PTC Cloud/SaaS Services Terms and Conditions

These Cloud/SaaS Services Terms and Conditions ("Services Terms") set forth the terms and conditions pursuant to which PTC provides Cloud Services and/or SaaS Services (collectively, "Services") to customers ("Customer"), as specified in a quote from PTC or a PTC Reseller to Customer that references these Services Terms ("Quote"). Capitalized terms used in this Agreement but not defined in the body of these Services Terms have the meanings set forth in Exhibit A.

1. Documents Making Up this Agreement

This agreement ("Agreement") consists of the following documents:

- The Quote
- The Cloud and SaaS Offering Specific Provisions and the Licensing Basis Document
- Additional/Different Cloud/SaaS Terms for Customers Outside of the United States of America
- These Services Terms
- The PTC Services Security and Support Document

In the event of conflict between the above documents, the documents higher in the list above shall supersede those lower in the list.

2. Services

(a) <u>Services</u>. During the Service Period PTC will: (i) manage the Hosted Software and the Hosted Data on the Hosted System and make it available to Customer via remote internet access, and (ii) allow Users to access and modify the Hosted Data, and store additional Hosted Data, through Customer's use of the Hosted Software. If a Quote identifies a Service or environment as being "developer", "development", "sandbox", "demo", "evaluation" or similar non-production service or environment, then Customer will use such Service or the applicable environment only for non-production purposes.

(b) <u>Use of the Services</u>. Customer may access and use the Services only to the extent of authorizations acquired by Customer, as specified in the Quote. Customer is responsible for use of the Services by all Users that access the Services with Customer's account credentials. The Services may not be used for unlawful, obscene, offensive or fraudulent content or activity. If there is a complaint or notice of violation, use and access may be suspended until resolved. Customer shall not and shall not permit any third party(ies) to: (i) use the Services, or permit them to be used, for third-party training, to deliver software implementation or consulting services to any third parties, or for commercial time-sharing or service bureau use; or (ii) copy, download or otherwise reproduce the Hosted Software in whole or in part.

3. Availability SLA

(a) PTC shall monitor the availability of the Hosted System 24/7. The availability of the production environment(s) of the Services will be 99.5% of each calendar quarter, excluding Excused Downtime.

(b) PTC's and its licensors' entire liability and Customer's exclusive remedy for any breach by PTC of the obligation in Section 3(a) shall be to credit to Customer a portion of its fees for the quarter during which such breach of obligation occurred, which credit shall be equal to the fees under this Agreement for such quarter multiplied by the Downtime Percentage. Such credit will be applied against any outstanding or future fees due under these Service Terms during the then current Service Period. If Customer fails to make a written request for a credit under this provision within ten business days after the end of the applicable Transaction Outage, no credit shall be due to Customer.

4. Fees, Billing and Payment

(a) <u>Committed Fees</u>. Customer shall pay PTC (directly or through a Reseller) the committed fees (e.g., the set-up fees and the committed recurring fees) specified in the Quote.

(b) <u>Overages</u>. PTC shall measure Customer's usage of the Services (e.g., number of Users by User type, amount of inventory managed, or such other fee basis as is applicable to the Services purchased by Customer) on a monthly basis. If the peak usage exceeds the quantity purchased, Customer shall be charged and shall pay the applicable monthly fee for such excess usage as set forth in the Quote.

(c) <u>Storage Overage</u>. PTC shall monitor Customer's Storage. In any month where Customer's peak Storage exceeds the committed Storage amount, Customer shall be charged the applicable fee(s) for the Storage overage at the rates specified in the Quote.

(d) <u>Taxes</u>. Fees do not include sales, use, value added or other excise tax. Customer shall pay or (if paid by PTC or Reseller) reimburse PTC and/or Reseller for all such taxes.

(e) <u>Overdue Amounts</u>. Amounts not paid when due shall be subject to interest at one percent (1%) per month or, if less, the maximum rate of interest allowed by law, calculated from the due date. In addition, PTC may suspend Customer's access to the Services in the event that Customer is overdue in payments under this Agreement and does not make full payment of the amount owed within fifteen days after notice thereof by PTC.

(f) <u>Purchase Orders</u>. Other than the line items that serve to order the Services, in no event shall any other terms of any purchase order or other document issued by the Customer modify or become part of this Agreement or become binding on PTC.

5. Indemnification. PTC, at its own expense, will defend any action brought against Customer based on a claim that the Services and/or Hosted Software infringe a third party patent, copyright or trademark and, at its option, will settle any such action or will pay any final judgment awarded against Customer, provided that: (i) PTC shall be notified promptly in writing by Customer of any notice of any such claim; (ii) PTC shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise and shall bear the costs of the same; and (iii) Customer shall cooperate fully at PTC's expense with PTC in the defense, settlement or compromise of such claim. If a claim described in this Section 5 occurs or, in PTC's opinion, may occur, PTC may terminate the Services and grant Customer a credit equal to the unused, prepaid Services fees paid for the applicable terminated portion of the Services. This Section 5 states PTC's sole and exclusive liability, and Customer's sole remedy, for any and all claims relating to infringement of any intellectual property rights.

6. Ownership and Confidentiality. Ownership of the Hosted Software and Services, any related documentation, copies, modifications and derivatives of the foregoing or documentation (in whole or in part), and all related copyright, patent, trade secret and other proprietary rights, are and will remain the exclusive property of PTC and/or its licensors. Customer shall not and shall not attempt to (a) reverse engineer the Hosted Software or derive its algorithms from its use; (b) created derivative works of the Hosted Software; or (c) authorize or permit a third party to access the Services using Customer issued logins or passwords. All non-public information regarding the Hosted Software and its performance, including any analyses and benchmarking that Customer may perform, shall be deemed the confidential information of PTC and Customer shall not disclose to any third party or use for any purpose other than exercising its rights hereunder.

7. Hosted Data

(a) PTC shall take commercially reasonable steps, or cause such commercially reasonable steps to be taken, designed to prevent security breaches. Customer agrees that the Hosted Data will not include: (i) any information, or documents or technical data that are classified, ITAR controlled or otherwise have been determined by the United States Government or by a foreign government to require protection against unauthorized disclosure for reasons of national security (provided, however, that this restriction shall not apply with respect to ITAR controlled data if the Quote so specifies), and/or (ii) any data that is "protected health information, including any medical, demographic, visual or descriptive information that can be used to identify a particular patient/individual" and/or any other data subject to the U.S. "Health Insurance Portability & Accountability Act of 1996" and regulations promulgated under that Act (collectively "HIPAA").

(b) PTC shall treat all Hosted Data as confidential and shall only use the Hosted Data to (i) provide the Services (including reporting to Customer on their use of the Services), (ii) monitor Customer's use of the Services for security and technical support purposes and for validating Customer's compliance and usage limitations, and for purposes of otherwise complying with PTC's obligations to Customer, and (iii) share with any PTC subcontractors who need to know such information in order to provide the Services, provided that they are bound by similar confidentiality obligations. For purposes of clarity, PTC's obligation to keep such Hosted Data confidential shall not apply to information that PTC is required to disclose by law (but only to the extent of such required disclosure).

(c) Customer acknowledges that the information Customer enters into the Hosted Software and Hosted System may be transferred outside the European Economic Area for the purposes of data processing by PTC, its subsidiaries, and its affiliated Companies. All personal data received, or collected by PTC in connection with the performance of the Hosted Services will be processed in accordance with PTC's privacy policy (http://www.ptc.com/policies/privacy). Any personal data received or collected by PTC's affiliates in the European Union (EU) shall be processed in accordance with the EU Data Protection legislation. PTC Inc. and PTC's EU affiliates have entered EU Standard Model Clauses for the transfers of personal data by PTC's affiliates to PTC Inc. and PTC's non-EU affiliates. PTC Inc. has certified to the Safe Harbor Framework between the United States and the European Union, and to the Safe Harbor Framework between the United States and Switzerland. Where the personal information is that of a third party, Customer certifies that it has obtained that information pursuant to applicable data protection laws and has obtained all necessary authorizations and consents with respect to such information.

8. Term and Termination

(a) The initial Services Period and any renewal provisions shall be as specified in the Quote. Either party may terminate the Services if the other party breaches the terms set forth herein or in the Quote and fails to remedy such breach within thirty (30) days after written notice thereof from the non-breaching party. For Cloud Services only (and not for SaaS Services), Customer may upon ninety (90) days' written notice terminate the Cloud Services and upon such termination, Customer may install the Hosted Software on its own or third party premises without penalty under and subject to the terms and conditions of the applicable software license agreement referenced in the quote in which the license associated with such Cloud Services was purchased.

(b) Sections 4 through 10 shall survive termination or expiration of the Services.

9. Warranty/Disclaimer of Warranty/Limitations of Liability

(A) PTC warrants that the Hosted Software shall function substantially in accordance with the then applicable documentation accompanying the Hosted Software. In the event of any breach of this warranty, PTC's sole obligation, and Customer's sole remedy, shall be for PTC to use commercially reasonable efforts to (a) fix or replace the Hosted Software so that it conforms to this warranty; (b) identify or make available a work-around or alternative approach that achieves substantially the same result or functionality; or, if PTC fails to resolve as described in (a) or (b) above, then for PTC to terminate this Agreement and refund Customer the monthly or other reoccurring Service fees paid by Customer for the period after the date Customer reported such breach of warranty to PTC.

(B) EXCEPT AS EXPLICITLY STATED HEREIN, PTC DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, WRITTEN OR ORAL, INCLUDING ANY WARRANTY OF SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, AND/OR NON-INFRINGEMENT, AND/OR ANY WARRANTY WITH RESPECT TO THE SECURITY OF THE SERVICES OR THAT HOSTED DATA WILL NOT BE DESTROYED, LOST, INTERCEPTED, OR ALTERED BY UNAUTHORIZED PERSONS. PTC DOES NOT WARRANT THAT THE OPERATION OR OTHER USE OF THE HOSTED SOFTWARE WILL BE UNINTERRUPTED OR ERROR FREE OR WILL NOT CAUSE DAMAGE OR DISRUPTION TO HOSTED DATA.

(C) EXCEPT UNDER SECTION 5 ABOVE, PTC'S AND ITS LICENSORS' MAXIMUM AGGREGATE LIABILITY FOR ALL CLAIMS OR LIABILITIES ARISING HEREUNDER OR OUT OF, OR RELATING TO, THE CREATION, LICENSE, SUPPLY, FAILURE TO SUPPLY OR USE OF THE SERVICES OR OTHERWISE RELATING TO THESE SERVICES TERMS, WHETHER BASED UPON WARRANTY, CONTRACT, TORT, OR OTHERWISE, SHALL NOT EXCEED THE FEES PAID TO PTC FOR THE SERVICES DURING THE TWELVE MONTH PERIOD PRIOR TO THE EVENTS THAT GAVE RISE TO THE APPLICABLE CLAIM. IN NO EVENT SHALL PTC, ITS SUBSIDIARIES OR AFFILIATES, ITS LICENSORS OR ANY OF THEIR DIRECTORS, OFFICERS, EMPLOYEES OR AGENTS BE LIABLE FOR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, BUSINESS INTERRUPTION, LOSS OF USE OF DATA AND ANY LOSS CAUSED BY THE INTERRUPTION, TERMINATION OR FAILED OPERATION OF THE INTERNET, THIRD PARTY TELECOMMUNICATION SERVICES OR THIRD PARTY SECURITY FEATURES OR SYSTEMS), EVEN IF PTC HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. CUSTOMER AGREES NOT TO BRING ANY SUIT OR ACTION AGAINST PTC AND/OR ITS DIRECTORS, OFFICERS, EMPLOYEES OR AGENTS FOR ANY REASON WHATSOEVER MORE THAN ONE YEAR AFTER THE CAUSE OF ACTION ARISES. THE LIMITATIONS AND EXCLUSIONS SET FORTH IN THIS SECTION 9 SHALL NOT APPLY TO ANY CLAIM IN RESPECT OF DEATH OR PERSONAL INJURY IF CONTRARY TO ANY APPLICABLE LAW.

10. **General**

(a) <u>Governing Law and Jurisdiction</u>. All disputes arising under this Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts. All disputes arising under, out of, or in any way connected with this Agreement shall be litigated exclusively in the state or federal courts situated in the Commonwealth of Massachusetts, and in no other court or jurisdiction.

(b) <u>Force Majeure</u>. PTC shall not be in default of its obligations to the extent its performance is delayed or prevented by causes beyond its control.

(c) <u>Export</u>. Customer hereby warrants and represents that neither Customer nor any Users are listed on the U.S. Commerce Department's Denied Persons List, Entity List, or Unverified List, the U.S. State Department's Nonproliferation Sanctions List, or the U.S. Treasury Department's List of Specially Designated Nationals and Blocked Persons or the Sectoral Sanctions Identifications (SSI) List (each a "List", and collectively the "Restricted Party Lists"). The Restricted Party Lists can be found at: http://export.gov/ecr/eg_main_023148.asp. Customer shall not export or re-export, directly or indirectly, or provide to any other person or entity for export or re-export, or provide access to, the Services without first complying with all U.S. and applicable foreign export control regulations, including, without limitation, obtaining any necessary export or re-export consent from the U.S. Department of Commerce or other governmental authority.

(d) <u>Marketing</u>. Customer agrees that while this Agreement is in effect, PTC shall be authorized to identify Customer as a customer/end-user of PTC software and services (as applicable) in public relations and marketing materials.

(e) <u>Notices</u>. Notices under this Agreement shall be in writing and, if to PTC, delivered to PTC's General Counsel, and if to Customer, to the address specified in the Quote.

(f) <u>Assignment, Waiver, Modification</u>. Customer may not assign, transfer, delegate or sublicense any of Customer's rights or obligations under these Services Terms without PTC's prior written consent. Any such attempted delegation, assignment, transfer or sublicense shall be void and a breach of these Services Terms.

(g) <u>Entire Agreement; Severability</u>. This Agreement constitutes the entire agreement between the parties, and supersedes all prior discussions, representations, and understandings, with respect to the subject matter hereof. If any provisions of this Agreement, or the application thereof, shall for any reason and to any extent be determined to be invalid or unenforceable, the remaining provisions of this Agreement will remain binding and enforceable, and shall be interpreted so as best to reasonably effect the intent of the parties.

Exhibit A - Definitions

"Additional/Different Cloud/SaaS Terms for Customers Outside of the United States of America" refers to the document of that name available at http://www.ptc.com/legal-agreements.

"PTC Cloud and SaaS Offering Specific Provisions" refers to the document of that name available at http://www.ptc.com/legal-agreements.

"Cloud Services" means PTC providing hosting services so that Customer may access the Hosted Software via the internet, along with certain IT administration and application administration support services, as specified in this Agreement. For Cloud Services, the Customer is purchasing (or previously purchased) the licenses for the Hosted Software (under a separate PTC Customer Agreement or other software license agreement between the parties) which are being made available to the Customer via the Hosted System, and the Customer purchases support for such Hosted Software (either directly or as part of a subscription license).

"Designated Technical Support Personnel" means the technical contacts that are trained subject matter experts on the Hosted Software and who have been identified in writing to PTC by Customer.

The "Downtime Percentage" shall equal the result obtained by dividing (1) the aggregate number of minutes of Transaction Outages during such quarter by (2) the aggregate number of minutes in such quarter.

"Excused Downtime" means any and all of the following:
   (i)   Force majeure events as set forth in Section 10(b) of the Services Terms.
   (ii)   Data transmission failures outside the control of PTC not caused by PTC's negligence or willful misconduct.
   (iii) Downtime resulting from applications developed for or by Customer that are running on or interacting with the Hosted System.
   (iv)   Downtime resulting from third party software utilized by the Customer that is not Hosted System and/or third party software integrations developed by or for Customer.
   (v)   Downtime due to failure of the internet or failure of Customer's network.
   (vi)   Maintenance outages (including emergency maintenance outages), for which PTC will endeavor to give Customer as much notice as is reasonably practicable under the circumstances.

"Hosted Data" means the data transmitted to, loaded into, or stored in, the Hosted Software or on the Hosted System by Customer and Users or otherwise through use of the Hosted Software.

"Hosted Software" means the standard commercially available PTC software for which PTC is providing the Services, as specified in the Quote.

"Hosted System" means the servers and computer network on which PTC and/or its contractors provide Customer and other PTC customers remote access to the Hosted Software and Hosted Data.

"Licensing Basis Document" refers to the document of that name available at http://www.ptc.com/legal-agreements.

"PTC" means, as applicable, PTC Inc. or the applicable PTC subsidiary, as specified in the Additional/Different Cloud/SaaS Terms for Customers Outside of the United States of America document.

"PTC Services Security and Support Document" refers to the document of that name available at http://www.ptc.com/legal-agreements.

"SaaS Services" means PTC providing SaaS services so that Customer may access the Hosted Software via the internet, along with certain IT administration and application administration support services, as specified in this Agreement. For SaaS Services, the Customer does not purchase (and has not previously purchased) the licenses for the Hosted Software being made available to the Customer as a service via the Hosted System.

"Service Period" means the term that PTC commits to perform the Services (i.e., the initial term and any renewal terms), per Section 8 of these Services Terms.

"Storage" means the amount of disk storage used by the Customer across the applicable environment.

"Transaction Outage" means any period (measured in minutes) during which the Hosted System, and the connections for such servers to the Internet, do not have adequate bandwidth capacity and speed to meet the peak demands of Users accessing the Hosted Software and Hosted Data, resulting in such Permitted Users being denied access or experiencing unavailable or interrupted access due to lack of capacity or speed of the Host Servers or of the Host Servers' Internet connections, excluding Excused Downtime.

"User" means persons who are employees or consultants of either Customer or of a subcontractor, supplier, business partner, or customer of Customer, and whom Customer authorizes to access the Hosted Software and Hosted Data.