Terms and conditions TriFact365

Version 1.2 (May 2018)

1. Definitions

1.1 **Service**: the TriFact365 SaaS (Software as a Service) environment, as well as the mobile app and API.

1.2 **Subscription**: the agreement between TriFact365 (supplier) and Client (purchaser) in which the type of Service is determined.

1.3 **Prices**: the valid price of a Subscription according to the rates available on the TriFact365 website.

1.4 **Client**: the natural or legal person who has initiated the TriFact365 Subscription and who is using the service to process their own or their client's bookkeeping.

1.5 **End User**: the actual (natural) person that uses the TriFact365 Service and who is validated as User of the Service.

1.6 **Owner**: the User who is authorized to sign on behalf of the Client and represents them by acting as a contact person.

1.7 **Administrator**: an End User who is appointed by the Client as Administrator of the Client's environment and who has administrator rights, who uses an own login code or the Client's login code.

2. Applicability

2.1 These terms and conditions apply to all assignments and subsequent assignments of a TriFact365 Subscription. These terms and conditions can be consulted on the TriFact365 website.

2.2 The current Subscriptions and rates are mentioned on the TriFact365 website.

2.3 By (online) ordering or buying a Subscription of TriFact365 or placing an order, the Client approves of the application and content of these terms and conditions.

3. Offers

3.1 All offers made by TriFact365 are non-binding, unless TriFact365 has indicated differently in written form.

4. Prices and payment

4.1 All mentioned prices and rates are – unless mentioned differently – in Euro and excluding VAT or other taxes that are or will be imposed by the government.

4.2 In case the Client consists of several natural and/or legal persons, every one of them is obligated jointly and severally to pay the monthly amount resulting from the Subscription.

4.3 TriFact365 has the right to raise the rates once a year according to the general consumer price index published by the Central Bureau of Statistics in the Netherlands.

4.4 TriFact365 is authorised to read the data of a Clients' environment in order to (automatically) calculate the correct invoice amount. The administrative documents within the TriFact365 system provide sufficient evidence concerning the Services provided by TriFact365 and the therefore due amounts by the Client, without prejudice to the Clients' right to provide evidence to the contrary.

4.5 After initiating a Subscription of TriFact365, the Client is obliged to pay a monthly fee for using the Service. The amount of the fee depends on the current rates as mentioned on the TriFact365 website and on the predefined values at the moment of starting the Subscription.

4.6 TriFact365 will provide the Client with a monthly invoice for using the TriFact365 Service. The payment deadline is 14 days after the invoice date.

4.7 If the Client for whatever reason does not pay the amount due on time, the amount plus a statutory interest is due without a formal notice or reminder. If a Client does not pay after a formal notice or reminder, TriFact365 can pass the claim on to a third party. In that case the Client is obliged to next to paying the amount due on that date also to pay all other costs due such as collection costs and all costs calculated by external experts. In this situation TriFact365 maintains the right to partially or totally suspend the execution of the Subscription and also maintains the right to exercise any other legal and/or agreed rights.

5. The Service

5.1 TriFact365 will provide the Service to the Client during the term of the Subscription. The information required for the use of the Service will be provided to the Client by TriFact365.

5.2 The Client may allow Users within or outside of the organisation to use the Service for the business purposes of the organisation.

5.3 TriFact365 will provide the Service according to the included Service Level Agreement (SLA), see article 15 to 22. If TriFact365 fails to meet a described service level, the SLA determines the consequences. When the SLA mentions availability percentages, these are measured spread over a calendar month. The maintenance hours that are described in the SLA as well as planned maintenance hours are excluded from the calculation. Availability is defined as the portal to be accessible via the internet via the URL provided to the Client. So availability is not: a) the availability of external systems with which the portal exchanges data or documents, and b) the existence of an operating point-to-point connection between the Service and external systems. TriFact365 has no influence on the Client's systems, the connected systems and the internet infrastructure in between.

5.4 TriFact365 will take the measures described in the SLA to secure the data that is stored on the server(s). The information related to these measures is available to the Client. The Users are expected to make use of adequate available safety measures in case they are not already enforced.

5.5 TriFact365 has the right to adjust the Service regularly in order to improve functionality or repair errors. TriFact365 will make efforts to repair possible errors in the Service, but cannot guarantee that all errors can be repaired. If an adjustment leads to big changes in functionality, TriFact365 will inform the Client 24 hours in advance. Because the Services are provided to several Clients at the same time, it is not possible to make exceptions when implementing changes. Users are always using the most recent version of the Services.

6. Use of the Service

6.1 Users determine which documents and data files are stored and/or processed and/or exchanged with the help of the Service. TriFact365 has only knowledge of the information in these documents and data files as far as is needed to provide the Service. Therefore the Client is responsible that the information is legitimate and does not infringe any third party rights. TriFact365 cannot be held responsible for any documents and data files that are stored and/or processed and/or exchanged with the help of the Service. The Client indemnifies TriFact365 from any claims that are based on the position that documents or data files that are stored and/or processed and/or exchanged by the Client or Users with the help of the Service are illegal.

6.2 The Client and Users may not process or store documents, images, video's and/or data files that have nothing to do with accounting or administration with the help of the Service. TriFact365 reserves the right to control the legitimacy of stored documents and data files by means of random sampling. Not permitted files will directly be deleted from the server.

6.3 TriFact365 cannot be held responsible for the correctness of the data that is exchanged with the system nor for following accounting rules that are valid at a Client. TriFact365 supports the processing of documents and data from many sources and for many accounts, but must be operated by skilled Users.

6.4 TriFact365 is not responsible for checking completeness, readability and scan quality of the received documents and/or data files.

6.5 In case TriFact365 notices that information stored or exchanged by Users with the help of the Service is unlawful, the information will be deleted or made unavailable immediately. TriFact365 cannot be held responsible for damage resulting from these actions. TriFact365 can also not be held responsible for unlawful actions of the Client or Users.

6.6 TriFact365, the Client and Users are obligated to keep usernames and passwords provided by TriFact365 or created by Users secret. TriFact365 is not responsible for misuse or loss of usernames and passwords by the Client and may assume that Users who log in do that with their own legitimate username and

password. As soon as the Client knows or has a reason to assume that usernames and passwords are in illegitimate hands, TriFact365 has to be informed via email and over the phone.

6.7 Every User is able to change his own password. Administrators are able to change the passwords of End Users. End Users are responsible for choosing safe passwords and for regularly changing passwords.

6.8 Users must carefully follow conditions of use and instructions from TriFact365 and are obliged to standards of good practice and normal use of such a Service.

6.9 Without consent of the other party TriFact365 and the Client are not entitled to transfer the rights and obligations of the agreement to a third party. The consent will not be rejected without reasonable reasons; however the consenting party has the right to place conditions.

6.10 The Client allows TriFact365 to change or replace parts of the (underlying) software or portal without asking for consent in order to provide a Service with the same or better quality and features for the Client.

7. Support

7.1 The Client has the right of online support with using the Service and concerning the features of the Service. TriFact365 is not responsible for the correctness and/or completeness of the answers. Internal questions about the way of making accounting entries or internal accounting rules of the Client's organisation are not dealt with.

7.2 The Service Level Agreement (SLA) states the guarantees concerning support.

8. Confidentiality

8.1 TriFact365 and the Client will apply confidentiality with information received during the agreement and information regarding company matters from the other party. TriFact365 will especially apply confidentiality concerning the data and information that is stored and/or changed with the help of the TriFact365 Service.

8.2 The employees of TriFact365 who have access to the Service and/or servers have individually signed a confidentiality agreement with TriFact365 regarding these stored data files.

9. Privacy

9.1 The TriFact365 Privacy statement applies and can be consulted via the website.

9.2 The TriFact365 Cookie statement applies and can be consulted via the website.

9.3 Using the Services of TriFact365 can be accompanied by processing personal data. TriFact365 has the role of independent intermediary (processor). In this role TriFact365 will adhere to all legal obligations that rest on this role. If the Client is established in a country where the General Data Protection Regulation (GDPR) applies, the Client also accepts the Data Processing Agreement as an addendum to these terms and conditions & SLA when subscribing to the Service.

9.4 All employees that are acting on behalf of TriFact365 and who have access to the personal data, will apply confidentiality regarding the personal data they encounter, unless a legal obligation requires them to report it. TriFact365 will apply appropriate technical and organizational measures to protect the Client against loss or any form of unlawful processing. These measures will be appropriate, keeping in mind the state of technique and the costs that are involved. TriFact365 will do its utmost to ensure that unauthorized parties have no access to Client's data.

10. Intellectual property rights

10.1 The Client is and remains the owner of the stored and processed documents within the Client's environment.

10.2 The Client can remove stored and processed documents from the Client's environment independently.

10.3 The Client will provide TriFact365 with the rights to use and process the stored and processed documents. This is required for the operation of the Service.

10.4 TriFact365 has exclusive rights of intellectual and industrial property of the Service and the extending Services lies exclusively with TriFact365 and/or its licensors. Providing the Service does not imply transferring copyright or any other rights of intellectual property of the Service.

10.5 All installations and rights of the Service are property of TriFact365

10.6 Usage of the Service cannot be transferred to another party without prior written permission of TriFact365. By purchasing a Subscription the Client obtains the right to use the Service for as long as the Subscription endures.

11. Force Majeure

11.1 In case TriFact365 is unable to fulfill an obligation of the Subscription due to force majeure, neither the Client nor TriFact365 is required to fulfil the obligation for as long as the agreement endures. Force majeure is for example a non-attributable shortcoming by (a) supplier(s) of TriFact365.

11.2 In case the situation of force majeure endures longer than 14 days, the Client has the right to cancel his Subscription by means of a written notification. Services that already have been delivered will in that case be settled proportionately, without the parties otherwise owing each other anything. If the Client is unable to fulfill an obligation of the Subscription due to force majeure, TriFact365 may unilaterally end the agreement after a period of 14 days. However, the Client's obligation to pay remains in effect until the time of termination.

12. Liability

12.1 TriFact365 does not offer guarantees. All liabilities of TriFact365 caused by attributable shortcomings in fulfilling the obligations of the Subscription are excluded. TriFact365 and/ or its suppliers are in no case responsible for any special, indirect or consequential damage, or any other damage as a result of any cause and from any source of liability, either contractual, legal liability or unlawful deed (including negligence or otherwise), as a result of or in connection to using the portal. This also applies to damage resulting from limitations of the software or limitations of the documents that are available via the Service.

12.2 TriFact365 is not liable for indirect damage, including consequential damage, loss of profits, missed savings or damage resulting from business interruption. TriFact365 is also not liable for damage or loss of stored documents, regardless of whether these data represent a monetary value.

12.3 In case an action of the Client or User endangers the functioning of the Service, TriFact365 is authorized after a first and second written warning to prevent the User from logging into the portal for a period of time or suspend the User.

13. Duration, termination and modification of the agreement

13.1 The agreement comes into force on the date that the Subscription is started or the date of (digital) signature of the Subscription when this is not available. When both dates are not available the payment of the Client in the first month of the Subscription is the confirmation that the Subscription is endorsed by the Client.

13.2 The agreement is made for one (1) month unless there is a written agreement that states otherwise. One (1) month before the agreement ends it is automatically prolongued with one (1) month. TriFact365 is obliged to support the Service for as long as the agreement lasts and can end the Service with a cancellation period of at least three (3) months. Both parties need to end the agreement via email.

13.3 TriFact365 and the Client are both entitled without being obliged to compensate one another to terminate the agreement fully or partially or request a termination via registered mail if: a) the other party has not met one (1) or more of its obligations after being asked to in written form with a reasonable deadline of thirty (30) days to meet these obligation(s); b) the other party applies for bankruptcy or suspension of payment; c) if the other party is declared bankrupt; d) the company of the other party is liquidated.

13.4 The Client has the right to change the type of Subscription per first day of a month. A change in the type of Subscription will be made on the first day of the following month, taking into account the maturities and notice periods for the specific Subscriptions. From that moment on the Client will be charged for the new type of Subscription.

14. Final provisions

14.1 The agreement and all resulting or related disputes are governed by the laws of the Netherlands. Every dispute between the Client and TriFact365 shall be submitted to the authorized judge in Utrecht.

14.2 The Client allows TriFact365 to use its name and company logo in press releases, product brochures and on the TriFact365 website to mention that the Client is a User of TriFact365.

14.3 TriFact365 may use a copy of the Client's TriFact365 environment as acceptance environment in order to monitor the correct functioning or to check the correct functioning of a newer version of the Service.

14.4 The Service Level Agreement (SLA) is subject to changes and can be changed without prior notice, while maintaining or improving the service level.

14.5 Notwithstanding its own responsibility, TriFact365 may introduce third parties without prior consent of the Client. TriFact365 may also transfer or change the legal relationship on the basis of this agreement to a third party without cooperation of the Client, on the condition that the transmission is part of the transmission of (a substantial) part of the business of TriFact365.

14.6 Exceptions to this agreement are only valid when an agreement has been made in written form. Notifications on the basis of this agreement must take place in written form, unless otherwise stated in the agreement.

14.7 The applicability of any general terms and conditions imposed by the Client is explicitly rejected.

15. Service Level Agreement (SLA)

15.1 Next to the provisions in article 1 up to and including article 14, article 16 up to and including article 22 are applied concerning the service and support of TriFact365.

16. Definitions

16.1 **Response time**: the time that passes between receiving a request and TriFact365 reacting on the request via a written or verbal notification.

16.2 **Service Hours:** TriFact365 applies the following regular office hours (9:00-17:00 CET) from Monday to friday, with the exception of Dutch national holidays.

16.3 **Special Service Hours:** all hours apart from the Service Hours, as mentioned in article 16.2.

16.4 **Support:** providing general assistance via the telephone, tickets or email.

16.5 **Notification:** a notification in the category A, B, C or D, apart or jointly.

16.6 **Notification Category A:** the Service is totally unavailable due to an error on the side of TriFact365 or it has completely ceased to function. It is not possible to work with the system, neither normal nor with any adjustment or an alternative program.

16.7 **Notification Category B:** a problem that causes a serious application error and endangers further progress, but does not cause the whole Service to standstill. It is possible to work with most parts of the Service, possibly via an alternative program or some adjustments.

16.8 **Notification Category C:** a not essential problem in the Service that does not require an immediate response by TriFact365.

16.9 **Notification Category D:** all questions and requests for information over using or implementing the Service.

17. Response times

17.1 Support is available for all Notification categories during Service. The following response times are valid: Category A: 2 hours, Category B: 4 hours, Category C: 1 workday and Category D: 3 workdays.

17.2 Except for implementation services, Support on location is in general not available since the Service is provided in a generic and uniform way. If there is need for assistance on location, a separate appointment with a consultancy rate can be agreed on in mutual consultation.

17.3 The Client will give TriFact365 the necessary access to the Client's database and will agree to implement the necessary changes that are needed in order to solve the reported issue.

17.4   The Client will provide at minimum one contact person who is well informed about the Service and who can be contacted as main contact person or deputy contact person.

18. Transmitting a Notification

18.1   Notifications to TriFact365 can only be done by the Owner/Administrator of the Client's environment.

18.2   End Users are not allowed to transmit Notifications to TriFact365, but can transmit their Notifications to the Owner/Administrator of the Client's environment.

18.3   Category A and B Notifications can be transmitted via telephone, email or ticket.

18.4   Category C and D Notifications can only be transmitted via email or ticket.

18.5   TriFact365 cannot be held responsible for Notifications that have not been received, telecom providers to be out of service or the functioning of the Clients' telephone service.

19. Accessibility

19.1   TriFact365 guarantees an accessibility of the system that is related to the purchased Service. The calculation of the accessibility is based on the qualified incidents that are reported to TriFact365 by the Owner/Administrator of the Client's environment. If it is not possible for the Users to reach the system via the internet, a Notification needs to be transmitted to TriFact365 by the Owner/Administrator of the Client's environment.

19.2   TriFact365 guarantees a monthly 99% up-time of the servers, what is an allowable down-time of the Service of 14 minutes per 24 hours, apart from the exceptions of the Service Level Agreement, as stated in article 5.3.

19.3   TriFact365 garandeert een 99% uptime gemiddeld per maand van Service, wat in de praktijk een toelaatbare downtime van de Service toestaat van gemiddeld 14 minuten per 24 uur, buiten de uitsluitingen Service Level Agreement, zoals weergegeven in artikel 5.3.

19.4   TriFact365 is free to choose which team member assists the Client or helps to solve the Notification. The Client cannot impose a specific person to speak to them or serve them.

20. Internet Access and performance

20.1   TriFact365 guarantees the data concerning uptime (accessibility) etc. as stated in this Service Level Agreement.

20.2   TriFact365 guarantees the functioning of the Services according to the "best effort" principle.

20.3   The Service can be accessed with the most recent versions of Edge, Firefox, Chrome and Safari.

21. Reliability and security

21.1   The Client agrees to continuously make backups of the Client's data.

21.2   The Client can ask TriFact365 to restore the backup copy. In order to do so a separate appointment needs to be arranged at the prevailing consultancy rate plus a surcharge of 50%. TriFact365 strives to restore the backup copy within a work day.

21.3   The Service is provided via servers and data centers. The locations of the servers are adequately protected by Service Level Agreement(s) of the suppliers of TriFact365. This includes the physical protection of the building, protection of the access against unauthorized parties, 24/7 hardware support, fire protection, power failure, internet access protection, firewall, data protection and data backup.

21.4   The TriFact365 Reliability and security statement can be consulted via the website.

22. Procedure with deficiencies or not meeting obligations

22.1   The entire liability of TriFact365 is excluded in the agreements in articles 12.1, 12.2 and 12.3.

22.2   If TriFact365 demonstrably fails to meet obligations as reflected in the Service Level Agreement, the Client has to inform TriFact365 about it. In this case TriFact365 has three (3) days time to restore its Services back to the level that is stated in the Service Level Agreement or the level before the reported issue.

22.3   If TriFact365 is not able to restore the deficiency on time, the Client has to give written notice of default to TriFact365. Then TriFact365 has seven (7) more days to restore its Services back to the level that is stated in the Service Level Agreement or the level before the reported issue.

22.4   In case TriFact365 fails to realize the correction as stated in article 22.3 the Client is able to cancel the Service immediately and article 12.1 from these terms and conditions comes into force.

22.5   If a situation as stated in article 22.2 has occured at least three (3) times, the Client can also refer to article 22.4.

TriFact365
Arnhemseweg 10
3817 CH Amersfoort
The Netherlands
+31 (0)33 799 9600

BTW nr: NL820778540B01
KVK nr: 30262227