

# **Master service agreement ZBS.Control between main user and Arvid Logicum OÜ**

**Valid from:** for new clients 01.09.2018  
for existing clients 01.10.2018

## **1. Terms**

1.1 In these General Terms and the Contracts, terms and definitions are used in the following meaning:

1.1.1. ZBS – Arvid Logicum OÜ, registry code 11164118, contacts provided on the web page (zbs.cloud);

1.1.2. ZBS.Control – the site for ordering and administering the Services ZBS accessible through the web page of - <https://bill.zbs.cloud>;

1.1.3. Main User – holder of an ZBS.Control user account, any natural person or legal entity that has entered into an agreement for the use of the ZBS.Control;

1.1.4. Master Service Agreement ZBS.Control – an agreement on the basis of which the Main User shall be granted the right to use the ZBS.Control;

1.1.5. Client – any natural person or legal entity having entered into an agreement for the use of the Services;

1.1.6. Contract – any contract (incl. Master service agreement ZBS.Control, Service Contract) entered into between ZBS and the Client / Main User;

1.1.7. Party – Client or ZBS; Parties – Client and ZBS together; in case of a Master service agreement ZBS.Control, ZBS and the Main User are deemed to be the Parties;

1.1.8. Service – any service provided by ZBS, including Server Service and Domain Service;

1.1.9. General Terms of Service – general terms of a respective type of Service;

1.1.10. Special Conditions of Service – special conditions of a respective Service;

1.1.11. Service Contract – Contract for the use of a particular service of ZBS, incl. the general terms of this type of service (Server Service, Domain Service), Special Conditions of Service, and other applicable terms and conditions;

1.1.12. Server Service – Service, which consists of the allocation of server resource for the use by the Client, together with any potential additional services (e-mail addresses, use of software, etc.);

1.1.13. Domain Service – Service, which consists of the registration of a domain name to the Client or intermediation thereof, together with any potential additional services;

1.1.14. Contract Documents – General Terms, General Terms and Special Conditions of the Services, Price List, and all Contracts with their annexes;

1.1.15. General Terms – these general terms of the services of ZBS;

1.1.16. Price List – document available on the web page (<https://zbs.cloud>) of ZBS, which provides the prices of the Services.

1.1.17 ZBS Resources Usage Rules - the terms and conditions of the use of any services provided by ZBS;

1.1.18 SLA –Service Level Agreement

1.2. Any terms not defined herein shall be used in the meaning provided by legislation, and in the absence thereof in their customary meaning.

## **2. Main user contract**

2.1. The Main User will be entitled to use the ZBS.Control, order and administer Services via the ZBS.Control by means of entering into the respective Service Contracts.

2.2. Upon entry into the Main User Contract, the Main User accepts the General Terms.

2.3. The Main User uses the ZBS.Control, incl. enters into and terminates Contracts personally. The Main User undertakes not to intermediate or enable access to the ZBS.Control to any third persons, incl. not to disclose to any third persons the authorization codes issued to the Main User. ZBS shall not disclose to any third persons the authorization codes issued to the Main User.

## **3. Entry into contracts**

3.1. The contracts are concluded electronically through ZBS.Control.

3.2. ZBS concludes Contracts in the Estonian, English, and Russian languages. In the application of the Contracts, the English text takes precedence, incl. in the settlement of disputes.

3.3. The entry into the Main User Contract shall constitute a prerequisite for ordering any Service from ZBS. No obligation to order any Services shall arise from concluding the Main User Contract.

3.4. To conclude the Contract, the Client provides ZBS with an order in accordance with the order form, which is considered as a formal offer. The Client submits the offer by clicking on the "Activate" icon after filling in the order form. Before confirming the order, the Client has the opportunity to check the data displayed in the order and, if necessary, to correct the errors. ZBS sends the Client an email confirming receipt of the order.

3.5. When ordering the Service, the Contract Documents relating to the Service shall be displayed to the Client for examination, and upon submitting the order, these Contract Documents shall be deemed to have been accepted by the Client. The Contract has been concluded from the moment when ZBS has accepted the offer, sending a respective message to the Client's e-mail address. Upon entry into the Main User Contract, a message shall be sent to the Main User's e-mail address.

3.6. ZBS gives its acceptance to the offer or refuses it within fourteen (14) calendar days at the latest.

3.7. ZBS shall send its acceptance or refusal of the offer by a relevant message to the e-mail address of the other Party. Upon concluding the Main User Contract, the Main User shall be sent the authorization codes required for the use of the ZBS.Control.

3.8. ZBS is entitled to refuse to enter into any Contracts in cases when the other Party has violated the terms and conditions of the use of any services provided by ZBS or any third persons (incl. payment obligation) or the good practice of using the Internet, or due to any other causes deemed considerable by ZBS.

3.9. The Client has the right to unilaterally cancel the Contracts without any reasons for fourteen (14) calendar days from the date of the Contract signing by submitting to ZBS an application in a form that allows written reproduction. In case of withdrawal from the Agreement, the consumer compensates ZBS the costs associated with the offer of the Services (including settlement costs). Part of the payment made by the customer, exceeding the expenses, is returned immediately, but not later than within 30 days after the receipt of the notice of contract termination by ZBS.

3.9.1. The withdrawal right is not applicable if ZBS has fully performed its contractual obligations, if the provision of the service commenced upon the clear consent of the Client before the term of consumer withdrawal ended provided that the Client who is a consumer acknowledged that they lose the consumer's withdrawal right when ZBS performs the Contract.

3.10. If a Client who is a consumer has expressed the wish that the provision of service be commenced before the term of consumer withdrawal has ended, she shall compensate reasonable costs to ZBS in the event of withdrawing from the Contract pursuant to subsection 56<sup>2</sup> (5) of the Law of Obligations Act.

3.11. Any amount paid by the consumer in excess of the costs shall be refunded immediately but no later than within 14 days from the moment the message of withdrawal from the Contract reached ZBS.

#### **4. Representations of the parties upon concluding contracts**

4.1. The Parties represent to each other that:

4.1.1. they are persons with passive and active legal capacity, no bankruptcy proceedings have been initiated against them, and no bankruptcy cautions have been filed. No dissolution resolution has been passed with regard to the Party that is a legal entity;

4.1.2. all consents and authorizations required for a valid entry into and performance of the Contract have been obtained, and it does not involve any violations of obligations by either Party, arising from the legislation or administrative legislation, court judgement or any other legal relationships;

4.1.3. they have all the resources and skills for the performance of the obligations arising from the Contracts.

4.2. The Parties shall notify the other Party immediately of any changes in the circumstances provided in clause

4.3. The Client and the Main User represent that:

4.3.1. prior to entry into the Contract, they have examined all the Terms and Conditions of the Contract (incl. the applicable General Terms and Special Conditions of Service, General Terms, and Price List), these are unambiguously understandable to them, and they are aware of the rights and obligations that emerge on the basis of the Contract.

4.3.2. all data submitted by them to ZBS upon concluding the Contracts is correct, they understand that in addition to ZBS, any third person may rely on their correctness, and are aware that upon submitting false data, sanctions may be applied in relation to them as well as ZBS.

4.4. The said confirmations shall be deemed to have been given upon concluding all the Contracts (incl. Main User Contract as well as any further Service Contracts).

#### **5. System of contract documents**

5.1. The General Terms shall apply to all the Contracts.

5.2. The types of Services (Domain Service, Server Service, etc.) have individual general terms, which apply to all Services. In addition to this, any particular Service may have Special Conditions of Service, which specify the

differences from the general terms of the respective type of Service. The General Terms and Special Conditions of Service constitute an integral part of the respective Service Contract.

5.3. Any particular Service has its technical parameters (e.g., in case of the Server Service, the volume of the resource ordered), which are determined upon ordering the particular Service and which constitute an integral part of the respective Service Contract.

5.4. The Contract Documents of the contracts entered into by the Client shall be maintained and are available in the ZBS.Control.

5.5. Upon the performance and interpretation of a particular Contract, the Contract Documents shall be considered a whole. In case of any contradiction, the Contract Documents shall have the following priority (in the order of application):

5.5.1. any terms and conditions separately agreed by the Parties;

5.5.2. technical parameters of the Service;

5.5.3. price List;

5.5.4. Special Conditions of Service;

5.5.5. General Terms of Service;

5.5.6. General Terms and Main User Contract.

5.6. By accepting any Contract Document upon concluding any Contract, it shall be deemed that the Party has also accepted the respective Contract Document upon entry into other Contracts to which the respective Contract Document is applicable.

## **6. Provision, amendment and suspension of services**

6.1. ZBS provides Services electronically. Ordering, administration and use of Services requires that the Parties have an Internet connection. ZBS does not provide Internet connection.

6.2. ZBS shall make reasonable and necessary efforts on its part to ensure the reliable operating of the Services; however, failures cannot be completely excluded due to the nature of the Services. The Client shall immediately notify ZBS of any problems that occurred upon using the Service. Thereupon, the Client shall state his name, description of the problem, and any other circumstances regarded important through ZBS.Control.

6.3. ZBS provides user support to its Services in different volumes and forms described in the General Terms and Special Conditions of the particular Service. User support is provided according to the Estonian calendar and time on working days and during work hours (09:30–18:00)

6.4. The Client is entitled to use the Service according to his or her wishes and needs but pursuant to its intended purpose. The Client undertakes to use the Services in accordance with the Contracts, legislation (incl. intellectual property law), good customs and practice.

6.5. ZBS shall not monitor the activities of the Client regarding the use of Services with regard to its compliance with the current law. ZBS is entitled to suspend the provision of Service to the Client in case information is received that the Client violates the rights of any third persons in using the Service. In case of any dispute with regard to the existence of any violations, ZBS is entitled to suspend the provision of Service until the final settlement of the dispute between the Client and such third person.

6.6. The Client undertakes to use the Services in accordance with the technical parameters of the ordered package; and to order a Service / additional resource that satisfies the needs in case of its inadequateness. Upon discovering the non-conformity of the technical parameters (e.g. the volume of the server resource used by the Client exceeds the agreed total volume), ZBS shall propose to the Client to bring the use of Service into conformity with the Contracts (e.g. optimize the database exceeding the ordered server resource) within one (1) week, provided that this is the first case of non-conformity. If the Client does not fulfil the request, additional costs regarding resources exceeding the Contract shall apply to the Client, if such costs are provided in the Price List. In subsequent cases, ZBS shall apply additional costs without giving a term to eliminate the violation.

6.7. ZBS wishes to keep its Services modern and competitive. ZBS is entitled to change the principles of using the Services, incl. any technology and software solutions used for the provision of the Service, by notifying the Client thereof in advance. Inter alia, the respective need may be caused by any amendments to the legislation, technological development, and security issues.

6.8. ZBS has the right to suspend the provision of the Service to the Client in the event that the cash balance on the ZBS.Control personal account is insufficient to automatically renew the Service, or if the Client is in breach of the Contracts in any other way.

6.9. ZBS is entitled to restrict or suspend the provision of Service if the services of the other clients of ZBS are disturbed to a significant extent due to any circumstances that are beyond its control (e.g., an attack against the

Client originating from the Internet), and if the respective impact cannot be reasonably removed by any measures less burdening for the Client.

6.10. ZBS may offer to the Client an option to increase the resource (e.g. used disk space) related to the Service for a fixed term.

6.10.1. Additional resource may be ordered through the ZBS.Control. The Client orders additional resource pursuant its own discretion, and is liable for its suitability and sufficiency for the Client's needs.

6.10.2. The Client pays an additional fee for the additional resource pursuant to the Price List or agreement between the Parties. The Client shall pay for a fixed-term additional resource to the extent of the full ordered period, even if the Client waives to use the additional resource before the expiry of the term.

6.10.3. Upon using the additional resource, the Client is required to guarantee that the respective resource is vacated by the Client upon the expiry of the term. By not fulfilling this obligation, the additional resource agreement becomes indefinite and the Client is required to continue paying for the additional resource.

6.10.4. As of the additional resource agreement becoming indefinite, the fee for the additional resource is calculated by the day, calculating the daily cost by dividing the price of the ZBS -provided additional resource determined for the shortest period with the days within that period.

6.10.5. Upon the additional resource agreement becoming indefinite, the Client must issue an order via the ZBS.Control for its termination. Issuing the order is only possible upon vacating the additional resource. Upon issuing the order, the additional resource agreement terminates immediately and the Client does not have to pay for it as of the next day on.

6.11 In case of the non-compliance of the terms and conditions of the Service Contract, a Client who is a consumer can rely on the legal remedies provided by law.

### **7. Fee for the services. Settlements. Amendments to the price list**

7.1. The Client undertakes to pay for the Services ordered, unless the Service is free of charge. The fees are provided in the Price List.

7.2. The Price List may provide price discounts, incl. to Clients who make advance payments for the Services in the determined amount. In the latter case, the discount applies provided that the Client does not waive the use of the Services paid for in advance before the exhaustion of the advance payment, except if it arises from the violation of the Contract by ZBS.

7.3. The Client's obligation to pay for the Service shall arise upon ordering the respective Service. The obligation to pay the fee shall not depend on whether the Client actually uses the Service or not. The amount of the fee may depend on the volume of the Service consumed.

7.4. The Client undertakes to pay a fee to ZBS for the provided Service pursuant to the Price List available on the website of ZBS ZBS. The payment shall be made in advance payments. Upon termination of the Contract of the initiative of ZBS or due to any violations by ZBS, the Client shall retain the right to recover the fee in the extent by which the prepaid fee covers any time period after the termination of the Service Contract. The costs of refunding the fee (incl. transfer costs) shall be covered by the Client.

7.5. Means of payment have been listed on the web page. If the Client has a sufficient amount of credit at ZBS (advance payment), any amount due by the Client shall be covered with this. In case of settlements by bank transfers, the invoice of the Client shall be deemed to have been paid upon receipt thereof in the bank account of ZBS, in other cases when ZBS has obtained reliable information from any third person service providers through which the payment was made about the receipt of the payment.

7.6. Invoices shall be sent to the Client by e-mail, and they are also available in the ZBS.Control.

7.7. The Client undertakes to immediately notify ZBS if an invoice is incorrect or when the invoice has not reached the Client in usual time, or to obtain the invoice on its own from the ZBS.Control. The fact that an invoice is delayed, lost, etc., shall not release the Client from the obligation to pay for the Service in due time.

7.8. The Client undertakes to pay the fee according to the terms and conditions indicated on the invoice. In case the payment of the invoice is delayed, ZBS is entitled to charge a fine for delay from the Client on any outstanding amount at the rate of 0.1% per day until the complete settlement of the due amount.

7.9. Failures in the provision of the Service shall not release the Client from the obligation to pay for the Service, except in case the Parties have agreed otherwise.

7.10. Collection costs with respect of any overdue amounts shall be covered by the Client.

7.11. ZBS is entitled to change the Price List.

### **8. Liability of parties**

8.1. The Party shall be liable for any loss caused to ZBS by violating the Party's obligations arising from the Contracts, incl. for any loss caused by any third person having used the Service or the ZBS. Control instead of the Party.

8.2. In case the claims of third persons are directed to ZBS as a result of any illegal activity of the Party (incl. failure to perform any obligations undertaken to any third person), the Party shall also indemnify ZBS for any loss incurred in connection with this.

8.3. ZBS shall be liable for any direct material damage caused to the Client by any violation of the obligations arising from the Contracts. The prerequisite for the liability of ZBS is the intent or gross negligence of ZBS. The liability of ZBS shall be limited pursuant to the specific Contract, the General Terms and Special Conditions of Service, except when the loss arose as a result of intent or gross negligence.

8.4. ZBS shall not be liable for any loss that arose to the Client in connection with:

8.4.1. power interruptions not dependent of ZBS;

8.4.2. failures of communication lines not controlled by ZBS (incl. those belonging to a data communication provider);

8.4.3. the incorrectness and unlawfulness of information disclosed by the Client by means of the Service to ZBS or third persons, incl. the public;

8.4.4. attacks originating from the Internet;

8.4.5. non-compliance of Service with the needs of the Client.

8.5. Non-performance or improper performance of the obligations arising from the Contract shall not be regarded as a violation of the obligations by the Party, provided this was caused by any circumstances the occurrence of which the Parties did not and could not foresee upon concluding the Contract (Force Majeure). The Party whose performance of contractual obligations is hindered by any Force Majeure circumstances is required to immediately notify the other Party thereof.

8.6. Non-performance or improper performance of any obligations arising from the Contract shall not bring about any liability to the Party, if this is caused by the performance of any obligation unavoidably arising to such Party as a result of the law.

## **9. Personal Data Processing. Privacy**

9.1. ZBS shall treat the personal data related to a Client or Main User who is a natural person equally with the data related to a Client or Main User that is a legal person, and shall process such personal data in compliance with the requirements of Regulation (EU) 2016/679 of the European Parliament and of the Council (the General Data Protection Regulation). The ways of and grounds for the processing of personal data are described in the Privacy Notice.

9.2. The legal representative of the Client and Main User that is a legal person hereby represents that he or she has the right to transfer the personal data to be submitted to ZBS or accumulated in the course of the entry into and performance of the Contracts, and shall ensure that these data are kept up to date if the representative or contact person changes, as well as in case the natural person connected therewith requests that his or her data be deleted or that the processing be restricted.

9.3. ZBS shall process the personal data of the Client and Main User or their legal representative and contact person without a separate consent in order to perform the Contract and its obligations deriving from laws or based on legitimate interest. Upon prior consent of the person, personal data may be processed also for marketing purposes.

9.4. ZBS will be entitled to engage processors in the processing of personal data if they provide a sufficient security that they shall implement appropriate technical and organizational measures in such manner that the processing of client data shall be in conformity to the requirements set out in the respective laws and that the protection of the rights of data subjects shall be ensured. The list of the processors of ZBS is published on the website under Processors.

9.4.1. Upon the use of domain services, the transfer of the data of the registrant and/or contact persons to a register or registrar, and in case of a top-level domain, also disclosure of the personal data shall form an inevitable part of the provision of services, deriving from the rules of the respective top-level domain. References to the rules of top-level domains.

9.5. ZBS may transfer or process personal data outside the European Union / European Economic Area, if there is a contract containing the standard clauses conforming to the General Data Protection Regulation, approved codes of conduct, certifications, etc; there is a sufficient level of data protection in place in the state of location of the Recipient in accordance with the decision of the European Commission; the Recipient has been certified under the data protection framework Privacy Shield.

## **10. Confidentiality. Client's Information assets. Contract with the controller and processor**

10.1. The Parties shall keep confidential any information related to the other Party, including any business secrets that have become known to them in relation to the entry into and performance of the Contracts, the disclosure whereof to the public or to third parties may damage the other Party in any way, except the information which is meant to be made public or is general knowledge, or which for any other reason cannot be confidential due to its nature.

10.2. The confidentiality obligation shall remain in force for an unspecified term also after the expiry of the Contract.

10.3. The Client is the responsible owner of the Client's information assets (files, databases, e-mails, etc) stored and processed in the infrastructure of ZBS. The security level of the Client's information assets is confidential, and the access of ZBS's employees to the information shall be permitted only upon performance of the work duties based on the written order of the Client, or for the purpose of ensuring the availability, integrity and security of the service.

10.4. ZBS has no basis for knowing whether a Client's information assets contain any personal data, and therefore ZBS shall treat all information assets as potentially containing personal data and the Main User Contract as a written contract between the Client as the controller and ZBS as the processor within the meaning of Article 28 of Regulation (EU) 2016/679 of the European Parliament and of the Council (the General Data Protection Regulation).

10.5. ZBS shall assist the Client in performing the due diligence obligation in choosing the processor, and shall publish its principles for information security management system on its website, and shall clearly determine the limits of liability of ZBS and the Client for every service. The participation of the Client as the controller of personal data in the audit processes and the implementation of any security measures not described in the general terms and conditions or special terms and conditions of the Service shall take place upon an agreement between the Parties, and ZBS will be entitled to charge an additional fee for these activities.

10.6. As a rule, ZBS shall provide the server services within the European Union / European Economic Area, and shall, upon the ordering of a service, enable the Client to choose the suitable availability zone. Transfer of services to another availability zone under a different jurisdiction than the chosen one shall take place only on the basis of a written order of the Client.

10.7. ZBS shall immediately inform the Client if he ascertains or suspects with a good reason that the security requirements have been violated in relation to the information assets of the Client, and this causes accidental or illegal destruction, loss, modification or unauthorized disclosure of or access to these information assets.

10.8. ZBS shall inform the Client immediately if ZBS receives an inquiry or request for the conduct of an investigation or audit from a competent authority, save in case such informing is prohibited by law.

## **11. Messages. Contact data**

11.1. All messages between the Parties having legal consequences must be in a format which can be reproduced in writing and they shall be deemed to have been delivered to the other Party when one (1) working day has passed from the sending thereof to the other Party. Messages intended for the Client shall also be sent to the Main User authorised for the technical administration of the Service, if such Main User exists.

11.2. The contact data of ZBS has been provided on the web page of ZBS (zbs.cloud). Contact data forwarded to ZBS by a Party is published in the ZBS.Control. In case the contact data of the Party (name, address, telephone, e-mail address, etc.) is changed, the Party undertakes to immediately notify ZBS thereof in a format which can be reproduced in writing. The Party may make the respective changes in the ZBS.Control on its own and shall thereupon be deemed to have fulfilled the notification obligation.

## **12. Term, amendment and termination of contract**

12.1. ZBS may offer to conclude Contracts with or without a term. The Main User Agreement shall be entered into without a term.

12.2. If the Contract is entered into without a term, a requirement of minimal duration shall not be applied to it, except if provided otherwise by the applicable Contract Documents of a particular Service. In the case of a fixed-term Contract, the Contract shall expire upon the expiry of the term.

12.3. ZBS is entitled to amend all the Contract Documents by notifying the Clients concerned at least thirty (30) calendar days in advance (the term is not applied to Price List amendments). ZBS shall exercise the right to amend the Contract Documents primarily when such need arises from any amendments to the legislation (incl. amendment to the balance of contractual obligations), judicial practice, development of technology and economy, technological or organizational reorganizations in the operation of ZBS.

12.4. The Party who does not agree to the amendments made by ZBS to the Service or the Contract Documents (incl. the Price List) is entitled to cancel the amended Contract by notifying thereof two (2) weeks in advance, except in cases where the amendments are favourable to the Party. If ZBS does not notify of the amendments to the Price List at least thirty (30) calendar days prior to the Price List entering into force, the Client shall retain the right to cancel the Contract so that it terminates before the amended Price List becomes valid, in case of Price List amendments that actually apply to the Services already ordered by the Client and have a negative impact on the Client.

12.5. Unless otherwise provided by the Contract (incl. the General Terms and Special Conditions of Service), either Party is entitled to cancel the Contract without stating any reasons by notifying the other Party thereof thirty (30) calendar days in advance. In case of any fixed-term Service, the Client may also cancel the Contract constituting the basis for the Service, if ZBS does not refund the fee that the Client paid to ZBS for the respective Service until the expiry of its agreed term.

12.6. With reasonable prior notification, ZBS is entitled to ordinarily cancel any fixed-term Contract, if it abandons the provision of a respective service or resource.

12.7. ZBS is entitled to terminate the Main User Contract without any prior notice upon the expiry of three (3) months from the termination of the last Service Contract in force due to any reason, except in case the Main User is the technical administrator of another Client's Service.

12.8. ZBS is entitled to unilaterally cancel any Contract without any advance notice term by notifying the other Party thereof in case the other Party essentially violates the terms and conditions of any Contract, particularly when the other Party:

12.8.1. delays the payment for the Service for more than one (1) month;

12.8.2. violates any requirements established by the legislation or other terms and conditions of the Contracts and does not stop the violations immediately upon the receipt of a respective demand from ZBS or if the violation is serious to the extent (e.g. intentional acts of damaging the Services) that ZBS cannot be expected to continue the performance of the Contracts.

12.9. Upon the expiry of the Main User Contract, all related Service Contracts shall also terminate and the Main User shall lose the right and opportunity to use any ZBS Service or act as a technical administrator of another Client's Service.

### **13. Governing law. Jurisdiction. Limitation period**

13.1. The Contracts shall be governed by the legislation of the Republic of Estonia.

13.2. Any disputes arising from the Contracts shall be solved by means of an agreement between the Parties. If the Parties cannot reach an agreement, the disputes shall be settled at the Harju County Court. A Client who is a consumer retains the right to turn to the consumer complaints committee pursuant to the terms and rules provided in the Consumer Protection Act of the Republic of Estonia.

13.3. The limitation period of the claims arising from the Contracts is one (1) year.