these Terms. For the avoidance of any doubt, Merit and the Customer agree that the provisions of this section shall not apply to the extent that Merit processes personal data as a data controller in accordance with the [Merit Tarkvara Privacy Notice](#) (notably if Merit processes Customer Data for the purpose of enhancing the functionalities of Merit's tools).

16. **Security.** Merit will take all security measures required by applicable law with respect to the processing of Customer Data. Merit will use all reasonable efforts to ensure the secure collection, transmission and storage of Customer Data. Merit has implemented appropriate physical, technical and organisational measures to protect the data.

17. **No warranty.** Merit disclaims any and all warranties, express or implied, with respect to the service. The service is provided "as is", "as available" and at the Customer's own risk and

we do not warrant or represent the quality, fitness for purpose, non-infringement, completeness or accuracy of the service. Notwithstanding our endeavours to provide the highest-quality, safest and securest service to the Customer, we do not guarantee that the service will be uninterrupted, timely or error-free or that defects will be remedied. Merit does not guarantee that the collection, transmission and storage of personal data will be secure at all times.

Merit reserves the right to modify or discontinue, from time to time or at any time, temporarily or permanently, the functions and features of the service without liability to the Customer for any interruption, modification or discontinuance of the service or the functions or features of the service. Where possible, reasonable notice of discontinuance of the service will be given. Merit shall not be liable for any impediment to the operation or use of the service caused by the web hosting service provider, the Customer's internet service provider or any other third party, except to the extent required by applicable law.

Merit is not an accounting firm and the use of the services does not constitute the provision of accounting advice or accounting services. The Customer is solely responsible for compliance with any and all applicable accounting, tax and other relevant laws. The Customer is responsible for ensuring that the storage of and access to Customer Data via the service is in accordance with the law applicable to the Customer.

18. **Limitation of liability.** To the fullest extent permitted by law, Merit shall not be liable for any loss or damage arising from Customer's use of or inability to use the service or from unauthorized access to, interruption, alteration, destruction or deletion of Customer Data. In addition, in no event shall Merit be liable for any consequential damages, including lost revenue.

In any event, Merit's total liability shall be limited to the amount paid by the Customer to Merit for the services during the twelve (12) month period immediately prior to the month in which the event giving rise to Merit's liability occurred.

19. **Indemnification.** The Customer agrees to indemnify, defend and hold Merit and its third-party service providers harmless from and against any claims, demands, damages, costs or liabilities (including reasonable legal fees) arising out of or related to any misuse of the service, any breach or alleged breach of these Terms or any violation of any third-party rights (including intellectual property rights) by the Customer or the Customer's Allocated Users or any breach or alleged violation of these Terms or any third-party rights (including intellectual property rights).

20. **Amendment of the Terms.** Merit reserves the right to amend any part of the Terms at any time, in particular, if modifications are necessary to comply with legal obligations or due to changes in the service or business. Merit shall notify the Customer of any such modifications reasonably in advance. If the Customer does not agree to the amendments or to any specific amendment, the Customer may not be able to continue using the service. The provisions of this section shall not apply to the extent that they govern any modification of the Annex to these Terms (the Data Processing Agreement).

21. **Term and termination.** The Agreement is concluded for an unspecified term. The Customer may terminate the Agreement at any time without giving any reason by sending a cancellation e-mail to the contacts indicated below.

In the event of termination of the Agreement by the Customer, Merit shall have no obligation to reimburse the Customer for any Fees that the Customer may have already paid, unless required to do so by applicable law. Upon termination of the Subscription, the Agreement shall also terminate and the Customer's rights to access the service, other than the Free Service, shall immediately cease. Access to the Free Service shall be suspended if the Subscription is terminated in accordance with section 12 above.

The Customer acknowledges and agrees that Merit may (permanently or temporarily) suspend the provision of the Service at Merit's sole discretion without prior notice to the Customer if the Customer breaches these Terms. If the Customer breaches these Terms and we decide to terminate or suspend the Customer's account and/or the Agreement, Merit shall have no obligation to refund any Fees that the Customer may have already paid.

In addition, Merit may terminate the Agreement and the Customer's right to access and use the Service by giving the Customer thirty (30) days' notice.

22. **Applicable law and dispute settlement.** These Terms shall be governed by the laws of the Republic of Estonia. Any disputes arising out of or in connection with these Terms shall be finally settled by the Harju County Court in Tallinn.

23. **Entire agreement.** These Terms, together with the Subscription, constitute the entire agreement between the Customer and Merit with respect to the subject matter of the Agreement, and shall supersede and replace any prior written or oral agreements regarding the subject matter of the Agreement.

24. **Severability.** If one or more of the provisions of these Terms is held to be invalid, void, illegal or unenforceable to any extent, this shall not impair or affect the validity, legality or enforceability of the remaining provisions.

25. **Assignment.** Merit may assign any or all of its rights under these Terms to any person without the Customer's consent, except where this may reduce the likelihood of performance of the Agreement.

26. **Contacts.** Please send all notifications relating to the Agreement to Merit at the e-mail address indicated below.

Contacts:

AS Merit Tarkvara

Paju 2

City of Tartu

50603 Tartu County

Estonia

E-mail: [merit@merit.ee](mailto:merit@merit.ee)

## ANNEX – DATA PROCESSING AGREEMENT

- 1. General.** This data processing agreement (hereinafter the **Data Processing Agreement**) supplements and forms an integral part of the Merit Tarkvara Terms of Use (hereinafter the **Terms**) agreed between Merit and the Customer in relation to the processing of the Customer's personal data by Merit upon the provision of services. The terms and definitions used in the Data Processing Agreement shall have the meaning set out in the Terms and in the EU General Data Protection Regulation (EU) 2016/679. In circumstances not covered by the Data Processing Agreement, the Terms shall apply. In the event of any inconsistency between the Data Processing Agreement and the Terms, the Data Processing Agreement shall prevail.
- 2. Subject matter of the Data Processing Agreement.** For the purposes of providing the services, the Customer authorises Merit to process the Customer's personal data that the Customer enters through the Website or through the Windows version installed on a computer, or that the Customer makes available to Merit in any other way in accordance with the Terms for the purposes of providing the services. The Customer warrants that it has all the necessary powers to grant the authorisation set out in the preceding sentence, in particular where the Customer is not the data controller of the Customer's personal data made (or to be made) available to Merit. The Terms and the Data Processing Agreement shall be deemed to be the complete and final documented instructions regarding the processing of the Customer's personal data by Merit and any further instructions shall require a prior written agreement between Merit and the Customer.
- 3. Customer's obligations.** The Customer shall ensure that any personal data of the Customer made (or to be made) available to Merit is processed only in accordance with the applicable laws on the protection of personal data. In doing so, the Customer shall ensure that there is an appropriate legal basis for the processing of the Customer's personal data. The provisions of this section shall apply even if the Customer is not the data controller of the personal data made (or to be made) available to Merit.
- 4. Merit's general obligations.** Merit undertakes to process the Customer's personal data only in accordance with the applicable data protection legislation and the Data Processing Agreement and only to the extent and in the manner necessary for the provision of the services in accordance with the Terms. When processing the Customer's personal data, Merit undertakes to keep the Customer's personal data confidential, while ensuring that access to the necessary personal data is only granted to persons who have a direct need to know in order to fulfil Merit's obligations under the Terms. Merit shall ensure that the persons involved in the processing of the Customer's personal data have entered into an appropriate confidentiality agreement or have a legal obligation of confidentiality. Merit undertakes to provide reasonable assistance to the Customer in relation to the requirements of applicable data protection legislation relating to the processing of the Customer's personal data, including the preparation of a data protection impact assessment, ensuring the security of processing and in other cases as provided for in the Data Processing Agreement. Merit will not transfer the Customer's personal data to countries outside the European Economic Area or not on the European Commission's list of countries providing adequate protection of personal data without the Customer's prior consent or any other request.
- 5. Data security.** Merit will implement appropriate technical and organisational measures to protect the Customer's personal data against unauthorised or unlawful processing, accidental loss, destruction or damage. Merit's security measures comply with the applicable legislation governing the protection of personal data, taking into account, inter alia, the nature of the personal data processed and the risks associated with the specific processing. When processing

the Customer's personal data, Merit shall apply, inter alia, the security measures listed in the Appendix to this Data Processing Agreement.

**6. Requests from data subjects and supervisory authorities.** Merit will inform the Customer (using the contact details provided by the Customer) of any enquiries and requests received from data subjects, competent supervisory authorities or other third parties relating to the processing of the Customer's personal data by Merit in the course of providing the services. Where necessary, in particular where the request relates to Merit's systems and the Customer does not have all the necessary information, Merit undertakes to reasonably assist the Customer in responding to the enquiry or request. Merit shall not act on behalf of or as an agent for the Customer in dealing with any enquiry covered by this section.

**7. Sub-processors.** The Customer authorises Merit to use sub-processors for the processing of the Customer's personal data, provided that Merit only uses sub-processors that provide adequate safeguards in accordance with the applicable laws governing the protection of personal data. Merit shall ensure that sub-processors have a contractual obligation to comply with requirements for the processing of personal data that are at least equivalent to those contained in this Data Processing Agreement. In any event, Merit shall be fully liable to the Customer for any failure of sub-processors to comply with applicable requirements.

**8. Involvement of sub-processors.** In the event that Merit intends to involve (or change) sub-processors in the context of the processing of the Customer's personal data, Merit will provide the Customer with the details of the sub-processor to be involved (using the contact details provided by the Customer) at least in a format that can be reproduced in writing, thereby giving the Customer the opportunity to object to the involvement of the relevant sub-processor. Such objection must be reasonably justified and based on the applicable legislation governing the protection of personal data. If the Customer does not object to the said changes within seven (7) days, at least in a form that can be reproduced in writing, the Customer shall be deemed to have accepted the changes to the list of sub-processors. If the Customer and Merit do not reach an agreement on the objection, and if the new sub-processor is indispensable for Merit to provide the services under the Terms, Merit may terminate the Agreement with the Customer in accordance with section 21 of the Terms. By entering into this Data Processing Agreement, the Customer agrees to the involvement of the following sub-processor(s):

- (i) Microsoft Ireland Operations Limited (address: Atrium Building Block B, Carmenhall Road, Sandyford Industrial Estate, Dublin 18, Ireland), who provides Microsoft Azure cloud computing services;
- (ii) Telema AS (address: Kristiina 15, 10131 Tallinn, Estonia), who provides electronic invoicing services;
- (iii) Intercom R&D Unlimited Company (address: 124 St Stephen's Green, Dublin 2, DC02 C628, Ireland), who provides customer support services; and
- (iv) Twilio Ireland Limited (address: 70 Sir John Rogerson's Quay, Dublin 2, D02 R296, Ireland), who provides e-mail services.

**9. Personal data breaches.** In the event of a personal data breach (e.g. data leak), Merit will provide reasonable assistance to the Customer, considering the nature of the processing and the information available to Merit, with a view to ensuring compliance with its obligations under applicable data protection legislation. Merit shall further notify the Customer (using the contact details provided by the Customer) of such a personal data breach at least in a format which can be reproduced in writing and without undue delay, but no later than forty-eight (48) hours after becoming aware of the personal data breach.

**10. Auditing.** Upon the Customer's request, Merit shall allow the Customer (or an auditor authorized by the Customer) to conduct audits to the extent necessary to verify compliance with

Merit's obligations under this Data Processing Agreement and shall make all relevant information available to the Customer. In order to exercise the right of audit, the Customer shall coordinate the time and scope of the audit with Merit by giving Merit at least thirty (30) days prior notice. The information disclosed to the Customer (or to the auditor authorised by the latter) in the course of the audit shall be confidential in accordance with the requirements set out in the Terms and may only be used for the purpose of the audit. Unless otherwise agreed between Merit and the Customer, the costs of the audit, including Merit's costs, shall be borne by the Customer. The Customer shall ensure that the audit takes place during Merit's normal working hours, with the least possible disruption to Merit's business and the activities of Merit's other customers.

**11. Liability.** Merit's liability to the Customer is limited as set out in section 18 of the Terms, taking into account the applicable laws governing the protection of personal data and the circumstances and scope of the processing of personal data. In the event that Merit is subject to a claim for damages by a data subject or to any sanctions by a supervisory authority or court for a breach of this Data Processing Agreement or applicable data protection legislation caused by the Customer, the Customer shall compensate Merit for such damages as set out in section 19 of the Terms. If Merit and the Customer are involved in the same personal data processing activities and the parties are therefore jointly and severally liable for the damage caused to data subjects by the processing of personal data, and if one of the parties has paid compensation for the damage, the paying party shall be entitled to reclaim the part of the compensation corresponding to the other party's liability for the damage from the other party involved in the processing.

**12. Term and termination.** This Data Processing Agreement shall enter into force at the same time as the Terms and shall remain in force during the term of the Terms or for as long as Merit processes the Customer's personal data on behalf of and in accordance with the Customer's instructions. Termination of the Data Processing Agreement shall be subject to the termination provisions of the Terms. Upon expiry or termination of the Data Processing Agreement for any reason, Merit shall return or destroy the Customer's personal data upon the Customer's request and undertakes to do so within a reasonable time after receipt of such request. Merit shall not return or destroy any personal data of the Customer that Merit is obliged to process under applicable personal data protection legislation.

**13. Modification of the Data Processing Agreement.** Merit reserves the right, at its sole discretion, to modify the Data Processing Agreement at any time, in particular if such modifications are necessary to comply with legal obligations, in connection with changes in the services provided or in the ordinary course of any other business. Merit shall notify the Customer at least thirty (30) days prior to the modification of the Data Processing Agreement, using the contact details provided by the Customer. If the Customer does not agree to the changes to the Data Processing Agreement, the Customer may terminate the Agreement and the Data Processing Agreement by notifying Merit in accordance with section 21 of the Terms before the changes take effect. If the Customer continues to use the services after thirty (30) days (from the date of Merit's modification notice), the Customer shall be deemed to have accepted the relevant modifications to the Data Processing Agreement.



**APPENDIX TO THE DATA PROCESSING AGREEMENT:**

<b>A. DESCRIPTION OF PERSONAL DATA PROCESSING</b>
Provision of services by Merit in accordance with the Customer’s request and the Merit Tarkvara Terms of Use.
<b>B. DURATION OF PROCESSING</b>
The duration of the Merit Tarkvara Terms of Use, or until Merit processes the Customer’s personal data on behalf of the Customer and in accordance with the Customer’s instructions.
<b>C. NATURE AND PURPOSE OF PROCESSING</b>
Personal data is processed for the purpose of providing services in accordance with the Customer’s request and Merit Tarkvara Terms of Use, in particular for the provision of online accounting and personal finance management services. The services that Merit will provide to the Customer are ultimately determined by the Customer.
<b>D. CATEGORIES OF DATA SUBJECTS</b>
Individual users, representatives and/or other employees appointed by the Customer.
<b>E. CATEGORIES OF PERSONAL DATA</b>
As determined by the Customer, i.e. personal data entered by the Customer in accordance with the services provided by Merit.
<b>F. SECURITY MEASURES TO BE IMPLEMENTED</b>
<ul style="list-style-type: none"><li>- Pseudonymisation and encryption of Customer Data according to the nature of the personal data;</li><li>- Authorisation-based access and identification of persons accessing Customer Data;</li><li>- Ensuring the confidentiality, integrity and availability of the systems and services, including by backing up Customer Data as set out in the Terms;</li><li>- Regular assessment of the reliability and effectiveness of the systems and security measures in place, including testing; and</li><li>- Regular logging of events related to systems and services.</li></ul>