

## **EFSTA - EULA Terms of use of the EFSTA- EFR fiscal middleware (EFSTA-SYSTEM)**

Manufacturer of the EFSTA-SYSTEM is the

**efsta IT Services GmbH**

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Austria

(hereinafter referred to as "**EFSTA**").

## I. EFSTA-SYSTEM Terms of Use

### 1. DEFINITIONS:

#### ▪ **EFSTA-SYSTEM**

The **EFSTA-SYSTEM** is the software solution in the form of a fiscal middleware offered and operated by EFSTA, which uses a cross-country electronic fiscal register (= EFR) that makes it possible to fulfill country-specific fiscal obligations when using cash registers and other electronic recording systems in accordance with the linked country list

[<https://docs.efsta.eu/efr/countries>]. The EFSTA-SYSTEM thus serves to fulfill the technical requirements of the respective country-specific fiscal regulations for the prevention of manipulation of (electronic) basic records and offers interfaces to the fiscal authorities. The concrete service description of the EFSTA-SYSTEM is attached in the current version at the time of the conclusion of the contract (cf. Appendix I). The service description shall be updated in accordance with the further development of the EFSTA-SYSTEM (cf. para. 12) and can be downloaded from: <https://docs.efsta.eu/efr>

#### ▪ **TSE (technical safety device)**

The abbreviation **TSE** stands for "technical security device" and refers to a special hardware or software component that is integrated into an electronic cash register system and ensures that all recorded business transactions are stored and encrypted in a tamper-proof manner. In Germany, electronic cash register systems may only be used if a TSE has been implemented; this is regulated by the German Cash Register Security and Manipulation Protection Act (KassenSichV).

#### ▪ **CASH REGISTER SYSTEM**

**CASH REGISTER SYSTEM** within the meaning of this Agreement means an electronic POS system (including ERP and PMS systems) designed for use in cash-based business transactions. It must record and store in an unmodifiable form all tax-relevant data, such as sales, tax rates and tax amounts generated by a sale, and make them available to the tax authorities in a defined electronic format. We would like to point out that the POS systems used must meet all legal requirements in order for the EFSTA SYSTEM to be fully functional.

#### ▪ **PARTNER:**

**PARTNER** is the contractual partner of the LICENSEE who supports the CASH REGISTER SYSTEM of the LICENSEE for the LICENSEE and cooperates with EFSTA on the basis of a separate agreement, either by acting as a manufacturer of a CASH REGISTER SYSTEM in which the **EFSTA SYSTEM** software module has been implemented, or if he distributes - without manufacturing his own CASH REGISTER SYSTEM - user licenses for the EFSTA SYSTEM to the LICENSEE.

- **CASH REGISTER** within the meaning of these Terms and Conditions includes any technical device that is used for the final entry/creation of an invoice into the CASH REGISTER SYSTEM. Handheld devices that merely transmit the data required for the invoice to the final system are not included. The term "POS" also includes individual virtual POS systems that are processed via a cloud solution in a central CASH REGISTER SYSTEM.

### 2. SUBJECT OF LICENSE:

#### 2.1. EFSTA-SYSTEM

The subject of the license is the use of the **EFSTA-SYSTEM** and the individual components specified in the order overview as fiscal middleware offered and operated by EFSTA, which makes use of a cross-country electronic fiscal register (= EFR) that makes it possible to fulfill country-specific fiscal obligations when using cash registers and other electronic recording systems in accordance with the linked list of countries: [<https://docs.efsta.eu/efr/countries>]. The EFSTA-SYSTEM thus serves to fulfill the technical requirements of the respective country-specific fiscal regulations to prevent manipulation of (electronic) basic records and offers interfaces to the fiscal authorities so that they can access mandatory data of the POS system in real time at any time.

- 2.2. The EFSTA system supplements already existing electronic recording systems of the LICENSEE in that, prior to document creation by the electronic recording system of the LICENSEE, the fiscal data required for the fiscal administration in the states as defined are now transported to the EFSTA system to the extent required by law. The EFSTA system stores the data transferred by the upstream system (= electronic recording system of the LICENSEE) in the order of receipt, and secures the storage against subsequent manipulation by suitable technical means.
- 2.3. The fiscal data as well as all other document data transferred to the system (hereinafter collectively referred to as "Transaction Data") are stored by the EFSTA system in encrypted form, exclusively for the purposes and at the request of the LICENSEE in a data center within the EU.
- 2.4. Currently, this is: Microsoft Azure Data Centre Amsterdam, Agriport 601, Middenmeer, Netherlands, EU, or MS Azure Datencenter Frankfurt, Lindleystraße 12, 60314 Frankfurt am Main for Germany. The SLA of Microsoft Azure apply supplementary (<https://www.microsoft.com/licensing/docs/view/Service-Level-Agreements-SLA-for-Online-Services>).

### **3. CONDITIONS OF USE**

- 3.1. The use of the EFSTA system requires that the LICENSEE has an electronic recording system (e.g. electronic CASH REGISTER SYSTEM) and - in the case of cloud archiving of data - a corresponding internet connection of the electronic recording system. The services of an electronic recording system are expressly not owed by EFSTA.
- 3.2. At the time of the conclusion of the contract, the Software and the EFSTA System shall comply with the legal requirements for the technical implementation of the manipulation security of electronic recording systems in accordance with the respective statutory fiscal provisions described in the Annex - in accordance with the respective current implementation status. Insofar as reference is subsequently made to the fulfillment of legal obligations, this shall expressly refer only to the countries named at <https://docs.efsta.eu/efr/countries>.
- 3.3. The software shall be made available to the LICENSEE either a) by its POS system manufacturer / software manufacturer / ISV (Independent Software Vendor) or b) via the EFSTA portal. The integration of the software into the LICENSEE's electronic recording system shall be performed either by the developer of the electronic recording system or by the LICENSEE. EFSTA shall provide the developer of the electronic recording system or the LICENSEE with the necessary "Electronic Fiscal Register" software with an appropriate development license, access to the EFSTA portal if necessary, and the complete integration description. The LICENSEE is solely and fully responsible for all installation and operating requirements, such as premises, provision of computers, system software and all other preparations necessary for smooth integration. The requirements differ depending on the type of use desired by the LICENSEE and therefore cannot be stated in general terms. If you are unsure whether you meet the minimum requirements, you can ask your PARTNER or EFSTA.

### **4. RIGHTS OF USE:**

- 4.1. For the term of this Agreement, EFSTA grants the LICENSEE the non-exclusive right of use, against payment, to the EFR software and, if applicable, the EFSTA portal, including existing and future documentation, limited to use by the LICENSEE on its own electronic recording system within the framework of the EFSTA system. The right of use shall be granted in each case per register of the LICENSEE (para. 4.2) is granted.
- 4.2. The term "register" within the meaning of para. 4.1 corresponds to either (a) an autonomous cash register, (electronic recording system) - (b) an operating location of the Principal with a uniform address, provided that the cash registers (electronic recording systems) at this operating location are located in a uniform network and are recorded with a data recording protocol or (c) an operating location of the Principal with a uniform address, even if cash registers are located across operating locations in a uniform network and are recorded with a data recording protocol. The specific type of register used depends on the systems set up by PARTNER or its cash register provider. Insofar as a virtualization of the cash register system takes place (a virtual cash register with several physical/digital terminals for posting the invoice), a "cash register" within the meaning of these Terms and Conditions shall be deemed to be any physical or digital terminal. Upon request, the LICENSEE shall inform EFSTA of the physical or digital terminals actually in use for posting the invoice.

- 4.3. The rights of use may be transferred and sublicensed by the LICENSEE to economically related companies as well as franchisees if the LICENSEE contractually assigns these terms of use to the economically related company or franchisee and proves this to EFSTA.
- 4.4. The EFSTA-SYSTEM is fully known to the LICENSEE and its scope and components are written in the documentation and performance specifications. The performance description (cf. Annex I) and documentation can be obtained prior to conclusion of the contract at <https://docs.efsta.eu/efr/>. The descriptions and documentation valid at the time of conclusion of the contract shall apply.
- 4.5. Furthermore, EFSTA reserves all rights to the EFSTA-SYSTEM.
- 4.6. Beyond the above granting of rights, the LICENSEE shall not be entitled to use the EFSTA SYSTEM or individual products of EFSTA (e.g. EFR, Cloud, etc.) without the express prior consent of EFSTA, or to reproduce, modify, reverse engineer, reverse translate, extract parts of, make available to third parties, analyze, decompile or disassemble EFSTA products. The LICENSEE shall take appropriate and reasonable precautions to prevent unauthorized access to the software by third parties. To this end, the LICENSEE shall, to the extent necessary and appropriate, instruct its employees, freelancers and service providers to comply with copyright law. In particular, the LICENSEE shall oblige its employees, freelancers and service providers not to make any unauthorized copies of the software.
- 4.7. LICENSEE shall not be granted any rights under this Agreement with respect to inspection or use of source code of the EFSTA SYSTEM or any other software of EFSTA.
- 4.8. Suggestions by the LICENSEE for improvement of the EFSTA SYSTEM shall have no influence on the amount of the remuneration and shall not establish any joint copyright of the LICENSEE.
- 4.9. The LICENSEE shall not be entitled to remove any attached copyright notices.
- 4.10. The EFSTA-SYSTEM may not be edited and modified by the LICENSEE or by a third party commissioned by the LICENSEE. The LICENSEE shall not be granted any right to edit.
- 4.11. Rights of use that may be exercised on the basis of statutory licenses - in particular in accordance with Sections 53, 69d and 69e of the German Copyright Act (UrhG) - shall remain unaffected by the provisions in these Terms of Use.

## **5. SCOPE OF SERVICES:**

- 5.1. The country-specific fiscal data corresponding to the legal requirements are assigned a unique sequence number after the data have been transferred from the LICENSEE's electronic recording system and this sequence number is processed with the transferred transaction data in accordance with the respective country-specific legal requirements as well as encrypted by means of the EFR software.
- 5.2. The issuance of signature certificates or fiscal printers, if required, in certain countries (such as by the Cash Register Security Ordinance in Austria) shall be carried out by a third party provider at the LICENSEE's discretion to the extent that a national ordinance imposes further requirements, such as additional devices / signatures, these must be provided by the LICENSEE itself, unless otherwise agreed. For support, the supplier of the EFSTA-SYSTEM (cf. Appendix III) has included a non-binding list of additional requirements.
- 5.3. If used by the LICENSEE, the transaction data shall be stored for the LICENSEE within the framework of the EFSTA system in a data center within the European Union, whereby the security certification of the data center used corresponds to the respective state of the art and corresponding service provider agreements have been made with the respective data center as service provider. EFSTA is entitled to use service providers of its own choice. Data transport from and to the EFSTA system shall take place immediately after the creation of the data, provided that an Internet connection is available. In the event of a malfunction (e.g. disruption of the Internet connection, power failure, etc.), this data shall be stored locally (offline operation as an integral part of the EFSTA system) and transmitted to the EFSTA system if the Internet connection is available. The fiscal data and document data of the LICENSEE are already encrypted according to the state of the art when the data are transported to the EFSTA portal.
- 5.4. EFSTA does not warrant that the data originating from the Customer's already existing electronic recording system will have any particular content or quality.
- 5.5. EFSTA undertakes to take comprehensive appropriate precautions, which correspond to the state of the art, against data loss and to prevent unauthorized access by third parties to the Client's Transaction Data.

- 5.6. Unless expressly agreed otherwise, EFSTA shall not provide any support or training services, installation services or other services to the LICENSEE with regard to the use and setup of the EFSTA System which go beyond the mere provision of the EFSTA System. The services required for setting up and operating the EFSTA system shall be provided by the respective PARTNER or other service provider responsible for setting up and supporting the LICENSEE's REGISTRATION POS SYSTEM including the EFSTA system integrated therein. The LICENSEE's statutory warranty rights in respect of defects shall remain unaffected.
- 5.7. EFSTA reserves the right to temporarily restrict services with regard to the EFSTA system - without prejudice to the integrative offline service - if this is necessary with regard to capacity limits, the security or integrity of the EFSTA system or to implement technical measures. The same shall apply if the restriction serves the proper or improved provision of the Services. In such cases, EFSTA shall take into account the legitimate interests of the LICENSEE, for example by informing the LICENSEE in advance.
- 5.8. Any malfunction of the EFSTA system is documented unalterably in a malfunction log.
- 5.9. EFSTA shall be entitled to use the EFSTA-SYSTEM in accordance with the provisions of para. 12 to develop improvements / updates / new releases and to make them available to the LICENSEE in a new version.
- 5.10. EFSTA shall keep the EFSTA System up-to-date with respect to improvements / updates at all times, to the extent reasonable and appropriate, so that it meets the technical requirements for the LICENSEE's intended use known to EFSTA throughout the term of the Agreement in the Supported Countries. In particular, EFSTA shall endeavor to ensure that the EFSTA System meets the technical requirements of fiscalization in the relevant country. The deployment of updates to the EFSTA System shall be the exclusive responsibility of the respective PARTNER or the person responsible for this purpose at the LICENSEE who maintains the LICENSEE's CASH REGISTER SYSTEM.

## **6. FURTHER OBLIGATIONS OF EFSTA, AVAILABILITY**

- 6.1. EFSTA shall provide the client with patches, bug fixes and/or updates in order to comply with current technical developments and legal requirements for the technical implementation of manipulation security. The prerequisite for the automatic import of update packages on the basis of bug fixes or functional enhancements is an upright Internet connection. If the LICENSEE cannot guarantee an Internet connection for technical or organizational reasons, the import will only take place manually at the request of the LICENSEE.
- 6.2. The EFSTA System is designed to operate within the LICENSEE's infrastructure; the LICENSEE or the respective PARTNER servicing the LICENSEE's CASH REGISTER SYSTEM shall be responsible for the operation, setup and assessment of the necessary performance of the underlying hardware and software. The availability and performance of this underlying hardware and software is therefore beyond the control of EFSTA.
- 6.3. Only the functions of the EFSTA Fiscal Recorder, which serve to store the transaction data on an external server, take place outside the LICENSEE's infrastructure and are connected to the EFSTA system on the LICENSEE's infrastructure via an interface, provided that the LICENSEE has booked the corresponding service.
- 6.4. The owed availability of the EFSTA Fiscal Recorder is 99.5% on an annual average. The availability of the EFSTA Fiscal Recorder at the transfer point of the data center of the EFSTA Fiscal Recorder to the Internet is decisive.

## **7. SCOPE AND TYPE OF DATA STORAGE IN THE EFSTA SYSTEM**

- 7.1. Unless otherwise contractually agreed, a defined storage capacity is available for each registry for an agreed number of transactions per calendar year (=volume). The capacities already used (number of transactions in the respective billing period) can be seen in the EFSTA portal. If the agreed volume of transactions per calendar year is exceeded, the LICENSEE shall be charged a volume extension in the form of an extension package for further transactions. The same applies if the volume of the extension package is exceeded. For more information, please refer to their order form.
- 7.2. The LICENSEE's transaction data shall be stored in encrypted form for the duration of the contractual relationship and, in addition, for the duration of the statutory retention period or the duration of 10 years (whichever is longer) from the time the data is transferred to the EFSTA system (initial storage).

- 7.3. If and to the extent that there is a legal obligation, the transaction data stored for the LICENSEE will be transmitted to the legally designated collection point (e.g. web service of the respective tax authority) to the extent required by law.
- 7.4. The EFSTA system archives data in encrypted form. The purpose of the system is to function as a long-term archive for fiscal data. Data can be transferred via the "Fiscal Recorder" endpoint exclusively from EFR installations, and is highly end-to-end encrypted via the AES.GCM algorithm. The algorithm used ensures that the integrity of the data can be validated upon decryption. Long-term data archiving is covered by Microsoft Azure's assurance for LRS (locally redundant storage), which assures data stability of 99.999999999% per year:

<https://docs.microsoft.com/en-us/azure/storage/common/storage-redundancy>.

## **8. RIGHTS AND OBLIGATIONS OF THE LICENSEE**

- 8.1. During the term of the contract, the LICENSEE has the right to demand the surrender of individual or all transaction data. The transaction data shall be handed over in encrypted form by enabling the download or on a data carrier.
- 8.2. The EFSTA portal provides the LICENSEE with control access to the EFSTA system. Via the EFSTA portal, the Client can access the registers (para. 4.2), assign keys for access and view the error log.
- 8.3. The first access to the EFSTA portal shall be made by means of access data (PIN, passwords, PrivateKey or similar), which shall be transmitted to the LICENSEE's or the LICENSEE's corporate representative in separate form by registered letter or by electronic invitation (e-mail with link) by another authorized user. The LICENSEE is obligated to change the access data upon initial entry. Furthermore, the LICENSEE is obliged to generate and use secure passwords for the access data, to keep them safe and to pass them on only to authorized persons.
- 8.4. The Customer is obliged (a) to use the EFSTA System only in a manner prescribed by law, other regulations or judicial or administrative orders, and not in any unlawful manner, (b) not to infringe the rights of third parties in its use, (c) not to gain, grant or interfere with unauthorized access to services, data, user accounts or networks by using the EFSTA System, (d) not to use the EFSTA System in any other way that could damage the EFSTA System or interfere with its use by others, (e) to ensure that the EFSTA System is not used for unlawful, military, criminal or terrorist purposes, and (f) to take appropriate steps to safeguard the foregoing obligations.
- 8.5. The LICENSEE is obliged to notify EFSTA immediately by e-mail of any suspected misuse of its access data to the EFSTA portal in order to arrange for the respective access to the EFSTA portal to be blocked. The LICENSEE shall also be liable for third parties who use or have used services via their user account, whether authorized or unauthorized. This shall not apply if the LICENSEE is not responsible for unauthorized use. The LICENSEE shall be responsible for proving that it is not responsible for such use.
- 8.6. When using the EFSTA System, the LICENSEE shall be obliged to check all its systems with which it uses the EFSTA System for viruses, malware or other harmful components and, to this end, to use state-of-the-art virus protection measures.
- 8.7. The LICENSEE shall install the updates provided by EFSTA concerning the EFSTA system or software.
- 8.8. The EFSTA System is not a substitute for tax law advice to the LICENSEE and is intended only to assist the LICENSEE in fulfilling its tax law obligations; the tax law assessment of the use of the EFSTA System is the responsibility of the LICENSEE or the persons the LICENSEE uses for the purpose of providing tax law advice.

## **9. USAGE FEE**

- 9.1. An annual fee and (if applicable) a fee per add-on product shall be payable per register. A fee in the event that the agreed storage volume is exceeded in accordance with Section 7.1 shall be paid. The annual fees, adjusted in each case to the increased material, personnel and general costs, as well as the fees for the add-on products shall be made available to the LICENSEE via the EFSTA portal.
- 9.2. EFSTA shall be entitled to adjust the charges and purchase prices to be paid on the basis of this contract at its reasonable discretion to the development of costs with a lead time of at least 3 months before the beginning of the next calendar year, insofar as these costs are

decisive for the price calculation. EFSTA shall provide the LICENSEE with separate price information for this purpose. A price increase shall be considered and a price reduction shall be made if, for example, the costs for the procurement of hardware and software as well as energy, the use of communication networks or the wage costs increase or decrease or other changes in the economic or legal framework conditions lead to a changed cost situation. Increases in one type of cost, e.g., labor costs, may only be used to increase prices to the extent that they are not offset by any decreases in other areas, such as hardware and software costs. In the event of cost reductions, e.g. in hardware costs, EFSTA shall reduce prices to the extent that such cost reductions are not fully or partially offset by increases in other areas. In exercising its reasonable discretion, EFSTA shall choose the respective points in time of a price change in such a way that cost reductions are not taken into account according to standards which are less favorable for the Customer than cost increases, i.e. cost reductions shall have an effect on the price at least to the same extent as cost increases. EFSTA shall inform the Customer in good time in text form about changes in charges. The notification shall be made no later than 3 months before the changes come into effect.

- 9.3. The fees are net and apply in each case for the duration of the minimum term or the contract extension.
- 9.4. Unless otherwise agreed, the annual fees are payable annually in advance and are due no later than the end of the first quarter. Any additional fees arising from further separate orders placed by the LICENSEE or any exceedance of the volume included in the annual fee shall be invoiced at the end of the quarter in which the event triggering the fee occurred.
- 9.5. Unless otherwise agreed, the term of payment shall be 14 days from the invoice date. The LICENSEE accepts invoicing by electronic means.

## 10. MATERIAL AND LEGAL LIABILITY

- 10.1. EFSTA warrants compliance with the technical requirements of fiscalization in the respective country (cf. currently supported list of countries: <https://docs.efsta.eu/efr/countries> or the technical requirements for the prevention of manipulation of (electronic) basic records provided for in the respective country-specific fiscal regulations for the duration of the contract. Furthermore, EFSTA does not assume any warranties and/or representations towards the LICENSEE or towards a third party with regard to the EFSTA system, unless these are covered by the EFSTA Terms of Use.
- 10.2. In particular, EFSTA also assumes no warranty for the tamper-proofness of CASH REGISTER SYSTEMS and/or the EFSTA SYSTEM. Claims of the LICENSEE against EFSTA due to manipulation of the EFSTA-SYSTEM by third parties who are not vicarious agents of EFSTA are therefore expressly excluded.
- 10.3. Technical data, specifications and performance data in public statements by EFSTA, in particular in advertising material, shall not be deemed to be quality data. The functionality of EFSTA's software shall be based on the description in the user documentation and the supplementary agreements made in this respect. Apart from that, the respective licensed software must be suitable for the use assumed under this contract and must otherwise have a quality which is customary for software of the same type.
- 10.4. EFSTA shall provide and maintain the software in a condition suitable for use in accordance with the contract. The obligation to maintain shall not include the adaptation of the software to changed conditions of use and technical and functional developments, such as changes in the IT environment, in particular changes in the hardware, the operating system or the execution environment, adaptation to the functional scope of competing products or establishing compatibility with new data formats.
- 10.5. The liability for damages, regardless of fault, for defects that were already present at the time of conclusion of the contract is excluded.
- 10.6. If defects occur in the software within the warranty period or if there is an ongoing maintenance and support contract, these defects shall be remedied by EFSTA free of charge within reasonable periods. The prerequisite for a claim by the LICENSEE for the removal of defects is that the defect is reproducible or is sufficiently described by the LICENSEE and occurs in the last version of the respective software offered by EFSTA. It shall be tantamount to remedying a defect with respect to the software if EFSTA supplies an alternative solution to the defective function or implements it directly in the

- LICENSEE's development system which allows the LICENSEE to use the software in accordance with the contract.
- 10.7. In the event of operating errors or other improper handling by the LICENSEE or its users, the assertion of any claims for defects shall be excluded unless the LICENSEE proves at its own expense that EFSTA is responsible for the defects.
  - 10.8. If, in the course of remedying the defect, it becomes apparent that a defect is due to operating errors or improper use by the LICENSEE or the LICENSEE's user, EFSTA may demand reasonable compensation for the expenses incurred in remedying the alleged defect.
  - 10.9. The LICENSEE shall assist EFSTA in determining and remedying the defect and shall without undue delay grant access to the documents from which the more detailed circumstances of the occurrence of the defect result.
  - 10.10. The LICENSEE shall be obligated to immediately notify the respective PARTNER responsible for setting up and supporting the LICENSEE's CASH REGISTER SYSTEM of any defects in the EFSTA SYSTEM discovered by him, otherwise the LICENSEE shall forfeit all warranty claims and claims for damages. In all other respects, § 377 of the German Commercial Code (HGB) shall apply.

## **11. LIABILITY OF EFSTA:**

- 11.1. The LICENSEE's claims for damages or reimbursement of futile expenses against EFSTA shall be governed by the following provisions without regard to the legal nature of the claim.
- 11.2. EFSTA's liability shall be excluded - irrespective of the legal grounds - unless the cause of damage is based on intent and/or gross negligence on the part of EFSTA or EFSTA's employees, representatives or vicarious agents. Insofar as EFSTA's liability is excluded or limited, this shall also apply to the personal liability of EFSTA's employees, representatives or vicarious agents.
- 11.3. EFSTA shall be liable - irrespective of the foregoing provisions - in accordance with the statutory provisions for damages resulting from injury to life, body or health caused by an intentional, grossly negligent or negligent breach of duty by EFSTA or a legal representative or vicarious agent of EFSTA.
- 11.4. If EFSTA at least negligently breaches a material contractual obligation, i.e. an obligation compliance with which is of particular importance for the achievement of the purpose of the contract (material contractual obligation or cardinal obligation), EFSTA's liability shall be limited to the damage typically incurred, i.e. to such damage the occurrence of which must typically be expected within the scope of the contract. An essential contractual or cardinal obligation in this sense is an obligation the fulfillment of which makes the proper performance of this contract possible in the first place and on the fulfillment of which the LICENSEE regularly relies and may rely. The LICENSEE and EFSTA agree that the typically expected damage corresponds to the license fee of the LICENSEE in the past 6 months.
- 11.5. EFSTA owes the care customary in the industry. In determining whether EFSTA is at fault, it must be taken into account that software cannot be created technically free of errors.
- 11.6. EFSTA shall not be liable for the loss of data and/or programs to the extent that the damage is due to the LICENSEE's failure to perform data backups and thereby ensure that lost data can be restored with reasonable effort. This shall not apply insofar as data backup by EFSTA is expressly owed (e.g. within the scope of efsta-cloud ).
- 11.7. Within the scope of application of the Telecommunications Act (TKG), the liability regulation of § 70 TKG remains unaffected, as does EFSTA's liability under the Product Liability Act (§ 14 ProdHaftG), claims pursuant to Art. 82 DSGVO and claims under warranty law.

## **12. FURTHER DEVELOPMENT OF THE EFSTA SYSTEM:**

- 12.1. EFSTA reserves the right to unilaterally change the EFSTA SYSTEM in the future at its reasonable discretion, in particular to implement new functions in a new release, but not to remove functions required by law. Future changes which trigger a need for action on the part of the LICENSEE shall be communicated by EFSTA to the LICENSEE in text form with at least 6 weeks' notice. EFSTA shall be entitled to discontinue support of previous versions 365 days after publication of a new release.

## **13. MODIFICATION OF THESE LICENSE TERMS:**

- 13.1. The text of these license terms will be stored by EFSTA. A copy of these license terms will be sent to the LICENSEE separately by e-mail upon request.
- 13.2. EFSTA shall be entitled to amend these License Terms in the future to the extent that this is necessary for justified reasons, in particular due to changes in the legal situation or supreme court rulings, technical changes or further developments, changes in the organizational requirements of the operation of the EFSTA system, regulatory gaps in the License Terms, changes in the market conditions or other comparable reasons and the LICENSEE is not unreasonably disadvantaged thereby.
- 13.3. In the event of future changes, EFSTA shall inform the LICENSEE in advance in text form (e.g. by e-mail) or in writing of the impending changes at least six weeks before they take effect and shall inform the LICENSEE of the place where the previous and the new Terms of Use can be accessed.
- 13.4. The amendments shall be deemed to have been approved and shall become effective if the LICENSEE does not object to them within one month of receipt of the notice of amendment, provided that EFSTA has expressly drawn the LICENSEE's attention to this consequence in the notice of amendments.
- 13.5. Should an amendment to the Terms of Use concern an essential part of the contract which is of particular importance for the achievement of the purpose of the contract (essential contractual obligation or cardinal obligation), the amendment shall require the express consent of the LICENSEE. An essential contractual or cardinal obligation in the aforementioned sense shall be deemed to exist if its fulfillment makes the proper execution of the contract possible in the first place and the PARTNER may regularly rely on it being complied with. This shall in particular also include agreements on the remuneration to be paid by the LICENSEE and the rights of use or exploitation transferred.

#### **14. CONTRACT TERM AND TERMINATION:**

- 14.1. The term of use of this Agreement or these Terms of Use shall commence upon mutual signing of the Agreement or acceptance of these Terms of Use in the EFSTA Portal (click on the button "I accept these Terms of Use" incl. the option to download) or upon productive use of the EFSTA Services, whichever occurs earlier. The minimum contract period for contracts concluded before 01.10. of the year is the current calendar year. For contracts concluded after 30.09., the minimum contract term ends at the end of the calendar year following the booking year. The contract is renewed for a further calendar year if the contract is not terminated. The calendar year begins on 01.01. at 00:00 and ends on 31.12. at 24:00.
- 14.2. This contract may be terminated by either party with two months' notice to the end of the calendar year.
- 14.3. Upon termination, the LICENSEE shall notify EFSTA in writing whether EFSTA should delete the LICENSEE's transaction data. If no notification is made, the LICENSEE's Transaction Data shall remain stored for the duration of the agreed storage period (7.2). After expiry of the storage period, the data will be irrevocably deleted. Backup copies will be kept for a further 30 days after the expiry of the storage periods and then destroyed.
- 14.4. The option to terminate for cause pursuant to Section 314 of the German Civil Code (BGB) shall remain unaffected by the above provisions. In particular, either party may terminate this Agreement with immediate effect at any time by written notice to the other party for cause if the other party breaches any material obligations under this Master Agreement and (if remediable) the breach is not remedied within 30 days after delivery of a written notice describing the breach and requiring its remedy; e.g. if
  - a party ceases operations (either in its entirety or insofar as departments are affected which are entrusted with tasks essential to the implementation of this Agreement); or
  - files for insolvency or is insolvent within the meaning of § 17 InsO; or
  - to the extent that any Person (including a Shareholder or holder of any other security interest) is appointed as an asset/insolvency administrator for the other Party, or to the extent that the intention to make such an appointment has been expressed by the other Party or any documents relating to such appointment are filed with the Court; or
  - one party's ability to enforce its claims against the other party is suspended, limited or prevented, or it becomes known that third party creditors of the other

party, pursuant to an agreement or court order, accept payment of an amount less than that actually owed in satisfaction of their claims; or

- proceedings are initiated which lead to the dissolution of a party or mean that its assets are distributed to its creditors, shareholders or other employees (except in the case of a corporate merger or restructuring).

## **15. PRIVACY:**

- 15.1. The LICENSEE is the sole responsible party within the meaning of the GDPR.
- 15.2. EFSTA undertakes, insofar as personal data is processed on behalf of the LICENSEE within the scope of the cooperation with the LICENSEE, to collect, store, process and delete such data in accordance with the GDPR and the applicable national data protection law.
- 15.3. EFSTA ensures through appropriate technical and organizational security measures to prevent the unauthorized or unlawful processing of personal data and the accidental loss or destruction of, or damage to, personal data.
- 15.4. EFSTA shall provide the LICENSEE with a separate order processing agreement for its services, which the LICENSEE may conclude. This shall regulate the structure of the data processing processes between the parties in detail and shall take precedence over the regulations and obligations of this Agreement.

## **16. SUBCONTRACTOR SERVICES:**

- 16.1. EFSTA shall be entitled to engage qualified subcontractors. Subcontractor services commissioned by EFSTA may not be cancelled or modified without EFSTA's consent.
- 16.2. EFSTA shall subcontract the external services necessary for the performance of the contract on its own account.
- 16.3. Unless otherwise agreed, the choice of fulfillment agents shall be incumbent on EFSTA.
- 16.4. EFSTA shall be liable in case of non-performance, deficiency in performance or default of third party agents who are not fulfillment agents of EFSTA in case of intent or negligence of the same. In the case of fulfillment agents of EFSTA, EFSTA's liability shall be governed by the provisions of para. 11.

## **17. FINAL PROVISIONS | APPLICABLE LAW | PLACE OF JURISDICTION:**

- 17.1. The law of the Federal Republic of Germany shall apply to the exclusion of the UN Convention on Contracts for the International Sale of Goods. If PARTNER is a merchant, a legal entity under public law or a special fund under public law, the exclusive place of jurisdiction for all disputes arising from this contract shall be the registered office of EFSTA International GmbH (Registration Court Munich: HRB 275894), Munich, Germany.
- 17.2. The same shall apply if PARTNER is an entrepreneur and has no general place of jurisdiction in Germany or if its place of residence or habitual abode is not known at the time the action is brought. This shall not affect PARTNER's right to bring an action before the court of another statutory place of jurisdiction.
- 17.3. Insofar as EFSTA provides translations of the German language version of this Partner Agreement, the German language version shall always be decisive for the legal assessment with regard to the regulatory content of this Partner Agreement. This shall apply in particular if differences or contradictions should arise between the German language version and a translated version of this Partner Agreement.
- 17.4. If any provision of this Agreement is or becomes invalid or unenforceable, the validity of the remaining provisions shall not be affected thereby.



efsta IT Services GmbH

## 1. Scope of services

The scope of services of the EFSTA system includes several levels, the focus of which, in addition to fulfilling the immediate regulations for the technical fiscalization of a country, has the process cost minimization of the ongoing, i.e. long-term operation of the fiscalization as its main objective. Individual functions mentioned below are based on the use of specific EFSTA modules.

Value generation is composed of the factors:

- Mapping of core and support processes of fiscalization in a toolset with low training and support requirements
- Reduction of project, implementation and rollout costs through uniform interfaces and behavior, and removal of legal compliance from the dependencies of POS system development
- Risk-mitigation by assumption of liability by EFSTA
- Process automation to reduce human error and avoid secondary risks due to non-fulfillment of corporate due diligence obligations

For Germany, the EFSTA system meets five of the six basic requirements for the entrepreneur:

- Compatibility of all certified TSEs relevant in the market
- Technically secure archiving of all fiscal data in a technically audit-proof form (including archiving of TSE data in accordance with BSI specifications) for the entire prescribed retention period (10/12 or 15 years)
- Provision of all fiscal export formats and data (DSFinV-K, .tar) from primary journal and fiscal archive in the respective valid form
- Automated reporting system for cash registers and TSEs against the future fiscal reporting system of the Federal Ministry of Finance (not yet published)
- Fiscal monitoring and escalation system for notification and documentation of failures and processes requiring remediation

For the procedure documentation, EFSTA provides the technical implementation and mapping documentation necessary to prove the data paths from the EFR API (EFSTA Simple Receipt ESR) interface implemented on the POS side to the fiscal export format.

The following technical safety devices are technically supported:

- Physical TSEs (USB, mSD, SD): Swissbit, EPSON, Diebold-Nixdorf, Cryptovision

- TSE Server/LAN TSE: EPSON TSE Server (3/8), Diebold-Nixdorf ConnectBox (7/14)
- CloudTSE: Deutsche Fiskal, Swissbit, Fiskaly

Please note that regardless of technical support, only TSEs with completed certification may be used productively.


In order to reduce rollout costs/timeframes and/or the need for technician time at the checkout, the EFSTA system allows for the handling of order processes at individual TSE vendors via the EFSTA Portal infrastructure, as well as the configuration of the EFSTA middleware with the corresponding configuration data from the EFSTA Portal. Currently supported vendors: Deutsche Fiskal (limited), Fiskaly (in test mode). When using physical TSEs, the EFSTA system can be self-configured (standard PIN) or centrally configured (secure PIN/PUK storage via EFSTA Cloud).

For Austria, the EFSTA system meets the requirements of the RKS SV

- Connection of signature smartcards from A-Trust and Prime-Sign, as well as remote signature services from A-Trust and Prime-Sign.
- Technically secure archiving of all fiscal data in a technically audit-proof form for the entire prescribed retention period (7 or 10 years)
- Provision of all fiscal export formats and data (DEP §7 as well as JSON full export) from primary journal and fiscal archive in the respective valid form
- E131 Compliance if the corresponding data is provided by the POS system.
- Automatic creation of monthly and annual receipts, as well as their independent storage (printing obligation from the RKS SV is thus omitted)
- Automatic creation of start and end documents, as well as AES256 key
- Automated logon and logoff system for cash registers, AES256 key and signature certificates against FinanzOnline, thus resettability of voucher numbers
- Fiscal monitoring and escalation system for the notification and documentation of failures and processes requiring remedial action, as well as their automatic reporting to FinanzOnline to the prescribed extent.

The central administration of Austrian signature units is possible via the EFSTA portal, which can be activated and deactivated via it.

The fiscalization requirements for the following countries are also met and are further documented at <https://docs.efsta.eu/efr/countries>.

Platform and architecture independence: The EFSTA system is available for all major platforms (Windows, \*nix, Docker, iOS, ). Furthermore, the system is upstream system agnostic, i.e. all systems with EFSTA support can be merged and managed in one infrastructure.

Security: The EFSTA system is secure through a multi-level perfect forward secrecy encryption system (monthly granularity) whose anchor points are under the exclusive control of the data owner<sup>2</sup>. The EFSTA Decryption Server is provided to the data owner free of charge in source code and executable form.

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<sup>1</sup> iOS, Android: due to the platform-specific requirements under iOS and Android, third-party software may be necessary to be able to use the EFSTA middleware productively.

<sup>2</sup> Requires the use of the EFSTA Decryption Server by the data owner

Fiscal Product Lifecycle: EFSTA provides necessary software adaptations due to changes in the fiscal regulations free of charge, independently and proactively with the necessary technical documentation. A differential update mechanism is provided for updates of EFR installations connected to the EFSTA Cloud System. The execution of updates is and full control of the system user or its authorized representatives, EFSTA does not perform system updates.

The EFSTA portal allows the management of organizational structures of any depth, whose elements are hard separated from each other in terms of data protection. The permission system is claim-based, exclusive invitation-based, authentication is exclusive 3<sup>rd</sup> -party with enterprise single sign-on support. Available features also include:

- Manage devices such as terminals and input devices at the site, enterprise, and organizational levels;
- Management and availability of communication with governmental reporting systems
- Managing and monitoring fiscal devices such as TSEs, tracking assignments and status;
- Management of historical instances of POS systems
- User management at all levels down to the individual site.
- Active management of the reporting status towards the finance of cash registers and TSEs;
- Ordering functions for all supported or connected manufacturers;
- Monitoring the legal and technical status of cash registers and TSEs;
- Node-level configurable notification system for status changes of the individual fiscal system
- Documentation system for incidents requiring documentation
- Validation of companies under commercial law (VAT audit)
- Automatic centralized or decentralized allocation control at hierarchy node level

All functions of the cloud portal can be securely connected to internal systems via corresponding APIs.

Digital receipt: Based on the EFSTA long-term archive, the EFSTA digital receipt "Bill" can be used. "Bill" is a legally compliant digital receipt that provides an end-to-end encrypted receipt in HTML5 form by displaying a link provided by the EFR (in the form of a QR code). No consumer registration, or further infrastructure is required. Alternatively, the EFSTA system can be used as a secure transport path into other applications with receipt display or analysis, which requires implementation measures.

Architecture: With the EFSTA system, centralized TSE server architectures can be implemented in a legally compliant manner, provided the network and legal requirements are met.

## 2. Product description

The core of the EFSTA system is the so-called "Electronic Fiscal Register" EFR. EFSTA provides middleware for the fiscalization of the cash register application. The cash application delivers the data in a format provided under extended GPLv3+ license (efsta

simple receipt) to the EFR, which performs the fiscal processing, and provides the data in the audit format of the country.

## 2.1 Product components

### EFR Middleware

- Provision of EFR software and interface documentation
- Further development of Fiscal Middleware (Electronic Fiscal Register - EFR) and provision of updates
- Software maintenance (incl. legal changes)
- Multi-client capable up to ~2000 cash register clients
- Signature server function
- Multi-TSE capable<sup>3</sup>
- Support for multi-company operation, e.g. for shop-in-shop situations
- Centrally configurable (via EFSTA Cloud)
- Internationally uniform API with country-specific extensions
- Virtualizable
- Protected against software tampering by interlocked encrypted components
- French certification
- Offline capable
- Self-repairing archiving via EFSTA Cloud
- Support of various archiving strategies
- Automatic TSE archiving
- DSFinV-K (DE)
- TSE .tar Export (EN)
- DEP §7 (AT)
- Onboarding and monitoring
  - Financial message at cash register start-up <sup>4</sup>
    - automatic cash register registration (cash register ID, serial number TSE - technical security device)
    - Further functions according to requirements and availability
  - System status monitoring
- Escalation system  
node-specific, content-dependent, escalated notifications
  - Status changes
    - e.g. cash register registrations and deregistrations, errors start and annual voucher
  - Reports
    - periodic summary system status
- Update mechanism
  - Differential update function of the fiscal middleware via EFSTA portal
- Fiscal Management EN
- Incident Documentation System

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<sup>3</sup> Support by TSE or TSE driver/service required

<sup>4</sup> Concrete design of the financial reporting system according to availability and implementation by the BMF

## EFR Cloud Archive AT

- Provision of EFSTA encryption and communication certificates<sup>5</sup>
- Guaranteed long-term storage and availability of encrypted transaction data, at least for the duration of the statutory retention period for the transaction volume specified in the position.
- Processing and hosting on servers within the EU
- Provision
  - Download of the transmitted data in the country-specific format "**DEP §7**".

## EFR Cloud Archive EN

- Provision of EFSTA encryption and communication certificates<sup>6</sup>
- Guaranteed long-term storage and availability of encrypted transaction data, at least for the duration of the statutory retention period for the transaction volume specified in the position.
- Processing and hosting on servers within the EU
- Provision
  - Download of the transmitted data in the country-specific format "**DSFinV-K**".

## EFSTA Decryption Server

- Optional software for self-hosting of the decryption service for the EFSTA system
- Asymmetric encryption with key lengths from 2048bit
- Support for certificates of the formats application/pkix-cert or application/x-x509-ca-cert
- Standard .NET application
- Provision in source code and executable form

## 3. Functional description

The functional description can be found in the documentation. This is available at: <https://docs.efsta.eu/efr/>.

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<sup>5</sup> Communication certificates between "Electronic Fiscal Register" (EFR) middleware and EFSTA Cloud

<sup>6</sup> Communication certificates between "Electronic Fiscal Register" (EFR) middleware and EFSTA Cloud

## **Appendix II. License ESR**

The "EFSTA Simple Receipt" format is the intellectual property of EFSTA and is subject to the GNU General Public License (GPL v3 or later).

It can be used freely, subject to the following rules:

1. Designation of the format as ESR "EFSTA Simple Receipt
2. Individual extensions of the format are subject to the formal rules of the ESR (tag names at least 5 characters long)
3. Publicly accessible storage systems (Internet) must ensure access restriction to personal documents
4. The granting of the right to read vouchers to third parties is the responsibility of the voucher recipient (opt-in)

### **Appendix III. List of supported third-party fiscal products**

The following fiscal hardware and software components are supported by the efsta EFR. Please contact us at sales@efsta.eu for more information on ordering and pricing.

#### Austria:

A-Trust (CARDOS53 & ACOS04)  
A-Trust a.sign RK ONLINE & HSM  
Global Trust (CARDOS53 & 50)  
Prime-Sign RKSX Smart Card  
Prime Sign Remote Signing Certificates

#### Belgium:

Zwartedoos Fiscal Data Module 2.0 (FDM)

#### Germany:

Deutsche Fiskal Cloud TSE  
Diebold microSD TSE & TSE Connect-Box  
Epson USB TSE & TSE Server  
Fiskaly SIGN-DE Cloud TSE  
Swissbit USB, microSD, & Cloud TSE

#### Hungary:

BBOX Epson TM-T810F fiscal printer and other BBOX Adele service compatible printers

#### Italy:

Epson FP-81 II RT Printer  
Epson FP-90III RT Printer

#### Poland:

Exorigo UPOS FP-T88FVA Online  
POSNET THERMAL XL2 ONLINE

#### Slovakia:

BBOX Epson TM-T810F Fiscal Printer and other BBOX Adele Service compatible printers

#### Sweden:

Tax Compliance System (TCS) provided by Infracsec