Specific Terms and Conditions for Software as a Service for MODEL SIMULATOR

These Terms and Conditions apply additionally to the Terms and Conditions for software as a service (SaaS) to the use by Customer of the ETAS MODEL-SIMULATOR provided by ETAS Automotive India Private Limited registered office at B519, Post Box No. 3000, Adugodi, Hosur Road, Bangalore (hereinafter: "**Provider**", Customer and Provider hereinafter referred to as "**Parties**").

1. Definition

"**Reference Simulation Hour**" means the time-based unit of the Simulation Service usage time, whereby the reference is defined as the use of a worker node instance as defined in the main contract for a usage time of one hour. The use of the simulation function contained in the application consumes the agreed quota of reference simulation hours.

2. Provision of Application and Server Infrastructure

The use of several functions of the application requires the creation of a simulation model with the ETAS software COSYM (in the version mentioned in the system requirements of the manual), which must be licensed separately. The simulation model must also be brought into a suitable structure, which is described in the user manual. The Customer is responsible for the correctness of the simulation model and must ensure this in the ETAS software COSYM before the application is used.

The application includes a function for generating reports, see section 5.6. To change the report configurations described in section 5.6. the Customer requires a PC-based software "ETAS EATB", (in the version mentioned in the system requirements of the manual) which must be licensed separately.

For the use of the application, the Provider will provide the registration link to an administrator designated by the Customer. Only this administrator is entitled to apply for user accounts via the Support, see clause 6.

Provider shall make storage space available on Provider's Server to the extent that this is required for the intended use of the Application. Further details on the scope of services can be found in the main contract. The size of this storage space is defined in the main contract. The Customer himself is responsible for compliance with the storage limitation. For this purpose, suitable deletion functions are made available via the application. The Provider will inform the Customer (administrator) by e-mail as soon as the storage space actually used approaches the contractually agreed storage space. The information will only be provided during the business hours defined in section 6 "Support". Should the Customer exceed the agreed storage space, the additional storage space will be charged to the Customer. The costs for the additional storage space are defined by the main contract.

The Provider shall provide the Customer with a contingent of reference simulation hours as defined in the offer. The use of the simulation function is only possible for the Customer if there is a sufficient contingent of reference simulation hours available. If the quota of reference simulation hours is used up, further simulations are not possible for the Customer. In the event that simulations are carried out by the Customer and the quota is used up during the simulation period, the simulations are aborted by the application and the simulation results generated up to that point are saved. The Provider will inform the Customer (administrator) by e-mail as soon as the reference simulation hours are almost exhausted. This information will only be provided during the business hours defined in section 6 "Support".

3. Technical Availability of the Application

The defined availability, which is set out in Appendix 1 to this document, applies. The Provider is not responsible for the period of non-availability of the application (downtime). This also includes the loss of data of simulations already started in connection with the downtime. The Provider is not liable for the recovery of data lost due to the downtime. The Downtime, inter alia, includes the following cases:

(1) Failure of a software service (e.g. simulation service, data service and reporting service)

(2) Failure due to unavailable cloud infrastructure

(3) Error in case of overflow of the so-called network share storage of the cloud infrastructure

The application includes a function for generating reports. The configuration of these reports stored in the application cannot be changed directly by the Customer. If an adaptation of the report configuration is necessary, Customer can create configuration files with the ETAS Software EATB (in the version mentioned in the system requirements of the manual) , which must be licensed separately, and transfer them to the support center of the Provider by e-mail via the administrator of the Customer. The support center of the Provider will inform the Customer (administrator) as soon as the implementation of the configuration files is done. Further details are defined in Annex 1. Customer is responsible for the correctness of the new configuration files.

4.   Remuneration, Tax, Price Change

The amount of remuneration is specified in the main contract. The remuneration consists of the following components:

a)   Basis access, which will be invoiced immediately after the conclusion of the contract but for a maximum period of 12 months. If the contract period is longer than 12 months, the basic access for the following period will be invoiced in advance for a further 12 months;

b)   Simulation hours, which were actually used from the contingent of reference simulation hours and which will be invoiced at the end of every calendar month;

c)   Costs for the additional storage space according to section 4.6, which will be invoiced at the end of every calendar month.

The simulation hours used by the Customer will be subtracted as full hours from the contingent of reference simulation hours. Each simulation hour that is started is thus rounded up to a full hour when scheduling the simulation. For the performance of the simulation is it necessary to boot and to shut down dynamically the above mentioned Windows instances. This process takes from 15 to 30 minutes (infrastructure time), time which will be taken into account, i.e., invoiced to Customer as reference simulation hours.

Example 1: 10 simulation hours will be started. Each of them takes 30 minutes. This means that 10 reference simulation hours will be used. Calculation method: 30 minutes simulation time + 27 minutes infrastructure time = 57 minutes, rounded up to 1 hour. 10 simulations of one hour are 10 reference simulation hours.

Example 2: 10 simulation hours will be started. Each of them takes 50 minutes. This means that 20 reference simulation hours will be used. Calculation method: 50 minutes simulation time + 27 minutes infrastructure time = 77 minutes, rounded up to 2 hours. 10 simulations of two hours each are 20 reference simulation hours.

The agreed remuneration is exclusive of applicable Goods & Service Taxes and all other applicable taxes / levies. Such taxes shall be borne by Customer additionally, if applicable. Tax invoices will be raised in compliance with the applicable indirect tax laws (GST) and customer agrees to provide the details including correct GSTIN for raising invoices. Customer agrees to pay the tax amount along with transaction value within the stipulated time. Any disputes as regards to non-matching of ITC will be resolved amicably after mutual discussion.

Further, if payment of remuneration to provider is subject to withholding tax (WHT), the customer agrees to comply with the relevant rules and regulations under the Income Tax Act and provide the WHT certificates to provider within the prescribed timelines. The customer agrees to reimburse the provider any loss of tax credit, including interest and penalty, arising from any deficiency by the customer on WHT compliances prescribed under the law.

Annex 1: Service Level Agreement

This Service Level Agreement governs the provision on service levels, Availability, Maintenance Work, the availability of support, Incident Management and service reviews and reporting of ETAS MODEL-SIMULATOR ("**Application**").

1. Definitions

1.1. **Availability** means that the Customer can execute and use the essential functions of the Application at the Handover Point as defined in the Contract.

1.2. **Contract** means the agreement between the Customer and the Provider regarding the provision of the Application by the Provider and use of the Application by the Customer.

1.3. **Downtime** means the total number of hours in which the essential functions of the Application as defined in the Contract are not available for use by the Customer during the Service Time.

1.4. **Handover Point** are the internet hubs of Provider's data center.

1.5. **Incident** means any impairment on the Application, such as Downtimes, errors or a reduction of quality.

1.6. **Incident Management** means the processing of Incidents.

1.7. **Incident Priority** means the severity of the Incident.

1.8. **Response Time** means the period of time to start working on a reported Incident by the Customer.

1.9. **Maintenance Work** means all maintenance activities required to keep the Application running, to eliminate errors in the Application, to backup data and/or activities required to enhance, enlarge or renew functionalities to ensure that the Application can be used in accordance with the Contract.

1.10. **SLA** means this Service Level Agreement.

1.11. **System Runtime** means the time in which the system must be ready for operation.

1.12. **Service Time** means the time in which ETAS provides a service for the maintenance work.

2. General Provisions

2.1. This SLA sets forth the Availability of the Application and supporting services.

2.2. This SLA applies solely to the Applications made available for productive use by the Customer and not apply to any non-productive, free and/or try-out versions of the Application, integration or test systems having unreleased functions or functionality.

2.3. This SLA is only valid in conjunction with the Contract and shall not take effect until Customer and Provider have executed the Contract.

2.4. All obligations of the Provider in this SLA only apply to the Application as made available to the Customer at the Handover Point. Provider is not responsible for data transmission from the Handover Point to the Customer and/or in the area of Customer's IT system.

3. Threshold Values

3.1. The Provider shall provide the Application in accordance with the Availability agreed in Section 4.1, only if the Customer complies with the following upper threshold values.

Threshold Value	Limit
Maximum size of one trip	1,5 GB
Maximum size of one campaign	30 GB
Number of users	A (max 10)
Number of active simulation runs	B (max 1000)
Simulation time	C
Number of logging channels	D
Sampling rate	E (currently fixed to 5 ms)
Max. size of simulation output (A x B x C x D x 8 Byte /E < Limit)	120 GB
Permanent Storage	1 Petabyte
Maximum size of a report	150 MB

3.2. If the Customer is using the Application above the predefined threshold values, a lower Availability up to a total Downtime of the Application may occur, for which the Provider is not responsible.

4. Availability

4.1. The System Runtime is 24 hours/ 7 days per week. The Provider shall provide the Application at the Handover Point during the Service Time with the Availability as specified below:

System Runtime	24/7
Service Time	Mo-Fri 09:00 – 17:00 CET/CEST, with the exception of public holidays in Baden-Württemberg
Agreed Availability	95.00 %
Availability of ticket system	24/7

4.2. The Provider is not required to make the Application available for use outside of the before mentioned Service Time and during scheduled Maintenance Work according to Section 6. If the Application is available outside the Service Timeand in case of scheduled Maintenance Work according to Section 6, the use of the Application is at risk of Customer. Customer accepts that outside of the Service Timeand in case of scheduled Maintenance Work the use of the Application might be limited regarding functionalities or performance and/or that the Application shall be switched off or restarted without notice. If the Application is made available outside of the Service Timeand in case of scheduled Maintenance Work and there is a reduction in the functions or functionality of the Application or a reduction of the Availability, Customer shall have no claim for breach of warranty or be entitled to any compensation.

4.3. The Availability of the Application is calculated according to the following formula as the percentage proportion of time in the course of a calendar month during the Service Time.

$$\text{Availability in percent} = \frac{\text{Service Time (hour/min)} - \text{Downtime (hour/min)}}{\text{Service Time (hour/min)}} \; x \; 100$$

This results in a maximum downtime of 8 hours and 41 minutes in a month:

$$95\;\% = \frac{176\;\text{hours} - 8{,}4\;\text{hours}}{176\;\text{hours}} \; x \; 100$$

4.4. When calculating the Availability, Downtimes for which the Provider is not responsible, are considered as available times. These Downtimes include the following:

a)   Downtimes due to scheduled or unscheduled Maintenance Work as defined Section 6;

b)   Downtimes due to Maintenance Work agreed with the Customer in advance;

c)   Downtimes due to operational disruptions caused by a force majeure event or other unavoidable events beyond Provider's control, which could not be averted with reasonable effort, which could not have been foreseen even when exercising with due care, and which make Provider's obligations under this SLA considerably more difficult or completely or partially impossible, such as strikes, lockouts, exceptional weather conditions, power outages, operational or traffic disruptions and transport obstructions and which discharge Provider from its obligations under this SLA for the duration of such an event;

d)   Downtimes due to virus or hacker attacks, unless the Provider has not taken the reasonable protective measures;

e)   Downtimes due to interruptions caused by the Customer;

f)   Downtimes due to software errors in Customer's applications or due to errors in the system and system-related software caused by Customer's applications or data;

g)   Downtimes due to interruptions of third parties for which the Provider is not responsible.

4.5. The Customer shall report any impairment on the Availability of the Application to the Provider in accordance with Section 5.

5. **Incident Management**

5.1. Incident Management shall comprise all the activities between the Customer and the Provider associated with the notification and management of Incidents until resolution.

5.2. Incident Priority

a)   All Incidents within the Application shall be assigned an Incident Priority which shall determine the target Response Time.

ident Priority	scription	ponse Time
tical	ere is an Incident Priority 1 if the use of the Application or major parts of the Application is completely unavailable or severely restricted for instance due to malfunctions, false work results or response times.	≤ 1 hour within the Support business hours
2 Major	There is an Incident Priority 2 if, although the use of the Application is not unavailable or severely restricted, for instance due to malfunctions, false work results or response times, the use is subject to restriction(s) which is (are) material.	≤ 1 (one) business day
3 Minor	There is an Incident Priority 3 if the use of the Application is not directly and/or significantly/considerably impaired, such as an instance that basic settings which are unfavourably defined or without "nice-to-have" functions.	2 (two) business days
4 Non	There is an Incident Priority 4 if there is no limitation of the use of the Application functionalities; e.g. minor flaws, questions or requests for improvement by the Customer.	3 (three) business days

b) The Provider shall, in its sole discretion, prioritize Incidents taking into account the definitions included in the table above.

5.3. Process

a) Customer shall immediately notify the Provider of all Incidents.

b) All Incidents must be communicated to the Provider via eMail. In case of an Incident Priority 1, Customer shall also contact the service hotline of first-level-support.

c) The Customer shall ensure that when the Incident is reported, the Incident reporting must include the following required information:

(1) Description of the Incident;

(2) Functionality of the Application affected;

(3) Environment affected;

(4) Gateways affected;

(5) Date and time when the Incident occurred;

(6) Incident Priority;

(7) The action(s) which the Customer has already taken to remedy the Incident and any results from the action to remedy the Incident taken by the Customer.

d) Once the Customer provides all required information, the resolution process shall start and the first feedback after receipt of the Incident report shall be given according to the Response Time in relation to the Incident Priority according to Section5.2.

e) The Provider shall notify the Customer upon Incident closure.

f) Incident processing shall be performed during the business days and operating times.

g) The Provider may provide the Customer with an interface for creating Incident tickets in Provider's ticketing system. The Provider reserves the right to amend the ticketing system in its sole discretion due to a change in requirements. The Provider shall give the Customer at least three months' advance notice of a change to the ticketing system and/or a change to the interfaces. Any use of the ticketing system by third parties, in particular by end customers or suppliers of the Customer, is prohibited. The ticket language for all tickets is English.

6. Maintenance Work

6.1. The Provider has the right to interrupt the provision of the Application for Maintenance Work.

6.2. The Provider shall plan Maintenance Work to minimize the interruption of the use of the Application, so that the use of the Application by the Customer is affected as little as possible.

6.3. The Customer must be given 7 calendar days advance notice of Maintenance Work.

6.4. The Provider is also permitted to conduct unscheduled Maintenance Work on the Application for important reasons, e. g. if the Application operation is jeopardized. This includes but is not limited to emergency changes, e. g. the implementation of security patches, which are necessary for securing and maintaining operations and require immediate implementation. The Customer must be notified hereof without undue delay and the unscheduled Maintenance Work must be carried out in such a way as to minimize malfunctions in operational processes as far as possible.

6.5. All times are based on the Central European Time (CET) or Central European Summer Time (CEST) valid in Germany.

7. Service Level Reviews and Reporting

7.1. The service levels agreed in this SLA shall be subject to a regular review. The aim of this review is to discuss any possible deviations and, if applicable, to specify appropriate measures. The persons participating in the review shall be determined by the respective party.

7.2. The Provider shall provide the Customer with the following values in a monthly report:

a) Availability of the Application.

b) Maintenance Work conducted.

c) Number of Incidents broken down by Incident Priority.

7.3. The Provider shall send the report to Customer in electronic form by email.

7.4. The monthly report does not encompass non-productive, free and/or try-out versions of the Application, integration or test systems. Such reports are not incorporated in the service level review.

8. Miscellaneous

The provisions of the Contract shall remain in full force and effect.

ETAS Automotive India Private Limited

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