

Supplier Portal Terms of Use

1. Overview of these Terms

- (a) Eftsure USA, Inc. (**Eftsure**) is a business that supplies electronic payment verification services.
- (b) Eftsure has established the Supplier Portal to enable Suppliers to provide, and facilitate Eftsure's collection of, data which is necessary for Eftsure to deliver the Eftsure Services and any functions or activities specified in the Privacy Policy.
- (c) These Terms are between:
 - (i) Eftsure; and
 - (ii) any legal entity (including, a sole trader, trustee, incorporated association, or company registered under any applicable company law) that, acting through a User, registers an account on the Supplier Portal (**Supplier**).
- (d) These Terms govern:
 - (i) Eftsure's provision of the Supplier Portal to Suppliers and Users; and
 - (ii) any access to, and use of, the Supplier Portal by Suppliers and Users.

2. Acceptance of these Terms

- (a) If a User registers a Supplier Portal Account (as evidenced by the User clicking the "create account" button on the Supplier Portal registration page) using an individual or shared email address associated with the Supplier:
 - (i) the User represents and warrants that it has sufficient power and authority to bind the Supplier to these Terms; and
 - (ii) the Supplier will be deemed to have accepted these Terms.
- (b) Each registration of a Supplier Portal Account will form a separate and independent agreement (as governed by these Terms) between Eftsure and the Supplier in relation to that Supplier Portal Account.

3. Eftsure's responsibilities

3.1 General

Eftsure will make available the Supplier Portal in accordance with these Terms.

3.2 Supplier Portal functionality

- (a) Eftsure will use its commercially reasonable efforts to provide the Supplier and its Users with access to and use of the Supplier Portal.
- (b) Eftsure will ensure that the Supplier Portal maintains facilities that enable the Supplier and its Users to:
 - (i) set up and open a Supplier Portal Account, provided that the User has completed all Supplier identity verification and account set up requirements requested by Eftsure;
 - (ii) verify Supplier Data;
 - (iii) correct or update any inaccurate or incomplete Supplier Data; and
 - (iv) locate information in connection with the Supplier Portal Account, including the following types of information:

- (A) the names of Customers that have requested verification of the Supplier;
 - (B) outstanding verification requests; and
 - (C) any other relevant information.
- (c) Customers may access information logged by any User on the Supplier Portal Account, provided that information relates to the Customer.

3.3 Help desk, feedback and administration

- (a) Eftsure will provide the Supplier and its Users with help desk telephone and email support services during Business Hours. Eftsure's help desk Personnel will use commercially reasonable efforts to respond to and resolve technical issues related to the Supplier Portal.
- (b) Eftsure will provide a feedback function, which enables Users to offer suggestions to improve and enhance the experience of accessing and using the Supplier Portal.
- (c) Eftsure will provide a settings function that enables Users to supply and update any administration details (for example, passwords and contact information) connected to the Supplier Portal Account.

3.4 Downtime

The Supplier acknowledges that, on occasions, the Supplier Portal may be unavailable to repair a defect on the Supplier Portal or otherwise complete any necessary maintenance activities relating to the Supplier Portal.

3.5 Disclaimer

To the extent permitted by law, Eftsure:

- (a) excludes all warranties, representations or undertakings of any kind, whether express, implied, statutory or otherwise, including warranties of merchantability, fitness for purpose, title and non-infringement;
- (b) does not warrant that the Supplier Portal will operate uninterrupted, error free, and will be free of viruses; and
- (c) excludes liability for Loss caused by delays, interruptions, failures or other problems inherent in the Supplier's or its User's use of the Supplier Portal.

4. The Supplier's responsibilities

4.1 Opening a Supplier Portal Account

The Supplier may authorize a User to open a Supplier Portal Account in accordance with the requirements and instructions displayed on the Supplier Portal or as otherwise provided by Eftsure in writing.

4.2 User Access Credentials

- (a) Each User will be required to set up a unique login username and password to open a Supplier Portal Account and maintain access to the Supplier Portal Account (**User Access Credentials**).
- (b) The Supplier must ensure that the User only accesses the Supplier Portal Account by entering and verifying the User's User Access Credentials on the login page of the Supplier Portal.
- (c) The Supplier must keep, and ensure that the User keeps, the User Access Credentials confidential. The Supplier must ensure that the User refrains from sharing the User's User Access Credentials with a person that is not the User.

- (d) If the Supplier suspects or becomes aware that any person other than the User has obtained access to the User Access Credentials or has accessed the Supplier Portal Account using the User Access Credentials (**Unauthorized Access**), the Supplier must:
 - (i) notify Eftsure immediately of the Unauthorized Access; and
 - (ii) comply with all reasonable requirements and directions given by Eftsure in respect of the Unauthorized Access.
- (e) The Supplier must ensure that the User does not transfer control or ownership of the User's User Access Credentials to a third person, except via the password reset functionality made available on the Supplier Portal Account.
- (f) Eftsure cannot be, and will not be, liable for any loss or damage resulting from an Unauthorized Access or a breach of the Supplier's obligations under this clause 4.2.

4.3 Use of the Supplier Portal

- (a) The Supplier must use the Supplier Portal in accordance with:
 - (i) these Terms;
 - (ii) any reasonable directions made by Eftsure; and
 - (iii) all applicable laws.
- (b) The Supplier must:
 - (i) obtain and maintain any software, internet connectivity, equipment and other technology necessary to access the Supplier Portal (**Supplier IT Environment**);
 - (ii) maintain reasonable safeguards, precautions and security procedures to protect any instance of the Supplier Portal used within the Supplier IT Environment, including by implementing necessary procedures to secure the Supplier IT Environment from unauthorized interception, access or use;
 - (iii) obtain and maintain all necessary consents (including privacy consents) and any other relevant authorisations to input, disclose and store any Supplier Data on the Supplier Portal and to enable Eftsure to collect and use that Supplier Data to deliver the Eftsure Services;
 - (iv) only input, and ensure that its Users only input, complete, relevant and accurate Supplier Data on the Supplier Portal; and
 - (v) undertake and complete any verification requests or related tasks requested by Eftsure or a Customer on the Supplier Portal.

4.4 Restrictions on the use of the Supplier Portal

- (a) The Supplier Portal must not be used by anyone under the age of 18.
- (b) The Supplier must not and must ensure that its Users do not:
 - (i) commercially exploit any information made available to the Supplier on the Supplier Portal;
 - (ii) obtain, or attempt to obtain, unauthorized access to any feature of the Supplier Portal or any sites, systems, or networks operated by Eftsure, except for those that the Supplier has been granted express permission to access under these Terms;
 - (iii) breach any security or authentication measure on the Supplier Portal or use any device, software or other tool or instrument to maliciously interfere with, or attempt to maliciously interfere with, the use or ordinary functionality of the Supplier Portal or the security, availability or integrity of the Supplier Portal;

- (iv) connect or interoperate, or attempt to connect or interoperate, the Supplier Portal with any third party enabled technology (including, artificial intelligence); or
- (v) input, upload, maintain or store on the Supplier Portal any Supplier Data or any other information that contains material or content that is:
 - (A) threatening, harassing, unduly provocative, inflammatory, hostile, abusive, humiliating or discriminatory;
 - (B) false, fraudulent, misleading or deceptive; or
 - (C) infringing of another person's rights including any rights under applicable privacy laws, Intellectual Property Rights or moral rights.

4.5 Third Party Verification Software

- (a) Eftsure may make available to Users third party software tools to enable payment verifications (**Third-Party Verification Software**).
- (b) The User may elect to use the Third-Party Verification Software, provided that the Third-Party Verification Software is used strictly for the purposes for which it has been made available to the User.
- (c) The Supplier acknowledges that:
 - (i) any use of the Third-Party Verification Software by its Users will be subject to the terms and conditions that are applicable to that Third Party Verification Software;
 - (ii) Eftsure does not make any representations and warranties in respect of the Third-Party Verification Software; and
 - (iii) to the extent permitted by law, Eftsure is not responsible for, and disclaims all liability in relation to, any User's use of the Third-Party Verification Software.

5. Intellectual Property and Supplier Data

5.1 Portal IP

- (a) Subject to this clause 5, any Intellectual Property Rights in the Supplier Portal (including any enhancements, modifications or developments to the Supplier Portal) will remain with Eftsure or its licensors (**Portal IP**), as applicable. Nothing in these Terms will affect the ownership of the Portal IP.
- (b) Eftsure grants the Supplier a term-limited, non-exclusive, non-sublicensable, revocable, royalty-free, worldwide license to access and use the Portal IP to the extent required to perform, and solely for the purposes of performing, any obligations and responsibilities under the Terms. Any rights not expressed within this clause are reserved by Eftsure and Eftsure's licensors.

5.2 Supplier Data

The Supplier grants to Eftsure and its Affiliates a perpetual, non-exclusive, irrevocable, royalty-free license to use, disclose, copy, transmit, store, back-up and modify the Supplier Data for any of the following purposes:

- (a) to perform any obligations or to exercise any rights under these Terms;
- (b) to provide the Eftsure Services; and
- (c) to permit Eftsure's subcontractors and sub-processors to exercise any right granted under this license solely for the purposes set out in the above paragraphs (a) and (b).

5.3 Prohibited activities

- (a) The Supplier must not cause, and must ensure that its Users do not cause, any act or omission that would infringe the Intellectual Property Rights of Eftsure or any third party, including by:
 - (i) removing any copyright, trademark or other proprietary notice from the Supplier Portal;
 - (ii) selling, leasing, distributing, reproducing, modifying, sub-licensing, transferring, assigning, publicly displaying or otherwise exploiting for commercial or financial purposes any Portal IP;
 - (iii) decompiling, reverse engineering or disassembling any Portal IP; or
 - (iv) scraping, indexing, surveying or data mining any aspect of the Portal IP.
- (b) The Supplier must not, and must ensure that its Users do not, do anything (or fail to do anything) that would unduly burden, hinder or prevent Eftsure from accessing or operating the Supplier Portal.

5.4 No use of any Eftsure or third-party name or logo

The Supplier must not, and must ensure that its Users do not, use Eftsure's or any third party's name, logo or other emblem, brand design or feature displayed on the Supplier Portal without the prior consent of Eftsure or the relevant third party (as applicable), except to the limited extent necessary to complete any Eftsure or Customer initiated request on the Supplier Portal.

6. Privacy and confidentiality

6.1 Privacy

- (a) If Eftsure collects, holds, uses or processes Personal Information in connection with these Terms, Eftsure will comply with all applicable privacy laws and the Privacy Policy in relation to that Personal Information.
- (b) The Supplier must ensure that its Users, who input or transfer any Personal Information on the Supplier Portal, comply with all applicable privacy laws in respect of that Personal Information as if the Users were entities subject to such privacy laws.

6.2 Confidentiality

- (a) Where either party receives or possesses Confidential Information (**Receiving Party**) of the other party (**Disclosing Party**), the Receiving Party must:
 - (i) keep the Confidential Information confidential;
 - (ii) only use the Confidential Information in connection with the Receiving Party's performance of its obligations under these Terms;
 - (iii) not disclose any Confidential Information to anyone other than:
 - (A) to the Disclosing Party;
 - (B) subject to clause 6.2(b), to its Personnel to perform the Receiving Party's obligations under these Terms;
 - (C) with the prior consent of the Disclosing Party subject to any reasonable conditions imposed by the Disclosing Party on the Receiving Party's disclosure of Confidential Information; or
 - (D) where required by an applicable law, provided that the Receiving Party provides written notice to the Disclosing Party prior to the disclosure and sufficient opportunity to contest the proposed disclosure of the Confidential Information.

- (b) The Receiving Party must, before providing any Personnel with access to Confidential Information of the Disclosing Party, inform those Personnel of the confidential nature of the Confidential Information and require them to comply with confidentiality obligations no less onerous than the confidentiality obligations set out in these Terms.

7. Term and termination

7.1 Term

These Terms will take effect and apply to each Supplier Portal Account on and from the date when a User registers that Supplier Portal Account and will terminate on the date that Supplier Portal Account is de-registered either in accordance with these Terms or by agreement between the parties.

7.2 Violations

If the Supplier or any of its Users breach any of clauses 4.4(b)(i) to 4.4(b)(v) (Restrictions on the use of the Supplier Portal), 5.3 (Prohibited activities), or 5.4 (No use of any Eftsure or third party name or logo) (each a **Violation**), then Eftsure may:

- (a) to the extent permitted by law, delete the Supplier Data related to the Violation; and/or
- (b) deregister the Supplier Portal Account.

7.3 Consequences of termination

- (a) Upon termination of these Terms:
 - (i) the Supplier must cease using the Supplier Portal; and
 - (ii) the Supplier will be prohibited from creating a new Supplier Portal account, unless otherwise approved by Eftsure.
- (b) Termination of these Terms will be without prejudice to any other rights or obligations accrued by the parties before termination of these Terms.
- (c) The following provisions will survive termination of these Terms:
 - (i) clauses 5, 6, 7, 8, 9, 10 and 11; and
 - (ii) any other provision which by its nature should survive termination of these Terms.

8. Indemnity and limitations of liability

8.1 Supplier indemnity

The Supplier agrees to indemnify Eftsure, its Affiliates and its Personnel from and against any Loss suffered or incurred by Eftsure and its Affiliates to the extent such Loss results from:

- (a) the Supplier's or its User's provision of the Supplier Data to Eftsure and Eftsure's use of the Supplier Data in accordance with these Terms; or
- (b) any claim that the Supplier's or its User's use of the Supplier Portal other than in accordance with these Terms or the Supplier's or its User's provision of, or use by Eftsure of, the Supplier Data in accordance with this Agreement infringes a third party's rights (including Intellectual Property Rights).

8.2 Eftsure indemnity

- (a) Eftsure must defend any claims made against the Supplier that the Supplier's use of the Supplier Portal in accordance with these Terms infringes the Intellectual Property Rights of a third party and indemnify the Supplier against any costs or damages finally awarded against the Supplier or agreed by Eftsure in settlement of the claim.
- (b) Eftsure will not indemnify the Supplier under paragraph (a) to the extent that the infringement or claim of infringement is caused or contributed to by:
 - (i) use of the Supplier Portal other than in accordance with these Terms;
 - (ii) modification of the Supplier Portal other than by or on behalf of Eftsure;
 - (iii) the Supplier's use of the Supplier Portal in combination with any product or information not owned or developed by Eftsure;
 - (iv) any information, software, direction, specification or materials provided by the Supplier or any third party (including Supplier Data); or
 - (v) any wilful, wrongful or negligent act or omission of the Supplier in the use of the Supplier Portal.

8.3 Limitations of liability

- (a) In no event will either party be liable to the other party, howsoever arising, for any indirect, special, incidental, consequential, exemplary or punitive loss or damage, including, for any loss of profits, loss of business, depletion of goodwill, loss arising from damage to reputation, corruption or loss of data, or pure economic loss.
- (b) Subject to clauses 8.3(c) and 8.3(d), a party's total liability arising out of, or in connection with, these Terms (including, any indemnity) howsoever arising whether in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution, strict liability, common law or otherwise is limited to \$10,000.
- (c) The Supplier's liability under these Terms is uncapped and the limitation of liability set out in clause 8.3(b) does not apply in respect of any liability resulting from a Violation.
- (d) Nothing in this clause purports to limit the Supplier's liability or alter the Supplier's rights that cannot be excluded under applicable law.

9. Variations

- (a) Eftsure may vary the Terms by modifying the existing provisions of the Terms or incorporating supplemental or additional provisions within the Terms (each a **Variation**).
- (b) Eftsure will notify the Supplier of any Variation by posting the Variation or an updated version of these Terms that incorporates the Variation on Eftsure's website or on the Supplier Portal.
- (c) The Variation will take full force and effect and bind the parties on and from the Variation Date.
- (d) If the Supplier considers that the Variation has a material detrimental impact on the Supplier, the Supplier may at any time during the Variation Notice Period request Eftsure to de-register the Supplier's Supplier Portal Account. Upon receipt of this request, Eftsure will take commercially reasonable efforts to de-register that Supplier Portal Account.
- (e) The Supplier's continued access to, and use of the Supplier Portal, beyond the expiry of the Variation Notice Period constitutes the Supplier's acceptance of the Terms, as varied by the Variation.

10. General

10.1 Waiver

No waiver of a right or remedy under these Terms is effective or enforceable against the other party unless it is in writing signed by the party granting that waiver.

10.2 Assignment, novation and other dealings

- (a) Eftsure may assign, novate, sub-license or otherwise transfer these Terms in whole or in part to:
 - (i) a bona fide purchaser of all or a substantial part of Eftsure's assets; or
 - (ii) an Affiliate of Eftsure,by providing prior written notice to the Supplier.
- (b) The Supplier may, in whole or in part, transfer, assign or novate these Terms to any successor, transferee, assignee or novatee by way of merger, acquisition or Change of Control, with Eftsure's prior written consent, which may not be unreasonably withheld.

10.3 Severability

Any provision of these Terms which is wholly or partially void or unenforceable will be severed from these Terms to the extent that it is void or unenforceable. The validity and enforceability of the remainder of the Terms is not affected.

10.4 Entire agreement

These Terms represent the entire agreement between the parties about its subject matter and the Terms replace any previous agreements and undertakings about that subject matter.

10.5 Governing law

These Terms are governed and construed by the laws of the state of Delaware, USA. Each party irrevocably submits to the exclusive jurisdiction of the courts of Salt Lake City, Utah, USA.

11. Definitions and interpretation

11.1 Definitions

In addition to the capitalized terms defined in parentheses within these Terms, the following capitalized terms used in these Terms will be construed to have the meaning set out below:

- (a) **Affiliate** of a party means any other entity that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such party. The term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an entity.
- (b) **Business Hours** means the hours between 9:00am and 5:30pm PST on a day that is not a weekend or federal holiday in the USA.
- (c) **Change of Control** means in respect of the Supplier, the occurrence of any circumstances or events following which the Supplier, who was not controlled before, is controlled by another person, alone or together with any subsidiary entity of the Supplier but excludes an internal reorganisation exclusively within the group of companies comprised of the Supplier and its subsidiaries.
- (d) **Confidential Information** of a Disclosing Party means the following information, regardless of its form, and whether the Receiving Party becomes aware of it before or after the date of these Terms:

- (i) information that is by its nature confidential;
 - (ii) information designated by the Disclosing Party as confidential; or
 - (iii) information the Receiving Party knows, or ought to know, is confidential,
- but in all cases excludes any:
- (iv) information in the public domain, not by breach of these Terms by the Receiving Party;
 - (v) information known by the Receiving Party at the time of disclosure;
 - (vi) information that the Receiving Party creates (whether alone or jointly with any third person) independently of the Disclosing Party;
 - (vii) information lawfully obtained by the Receiving Party from a third party other than through a breach of confidence; or
 - (viii) Supplier Data.
- (e) **Customer** means any customer of Eftsure or any customer of Eftsure's Affiliates.
 - (f) **Eftsure Services** means any services provided to a Customer by Eftsure or Eftsure's Affiliates.
 - (g) **Intellectual Property Rights** means all intellectual property rights including current and future registered and unregistered rights in respect of copyright, designs, circuit layouts, trademarks, trade secrets, know-how, Confidential Information, patents, inventions and discoveries and all other intellectual property as defined in article 2 of the convention establishing the World Intellectual Property Organisation 1967.
 - (h) **Loss** means any loss, damage, liability, cost, charge, expense, claim, outgoing, fine or payment of any nature or kind.
 - (i) **Personal Information** means information or an opinion about an identified individual, or an individual who is reasonably identifiable:
 - (i) whether the information or opinion is true or not; and
 - (ii) whether the information or opinion is recorded in a material form or not,
 or which otherwise constitutes "personal data", "personally identifiable information" or similar terms as defined in any applicable privacy laws.
 - (j) **Personnel** means any employees, contractors, directors, officers or agents of a party.
 - (k) **Privacy Policy** means Eftsure's privacy policy located at <https://eftsure.com/privacy-policy/>, as updated from time to time.
 - (l) **Supplier Data** includes any data logged, inputted or otherwise disclosed by the Supplier or its Users on the Supplier Portal, but does not include any data that specifically relates to the User, including User Access Credentials and User administration details.
 - (m) **Supplier Portal** means Eftsure's technology platform designed to enable the Supplier, acting through its Users, to verify Supplier Data and perform related activities. For clarity, this definition includes any Supplier Portal Account.
 - (n) **Supplier Portal Account** means an account registered by a User on the Supplier Portal using an individual or shared email address associated with the Supplier.
 - (o) **Terms** means this document.
 - (p) **User** means a person who registers, accesses or uses (as applicable) a Supplier Portal Account.
 - (q) **Variation Date** means the date on which a Variation is posted on Eftsure's website.

- (r) **Variation Notice Period** means the period that begins on the Variation Date and expires on the date that falls 15 days after the Variation Date. For example, if a Variation is posted on 1 October 2024, then the Variation Notice Period will expire on 16 October 2024.

11.2 Interpretation

In these Terms, the following rules of interpretation apply unless the contrary intention appears:

- (a) headings are for convenient reference only and do not form part of the Terms;
- (b) the singular includes the plural and vice-versa;
- (c) the words “such as”, “including” and similar expressions are not used as, nor are intended to be interpreted as, words of limitation;
- (d) a reference to:
 - (i) a party (including the Supplier or Eftsure) includes its successors and permitted assigns;
 - (ii) a person includes a natural person, partnership, joint venture, association, corporation or other body corporate;
 - (iii) any law is a reference to that law or other law as amended, consolidated or replaced;
 - (iv) a monetary amount is to US dollars; and
- (e) no rule of construction applies to the disadvantage of a party because that party was responsible for preparation of the Terms.

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