



**NOTARY OF TALLINN MERLE SAAR-JOHANSON**

REGISTRATION NUMBER IN THE BOOK OF  
NOTARIAL DEEDS OF THE NOTARY

1522

**MERGER AGREEMENT**

**This notarial deed has been made and attested by the notary of Tallinn Merle Saar-Johanson at her office in Tallinn, at Rävala pst 3 / Kuke tn 2, on the 2<sup>nd</sup> day of April of the year two thousand and nine (02.04.2009), and the participants in this notarial deed are**

**Public limited company MERKO EHITUS**, registry code 11520257, address Järvevana tee 9G, Harju County, Tallinn, e-mail address alar.lagus@merko.ee, hereinafter referred to as **Acquiring Company**, represented by its member of the management board entered on the registry card **Alar Lagus**, personal identification code 36902150343, who is personally known to the notary,

**OÜ Rae Tehnopark**, registry code 11034723, address Järvevana tee 9G, Tallinn, e-mail address Tiit.Kuusik@merko.ee, hereinafter referred to as **Company Being Acquired**, represented by its member of the management board entered on the registry card **Tiit Kuusik**, personal identification code 36203034916, who is personally known to the notary,

**who execute this contract upon the following:**

**1. ACQUIRING COMPANY**

- 1.1. The Acquiring Company is **Public limited company MERKO EHITUS**, registry code 11520257, share capital amount 177 000 000.00 kroons.

**2. COMPANY BEING ACQUIRED**

- 2.1. The Company Being Acquired is **OÜ Rae Tehnopark**, registry code 11034723, share capital amount 40 000.00 kroons. In accordance with the electronic database of the commercial register the sole shareholder of the Company Being Acquired is the public limited company MERKO EHITUS, registry code 10068022 (business name on the date of execution of this contract – public limited company Järvevana), who, based on the division plan certified on 30.04.2008, the division resolution passed on 03.06.2008 and the division entry made on 01.08.2008, is the legal predecessor of the Acquiring Company.
- 2.2. According to the list of shareholders of the Company Being Acquired dated 02.04.2009 the sole shareholder of the Company Being Acquired is the Acquiring Company. The notary has verified the belonging of the share to the Acquiring Company and the absence of any third party rights thereto on the basis of the list of shareholders.

### 3. REPRESENTATIONS OF PARTIES

#### 3.1. The signatories to this Contract warrant that:

- 3.1.1. until the execution of this contract no decision has been adopted on changing the amount of stock capital of the Acquiring Company or the amount of share capital of the Company Being Acquired, which are registered with the commercial register.
- 3.1.2. the share of the Company Being Acquired is not encumbered by any third party rights, and no third persons have any rights grounds deriving from the law or a transaction, for applying for such rights;
- 3.1.3. the assets of the Company Being Acquired have not been encumbered by any commercial pledge;
- 3.1.4. the merging companies are aware of each other's economic activities and as at the date of execution of this Contract have no claims against each other in respect of their economic activities;
- 3.1.5. the data contained in section one (1) and/or two (2) of this Contract are true and have not changed;
- 3.1.6. the Acquiring Company has not issued any preferred shares or convertible bonds;
- 3.1.7. the share of the Company Being Acquired has not been registered in the Estonian Central Register of Securities;
- 3.1.8. there are no circumstances present that could restrict or exclude the right of the Parties to enter into this agreement;
- 3.1.9. their powers of the members of the management board are effective, they have not been removed from his office, his term of office has not expired, or it has been duly extended.

### 4. MERGER

- 4.1. The Company Being Acquired merges with the Acquiring Company upon terms and conditions set forth herein. The Acquiring Company merges the Company Being Acquired.
- 4.2. As a result of the merger the Company Being Acquired is dissolved and the Acquiring Company becomes the legal successor of the Company Being Acquired.
- 4.3. Upon the merger the Acquiring Company shall continue its business under the current business name **public limited company MERKO EHITUS**.
- 4.4. Inasmuch as the only share of the Company Being Acquired is owned by the Acquiring Company, this merger agreement shall not be verified by an auditor, in accordance with the relevant decision passed by the merging companies. In view of the above no fee is paid to the auditor. In the event that auditing is needed, the auditor shall be paid the auditing fee based on the invoices submitted by the auditor.
- 4.5. Inasmuch as the only share of the Company Being Acquired is owned by the Acquiring Company, no merger report shall be prepared with respect to the current merger, in accordance with the relevant decision passed by the merging companies. The contracting parties hereby confirm that having regard to their annual reports for the preceding financial year there is no need to prepare a merger report based on the net turnover referred to in subsection 393 (2) of the Commercial Code.
- 4.6. The members of the management board and supervisory board of the merging companies shall be granted no benefits in relation with the merger.
- 4.7. As a result of the merger the stock capital of the Acquiring Company shall not be increased. As all the share of the Company Being Acquired belongs to the Acquiring

Company it is not subject to replacement and shall become void, and the Acquiring Company shall give no rights to the sole shareholder of the Company Being Acquiring, i.e. the Acquiring Company itself.

## **5. AGREEMENT ON TRANSFER OF ASSETS OF COMPANY BEING ACQUIRED IN ENTIRETY**

**5.1.**The Company Being Acquired and the Acquiring Company hereby agree that the assets of the Company Being Acquired – incl. any real things and movable property subject to registration with register – shall be transferred in full to the Acquiring Company.

## **6. MERGER BALANCE DATE**

**6.1.**The merger balance date, i.e. the date from which any transactions of the Company Being Acquired shall be deemed performed on the account of the Acquiring Company shall be the first day of July of the year two thousand and nine (01.07.2009).

## **7. EMPLOYEES**

**7.1.**The Company Being Acquired has no employees working under employment contracts. The merging companies are aware that in the case of a merger, should there be employees, all the rights and obligations, stemming from their employment contracts, shall transfer to the new employer.

## **8. EXPLANATIONS OF NOTARY**

**The notary certifying the agreement has explained the signatories that:**

**8.1.** a merger report need not be prepared if all the shares of the company being acquired are held by the acquiring company, or if this is agreed to by all the partners or shareholders of the merging company, unless the aggregate worldwide realised net turnover of the merging companies during the previous financial year exceeded 500 million kroons and the aggregate worldwide realised net turnover of each of at least two of the merging companies exceeded 100 million kroons or if the business activities of at least one of the merging undertakings are carried out in Estonia;

**8.2.** rights and obligations shall arise from a merger agreement if the merger agreement is approved by all merging companies. A merger resolution shall be in writing. The partners or shareholders shall be provided with the opportunity to examine the merger agreement, merger report and auditor's report at least two weeks before deciding on approval of the merger agreement unless otherwise provided by law;

**8.3.** pursuant to § 419 (1) of the Commercial Code at least one month before the general meeting to decide on merger, the management board shall present the following to the shareholders for examination at the seat of the public limited company: 1) the merger agreement; 2) the three preceding annual reports and management reports of the merging companies; 3) the merger report; 4) the auditor's report. (2) Copies of the documents specified in subsection (1) of this section shall be promptly given to a shareholder on the demand of any shareholder. (3) If the last annual report of a merging public limited company is prepared earlier than six months before conclusion of the merger agreement, a balance sheet (interim balance sheet) as at the last quarter shall be prepared pursuant to the requirements for an annual report and shall be presented to the shareholders for examination. (4) At least one month before the general meeting to decide on merger, the management board shall submit a merger agreement to the

registrar of the commercial register and shall publish a notice concerning entry into the merger agreement in the official publication *Ametlikud Teadaanded*. The notice shall set out that the merger agreement is available for examination in the registration department and in a place designated by the management board;

- 8.4. Pursuant to § 418 of the Commercial Code upon merger of a public limited company, an auditor shall audit the merger agreement. pursuant to § 394 (2) of the Commercial Code an auditor need not audit a merger agreement if all shares of the company being acquired are held by the acquiring company, or if all partners or shareholders of the merging company agree that an auditor need not audit the merger agreement;
- 8.5. pursuant to § 399 (1) of the Commercial Code the acquiring company shall, promptly after the merger is entered in the commercial register of the seat of the acquiring company, publish a notice concerning the merger in the publication *Ametlikud Teadaanded*, and shall communicate a notice thereof to the known creditors of the merging companies and shall state the possibility of submitting their claims to the acquiring company for granting of securities within six months of the date of publication. pursuant to § 399 (2) of the Commercial Code within six months from the date of publication of the notice set forth in subsection 1 of this section the acquiring company must guarantee the claims of creditors of the merging companies thus submitted, unless the creditors cannot request that the claims be satisfy and reason that merger can damage the performance of their claims;
- 8.6. pursuant to § 400 (1) of the Commercial Code the management board of or the partners entitled to represent a merging company shall submit not earlier than one (1) month after the approval of the merger agreement a petition for entry of the merger in the commercial register of the seat of the company.
- 8.7. The registrar may enter a merger in the register only if the final balance sheet of the company being acquired is prepared as at a date not earlier than eight months before submission of the petition to the commercial register. The provisions for preparation and approval of an annual report shall apply to the preparation and approval of a final balance sheet. The final balance sheet is compiled as at the day preceding the merger balance sheet date;
- 8.8. The assets of a company being acquired shall transfer to the acquiring company as of entry of the merger in the commercial register of the seat of the acquiring company. After entry of the merger in the commercial register of the seat of the acquiring company, entries regarding the transfer of assets shall be made in registers on the petition of the acquiring company. A company being acquired shall be deemed to be dissolved as of entry of the merger in the commercial register of the seat of the acquiring company.
- 8.9. The members of the management board and supervisory board, or the managing partners of a merging company shall be solidarily liable to the company, the partners or shareholders, or their creditors for any damage wrongfully caused by the merger. The limitation period for this claim shall be five years from entry of the merger in the commercial register of the seat of the acquiring company;
- 8.10. Pursuant to §6<sup>3</sup> (1) of the Republic of Estonia Employment Contracts Act the former and the new employer shall submit, in writing, all relevant information to the representatives of the employees or in their absence to the employees, in good time, but not later than one month prior to the transfer of the employment contracts in the cases specified in § 6, setting out the following: 1) the proposed date of the transfer of employment contracts; 2) the reasons for the change of employer; 3) the legal, economic and social implications of the change of employer for the employees; 4) any measures envisaged in relation to the employees. (2) Where the former or new employer envisages measures in relation to his employees in connection with the transfer of employment contracts, the employer shall consult the representatives of the employees on such measures with a view to reaching an agreement. (3) During the consultations, the representatives of the employees have the right to meet with the

representatives of the employer and the members of the directing bodies of the employer and submit, within the period of at least 15 days as of the receipt of the information specified in subsection (1) of this section, their written proposals with regard to the proposed measures in relation to the employees, unless a longer period is agreed upon. Employers are required to give reasons for refusal to consider such proposals.

## 9. ORIGINAL AND ISSUE OF FIRST TRANSCRIPTS

- 9.1. The notarial deed has been made and signed in one original, which shall be deposited with the notary office.
- 9.2. On the date of executing this notarial deed the Acquiring Company and the Company Being Acquired shall be issued the first transcripts of the notarial deed.
- 9.3. The Acquiring Company shall submit a certified copy of this notarial deed to the Commercial Register.

## 10. EXPENSES RELATED TO EXECUTING THE CONTRACT

- 10.1. Any expenses related to executing this contract are paid by the Acquiring Company.
- 10.2. The participant shall pay the notary fee either in cash or a payment card at the notary office, or within three (3) business days by a bank transfer to the notary's bank account. The notary shall have the right to withhold the first transcripts of the notarial deed until payment of the notary fee.

This notarial deed has been read out to the participants in the presence of the notary, before approval the deed was given to the participants for consideration, was approved by the participants, and signed in the presence of the notary in handwriting.

This document consists of 5 sheets, bound by string and an embossing seal.

Notary fee for certifying the merger agreement 168 000.00 kroons (transaction value 100 000 000.00 kroons: Notary Fees Act, § 18 (2) and (5), § 22, 23 p 2).

Total notary fee	<b>168 000.00 kroons</b>
Value added tax	30 240.00 kroons
Total	198 240.00 kroons

The cost of preparing and certifying the copies and cost of preparing the first transcripts shall be added hereto.

Given name and surname      signature

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*given name and surname      in handwriting      signature*

Given name and surname      signature

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*given name and surname      in handwriting      signature*

*Signature and seal of the person notarising the deed*

Notary      signature      seal

## INSCRIPTION ON THE FIRST TRANSCRIPT

Tallinn, 24.11.2004

I, the notary of Tallinn Merle Saar-Johanson, whose office is located in Tallinn, at Rävåla pst 3 / Kuke tn 2, issue this first transcript that complies with the original, and in accordance with § 48 of the Notarisation Act it shall substitute for the original of the notarial deed in any legal acts.

This document, together with the sheet containing the inscription on of the first transcript, consists of 6 sheets bound together with a cord and an embossed seal.

Notary fee                   15.00 kroons (§ 35 of the Notary Fees Act).

Value added tax           2.70 kroons.

Total                       17.70 kroons.

The list of persons to whom the first transcripts is served:

- 1) Public limited company MERKO EHITUS
- 2) OÜ Rae Tehnopark

/Signature/

/Seal/