

estos Regulations for Online Services

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The estos online subscription contract consists of the following regulations for online services, the agreements as to the service level (SLA) of the product description for your subscription (together the „contract“) as well as the General Business Terms and Conditions of estos.

1. Scope of validity/ exclusion of contradictory General Business Terms and Conditions

These regulations do not apply to consumers in the sense of § 13 German Civil Code.

The validity of contradictory General Business Terms and Conditions is expressly refused.

2. Use of the Online Services

2.1. Scope of the Right of Use

The use of the services offered in the online subscription („online services“) is only insofar admissible as this is necessary and required within the scope of the contractual use. All actions of use going beyond this, in particular as they are relevant with regard to copyright, such as adaptations, are not permitted.

It is explicitly forbidden:

- (i.) to reverse-engineer, to decompile or to disassemble products, or to circumvent technical restrictions in the product, except to the extent to which this is admissible by applicable law regardless of these restrictions;
- (ii.) to disable billing mechanisms measuring your use of the online services, to falsify, or otherwise attempt to circumvent these;
- (iii.) to rent, lease, lend, sell, transfer the product or parts thereof to third parties, or host it for third parties, unless expressly admissible according to the contract.

2.2. Use by End User

You are responsible for controlling the access of the end user to the online service and to make sure that it is effected in compliance with the agreements in this contract.

2.3. Responsibility for your Accounts

The responsibility for secrecy of all unofficial application data, which are in connection with the online services lies solely with you. In the case of a possible misuse of your accounts or access data you are obliged to immediately inform us accordingly.

2.4. Demo, Test, and Presentation Versions

For certain services estos provides dedicated demo, test, or presentation versions. Such versions are provided „as is“, „without guarantee of absence of faults“ and „as available“ and are excluded from the SLAs and, as far as admissible, excluded from any guarantee. Such versions can be excluded from the technical support and are subject to reduced or modified obligations in comparison with productive versions.

We are authorized at any time to modify or stop demo, test, and presentation versions without further notification. Further there is no entitlement to demo, test, and presentation versions. We may decide at any time to stop offering for certain products no such versions (any longer).

3. Booking of Online Services

The online services are available either runtime-associated or restricted, according to the following definitions.

- (i.) runtime-associated subscription: you commit yourself to purchase a defined quantity of online services for use during the term/runtime and to pay for it fully in advance.
- (ii.) Restricted subscription: you receive a defined quantity of online services for a restricted period of time for use free of cost (e.g. as demo, test, and presentation version).

4. Beginning, Runtime, Cancellation, and Suspension

4.1. Beginning and Runtime

This contract becomes effective with activation of the online service, as from this point in time the regular contract runtime defined in the product specification starts. The contract ends automatically upon expiry of this regular contract runtime.

4.2. Ordinary Notice of Termination

An ordinary notice of termination during the regular runtime is not possible.

4.3. Suspension

We are authorized to suspend your runtime-associated online subscription, if:

- (i.) we deem this necessary for preventing an unauthorized access.
- (ii.) you exceed the agreed quantity of online services or violate other regulations of this contract.

If one or several of these conditions apply, the following applies:

- (i.) In the case of limited subscriptions we are authorized to suspend use of the online service subscription or to cancel your account immediately without giving notice.
- (ii.) In all other cases the suspension relates to the minimum portion of the online services that is necessary. We inform you about the suspension, except it strikes us as necessary to effect suspension immediately. Suspending an online service subscription with good reason twice within twelve months is considered as sufficient ground for a termination without notice.

5. Guarantee

As far as in the product description or elsewhere nothing is regulated to the contrary, online services „as available“ are provided. We guarantee that the online services during the runtime correspond to the regulations agreed upon in the SLA, in particular the minimum online service times named therein, and have the quality set out in the product description. Limited subscriptions are provided „as is“, „without guarantee of absence of faults“, and „as available“, and are excluded from the SLAs and, as far as admissible, from any guarantee.

6. Claims of third parties

We are not aware of any commercial protective rights of third parties, which are relevant for the use of our online services. A guarantee for the inexistence of such rights, however, is herewith explicitly excluded.

7. Limitation of Liability

For violation of contractual and non-contractual obligations estos is liable, also for chief executives and other performing agents, only in cases of deliberate action and gross negligence, limited to the amount that was paid for the conclusion of the online service subscription. In the case of products provided free of charge liability through estos is limited to direct damages in the amount of 250.00 Euro.

These limitations do not apply in the case of culpable breach of essential contractual obligations, in cases of mandatory liability according to Product Liability Act, in the case of damages to life, body, and health, and not even if and as far as faults have been fraudulently concealed or their absence been guaranteed.

8. Applicable Law

This contract is exclusively subject to the Law of the Federal Republic of Germany. The provisions of the UN Sales Convention do not apply.

9. Place of Jurisdiction

The contracting parties in the case of conflicts, to start with, will seek to reach an amicable agreement. Should this not succeed, for all direct and indirect conflicts arising from this contract or its termination as place of jurisdiction the competent court at the registered office of estos is agreed upon.

10. Side Agreements, Amendments, and Written Form

All annexes named in this contract as well as supplemental regulations are part of the contract.

Amendments and supplements to the contract are required to be made in written form and need to be signed by both contracting parties; this also applies to the amendment of this written form clause itself.

11. Force Majeure

estos is not liable for incidents of force majeure, which considerably complicate the performance of the contract or temporarily impede the proper implementation of the contract or render it impossible.

As force majeure all circumstances are considered that are independent of will and influence, such as natural disasters, governmental measures, administrative decisions, blockades, war, and other military conflicts, mobilisation, civil unrest, terror attacks, strike, lockout, and other industrial unrest, confiscation, embargo, or other circumstances that are unpredictable, grave, and of no fault of the contracting parties and occur after conclusion of this contract.

- (i.) As far as estos is prevented through force majeure from fulfilling their contractual obligations, this is not considered as breach of contract, and the terms stipulated in the contract or on the basis of the contract are extended according to the duration of the impediment.
- (ii.) As soon as it is clear that the force majeure will last longer than six months, each contracting party is authorized to terminate the contract in writing.

12. Invalidity of Individual Provisions

Should individual provisions of this contract be invalid, the effectiveness of the remaining provisions remains unaffected thereby. The invalid regulation is to be replaced by a regulation coming as close as possible to the purpose of the original regulation. The same applies in the case of unintended gaps in the contract.

13. Continuity

The provisions in points 2 and 6 to 9 shall remain valid beyond the termination or the expiry of this contract.