PTC Cloud Services Terms and Conditions

These Cloud/SaaS Services Terms and Conditions ("Services Terms") set forth the terms and conditions pursuant to which PTC provides Managed Services and/or SaaS Services (the "Services") to customers ("Customer"), as specified in a quote or order agreement that references these Services Terms ("Quote").

1. Documents Making Up this Agreement

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

a) The Quote
b) The PTC Cloud Offering Specific Provisions available at http://www.ptc.com/legal-agreements ("OSP")
c) These Services Terms including its **Exhibit A** (PTC CER Provisions, if applicable) and **Exhibit B** (SLA)
d) The PTC Support Services Terms and Conditions Document available at http://www.ptc.com/legal-agreements

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

2. Definitions

"Downtime" means the time that the Service is unavailable. Downtime can either be Excused Downtime or Unexcused Downtime.

"Downtime Percentage" shall equal the result obtained by subtracting the service availability percentage from 99.5%.

"Excused Downtime" is Downtime due to any of the causes listed below:

- Failures outside PTC's Span of Control such as Downtime due to failure of the Internet or Customer's network, or Downtime resulting from third party software hosted by the Customer.
- Downtime resulting from applications, customizations, integrations or configurations developed for or by Customer that are running on or interacting with Service.
- Planned maintenance or downtime, for which PTC provides Customer advance notification.
- Emergency maintenance or downtime for which PTC will make commercially reasonable efforts to provide Customer advance notification.
- Downtime resulting from a Customer disabling the Service in the case of a Service where the customer can enable or disable the Service or user access.
- Force Majeure events.

"Hosted Data" means the data, and/or creating using the Hosted Software or transmitted to, loaded into, stored in 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.

"Managed 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 Managed 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).

"Offering" means a purchasable Service as defined in Offering Specific Provisions document.

"PTC" means, as applicable, PTC Inc. or the applicable PTC subsidiary, as specified in the PTC Affiliates List document at https://www.ptc.com/en/documents/legal-agreements/ptc-affiliates.

"PTC Span of Control" means the system, services, PTC-provided software and networking behind an edge router or gateway in PTC's cloud environments required to offer the Service as described in the Offer Specific Provisions. For the avoidance of doubt, the Internet, Customer supplied networking or Customer supplied systems are not in PTC's Span of Control.

"Quarter" means a calendar quarter beginning in January, April, July and October.

"Reseller" - a third-party appointed and authorized by PTC to resell or distribute any Services to Customer.

"Service" means, as applicable the Managed Services and/or the SaaS Services.

"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. With PTC's acceptance of Customer's SaaS Services order, PTC grants to Customer a non-exclusive right to authorize Users to access the Hosted Software being made available to the Customer as a service via the Hosted System during the Service Period solely for Customer's internal business purposes and solely in accordance with this Agreement.

"Service Level Agreement" ("SLA") means PTC's commitments related to Service availability as specified **in Exhibit B**.

"Service Period" means the term that PTC commits to perform the Services (i.e., the initial term and any renewal terms), per Section 11 of these Services Terms.

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

"Synthetic User" means an account that is not for a human user that enables indirect access to the Hosted System or the Hosted Data by multiple users.

"Third Party Application" means non-PTC software that Customer requests PTC to host for Customer in the Hosted System.

"Unexcused Downtime" is Downtime that is not 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.

3. Services

(a) PTC will provide access to the Service as described in this Agreement.

(b) PTC will provide support for the Service as described in the PTC Support Services – Terms and Conditions document located at https://www.ptc.com/en/documents/legal-agreements/support-documents.

(c) PTC performs backups of the Hosted Data in the production system in accordance with the PTC Support Services Terms and Conditions document.

(d) Particular Services have specific authorizations as specified in the OSP, and a particular Service typically will entail access to particular features and functionality of the Hosted Software, but not all features and functionality of such Hosted Software.

(e) Customers may request PTC to host Third-Party Applications as part of the Services. If PTC accepts to host these Third-Party Applications, the Customer must provide license(s) for PTC to host these Third-Party Applications. PTC SLAs do not apply to these Third-Party Applications.

4. Availability SLA. PTC shall monitor the availability of the Hosted System 24/7. The availability of the production environment(s) of the Services will be as specified in **Exhibit B.**

5. Usage Restrictions

(a) Customer may access and use the Services only to the extent of authorizations acquired by Customer, as specified in the Quote. Where applicable, usage beyond the authorizations will be treated as overage.

(b) Credentials for system access may not be used by more than one individual.

(c) Customer may not create an account in the Hosted System to serve as a Synthetic User of the Services.

(d) Customer is responsible for use of the Services by all Users that access the Services with Customer's account credentials.

(e) 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 such complaint/notice is resolved.

(f) Customer shall not permit any third party(ies) other than Users to: (i) use the Services or the Hosted Software 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 Service or the Hosted Software in whole or in part.

(g) If the 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.

(h) Customer is responsible for having a reliable Internet access. PTC is not responsible for Customer's connectivity to the Service.

6. Data Center/Security

(a) PTC uses industry standard measures designed to protect the operating environment of the Services and Hosted Software against unauthorized physical access and the threats of fire, power, temperature, humidity and other physical forces in accordance with the following requirements:
   i. A secure data center with physical access limited to authorized personnel and protected by multi-level security systems. Other persons are admitted only on an as-needed (such as to maintain hardware components) and supervised basis.
   ii. Continuous, conditioned power supplied by a redundant power infrastructure, including battery backup systems and diesel-powered generators, with regular system testing for continuous availability.
   iii. Redundant HVAC climate control and fire suppression systems.

(b) In addition to the physical access protections described above, PTC will provide the following with respect to the Hosted System and Hosted Data:
   i. PTC will maintain controls consistent with the ISO 27001:2013 framework and PTC will be ISO 27001:2013 certified.
   ii. Hosted Data in the production Hosted System will be backed up to a secure alternate location for disaster recovery purposes. Backups will be maintained in accordance with the terms defined in PTC Support Services Terms and Conditions. The alternate storage/ disaster recovery site will provide information security safeguards equivalent to that of the primary production site. PTC will provide a Host Based Security System (HBSS) that includes antivirus, antimalware and intrusion detection. PTC will conduct scanning, patching, monitoring, logging and protection of the network, infrastructure, databases, operating system and applications of the Hosted System. In the event viruses, worms or similar problems are determined to have infected the Hosted System, PTC will use commercially reasonable efforts to restore the Hosted System as quickly as reasonably possible.
   iii. This subsection (b) shall not apply to Vuforia or Onshape Offerings.

(c) Customer is responsible for:

i. Ensuring it uses utmost discretion in granting administrator privileges.
ii. Ensuring that its Users do not share accounts and their passwords.
iii. Designing, authoring, validating, and approving all custom reports or any other integrations or customizations.
iv. Ensuring and maintaining security of its systems, machines and end user devices that connect to and use the Service, including implementation of necessary patches and operating system updates.

(d) The scope of the Services does not include any Customer security requirements beyond those set forth in this Agreement. Customer hereby agrees that it will not engage or authorize any third party to, perform any penetration testing of the Hosted System without obtaining PTC's prior written permission.

7. Fees, Billing and Payment

(a) Committed Fees. 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) Overages. PTC shall measure Customer's usage of the Services as identified in the Offering Specific Provisions document (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 fees for such excess usage.

(c) Taxes. 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.

(d) Overdue Amounts. Amounts not paid when due shall be subject to interest at one and one-half percent (1.5%) 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 by fifteen days or more.

(e) Purchase Orders. 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.

8. Indemnification

(a) PTC, at its own expense, will defend any action brought against Customer based on a claim that the Services and/or Hosted Software provided by PTC 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 8 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 8 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.

(b) Customer, at its own expense, will defend any action brought against PTC based on a claim that PTC's access to or hosting of the Third Party Applications infringes a third party patent, copyright or trademark and, at its option, will settle any such action or will pay any final judgment awarded against PTC, provided that: (i) Customer shall be notified promptly in writing by PTC of any notice of any such claim; (ii) Customer 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) PTC shall cooperate fully at Customer's expense with Customer in the defense, settlement or compromise of such claim. If a claim described in this Section 8 occurs or, in PTC's opinion, may occur, PTC may terminate the Services with respect to the applicable Third-Party Application(s). This Section 8 states Customer's sole and exclusive liability, and PTC's sole remedy, for any and all claims relating to infringement of any intellectual property rights by any Third-Party Application.

9. Ownership/Confidentiality/Privacy

(a) 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. Without limiting the foregoing, PTC shall be under no obligation to provide Customer any information regarding PTC's methods and processes for configuring the Hosted Software or the Hosted System generally. 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 disassemble, decompile or reverse engineer the Hosted Software or the file format of the Hosted Software, or otherwise attempt to gain access to the source code or file format (c) rent, sell, license, sublicense, lease, loan, assign, or otherwise transfer (whether by sale, exchange, gift, operation of law, or otherwise) to any third party the Hosted Software, any copy thereof, or any other rights thereto, in whole or in part, without in each case obtaining PTC's prior written consent (d) alter, remove, or obscure any copyright, trade secret, patent, trademark, logo, proprietary and/or other legal notices on or in any copies of the Hosted Software or (e) authorize or permit a third party to access the Services using Customer issued logins or passwords.

(b) All non-public information regarding the Service 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.

(c) All personal data received, or collected by PTC in connection with the performance of its obligations will be processed in accordance with the Data Processing Terms and Conditions available at https://www.ptc.com/en/documents/policies and PTC's privacy policy https://www.ptc.com/en/documents/policies/privacy. Customer acknowledges that PTC is part of a global company with global operations, and that personal data may be processed outside Customer's country. All such transfers of personal data shall be in accordance with applicable data privacy laws. Customer certifies that it has obtained any personal data provided to PTC in accordance with applicable data protection laws.

10. Hosted Data

(a) Customer agrees that the Hosted Data will not include:

i. any information, or documents or technical data that are U.S. Government Classified, Controlled Unclassified Information, ITAR or EAR 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 unless provided for in the Quote where PTC is agreeing to comply with associated regulatory requirements in the execution of the Service.

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 support purposes and for validating Customer's compliance and usage limitations, and for purposes of otherwise complying with PTC's obligations to Customer,
iii) improve the Services and understand what functionality of the Hosted Software Customer uses and how Customer and other customers may be able to get more value from its use of the Services, and
iv) 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) PTC makes no claim of rights to the Hosted Data.

11. 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.

(b) Sections 7 through 9 and Sections 11 through 13 shall survive termination or expiration of the Services.

(c) If the Service is terminated, Hosted Data will be archived and can be exported as specified in the Offering Specific Provisions document. The Customer can request a copy of the archived data prior to or during the retention period.

12. SLA Claims/Warranty/Disclaimer of Warranty/ Limitations of Liability

(a) PTC's and its licensors' entire liability and Customer's exclusive remedy for any breach by PTC of the Service availability obligation pursuant to **Exhibit B** 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

month multiplied by the Downtime Percentage. Such credit will be applied against any outstanding or future fees due under this Agreement during the then-current Service Period. Claims under the Service Level Agreement must be made by submitting a written notice within ten business days after the report is made available, in which PTC did not meet the SLA If Customer fails to timely make a written request for a credit under this provision and the **Exhibit B**, no credit shall be due to Customer. Other than what is regulated in this Section 12 (a), Customer shall not have any retention right as to any fees due under this Agreement.

b) 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 (i) fix or replace the Hosted Software so that it conforms to this warranty; (ii) 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 (i) or (ii) above, then PTC may terminate this Agreement and refund Customer the monthly or other recurring Service fees paid by Customer for the period after the date Customer reported such breach of warranty to PTC.

(C) 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. WITHOUT LIMITING THE FOREGOING, PTC WILL HAVE NO LIABILITY ARISING FROM ANY SECURITY INCIDENT OR DATA LOSS THAT WOULD HAVE BEEN PREVENTED IF CUSTOMER HAD IMPLEMENTED A SECURITY SOLUTION, DEVICE OR FEATURE (INCLUDING "PATCHES," FIXES AND UPDATES) FOR THE HOSTED SOFTWARE PROVIDED OR MADE AVAILABLE BY PTC TO CUSTOMER.

(D) EXCEPT UNDER SECTION 8 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 12 SHALL NOT APPLY TO ANY CLAIM IN RESPECT OF DEATH OR PERSONAL INJURY IF CONTRARY TO ANY APPLICABLE LAW.

13. General

(a) Feedback: If you choose to provide PTC with ideas, suggestions, improvements, documents, proposals and/or other feedback with respect to the Hosted Software (including but not limited to problems and errors encountered in using the Service, and ideas for enhancements of the Service), PTC will be free to use such materials in any manner and for any purpose (including, without limitation, incorporation into PTC's products, services and advertising and marketing materials, and developing and marketing products and services) without liability or compensation to you or restriction of any kind.

(b) Governing Law and Jurisdiction. All disputes arising under this Agreement shall be i) governed by and construed in accordance with the laws and ii) shall be litigated exclusively in the courts (and in no other court or jurisdiction) as set out in the PTC Affiliate List at https://www.ptc.com/en/documents/legal-agreements/ptc-affiliaters.

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

(d) Export. 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.

(e) Marketing. 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.

(f) Notices. 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.

(g) Assignment, Waiver, Modification. 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.

(h) Entire Agreement; Severability. 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

PTC CER (Germany, Austria, Switzerland Specific) Provisions

For Services provided by Parametric Technology GmbH or Parametric Technology (Schweiz) AG for Customers located in Germany, Austria or Switzerland, the following provisions shall apply. These provisions shall have no applicability to any Services provided to Customers located outside Germany, Austria or Switzerland. References to sections below are references to the applicable sections in the main body of the Services Terms above.

Section 4 is hereby replaced by the following provision:

(a)   PTC shall monitor the availability of the Hosted System 24/7. The availability of the production environment(s) of the Services will be as specified in **Exhibit B. Exhibit B** - Service Level Agreement and its content cannot be regarded as a warranted quality (*zugesicherte Eigenschaft*), guarantee (*Garantie*) or guarantee as to condition (*Beschaffenheitsgarantie*) but only as a general description of the Services.

Section 12 (B) and (C) are hereby replaced by the following provisions:

12 (B) As for warranty provisions of Hosted Software that are part of Managed Services please refer to the respective PTC Customer Agreement or other license agreement between the parties. As to Hosted Software in SaaS Services, the following shall apply:

(1)   PTC will provide and maintain the Hosted Software in a suitable condition for the contractual use ("fitness for contractual use"). The maintenance of the Hosted Software's fitness for contractual use will be provided by way of Support Services in accordance with the PTC Support Services Terms and Conditions Document available at http://www.ptc.com/legal-agreements such Support Services being included with the purchase of the Hosted Software in SaaS Services without additional fee. Unless specified in the Agreement, the obligation to maintain the Hosted Software in SaaS Services does not include adjustments to changes in operating conditions or the Customer's IT environment, in particular to changes in hardware or operating systems or to new file formats.

(2)   In the event of a failure of the Hosted Software to conform substantially to the applicable documentation accompanying the Hosted Software, provided that Customer informs PTC of such failure in writing ("Error"), affecting a Hosted Software's fitness for contractual use, PTC at its sole discretion may (a) replace the Hosted Software that contains the Error or (b) repair the Error, provided that the notice of the Error is received by PTC promptly after discovery of such Error by Customer and Customer provides such additional information regarding the Error as PTC reasonably requests. If the repair (either by providing a bug fix, a workaround or otherwise) or replacement fails finally (after at least two attempts for the same Error from the side of PTC within reasonable periods of time), Customer shall be entitled, at Customer's choice, to (a) a termination of the Hosted Software containing the Error so that PTC provides a refund of the prepaid Service fees for the remainder of the Service term for the Hosted Software containing the Error upon or (b) a reasonable reduction in the Service fee of the respective Hosted Software. Replacements or repairs shall be made without acknowledgement of a legal obligation and shall not suspend the limitation period for warranty claims related to the Hosted Software.

12 (C) (1) Customer is obliged to immediately give notice to PTC on any non-availability or limited availability of the Services. In the event Customer fails to comply with this obligation, PTC shall have no liability to the Customer with regard to non-availability or limited availability for the term in which the Customer has not provided such notice to PTC.

12 (C) (2) Any possible liability regardless of fault by PTC for any defects of the Services shall be excluded.

12 (C) (3) In case of a liability on the merits for defects, with respect to such defects, Customer shall solely be entitled to possible damage claims according to Section (C). Any other or additional warranty claims shall be excluded. Possible rights of the Customer according to Section 11 shall remain unaffected.

12 (C) (4) No employee, partner, distributor or agent of PTC or any of its Resellers or sales agents is authorized to give any representations, warranties or covenants greater or different than those contained in these Services Terms, except as specifically set forth in an agreement signed on behalf of Customer by an authorized officer and on behalf of PTC by its legal counsel.

12 (C) (5) Qualities (*Beschaffenheit*) of the Services stated in publications of PTC or its sales representatives, in particular in advertising, in drawings, brochures or other documents, including presentations in the Internet or which fall under trade usages, shall only be deemed to be covered by the contractual quality of the Services if such qualities are expressly contained in an offer or an order confirmation in writing. Guarantees, in particular guarantees as to quality, shall be binding on PTC only to the extent to which they (i) are contained in an

May 2020

offer or an order confirmation in writing, (ii) are expressly designated as "guarantee" or "guarantee as to condition" (*Beschaffenheitsgarantie*), and (iii) expressly stipulate the obligations for PTC resulting from such guarantee.

Section 12 (D) is hereby replaced by the following provisions:

<u>12 (D) (1)</u> PTC is liable for any damage, regardless of the legal grounds, only if (i) PTC breaches a material contractual obligation (cardinal obligation) culpably (i.e. at least negligently), or (ii) the damage has been caused by gross negligence or willful intent on the part of PTC or (iii) PTC has assumed a guarantee.

<u>12 (D) (2)</u> PTC's liability shall be limited to the typical, foreseeable damage (i) if PTC breaches material contractual obligations (cardinal obligations) with slight negligence, or (ii) if employees or agents of PTC who are not officers or executive staff have breached other obligations by gross negligence, or (iii) if PTC has assumed a guarantee, unless such guarantee is expressly designated as guarantee as to condition (*Beschaffenheitsgarantie*).

<u>12 (D) (3)</u> In the cases of Section 12 (D) (2) (i) and (ii), PTC's liability is limited per contractual year to an amount equal to the fees (a) paid by Customer to PTC for the Services in the twelve months period before the cause of action arose or (b) – if the Customer purchased the Services less than twelve months before the cause of action arose – payable by Customer to PTC for the Services within the first twelve months from Customer's purchase of the Services, yet both in the case of (a) and (b) limited to maximum amounts not exceeding EURO 250.000, respectively EURO 50.000, for financial losses.

<u>12 (D) (4)</u> In the cases of Section 12(D) (2) PTC shall not be liable for any special, indirect or consequential damages, including without limitation lost profits, lost savings or damages resulting from the loss or use of Hosted Data.

<u>12 (D) (5)</u> Notwithstanding the applicability of the limitations of liability set out above, in case of a loss of Hosted Data PTC is only liable for the costs of the recovery of such Hosted Data. Without limiting the foregoing, PTC will have no liability arising from any security incident or data loss that would have been prevented if customer had implemented a security solution, device or feature (including "patches," fixes and updates) for the Hosted Software provided or made available by PTC to customer.

<u>12 (D) (6)</u> Customer's claims for damages against PTC and/or PTC's affiliates, regardless of the legal grounds, shall expire at the latest one year from the time the Customer gains knowledge of the damage or, irrespective of this knowledge, at the latest two years after the damaging event.

<u>12 (D) (7)</u> PTC's liability pursuant to the German Product Liability Act (Produkthaftungsgesetz), for injury of life, body and health, for fraudulent concealment of a defect or for the assumption of a guarantee as to condition (*Beschaffenheitsgarantie*) remains unaffected.

<u>12 (D) (8)</u> In the event of a guarantee or liability claim against PTC any contributory fault of Customer must be taken into account accordingly, particularly in the event of inadequate fault notification or inadequate data securing. It constitutes inadequate data securing if the client, among others, does not, by way of appropriate state of the art security measures, take precautions against external influences, e.g. computer viruses and other phenomena which could put individual data or an entire data stock at risk, or if Customer does not perform regular backups of the data himself.

<u>12 (D) (9)</u> Sections 12 (D) (1) to 12 (D) (9) shall also apply in the case of any claims for damages of Customer against employees or agents of PTC and/or PTC's affiliates.

Exhibit B - Service Level Agreement

1) <u>Service Availability</u>. PTC commits to service availability for the production environment, excluding Excused Downtime, of 99.5%, measured on a monthly basis.

2) <u>Testing and Calculation</u>. Service availability is measured by accessing the Service URL from multiple locations every 5 minutes and the pass/fail result is captured for use calculating service availability. A Customer's service availability is calculated monthly using the formula:

Service Availability % =	Minutes in the Month – Minutes of Excused Downtime – Minutes of Unexcused Downtime
	Minutes in the Month – Minutes of Excused Downtime

3) <u>PTC Responsibilities</u>

    (a) Maintain tools, processes and procedures to calculate service availability
    (b) Provide service availability reports on production systems (not applicable to Vuforia SaaS Services)
    (c) Archive history of production service availability

4) <u>Exclusions</u>. The service availability target is only applicable to production environments, it does not apply to any non-production environments. The target is provided to Customers who are compliant with this Agreement, and does not apply to:

    (a) Customers who are late in payment of fees to PTC under this Agreement, or
    (b) beta, experimental, trial, or offerings provided at no charge (unless noted in the Agreement), or
    (c) any Third Party Applications within or connected to the PTC Cloud.

5) <u>Reports for Service Availability (not applicable to Vuforia SaaS Services)</u>.

PTC will provide to Customers a Quarterly report describing the service availability for the applicable PTC Cloud Service for each month in such Quarter either (i) by email to a contractual identified point of contact or (ii) through an online portal made available to Customers, if and when such online portal becomes available. The service availability report will be provided within thirty days after the end of the quarterly reporting period.