

Appendix E to DIR Contract No. DIR-TSO-2613

SERVICE LEVEL SCHEDULE

This **SERVICE LEVEL SCHEDULE** (this “**Schedule**”) is made effective as of [REDACTED], 20[REDACTED] (the “**Schedule Date**”), by and between **ETAN INDUSTRIES, LLC** (“**ETAN**”), and [REDACTED], [a/an] [REDACTED] (“**Customer**”). ETAN and Customer are individually a “**Party**” and collectively the “**Parties**.”

A. ETAN and Customer have entered into a Technology Agreement, dated effective as of [REDACTED], 20[REDACTED] (the “**Technology Agreement**”).

B. The Technology Agreement provides that ETAN shall provide service level commitments to Customer in accordance with a service level schedules (if any) agreed to by the Parties in writing from time to time (each a “**Service Level Schedule**”).

C. ETAN and Customer intend that this Schedule be a Service Level Schedule for purposes of the Technology Agreement.

NOW THEREFORE, in consideration of the terms and conditions of this Schedule and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties, intending to be legally bound, agree as follows:

1. **Definitions.** The following definitions apply for purposes of this Schedule. In addition, capitalized terms that are used but not defined in this Schedule have the meanings given to such terms in the Agreement.

1.1 “**After Hours**” means all hours other than Business Hours.

1.2 “**Business Hours**” means 8 a.m. to 5 p.m. on Business Days.

1.3 “**Customer Support Contacts**” means up to three employees of Customer who are designated as “Customer Support Contacts” in writing by Customer. Customer shall be entitled to change the Customer Support Contacts upon written notice to ETAN using communication methods and contact information agreed to by the Parties.

1.4 “**Error**” means a failure of a Purchased Item to substantially comply with the manufacturer’s written specifications (if any) for such Purchased Item.

1.5 “**Major Incident**” means an Error that has a critical impact on the use of, or access to, the Purchased Items, resulting in the inability to continue to use or access the Purchased Items as required or intended. There is no reasonable workaround, and such Error is potentially catastrophic in nature. The business impact to Customer is severe, creating a stop point in major and essential business processes. Essential business processes of the Purchased Items cannot continue until a solution to the Error is implemented.

1.6 “**Minor Incident**” means an Error that has a moderate restriction on the use of, or access to, the Purchased Items, resulting in the restricted ability to continue to use or access the Purchased Items as required or intended.

1.7 A “**Routine Incident**” is an Error that has a slight restriction on the use of, or access to, the Purchased Items, resulting in the ability to continue to use or access the Purchased Items as required or intended.

1.8 “**Support**” means ETAN’s being available to (i) answer questions from, and provide general advice to, the Customer Support Contacts concerning the Purchased Items and (ii) receive reports from the Customer Support Contacts of possible Errors concerning the Purchased Items and using commercially reasonable efforts to correct such actual Errors.

2. **Support.** ETAN shall be available by telephone and an online ticketing system to provide Support to the Customer Support Contacts during Business Hours; additionally, ETAN shall be available by pager to provide Support to the Customer Support Contacts for Major Incidents occurring After Hours. Customer shall use reasonable efforts to troubleshoot any possible Error prior to requesting Support from ETAN.

3. Support Requests.

2.1 Procedure.

(a) Each request for Support by Customer in accordance with Section 2 is a “**Support Request.**” Customer shall use reasonable efforts to cause the following information, and any other information reasonably requested by ETAN, to be presented to ETAN at the time a Support Request is first submitted by Customer to ETAN for processing:

(i) The name, telephone number, and email address of the Customer Support Contact submitting the Support Request;

(ii) The Purchased Item(s) to which the Support Request relates; and

(iii) If the basis of the Support Request is a possible Error concerning a Purchased Item, a brief description of the possible Error and the context in which such possible Error arose.

(b) Upon ETAN’s receipt of each Support Request, ETAN shall (i) log such Support Request in ETAN’s support log, (ii) assign such Support Request a unique tracking number, and (iii) use reasonable attempts to promptly address the Support Request. If ETAN is unable to promptly address any Support Request, then ETAN shall contact the appropriate third party vendor (if applicable) to assist in addressing such Support Request. In such event, ETAN shall manage such third party vendor’s efforts until the matter is resolved.

(c) Customer must ensure that Customer provides all reasonable information and assistance, at no cost to ETAN, necessary for the supply of the Support. This information comprises details about possible log files, protocols, test or real data, detailed description of the system’s environment, monitoring, data storage, and assistance in trouble shooting. When appropriate, Customer may be asked to provide physical and/or remote access to Customer’s facilities and systems.

2.2 Software Loaded on Purchased Items. Customer shall be solely responsible for maintaining all software loaded by the Customer on the Purchased Items, or for software that the Customer is providing the licenses, including the installation of all bug fixes, error corrections, patches, updates, enhancements, and upgrades to such software.

2.3 **Excluded Items.** Support does not include, Customer specifically assumes the costs arising out of, ETAN shall not be responsible for, and ETAN is not required to provide any Support arising out of, (i) any software loaded on the Purchased Items, (ii) any changes to the software loaded on the Purchased Items that adversely affect the Purchased Items, (iii) use of any Purchased Item in a manner for which it was not designed, (iv) Customer's supplies, (v) Customer's accident, negligence, or misuse of the Purchased Items, (vi) Customer's access to, or use of, the Internet, or (vii) Errors, troubleshooting, or other problems resulting from Customer's actions or omissions attributable to Customer's access to the Purchased Items, including root level or administrative level access to the Purchased Items.

3. **Uptime.**

3.1 **Availability.** ETAN shall use commercially reasonable efforts to make the Purchased Items available 99.9% of the time as measured on a monthly basis (the "**Availability**"); provided, however, that the calculation of Availability shall not include downtime resulting from any (i) support or maintenance conducted After Hours, (ii) any excluded items listed or described in Section 2.3, or (iii) planned outages about which Customer receives notice at least 48 hours in advance and lasting no longer than six (6) hours.

3.2 **Service Level Credit.** Customer shall receive a service level credit for each month that the Availability is less than 99.9% (the "**Service Level Credit**"). The Service Level Credit shall be applied during the following month and shall be equal to 1% of the Technology Fees during the affected month attributable to the affected Purchased Item(s) for each 0.1% that the Availability during the affected month is less than 99.9%; provided. If the DIR customer implemented all the high-availability and redundancy options recommended by ATSCloud, the maximum Service Level Credit for any month shall not exceed 100% of the Technology Fees during the affected month attributable to the affected Purchased Item(s). If the DIR Customer did not implement all the recommended high-availability and redundancy options recommended by ATSCloud, the maximum Service Level Credit for any month shall not exceed 10% of the Technology Fees during the affected month attributable to the affected Purchased Item(s). The following are provided as illustrations only of the calculation of the Service Level Credit, assuming all the recommendations were implemented:

(a) Assume that the Availability for a month (as determined in accordance with Section 3.1) is 99.5%. In such a case, Customer would receive a Service Level Credit for the following month equal to 4% of the Technology Fees during the affected month attributable to the affected Purchased Item(s).

(b) Assume that the Availability for a month (as determined in accordance with Section 3.1) is 98.0%. In such a case, Customer would receive a Service Level Credit for the following month equal to 19% of the Technology Fees during the affected month attributable to the affected Purchased Item(s).

4. **Response Times.** Upon ETAN's receiving a Support Request regarding a possible Error, ETAN shall designate such possible Error as being (i) a Major Error, (ii) a Minor Error, or (iii) a Routine Error. ETAN shall address such possible Error in accordance with the following:

4.1 **Major Error.** ETAN shall (i) respond to Customer by telephone or electronic mail within two hours (on a 24 hour, seven days a week basis) following ETAN's receiving a Support Request regarding a Major Error and (ii) assign the appropriate personnel to commence efforts to correct the Error. If the Error is not corrected within one Business Day following ETAN's receiving the Support Request, then ETAN shall telephone or email the Customer (and at least once each Business Day thereafter until the Error is corrected), describe in detail the efforts underway, and give a status report.

4.2 Minor Error. ETAN shall (i) respond to Customer by telephone or electronic mail within four Business Hours following ETAN's receiving a Support Request regarding a Minor Error and (ii) assign the appropriate personnel to commence efforts to correct the Error. If the Error is not corrected within two Business Days following ETAN's receiving the Support Request, then ETAN shall telephone or email the Customer (and at least once each Business Day thereafter until the Error is corrected), describe in detail the efforts underway, and give a status report.

4.3 Routine Error. ETAN shall respond to Customer by telephone or email within two Business Days following ETAN's receiving a Support Request regarding a Routine Error. ETAN shall thereafter assign the appropriate personnel to commence efforts to correct the Error in accordance with ETAN's standard Error correction efforts for Routine Errors. If the Error is not corrected within ten Business Days following ETAN's receiving the Support Request, then ETAN shall telephone Customer (and at least once each five Business Days thereafter until the Error is corrected), describe in detail the efforts underway, and give a status report.

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This Schedule is entered into by the Parties to be effective on the Schedule Date.

ETAN:

ETAN INDUSTRIES, LLC

By: _____

Name: _____

Title: _____

CUSTOMER:

[REDACTED], [a/an] [REDACTED]

By: _____

Name: _____

Title: _____