

General Terms and Conditions for Software as a Service

These Terms and Conditions (the “**Terms**”) apply to the use of software applications by the Customer on the basis of software as a service (SaaS) provided by ETAS Limited whose registered office is c/o Robert Bosch Limited, Broadwater Park, North Orbital Road, Denham, Uxbridge UB9 5HJ (hereinafter: “**ETAS**”). The Customer and ETAS are hereinafter referred to as “**Parties**” and individually as “**Party**”.

1. Definitions and Interpretation

1.1 Definitions

“**Account**” means the account that is required to obtain access to and use of access-controlled Applications of ETAS.

“**Application**” means the respective software application provided by ETAS under a Contract, as more particularly described in the Contract or an annex thereto (e.g. the Service Description), including any demo versions of the software.

“**Authorised Users**” means those employees, agents and independent contractors of the Customer (including Customer Franchisees) who are authorised by the Customer to use the Application.

“**Confidential Information**” means information in whatever form (including, without limitation, in written, oral, visual or electronic form or on any magnetic or optical disk or memory and wherever located) including, without limitation, relating to ETAS’s business, clients, customers, products, pricing, assets, affairs and finances confidential to ETAS and trade secrets including, without limitation, technical data and know-how relating to ETAS’s business or any of its suppliers, clients, customers, agents, distributors, shareholders or management, whether or not such information (if in anything other than oral form) is marked confidential.

“**Contract**” means the agreement between ETAS and Customer regarding the provision of the Application. The Contract usually comprises the Service Description.

“**Contract Term**” has the meaning given in clause 21.1 (being the Initial Term together with any subsequent Renewal Term).

“**Customer**” means any business, company, corporation, partnership, or other legal entity that engages with ETAS for the purpose of using the Application in the context of business to business (B2B) transactions and operations.

“**Customer Data**” means all data, information, content or material submitted by Customer or on behalf of Customer in connection with the use of the Application, storage space and/or the Account or manually generated by the Customer with the Application. Customer Data also includes access and registration data.

“**Customer Franchisees**” means any dealer who has contracted with the Customer to operate service and repairs under the Customer’s name or

brand.

“**Force Majeure**” means any cause preventing either Party from performing any or all of its obligations which arises from or is attributable to acts, events, omissions or accidents beyond the reasonable contemplation and control of the Party so prevented including, without limitation, strikes, lockouts or other industrial disputes (in each case whether involving the workforce of the Party so prevented or any other Party), pandemics and epidemics, protests, act of God, war or national emergency, an act of terrorism riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, explosion, flood, storm, default or delays of suppliers or sub-contractors.

“**Initial Term**” means the initial term of the Contract as set out in clause 21.1.

“**Intellectual Property**” or “**IP**” means any know-how, business secrets, trade secrets, moral rights, trademarks, trade names, domain names, software (including open-source software and its licenses), copyrights and usage rights, improvements or inventions, patents, utility models, design rights, regardless of whether or not registerable and/ or patentable, and/ or applications therefore and any other intellectual or industrial property anywhere in the world.

“**Order**” means the Customer’s order for the subscription to a licence to use the Application in whatever form.

“**Release Countries**” means the countries identified in the Contract for which the Application is approved for use.

“**Renewal Term**” means the period defined in clause 21.1.

“**Service Description**” means a description of the technical functionalities of the respective Application.

“**Service Level Agreement**” or “**SLA**” defines the quality features of the Application in terms of availability and maintenance provided by ETAS as set out in the Contract.

“**Terms**” means the terms and conditions set out in this document (as amended by ETAS and notified to the Customer from time to time).

“**Usage Data**” means all automatically transmitted machine data (sensor or other machine data) or automatically generated system data (e.g. log files, information on utilisation or availability of the Application).

1.2 In addition to the specific meanings of the words detailed above, the following rules apply to the general construction of these Terms:

- a. A reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted; and includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.
- b. Any phrase introduced by the Terms including particular or any similar expression, shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- c. Subject to clause 24.2., a reference to writing or written includes e-mails.
- d. An obligation on a party not to do something includes an obligation not to allow that thing to be done.

2. Scope of Application

- 2.1 ETAS provides the Application to the Customer solely on the basis of these Terms and the applicable attachments as referenced herein, which are part of the Contract. These Terms also apply to any quotation of ETAS for the Application.
- 2.2 Terms and conditions of Customer or of third parties will not apply even if ETAS does not specifically object to the application of such terms and conditions. Even where ETAS refers to a letter containing or referring to Customer's or a third party's business terms and conditions, this does not constitute an agreement to the application of such business terms and conditions.
- 2.3 Individual agreements executed between the Parties in writing on a case-by-case basis (including ancillary agreements, supplements and amendments) that refer to and explicitly amend these Terms will take precedence over these Terms.
- 2.4 Any quotation given by ETAS shall not constitute an offer. Unless otherwise agreed in writing or withdrawn earlier by ETAS in writing, a quotation shall only be valid for a period of 28 Business Days from its date of issue.
- 2.5 The Order constitutes an offer by the Customer to subscribe to a licence to use the Application in accordance with these Terms which ETAS may accept or reject in its absolute discretion. The Customer shall ensure that the terms of the Order are complete and accurate and that the Order incorporates the terms of the quotation given by ETAS.
- 2.6 The Order shall be deemed to be accepted by ETAS when ETAS issues a written acceptance of the Order or grants access to the Application to the Customer in accordance with these Terms, whichever takes place earlier, at which point the Contract shall come into existence on these Terms.
- 2.7 No variation or alteration to the Contract shall be effective unless it is made in writing and signed by the parties (e.g. via DocuSign). Any samples,

drawings, descriptive matter or advertising issued by ETAS and any descriptions or illustrations contained in ETAS' catalogues or brochures (if any) shall not form part of the Contract.

3. Subject Matter

- 3.1 The subject matter of these Terms is the provision of the Application via remote access for use by Customer and Customer's Authorised Users.
 - 3.2 The implementation of an interface integration with Customer's existing system environment is not covered by these Terms and requires a separate written agreement between the Parties.
 - 3.3 ETAS has the right to have the services performed in whole or in part by third parties (including affiliates of ETAS) as subcontractors.
 - 3.4 The 'Service Level Agreement (SLA)' forms an integral part of these Terms. In the event of a conflict, the following order of precedence shall apply:
 - (1) The Contract (including any individual agreements as set forth in clause 2.3, if any)
 - (2) These Terms
 - (3) The SLA.
 - 3.5 If ETAS provides new versions, updates, upgrades, modifications or extensions of the Application (together or individually "**Enhancements**") or makes other changes to the Application during the Contract Term, the provisions of these Terms shall also apply to such Enhancements or changes, even if the Customer has ordered and paid for such Enhancements or changes separately.
- ## 4. Provision of Application and Storage Space
- 4.1 Unless otherwise agreed with the Customer in writing, ETAS shall make the current version of the Application available on a server infrastructure provided by ETAS or its subcontractors (hereinafter referred to as "**Server**") for use in accordance with the provisions of these Terms and as agreed in the Contract.
 - 4.2 Access to the Application by the Customer shall be browser-based via the Internet or via an application interface set up by ETAS.
 - 4.3 The Customer is responsible for authorising and managing Authorised Users through the Customer identity provider (IDP) process.
 - 4.4 If an Account is required for access to and use of the Application, ETAS shall provide such Account to the Customer upon Customer's acceptance of these Terms. The Account and the access data are not transferable. Customer is liable for all actions performed under its Account.
 - 4.5 Customer shall change all passwords into passwords known only to it without undue delay and shall keep them confidential. ETAS is not responsible for the consequences of misuse of user passwords.
 - 4.6 Where ETAS provides hosting itself or through its

subcontractors, ETAS shall make storage space available for Customer and Usage Data on ETAS's Server to the extent that this is required for the intended use of the Application. Further details on the scope of services of the storage space and on the storage of Customer Data can be found in the Service Description. If the Customer exceeds the agreed storage space, ETAS shall be entitled to charge the Customer for the additional storage space used.

- 4.7 If ETAS provides hosting itself or through its subcontractors, Customer Data will be stored and backed up by the hosting provider during the Contract Term in accordance with the SLA. If the Customer provides hosting itself or through a third party contracted by the Customer, the Customer is responsible for ensuring that its contract with the hosting provider contains sufficient provisions for the backup of Customer Data. The Customer shall be solely responsible for complying with any retention periods required of the Customer under commercial and tax law.

5. Not a Back-Up System

- 5.1 The Application is not designed to serve as a permanent storage system or as a back-up system. The Customer shall ensure that its data is transferred at regular intervals to systems to be provided by it for permanent storage. The Application shall provide a corresponding interface for this purpose.

6. Technical Availability of the Application and the Customer Data

- 6.1 ETAS owes the availability of the Application and of Customer Data at the Internet hubs of ETAS's data centre as agreed in the SLA. Except as otherwise agreed in the SLA, an availability of 98.5% per annum (calculated with effect from provision of the Application) shall be deemed agreed.
- 6.2 If the Application is not available on account of: (i) planned maintenance work (e.g. for updates and upgrades), (ii) other planned interruptions in operations, (iii) unplanned maintenance work for good cause or for other reasons for which ETAS is not responsible, such as malfunctions in the field of the provision, operation and support of the Customer's communications connection (communications sections outside ETAS's data centre), in particular due to a failure in Customer's Internet connection, then for the purposes of calculating the availability, the Application shall be deemed to have been available during these times.
- 6.3 ETAS shall owe the availability of the functionalities of the Application described in the SLA only if ETAS provides hosting itself or through its subcontractors, and if the system requirements also specified therein have been complied with by the Customer. The provision of clause 17 shall apply accordingly to changes to the system requirements and to changes to the technical system of ETAS.
- 6.4 ETAS is only responsible for the proper functioning

of ETAS's systems up to the Internet hubs of ETAS's data centre.

- 6.5 Notwithstanding clause 6.1, if the Application is made available free of charge, the Customer is not entitled to uninterrupted availability and/or error-free use of the Application. ETAS warrants in no event that the use of the Application will not be interrupted or impaired by downtime, maintenance activities, further developments, updates and upgrades or malfunctions.

7. Support

- 7.1 ETAS shall provide support as set out in the SLA.
- 7.2 Upon notification by the Customer of a defect or disruption of the usability of the Application, ETAS shall handle such incidents within the response times specified in the SLA. In the absence of a specification in the SLA, reasonable response times shall apply.
- 7.3 ETAS shall inform the incident ticket holder at regular intervals about the status of the incident resolution. If, however, the examination of the incident ticket by ETAS shows that a service or performance by Customer has caused the incident or other reasons for which ETAS is not responsible, the incident ticket shall be forwarded to the Customer. In this case Customer itself shall be responsible for resolving the problem. If, in this case, the use of the Application is restricted until the fault has been rectified, ETAS is not responsible for the resulting consequences, and the Customer remains obliged to pay the agreed remuneration.
- 7.4 The support, provision and implementation of Application updates as well as their execution shall be carried out by ETAS as required in accordance with the maintenance provisions for the Application in the SLA.

8. Other services by ETAS

- 8.1 During the Contract Term, ETAS shall provide the Customer with documentation for the Application in the current version in electronic form.
- 8.2 Additional services provided by ETAS, in particular support and integration services (for the Customer's systems and/or for plant/technical units) and consulting services, require a separate written agreement.

9. Usage Rights

- 9.1 ETAS grants to the Customer a non-exclusive, non-sub-licensable and non-transferable right and licence to use, and to permit the Authorised Users to use, the Application during the Contract Term in the Release Countries for the Customer's business operations, provided such use is in accordance with the Contract, the Service Description and the SLA. The Customer and the Authorised Users shall be entitled to save and print the documentation, retaining the existing copyright notices and, for the purposes of the Contract, to reproduce a reasonable number of copies thereof.

9.2 In relation to the Authorised Users, the Customer undertakes that:

- a) the Authorised Users comply with the provisions of these Terms;
- b) the maximum number of Authorised Users that it authorises to access and use the Application shall not exceed the number of Authorised Users agreed in the Contract;
- c) it shall maintain a written, up to date list of current Authorised Users and provide such list to ETAS within five (5) Business Days of ETAS' written request at any time;
- d) it shall permit ETAS or ETAS' designated auditor to audit the Customer's and each Authorised User's facilities to verify compliance with these Terms. This right shall be exercised with reasonable prior notice, in such a manner as not to substantially interfere with the Customer's and Authorised Users' normal conduct of business;
- e) if any of the audits referred to in clause 9.2(d) reveal that the Customer has underpaid ETAS, then without prejudice to ETAS' other rights, the Customer shall pay to ETAS an amount equal to such underpayment as calculated in accordance with the prices set out in the Contract within ten (10) Business Days of the date of the relevant audit.

9.3 The Customer shall not have any rights not explicitly granted to the Customer under these Terms. In particular, the Customer has no right to:

- a) use the Application and the Account beyond the scope of use agreed in these Terms;
- b) make the Application and the Account available to third parties including to any subsidiary or holding company of the Customer, or to permit third parties except the Authorised Users to use it, in particular not to lease it or loan it; or
- c) except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties
 - (i) attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Application in any form or media or by any means; or
 - (ii) attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Application.

9.4 Without prejudice to ETAS' right to terminate the Contract pursuant to clause 21, if the Customer breaches the provisions of this clause 9, ETAS may, after giving the Customer prior written notice, block the Customer's and/or any Authorised User's access to the Application if the violation can be remedied by such blocking. The block shall be lifted as soon as the reason for the block no longer exists. If the Customer continues to violate the provisions of clause 9 or does so repeatedly

despite a corresponding written warning, ETAS is, without prejudice to any other right it may have, entitled to terminate the Contract without notice.

9.5 ETAS is the sole owner of the Usage Data and may use and exploit it in anonymous form for any purpose in accordance with the applicable statutory provisions. The Customer warrants that it has not made any agreements with third parties that prevents its use.

10. Open Source and Third-Party Websites

10.1 The Application and any access software may contain Free and Open Source Software ("FOSS") components that are subject to FOSS license agreements ("FOSS-Licenses").

10.2 The FOSS components including the applicable FOSS-Licenses used in ETAS's Application shall be illustrated in the Service Description, in the SLA or in the Application itself, if providing via remote access explicitly requires the fulfilment of FOSS-License obligations.

10.3 The Customer acknowledges that the Application may enable or assist it to access the website content of, correspond with, and purchase products and services from, third parties via third-party websites and that it does so solely at its own risk. ETAS makes no representation, warranty or commitment and shall have no liability or obligation whatsoever in relation to the content or use of, or correspondence with, any such third-party website, or any transactions completed, and any contract entered into by the Customer, with any such third party. Any contract entered into and any transaction completed via any third-party website is between the Customer and the relevant third party, and not ETAS. ETAS does not endorse or approve any third-party website nor the content of any of the third-party website made available via the Application.

11. Intellectual Property

11.1. Except for Customer Data, the Customer acknowledges and agrees that ETAS and/or its licensors own all Intellectual Property rights in the Application, including but not limited to text, graphics, logos, button icons, images and audio clips, and the documentation. Except as expressly stated herein, these Terms do not grant the Customer any rights to, under or in, any patents, copyright, database right, trade secrets, trade names, trade marks (whether registered or unregistered), or any other rights or licences in respect of the Application or the documentation.

11.2. The Application may make use or may require the use of Standards, and/ or may comprise, make use or may require related software, supplied or provided by sub-suppliers, which may make use of third-party IP. Unless otherwise agreed, licenses to use such third-party IP and corresponding indemnifications for claims against Customer based on such third-party IP, are not part of ETAS' deliverables. Customer may be required to obtain licenses

from the owners of these third-party IP directly. "Standards" shall mean technical specifications or functions (i) adopted by a standards organization (inter alia ETSI or IEEE), (ii) defined by research institutes, industrial companies or other market participants to ensure technical conformity or compatibility, or (iii) established by common practice in a particular technical field.

11.3. ETAS shall not be liable for claims arising from an infringement of third-party IP either granted or applied for unless at least one IP from the IP family has been published either by the European Patent Office (EPO) or in one of the following countries: United Kingdom, Federal Republic of Germany, France, Austria or United States of America.

11.4. ETAS shall not be liable for any (alleged) infringement of third party IP if

- a) the IP are or were owned by the Customer or by its affiliates and which are necessary to perform ETAS's obligations towards the Customer under the Contract;
- b) the Customer is responsible for the infringement of the third-party IP;
- c) the Customer fails to support ETAS to a reasonable extent in the defence against third party claims;
- d) the Application was created in accordance with the Application description or instructions of the Customer;
- e) the (alleged) infringement of the third-party IP arises from use of the Application in conjunction with another product and/or service not originating from ETAS;
- f) the Application is used not in accordance with the Contract and these Terms.

11.5. The Customer shall notify ETAS immediately of any (alleged) infringement of a third-party IP which becomes known to it.

11.6. If a third party assert a claim against the Customer resulting from an (alleged) infringement of IP by the Application, the Customer shall, at ETAS's request and to the extent legally possible, allow ETAS to conduct any defence measures (including any judicial and/ or non-judicial means) or settlement negotiations with the respective third party.

11.7. Furthermore, ETAS shall be entitled, at its own discretion, to either obtain a right of use from the third party or to modify and/ or substitute parts of the Application, so that it no longer (allegedly) infringes the respective third party's IP or to terminate this Contract.

11.8. If the modification or substitution of parts of the Application carried out in accordance with clause 11.7 results in a perceptible restriction of the usability of the Application or other significant disadvantage to the Customer, the Customer shall have the right to object in writing to the modification or substitution no later than

60 days from receipt of any written notification indicating the modification/ substitution by ETAS, or 90 days from the actual implementation of the modification/ substitution, whichever occurs earlier. Should an objection be raised by the Customer within the aforementioned period, ETAS is entitled to terminate the Contract subject to a 30 days' written notice.

11.9. If ETAS is not able to obtain a right to use or to modify or substitute the Application or parts thereof to prevent continuing or future (alleged) infringement of the third-party IP rights on reasonable terms and/or within a reasonable period of time, either Party shall have the right to terminate the Contract by providing written notice to the other Party.

12. Customer Data

12.1 Customer hereby grants to ETAS the right to use, for the purpose of executing the Contract, the Customer Data filed in the storage space for use of the Application, in particular the right to reproduce such Customer Data for this purpose (e.g. for data back-up), to modify it and to provide such Customer Data for the purpose of accessing it.

12.2 Customer warrants that

- a) it and/or its licensors hold all rights to the Customer Data required for the granting of rights under these Terms;
- b) the Customer Data does not violate these Terms or applicable laws and does not infringe the Intellectual Property of a third party.

12.3 The Customer is responsible for the security of the Customer Data. Unless otherwise agreed in the Contract, Customer is obligated to regularly back up its Customer Data. Any data back-up by the Customer shall be carried out in such a way that the recovery of the Customer Data is possible at any time.

12.4 ETAS is entitled to immediately block Customer's use of the Application and the storage space if there is reasonable suspicion that the stored Customer Data is unlawful and/or infringes third-party rights. A suspicion is reasonable, including but not limited to, if courts, authorities and/or other third parties notify ETAS thereof. Insofar as legally permissible, ETAS shall inform the Customer of the block and the reasons. The block shall be removed as soon as the suspicion is invalidated.

13. Remuneration, Tax, Price Change

13.1 The amount of remuneration is specified in the Contract or an annex thereto (e.g. price list).

13.2 All prices are in the currency specified in the Contract plus Value Added Tax or any other tax of a similar nature in the applicable jurisdiction at the applicable amount levied in accordance with statutory law.

13.3 Unless otherwise agreed, all invoices from ETAS must be paid without any deductions to a bank

account specified by ETAS within 30 days of the receipt of an invoice.

- 13.4 Other services not covered by the remuneration agreed in the Contract shall be performed by ETAS on a time and materials basis at the general list prices of ETAS applicable at the time when the order was placed.
- 13.5 Each party will be responsible, as required under applicable law, for identifying and paying all taxes and other governmental fees and charges (and any penalties, interest, and other additions thereto) that are imposed on that party upon or with respect to the transactions and payments under the Contract.
- 13.6 All payments made by the Customer to ETAS under the Contract will be made free and clear of any deduction or withholding, as may be required by law. If any such deduction or withholding (including but not limited to cross-border withholding taxes) is required on any payment, Customer will pay such additional amounts as are necessary so that the net amount received by ETAS is equal to the amount then due and payable under the Contract. ETAS will provide Customer with such tax forms as are reasonably requested in order to reduce or eliminate the amount of any withholding or deduction for taxes in respect of payments made under the Contract.
- 13.7 For the first time after the expiry of a 12-month period from the conclusion of the Contract, ETAS is entitled to increase the contractual remuneration by giving three months' prior written notice to the end of a month, however such increase may not exceed ETAS's general list prices for comparable services valid at the time of such notification. Further increases of remuneration items so adjusted, may only be demanded after the expiry of a 12-month period since the last price adjustment. In the event of an adjustment of the remuneration, Customer may terminate the Contract giving six weeks' written notice to the date on which the adjustment of remuneration comes into effect, provided that the increase exceeds 10% of the last applicable prices.
- 13.8 Without prejudice to ETAS' right to terminate the Contract pursuant to clause 21, if the Customer fails to make any payment due to ETAS under the Contract by the due date for payment, ETAS may,
- a. after giving the Customer prior written notice, block the Customer's and/or any Authorised User's access to the Application. The block shall be lifted as soon as the full payment (including interest in accordance with clause 13.8 b.) has been made; and
 - b. charge the Customer interest on the overdue amount at the rate of 5% per annum above Barclays Bank's base lending rate from time to time. Such interest shall accrue on a daily basis from the due date for payment until the date of actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount; and
 - c. require all unpaid invoices to become

immediately due for payment.

14. Duties and Obligations of the Customer

- 14.1 Customer shall perform all cooperation duties required from Customer for the execution of the Contract. In particular, the Customer is obliged to:
- a) change all passwords issued by ETAS into passwords known only to the Customer, to keep usage and access authorisations assigned to the Customer secret, to protect them against access by third parties and not to disclose them to unauthorised users. Such data shall be protected by suitable and effective measures. The Customer shall notify ETAS immediately if it suspects that unauthorised persons might have obtained knowledge of access data and/or passwords;
 - b) create and maintain the system requirements described in the service description;
 - c) comply with the restrictions/obligations regarding the rights of use under clause 9 and to pursue any breaches of these obligations effectively and with the objective of preventing future breaches;
 - d) obtain the necessary consent of the persons concerned to the extent that personal data is collected, processed or used within the scope of the Application and no statutory or other permission applies;
 - e) check data and information for viruses and other malware prior to sending data and information to ETAS and to use anti-virus programs in accordance with the state of the art; and
 - f) notify ETAS by email of any defects in the contractual services immediately (no later than on the following working day) after becoming aware of them.
- 14.2 The Customer is not authorised and shall not permit others to:
- a) obtain access to non-public areas of the Application or to the technical systems on which the Application is based;
 - b) use any robot, spider, scraper or other similar data collection or extraction device, program, algorithm or methodology to scrape, search, access, acquire, copy, or monitor the Application outside of the documented API endpoints;
 - c) knowingly transmit Customer Data with viruses, worms, Trojan horses or other infected or harmful components, or to otherwise interfere with the proper functioning of the Application;
 - d) decrypt, decompile, disassemble, reconstruct or to otherwise attempt to discover the source code of the Application, any software or proprietary algorithms used, except to the extent permitted by mandatory applicable law;
 - e) test, scan, or examine the vulnerability of the Application, or

- f) intentionally use any device, software or routine to interfere with the application, function or usability of the Application or intentionally destroy, generate excessive load, harmfully interfere with, fraudulently intercept or capture any other data, system or communication.

15. ETAS' Obligations and Warranties

- 15.1 ETAS undertakes that the Application will be provided substantially in accordance with the Service Description and with reasonable skill and care.
- 15.2 In cases where ETAS is in breach of clause 15.1, ETAS will, at its expense, use reasonable endeavours to correct any such non-conformance or provide the Customer with an alternative means of accomplishing the desired performance, within the response times specified in the SLA. In the absence of a specification in the SLA, reasonable response times shall apply. Such correction or substitution constitutes the Customer's sole and exclusive remedy for any breach of clause 15.1.
- 15.3 ETAS does not warrant that:
- the Customer's use of the Application will be uninterrupted or error-free; or
 - that the Application, Service Description and/or the information obtained by the Customer through the Application will meet the Customer's requirements; or
 - the Application will be free from vulnerabilities or viruses.
- 15.4 ETAS is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the Internet, and the Customer acknowledges that the Application and Service Description may be subject to limitations, delays and other problems inherent in the use of such communications facilities.
- 15.5 These Terms shall not prevent ETAS from entering into similar agreements with third parties, or from independently developing, using, selling or licensing documentation, products and/or services which are similar to those provided under these Terms.
- 15.6 ETAS warrants that it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under these Terms.
- 15.7 If ETAS provides hosting itself or through its subcontractors, the Customer's sole and exclusive remedy against ETAS in the event of loss or corruption of Customer Data shall be for ETAS to use reasonable endeavours to restore the lost or corrupted Customer Data from the most recent back-up of that Customer Data retained by the hosting provider. ETAS shall not be responsible for any loss, corruption, destruction, alteration or disclosure of Customer Data caused by the Customer itself or any third party (except those third parties sub-contracted by ETAS to perform services related to Customer Data maintenance

and back-up for which it shall remain fully liable in accordance with these Terms) or if the Customer is providing the hosting itself.

16. Data Privacy

- 16.1 The Parties shall comply with the applicable provisions of data protection law and commit their employees engaged in connection with the contractual relationship and the execution thereof to data protection, except to the extent that they are already under a general obligation to act accordingly.
- 16.2 If the Customer processes personal data, then the Customer warrants that it is authorised to do so in accordance with applicable data protection regulations, and in the event of any infringement, the Customer shall indemnify ETAS against any third-party claims.
- 16.3 ETAS shall only process Customer Data to the extent required to fulfil the Contract. The Customer consents to the processing of such data to this extent.
- 16.4 To the extent that the Customer Data to be processed by ETAS qualifies as personal data and ETAS acts as a processor within the meaning of Art. 28 GDPR, the Parties shall enter into a data processing agreement. ETAS shall comply with the statutory requirements for processors and with the instructions of the Customer.
- 16.5 The obligations pursuant to clauses 16.1 to 16.4 shall continue to apply as long as Customer Data is being processed by ETAS, including after expiry of the Contract Term.

17. Changes to the Contract

- 17.1 ETAS reserves the right to modify Applications provided free of charge, to make new Applications available free of charge or on a fee basis, and to discontinue the provision of free Applications. ETAS will properly consider Customer's legitimate interests in doing so.
- 17.2 ETAS reserves the right to adapt these Terms, the SLA and paid Applications to changed technical or legal conditions or with regard to further developments or technical progress at any time, such adaptation also being effective with regard to existing Contracts, while retaining the basic functionality of the Application.
- 17.3 Unless changes are urgently required due to a significant impact on the security or usability of the Application, the Customer shall be notified of any changes at least 30 calendar days before they come into effect if the adaptation will limit the usability of previously generated data or other significant disadvantages (e.g. adaptation expenses). If the Customer does not object within 30 days of receipt of the notification or continues to use the Application after expiry of the objection period, the changes shall be deemed to have been accepted. If the Customer objects within the objection period, the Contract shall continue under the existing terms. However, ETAS is entitled to terminate the Contract by giving one (1) month

notice. The Customer will be informed of its right to object and of the consequences of doing so in the notification of changes.

18. Confidentiality

- 18.1 The Customer shall not at any time use, duplicate, commercially exploit or disclose to any person any Confidential Information, except as permitted by clause 18.2.
- 18.2 The Customer may disclose ETAS's Confidential Information:
- a) to those of its employees who need the Confidential Information in order to make use of the Application in the ordinary course of the Customer's business; or
 - b) if the Customer has obtained prior written consent from ETAS; or
 - c) as may be required by law, court order, governmental or regulatory authority.
- 18.3 The Customer shall ensure that its employees whom it discloses ETAS' Confidential Information comply with this clause 18.
- 18.4 At ETAS' reasonable request, the Customer shall immediately return, destroy or erase all Confidential Information (including any copies) it holds about ETAS.
- 18.5 Without prejudice to any other rights or remedies that ETAS may have, the Customer acknowledges and agrees that damages alone would not be an adequate remedy for any breach of this clause 18 by the Customer. Accordingly, ETAS shall be entitled, without proof of special damages, to the remedies of injunction, specific performance or other equitable relief for any threatened or actual breach of this clause 18.

19. Force Majeure

- 19.1 Neither Party shall be liable for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is caused by a Force Majeure Event (save for the Customer's obligation to pay for the Application).
- 19.2 In the event a Force Majeure Event takes place, the time for performance of any obligations impacted by the Force Majeure Event shall be extended accordingly.
- 19.3 If the Force Majeure Event prevails for a continuous period of more than 28 days, ETAS may terminate the Contract by giving 20 Business Days' written notice to the Customer. On the expiry of this notice period, the Contract will terminate. Such termination shall be without prejudice to the rights of the Parties in respect of any breach occurring prior to such termination.

20. Liability

- 20.1 The Customer assumes sole responsibility for results obtained from the use of the Application and Service Description by the Customer, and for

conclusions drawn from such use. ETAS shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to ETAS by the Customer in connection with the Application, or any actions taken by ETAS at the Customer's direction.

- 20.2 All warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from the Contract.
- 20.3 The Application is provided to the Customer on an 'as-is' basis.
- 20.4 Nothing in these Terms shall limit or exclude ETAS' liability under the Contract for:
- a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable); or
 - b) fraud or fraudulent misrepresentation; or
 - c) any matter in respect of which it would be unlawful for ETAS to exclude or restrict liability.
- 20.5 Subject to clause 20.4, ETAS shall not be liable to the Customer for any:
- a) loss of profit (whether direct or indirect) whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract; or
 - b) indirect or consequential loss whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract; or
 - c) ex gratia or other compensatory payments made to a third party by the Customer or on the Customer's behalf, arising under or in connection with the Contract.
- 20.6 In the event of loss of or damage to data and/or programmes, ETAS shall not be liable for the cost of restoring them. The Customer is responsible for regular data and programme backups.
- 20.7 Subject to clauses 20.4 to 20.6, ETAS' total liability to the Customer in respect of all other losses (including indemnified losses) arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall not exceed the total remuneration paid in accordance with clause 14 during the 12 months immediately preceding the date on which the claim arose.

21. Term, Termination

- 21.1 Except as otherwise agreed in writing, the Contract shall have an Initial Term of one (1) year. The Contract shall automatically renew for successive twelve (12) months periods (the "Renewal Term") unless terminated in writing by either party by giving three (3) months' written notice prior to the end of the Initial Term or any Renewal Term. The Initial Term together with any subsequent Renewal Term shall be the Contract Term.

- 21.2 Without prejudice to any other rights or remedies it may have, ETAS may immediately terminate the Contract if
- a) the Customer commits a serious breach of the Contract and, in the case of a breach which is capable of remedy, fails to remedy the breach within ten (10) Business Days of receiving notice from ETAS giving details of the breach and requiring it to be remedied; or
 - b) Customer is in default of payment of the remuneration or of a significant part of the remuneration pursuant to clause 13 for two successive months, or if, in a period covering more than two months, the Customer is in default of payment in respect of the remuneration in an amount equal to the remuneration for the two months prior to notification of termination; or
 - c) there is a change of control of the Customer (within the meaning of section 1124 of the Corporation Tax Act 2010); or
 - d) ETAS becomes aware or is of the reasonable opinion that the Customer is in breach of the Bribery Act 2010; or
 - e) the Customer commits any act or omission that in the sole opinion of ETAS adversely affects ETAS' goodwill, damages the reputation of ETAS or otherwise brings ETAS into disrepute.
- 21.3 Upon termination of the Contract all authorisations and registrations of the Customer under this Contract, including Customer User Authorisations shall simultaneously end automatically.

22. Obligations upon Termination of the Contract

- 22.1 On termination of the Contract for any reason:
- a. the Customer shall immediately pay to ETAS all outstanding unpaid invoices and interest, and in but for which no invoice has been submitted, ETAS shall submit an invoice, which shall be payable by the Customer immediately on receipt; and
 - b. the Customer shall promptly:
 - (i) stop using the Application and stop permitting Authorised Users using the Application;
 - (ii) return to ETAS all documents and materials (and any copies) containing ETAS' Confidential Information;
 - (iii) erase all of ETAS' Confidential Information from its computer systems (to the extent possible); and
 - (iv) on request, certify in writing to ETAS that it has complied with the requirements of this clause.
- 22.2 Where ETAS is responsible for providing the hosting service through a third party provider, the hosting service shall cease upon termination of the Contract and no data shall be retained in the Application after termination. The Customer is

obliged to export and save the Customer Data on its own responsibility in good time before termination of the Contract. At the Customer's request and for a fee to be agreed separately, ETAS will support the Customer prior to termination of the Contract. Where the Customer is responsible for the hosting service, the availability of the data after termination is the responsibility of the Customer.

- 22.3 On termination of the Contract, clauses which expressly or by implication have effect after termination shall continue in full force and effect.

23. Foreign Trade

- 23.1 Each Party is entitled to refuse to perform its obligations under the Contract insofar as the foreign trade law, including, without limitation, national and international (re-)export control and customs regulations, including embargos and other sanctions, which is applicable to the Contract and/or the performance of the Contract (hereinafter "**Foreign Trade Law**") render impossible or prohibit the fulfilment of obligations under the Contract. In such cases, either Party is entitled to terminate the Contract in whole or in part to the extent that the Foreign Trade Law makes it impossible or prohibits the proper fulfilment of obligations under the Contract. If, in the event of partial termination, a partial performance is excluded for technical or legal reasons or if one party has no interest in a partial performance, the termination will end the Contract in its entirety.
- 23.2 In case of delay in the performance of obligations under the Contract caused by licensing, authorisation or similar requirements under Foreign Trade Law (hereinafter "**Authorisation**"), the agreed deadlines and dates shall be extended/postponed by the period between the conclusion of the Contract and the granting of the Authorisation. In the event an Authorisation be denied or not granted within 12 months after filing the application, either Party is entitled to terminate or rescind from the Contract in whole or in part insofar as the performance of the obligation requires this Authorisation. If a partial performance is excluded for technical or legal reasons or if one Party has no interest in a partial performance, the termination will end the Contract in its entirety.
- 23.3 Each Party shall notify the other Party within a reasonable time period upon becoming aware of a Foreign Trade Law, which may prohibit or render impossible performance according to clause 23.1, or delay performance according to clause 23.2.
- 23.4 Upon request, the Customer shall provide any information and documents that ETAS requires to comply with Foreign Trade Law or that authorities request from ETAS. This includes information and documentation including, without limitation, on the end user, the destination and the intended (end-)use of the deliveries, services and/or technologies. ETAS may, in its sole discretion, refuse to perform its obligations under the Contract or terminate the Contract, if the Customer does not provide ETAS with such information or documents within a

reasonable time period set by ETAS.

- 23.5 In the event that the Customer provides to any third party (specifically including any affiliate of the Customer) any deliveries, services and/or technologies, the Customer shall comply with applicable Foreign Trade Law, insofar as Customer's non-compliance could lead to a violation of ETAS' obligations to act or to refrain under Foreign Trade Law.
- 23.6 ETAS is entitled to refuse to perform its obligations under the Contract to the extent that Customer's breach of duty could lead to a breach of ETAS' obligation to act or refrain under Foreign Trade Law, or to terminate the Contract for cause, if the Customer breaches this obligation.
- 23.7 Insofar as the Customer purchases products or technologies from ETAS that fall under the scope of Article 12g of Regulation (EU) No. 833/2014 or Article 8g of Regulation (EC) No. 765/2006 as amended, the following shall apply:
- a. The Customer shall not sell, export or re-export, directly or indirectly, to the Russian Federation or Belarus or for use in the Russian Federation or Belarus any goods or technology supplied under or in connection with the Contract that fall under the scope of Article 12g of Council Regulation (EU) No 833/2014 or Article 8g of Regulation (EC) No. 765/2006, as amended from time to time.
 - b. The Customer shall undertake its best efforts to ensure that the purpose of clause 23.7 a. is not contravened by any third parties further down the commercial chain, including by possible resellers.
 - c. The Customer shall set up and maintain an adequate monitoring mechanism to detect conduct by any third parties further down the commercial chain, including by possible resellers, that would frustrate the purpose of clause 23.7 a.
 - d. If the Customer breaches clause 23.7 a., 23.7 b. or 23.7 c., this shall entitle ETAS to immediately cease further deliveries or services to the Customer and to terminate the Contract and any contracts concluded under the Contract or these Terms at any time, insofar as these have not yet been fully performed. In this case, a previous warning letter to be issued before the termination notice shall not be required. This shall not affect other termination rights or remedies available to the parties whether under the Contract, these Terms or otherwise.
 - e. The Customer shall immediately inform ETAS about any problems in applying clauses 23.7 a, 23.7 b. or 23.7 c., including any relevant activities by third parties that may contravene the purpose of clause 23.7 a. The Customer shall make available to ETAS information concerning compliance with the obligations under clauses 23.7 a, 23.7 b. and 23.7 c. within two weeks of the simple request of such information.

- 23.8 For delivery of goods across customs borders to ETAS, the Customer is obliged to provide ETAS with all required documents and information such as commercial invoice and delivery note, for a complete and correct import customs declaration to the shipment. In the case of free of charge deliveries to ETAS, the Customer is obliged to declare a value, which reflects a fair market price as well as the note "For Customs Purpose Only" in the pro forma invoice. The value has to contain all components of the good such as hardware and respectively software.
- 23.9 Unless explicitly agreed otherwise in written form in the delivery or quotation documents, the customs-cross-border supply or provision of software, technology or other data (e.g. map data) shall be performed exclusively by electronic means (e.g. e-mail or download). This clause does not cover the supply of embedded software (software which is flashed on hardware).

24. Other important Information

24.1 Assignment

- a) ETAS may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.
- b) Unless explicitly stipulated otherwise in these Terms, the Customer may not assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract without the prior written consent of ETAS.

24.2 Notices

- a) Any notice or other communication given to a party under or in connection with the Contract shall be in writing. Termination notices and notifications of a breach shall be delivered personally, sent by pre-paid first-class post, or recorded delivery addressed to:

For ETAS Limited: c/o Robert Bosch UK Holdings Limited, C/LSR-GB, PO Box 1092, Uxbridge, UB8 9UX; and

For the Customer: at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as the Customer has specified to ETAS in writing in accordance with this clause.
- b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 24.2 a); or if sent by pre-paid first-class post or recorded delivery, at 9.00 am on the second Business Day after posting.

24.3 The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

24.4 Severance

- a) If any court or competent authority finds that

any provision of these Terms and/or the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.

- b) If any invalid, unenforceable or illegal provision of these Terms and/or the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

- 24.5 Except as expressly provided in these Terms, the rights and remedies provided under these Terms are in addition to, and not exclusive of, any rights or remedies provided by law.
- 24.6 A waiver of any right or remedy under these Terms and/or the Contract is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under these Terms and/or the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.
- 24.7 A person who is not a party to the Contract shall not have any rights under or in connection with it.
- 24.8 Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, nor authorise any party to make or enter into any commitments for or on behalf of any other party.
- 24.9 The Contract, these Terms and any dispute or claim arising out of or in connection with them or their subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.

ETAS Limited