

## PTC CUSTOMER AGREEMENT FOR VUFORIA ENGINE & CLOUD RECOGNITION SERVICE

THIS PTC CUSTOMER AGREEMENT (“AGREEMENT”) IS A LEGAL AGREEMENT BETWEEN THE INDIVIDUAL, OR THE COMPANY OR OTHER ORGANIZATION ON WHOSE BEHALF SUCH INDIVIDUAL ACCEPTS THIS AGREEMENT, THAT EITHER (A) CLICKS THE “I ACCEPT” BUTTON BELOW OR (B) INSTALLS, ACCESSES, OR USES ANY SOFTWARE OR DOCUMENTATION FROM PTC (“CUSTOMER”), AND PTC INC. OR, IF THE PURCHASE WAS MADE IN A COUNTRY SPECIFIED ON THE PTC AFFILIATE LIST DOCUMENT AVAILABLE AT <https://www.ptc.com/en/documents/legal-agreements/ptc-affiliates>, THE PTC AFFILIATE SPECIFIED IN SUCH DOCUMENT (AS APPLICABLE, “PTC”).

PLEASE READ THE TERMS AND CONDITIONS OF THIS AGREEMENT CAREFULLY BEFORE ACCEPTING THIS AGREEMENT. BY CLICKING ON THE “I ACCEPT” BUTTON BELOW OR BY INSTALLING, ACCESSING, OR USING ANY SOFTWARE OR DOCUMENTATION FROM PTC, CUSTOMER HEREBY AGREES TO BE BOUND BY THIS AGREEMENT AND REPRESENTS THAT IT IS AUTHORIZED TO DO SO.

IF YOU DO NOT AGREE TO ALL OF THE TERMS OF THIS AGREEMENT OR IF YOU DO NOT HAVE AUTHORITY TO BIND THE COMPANY OR OTHER ORGANIZATION ON WHOSE BEHALF YOU ARE ACCEPTING THIS AGREEMENT, CLICK THE “I DECLINE” BUTTON AND RETURN TO PTC THE SOFTWARE AND DOCUMENTATION PRODUCTS PROVIDED TOGETHER WITH THIS AGREEMENT IN ACCORDANCE WITH THE INSTRUCTIONS PROVIDED WHEN YOU CLICK THE “I DECLINE” BUTTON. NOTE THAT FAILURE TO COMPLY WITH SUCH INSTRUCTIONS WITHIN THE TIME PERIOD SPECIFIED WILL VOID ANY RIGHT YOU WOULD OTHERWISE HAVE HAD FOR A REFUND OF ANY FEES PAID.

THE LICENSED PRODUCTS MAY CONTAIN TECHNOLOGY FOR LICENSE MANAGEMENT AND FOR THE PREVENTION OF UNLICENSED USE. WHEN LICENSED PRODUCTS ARE ACTIVATED, INSTALLED, OR FIRST USED BY A LICENSED USER, AND PERIODICALLY FOR LICENSE MANAGEMENT AND PRODUCT IMPROVEMENT PURPOSES, INFORMATION ABOUT THE USE OF THE PROGRAMS, AND THE COMPUTER MAY BE TRANSMITTED TO PTC. DETAILS OF THE INFORMATION TRANSMITTED TO PTC BY THE LICENSED PRODUCTS CAN BE FOUND ON <https://www.ptc.com/en/documents/policies>. IF CUSTOMER DID NOT OBTAIN THE LICENSED PRODUCT FROM PTC DIRECTLY, FROM AN AUTHORIZED PTC DISTRIBUTOR OR RESELLER OR FROM THE PTC ONLINE STORE (AT WWW.PTC.COM), CUSTOMER IS USING AN ILLEGALLY OBTAINED UNLICENSED VERSION OF THE APPLICABLE LICENSED PRODUCT. PTC REGARDS SOFTWARE PIRACY AS THE CRIME IT IS AND PURSUES (BOTH CIVILLY AND CRIMINALLY) THOSE WHO TAKE PART IN THESE ACTIVITIES. AS PART OF THESE EFFORTS, PTC UTILIZES DATA MONITORING AND SCOURING TECHNOLOGIES TO OBTAIN AND TRANSMIT TO PTC DATA ON USERS OF ILLEGAL COPIES OF LICENSED PRODUCTS. IF CUSTOMER IS USING AN ILLEGAL COPY OF SOFTWARE, CEASE USING THE ILLEGAL VERSION AND CONTACT PTC TO OBTAIN A LEGALLY LICENSED COPY. BY USING THIS SOFTWARE, YOU ACKNOWLEDGE THAT PTC WILL COLLECT, USE, AND TRANSFER INFORMATION ABOUT THE USE OF THE LICENSED PRODUCTS INCLUDING INFORMATION THAT MAY BE PERSONAL DATA FOR THE PURPOSES OF IDENTIFYING USERS OF ILLEGAL COPIES OF OUR SOFTWARE.

IN ORDER TO UNDERSTAND THE PREFERENCES OF OUR SOFTWARE USERS, PTC USES DATA MONITORING TECHNOLOGIES TO OBTAIN AND TRANSMIT DATA ON SYSTEM USE AND PERFORMANCE AND FOR GATHERING USER DATA AND USE METRICS ON USERS OF OUR SOFTWARE. WE WILL SHARE THIS DATA WITHIN PTC, ITS AFFILIATED COMPANIES AND OUR BUSINESS PARTNERS, INCLUDING WITHIN THE UNITED STATES AND ELSEWHERE FOR TECHNICAL AND MARKETING PURPOSES AND WILL ENDEAVOR TO ENSURE THAT ANY SUCH DATA TRANSFERRED IS APPROPRIATELY PROTECTED.

PTC IS A GLOBAL COMPANY AND THEREFORE IF YOU ARE USING PTC SOFTWARE, VISITING A PTC WEBSITE OR COMMUNICATING ELECTRONICALLY WITH US, INFORMATION MAY BE PROCESSED OUTSIDE OF THE COUNTRY IN WHICH YOU RESIDE AND VARIOUS COMMUNICATIONS WILL NECESSARILY RESULT IN A TRANSFER OF THIS INFORMATION ACROSS INTERNATIONAL BOUNDARIES. SEE CLAUSE 11.8 FOR FURTHER DETAILS.

BY YOUR ACCEPTANCE OF THIS AGREEMENT AND/OR USING THE SOFTWARE, YOU ACKNOWLEDGE PTC’S COLLECTION, USE, AND TRANSFER OF YOUR PERSONAL DATA IN ACCORDANCE WITH PTC’S PRIVACY POLICY.

CAPITALIZED TERMS NOT DEFINED IN THE TEXT BELOW ARE DEFINED IN SCHEDULE B AT THE END OF THIS AGREEMENT.

PTC MAY UPDATE THIS DOCUMENT FROM TIME TO TIME, BUT EACH PURCHASE MADE BY THE CUSTOMER WILL BE GOVERNED BY THE MOST CURRENT VERSION OF THIS DOCUMENT IN EFFECT AT THE TIME OF THE PURCHASE.

SCHEDULE A TO THIS AGREEMENT CONTAINS ADDITIONAL (OR ALTERNATIVE) TERMS APPLICABLE TO SPECIFIC GEOGRAPHIES.

## 1. **Orders and Payment**

1.1 Customer may order Licensed Products and/or the Cloud Recognition Service by submitting to PTC (directly or through a Reseller) a completed Quote and such other order documentation as is required by PTC. CUSTOMER MAY NOT CANCEL AN ORDER ONCE PTC HAS ACCEPTED IT. Other than the line items that serve to order Licensed Product(s) and/or Cloud Recognition Services, in no event shall any other terms of any Customer purchase order modify this Agreement or become binding on PTC.

1.2 Customer shall be obligated to pay the applicable fees for the Licensed Products and/or Cloud Recognition Service ordered. All fees and other charges due hereunder are due and payable in full within thirty (30) days of the date of the start date of the term (and the applicable anniversary of the start date for each subsequent year).. Customer shall be responsible for all sales, use, VAT, transfer and other taxes and duties imposed by any federal, state, municipal or other governmental authority relating to the Licenses granted or the Cloud Recognition Service provided hereunder, exclusive, however, of taxes based on the net income of PTC. Customer shall pay interest at the rate of one and one half percent (1.5%) per month (or, if less, the maximum amount permitted by law) on all sums due under this Agreement which remain unpaid following the due date. Customer shall pay PTC's reasonable attorneys' fees and costs incurred by PTC in collecting overdue amounts, and/or in any controversy or litigation arising under or in connection with the Licensed Products and/or this Agreement in which Customer does not prevail against PTC in all of the claims. Finally, if any charge owing by Customer is overdue, PTC may, without limiting its other rights and remedies: (a) accelerate Customer's unpaid fee obligations so that all such obligations become immediately due and payable, and/or (b) suspend the licenses and/or Support Services until such amounts are paid in full; provided that PTC will inform Customer, at least five days prior to the payment due date, of the impending payment due date and that licenses and/or Support Services will be suspended if payment is not received by the due date. No notice will be provided for customers paying by credit card or direct debit whose payment has been declined.

## 2. **License**

2.1 License Grant to Licensed Products, Services and Tools. Upon PTC's acceptance of an order for Licensed Products, PTC grants to Customer a License during the applicable License Term to (1) install and use the Licensed Products identified in the Quote in object code form solely to (a) test and develop Customer Application(s) and (b) distribute the Licensed Products only in object code as integrated into such Customer Application(s) and (2) use and access the the Services and Tools that are made available by PTC on the Engine Developer Portal for development and deployment of Customer Application, solely in accordance with this Agreement and the applicable usage and license-type restrictions identified in the Quote and the Licensing Basis Document. Notwithstanding the foregoing, if the Licensed Product is being provided by PTC on an "evaluation" or "trial" basis or as "pre-commercial" or "pre-release" software, such License will be instead to install and use the Licensed Product solely to evaluate such Licensed Products, and Customer agrees not to use the Licensed Product in any commercial applications or for productive purposes. Also, if the Licensed Product is sold on a "demo and test" or "non-production" basis (or similar designation), such Licensed Product may not be used in a production environment.

2.2 Services. If the Cloud Recognition Service is purchased in the applicable Quote, then Customer is permitted to (a) store a maximum number of Cloud Targets specified in the applicable Quote for each Cloud Target Database and (b) utilize the number of Cloud-Based Recos specified in the applicable Quote.

2.3 Targets. Customer grants PTC, its affiliates, and service providers a worldwide, non-exclusive, royalty-free license to use, reproduce, distribute, display and perform the Targets solely in connection with providing the Tools, Services and Licensed Products hereunder. Customer, not PTC, shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership and right to use of all Targets. Except in the event of PTC's negligence, PTC shall not be responsible or liable for the availability, usability, deletion, correction, destruction, damage, loss or failure to store any Targets.

2.4 Additional Restrictions on Use. Customer shall not permit any persons who are not Permitted Users to access or use the PTC Products and Services or Developer Account. As a condition of the grant of license set forth in this Section 2, Customer shall not and shall not permit any third party(ies) to:

- (i) modify or create any derivative work of any part of the Licensed Products and/or Services;
- (ii) rent, lease, or loan the Licensed Products, Services or Developer Account;
- (iii) use the Licensed Products and/or 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;
- (iv) disassemble, decompile or reverse engineer the Licensed Products or Services or the file format of the Licensed Products, or otherwise attempt to gain access to the source code or file format of the Licensed Products or Services,

- (v) sell, license, sublicense, loan, assign, or otherwise transfer (whether by sale, exchange, gift, operation of law, or otherwise) to any third party the Licensed Products and/or Services or Developer Account, any copy thereof, or any License or other rights thereto, in whole or in part, without in each case obtaining PTC's prior written consent, except to the extent that any of the foregoing are explicitly authorized in the Quote and/or the Licensing Basis Document;
- (vi) alter, remove, or obscure any copyright, trade secret, patent, trademark, logo, proprietary and/or other legal notices on or in any copies of the Licensed Products and/or Services; and
- (vii) copy or otherwise reproduce the Licensed Products and/or Services in whole or in part, except (a) as may be required for their installation into computer memory for the purpose of executing the Licensed Products in accordance with this Section 2, and/or (b) to make a reasonable number of copies solely for back-up purposes (provided that any such permitted copies shall be the property of PTC and Customer shall reproduce thereon all PTC copyright, trade secret, patent, trademark, logo, proprietary and/or other legal notices contained in the original copy of the Licensed Product obtained from PTC).

#### 2.5 Restrictions on Customer Application Deployment.

- (i) Customer Applications and all of the software components shipped as part of that product (for example, client code) may only be distributed in the number of regions included in the applicable License plus the number of additional regions purchased.
- (ii) A Customer Application shall not be used as a development tool for the creation of other applications.
- (iii) A Customer Application may not be embedded or integrated into another software product that Customer distributes or sells.
- (iv) Overages. If the peak usage exceeds the quantity purchased (e.g. number of Cloud Recos, number of device initializations, or such other fee basis as is applicable to the License purchased by Customer), Customer shall be charged and shall pay the applicable monthly fee for such excess usage.
- (v) Each Customer Application and Cloud Target Database must use a unique License Key. Customer shall not sell, transfer or sublicense Customer License Keys to any person or entity unless otherwise permitted hereunder

#### 2.6 Restrictions on Open Source.

- (i) Customer shall not incorporate, link, distribute or use any third party software or code in conjunction with (a) the Licensed Products; (b) any software, products, documentation, content or other materials developed using the Licensed Products; or (c) any derivative works that Customer makes using the source code portions of the Licensed Products (if any), in such a way that: (1) creates, purports to create, or has the potential to create, obligations with respect to the Licensed Products or other PTC software, including without limitation the distribution or disclosure of any source code; or (2) grants, purports to grant, or has the potential to grant to any third party any rights to or immunities under any intellectual property rights or proprietary rights of PTC or its affiliates, including without limitation as such rights exist in or relate to the Software. Without limiting the generality of the foregoing, Customer shall not incorporate, link, distribute or use (3) the Licensed Products or any other software provided by PTC, (4) any software, products, documentation, content or other materials developed using the Licensed Products, nor (5) any derivative works that Customer makes using the source code portions of the Licensed Products (if any), with any code or software licensed under any version of the GNU General Public License ("GPL"), Affero General Public License ("AGPL"), Lesser General Public License ("LGPL"), European Union Public License ("EUPL"), Apple Public Source License ("APSL"), Common Development and Distribution License ("CDDL"), IBM Public License ("IPL"), Eclipse Public License ("EPL"), Mozilla Public License ("MPL"), or any other Open Source license, in any manner that could cause or could be interpreted or asserted to cause the Software or other PTC software (or any modifications thereto) to become subject to the terms of the GPL, AGPL, LGPL, EUPL, APSL, CDDL, IPL, EPL, MPL, or such other open source license.
- (ii) Customer shall not, and shall not authorize or otherwise permit any third party to, incorporate, link, distribute or use any third-party software or code in conjunction with (i) the Software, (ii) any software, products, documentation, content or other materials developed using the Software in such a way that:
  - (a) creates, purports to create or has the potential to create, obligations with respect to the Licensed Products or other PTC software, including the distribution or disclosure of any source code; or (b) grants, purports to grant, or has the potential to grant to any third party any rights to or immunities under any PTC intellectual property rights or proprietary rights, including without limitation as such rights may exist in or relate to the Software.
- (iii) Customer shall not engage in any act or failure to act, that enables, causes or facilitates any use or distribution of the Licensed Products or any third-party software in a manner that causes any patents, copyrights or other intellectual property rights owned or controlled by PTC or any of its affiliates to become subject to any encumbrance or terms and conditions of any Open Source license.

#### 2.7 Restriction on Tools and Services.

- (i) Customer shall not use the Tools or Services to collect, use, or store (a) 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 (b) 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”).

- (ii) The Customer Application must not use the Licensed Products or Services in a manner that comprises, constitutes or depicts profanity, nudity, pornographic images or explicit sexual themes, or defamatory or libellous statements, material that infringes the intellectual property of any person or entity, material that infringes upon the privacy or data protection rights of any person, or material considered illegal or objectionable. In addition, Customer must not provide or submit facial images, except if and to the extent that they have obtained the legally-binding consent of the subject in advance, provided that such consent must be documented by the Customer Application and must be sufficient to permit PTC and its affiliates and service providers to collect, store, use and transfer such images as described in this Agreement.

2.8 Third Party Components and Bundled Third Party Products. Certain of the Licensed Products may contain embedded third-party software components for which additional terms apply. The current additional terms are set forth on the Schedule of Third Party Terms available on the Licensing Documents Webpage.

2.9 Additional Restriction(s). Additional product-specific provision(s) and terms applicable to third-party components included in or with the Licensed Products may apply to particular Licensed Products, as specified in the Licensing Basis Document, which is hereby incorporated by reference.

### **3. Support**

Support Services Plan; Levels of Support Services. Upon PTC’s acceptance of Customer’s order for a subscription License, PTC and/or its authorized subcontractors shall provide Support Services in accordance with these terms for a time period of twelve (12) months or for such other period specified in Customer’s order accepted by PTC (a “Support Services Plan”). The then current levels of Support Services offered and Support terms are available at <https://www.ptc.com/en/documents/legal-agreements/support-documents>.

### **4. Compliance**

4.1 Compliance Assessments. To confirm Customer’s compliance with the terms and conditions of this Agreement, Customer agrees that PTC and PTC’s authorized agents may perform assessments with respect to Customer’s compliance with this Agreement. Customer agrees to provide PTC access to Customer’s facilities and computer systems, and cooperation from Customer’s employees and consultants, as reasonably requested by PTC in order to perform such assessments, all during normal business hours, and after reasonable prior notice from PTC.

4.2 Reports. Upon written request from PTC, Customer agrees to provide to PTC an installation and/or usage report with respect to the Licensed Products (and in the case of Registered User Products, as specified in the Licensing Basis Document, such report shall include a list of all individuals for whom Customer has issued a password or other unique identifier to enable such individual to use the Registered User Product). Each such report shall be certified by an authorized representative of Customer as to its accuracy within ten (10) business days after receipt of PTC’s written request. For any period in which Customer’s use of the Licensed Products exceeds the number and/or the scope of the Licenses in effect during such period for such Licensed Products, Customer agrees to pay for any such excess usage, including applicable PTC Products and Services fees, and without limiting any other rights or remedies to which it is entitled, failure to pay shall be grounds for termination in accordance with Section 10.1 hereof.

### **5. Intellectual Property**

5.1 PTC and its licensors are the sole owners of the PTC Products and Services and of any copies of the Licensed Products, and of all copyright, trade secret, patent, trademark and other intellectual or industrial property rights in and to PTC Products and Services. All copies of the Licensed Products, in whatever form provided by PTC or made by Customer, shall remain the property of PTC, and such copies shall be deemed to be on loan to Customer during the License Term. Customer acknowledges that the License granted hereunder does not provide Customer with title to or ownership of the PTC Products and Services or any copies thereof, but only a right of limited use consistent with the express terms and conditions of this Agreement. Customer shall have no rights to the source code for the Licensed Products and Customer agrees that only PTC shall have the right to maintain, enhance, or otherwise modify the PTC Products and Services.

5.2 Except as to the PTC Products and Services, PTC does not acquire any right, title or interest in the Customer Application and Targets. Customer shall be the sole and exclusive owner of all right, title and interest in and to the Customer Application (including all releases, modifications and improvements thereto) and documentation and all copyrights, patents, trade secrets, trademarks and any other proprietary rights therein. No title to, or ownership of, the Customer Application is transferred to PTC.

5.3 Customer represents and warrants that (i) Customer has obtained all necessary permission and licenses from all holders of intellectual property rights, if any, in material or code appearing, used or recorded in any Customer Application that Customer creates or develops with the Licensed Products and (ii) it has all rights necessary to send the Targets to the Tools and Services and use and authorize others to use the Targets in connection with the Tools and Services, and that all Targets comply with all applicable laws and regulations.

5.4 Customer will not include in Customer Applications any Targets, or any materials of any kind that (a) are infringing, obscene, threatening, defamatory, libelous, violative of third party privacy rights, or otherwise unlawful or tortious, (b) contain software viruses, worms, Trojan horses, or other harmful computer code, files, scripts, agents, or programs, (c) interfere with or disrupt the integrity or performance of the Tools or Services or the data contained therein or (d) contain any facial recognition functionality or facial images.

5.5 PTC reserves the right, upon reasonable cause, to withhold, remove, and/or discard any Target without notice. For purposes of the foregoing, “reasonable cause” includes, without limitation, PTC’s determination that the Target subjects PTC to any actual or potential harm or other liability.

## **6. Customer Application Requirements**

### **6.1 Cloud Recognition Service.**

- (i) Customer’s permission to access the Cloud Recognition Service is limited solely for the purpose of storage and retrieval of Targets, up to the Cloud Target Limit, to enable cloud-based target recognition functionality in the Customer Application. The Customer Applications shall use and/or access the Cloud Recognition Service solely through the Licensed Product or VWS APIs. Customer shall upload Cloud Targets solely via the VWS APIs and/or the Target Manager.
- (ii) Upon prior notice to Customer, PTC may suspend Cloud Recognition Service if a Customer Application utilizes the Cloud Recognition Service in a manner that causes End-Users of the Customer Application to attempt to recognize objects for which Cloud Targets do not exist, resulting in excessive use of network and system resources.

**6.2 Sublicense Requirements.** Customer has the right to sublicense the Licensed Product solely as an integral part of the Customer Application and solely to licensed recipients of Customer Application, subject to the following additional requirements: (a) the sublicense must be no less protective of the Licensed Products and Services and the rights and interests of PTC and its Affiliates than the terms contained in this Agreement, including but not limited to the restrictions set forth in Section 6, including the following sub-section (End-User License Agreement); (b) Customer shall not make any representations or warranties, or undertake (or attempt to undertake) any obligations on behalf of PTC or its affiliates; (c) Customer shall ensure that PTC and its affiliates shall have no liability to Customer’s sub-licensees; (d) Customer shall not distribute the Software except as part of Customer Application; and (e) Customer shall have the right to terminate any sublicense immediately without notice, if PTC terminates Customer’s right to use the Licensed Product.

**6.3 End-User License Agreement.** Customer is responsible for all use of the Licensed Products and Services by End-Users as part of the Customer Applications and will ensure that each End-User agrees to terms that are no less restrictive than what’s included in this Agreement. Customer acknowledges and agrees that any End-User license agreement that End-Users agree to will include, terms similar to or substantially the same as the following:

- (i) End-Users consent to the (a) collection, storage, and use by PTC and its affiliates and service providers of Statistics and, if Customer Application uses the Cloud Recognition Service, Camera Views from the Licensed Product; (b) transfer of Statistics and, if applicable, Camera Views between PTC and its affiliates and service providers (which may be in the United States or in other countries), in each case for the purposes of (1) providing the Licensed Products and Services, (2) facilitating the provision of new products, updates, enhancements and other services, (3) improving the Licensed Products and Services, and other products, services and technologies, and (4) providing new products, services or technologies to customers of PTC or its affiliates;
- (ii) End-User is advised of the hazards of using a camera-based application while driving, walking, or otherwise by being distracted or disoriented from real-world situations; and
- (iii) If the Customer Application uses the Cloud Recognition Service, PTC will not be liable for, and Customer will indemnify PTC for any claims or damages arising from the End-User’s use the Customer Application that comprise, constitute or depict (a) profanity, nudity, pornographic images or explicit sexual themes, or defamatory or libellous statements, material that infringes the intellectual property of any person or entity, material that infringes upon the privacy or data protection rights of any person, or material considered illegal or objectionable; or (b) facial images.

## **7. Warranty; Disclaimer of Warranties**

See Schedule A for a modified version of this Section 7 for Licensed Products licensed and used in Germany, Austria or Switzerland.

**7.1 Licensed Product Warranty.** PTC warrants to Customer that PTC is authorized to grant the License(s). PTC further warrants that the Licensed Products will be free from Errors during the Warranty Period. “Warranty Period” means: (a) for perpetual software licenses, the ninety-day period commencing on the date PTC makes the Licensed Product available to Customer or Customer’s designee, and (b) for subscription licenses, the term of the subscription. PTC shall have no warranty obligations hereunder with respect to any (i) Errors attributable to any modifications or customizations of the Licensed Products, (ii) Licensed Products that are provided by PTC free of charge to Customer, and/or (iii) Bundled Third Party Products (as defined in the Schedule of Third Party Terms). PTC’s issuance of a New Release will not restart a Warranty Period that has expired.

**7.2 Licensed Product Sole Remedy.** PTC’s and its licensors’ entire liability and Customer’s exclusive remedy for any breach by PTC of the warranty given in the second sentence of Section 7.1 above shall be, at PTC’s sole discretion, either to (a) replace the Licensed Product(s) that contains the Error, or (b) use diligent efforts to repair the Error. PTC’s obligations set forth in the preceding sentence shall apply only if notice of the Error is received by PTC within the Warranty Period and Customer supplies such additional information regarding the Error as PTC reasonably requests. If PTC does not replace the applicable Licensed Product(s) and/or does not repair the Error (either by providing a bug fix, a workaround or otherwise) within a reasonable time after PTC receives written notice of the Error and associated information from

Customer, upon return of such Licensed Product(s) and any copies thereof, PTC will provide a refund of: the perpetual license fees paid by Customer for the Licensed Product(s) that contains the Error, and (ii) the prepaid subscription fees for the remainder of the subscription term for the Licensed Product(s) that contains the Error, in each case upon return of such Licensed Product(s) and any copies thereof.

**7.3 Cloud Recognition Warranty.** PTC shall monitor the availability of the Cloud Recognition Service 24/7. The availability of the Cloud Recognition Service will be 99.5% of each calendar quarter, excluding Excused Downtime. PTC's and its licensors' entire liability and Customer's exclusive remedy for any breach by PTC of the obligation in this Section 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 Cloud Recognition Service fees related to the specific Customer Application under the applicable Quote for such quarter multiplied by the Downtime Percentage. Such credit will be applied against any outstanding or future fees due under the applicable Quote during the then current License Term. 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.

**7.4 No Additional Warranties.** No third party, including any employee, partner, distributor (including any Reseller) 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 this Agreement, except as specifically set forth in a written agreement signed on behalf of Customer by an authorized officer and on behalf of PTC by its legal counsel.

**7.5 Disclaimer of Warranties.** EXCEPT AS EXPRESSLY STATED IN THIS SECTION 7, PTC DISCLAIMS (AND CUSTOMER WAIVES) ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, WRITTEN OR ORAL, INCLUDING ANY WARRANTY OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, AND/OR ANY WARRANTY THAT CUSTOMER WILL ACHIEVE ANY PARTICULAR RETURN ON INVESTMENT. CUSTOMER IS SOLELY RESPONSIBLE FOR ANY RESULTS OBTAINED FROM USING THE LICENSED PRODUCTS, INCLUDING THE ADEQUACY OF INDEPENDENT TESTING OF RELIABILITY, SECURITY AND ACCURACY OF ANY ITEM DESIGNED USING LICENSED PRODUCTS. PTC DOES NOT WARRANT THAT THE OPERATION OR OTHER USE OF THE LICENSED PRODUCTS WILL BE UNINTERRUPTED OR ERROR FREE OR WILL NOT CAUSE DAMAGE OR DISRUPTION TO CUSTOMER'S DATA, COMPUTERS OR NETWORKS. 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, DEVICES OR FEATURES (INCLUDING "PATCHES," FIXES and UPDATES) FOR THE LICENSED PRODUCTS PROVIDED OR MADE AVAILABLE BY PTC TO CUSTOMER.

## **8. Indemnification; Infringement**

**8.1 PTC's Obligation to Indemnify Customer.** PTC, at its own expense, will defend any action brought against Customer based on a claim that any Licensed Product infringes a United States, European Union or Japanese patent, copyright or trademark and, at its option, will settle any such action or will pay any final judgment awarded against Customer, provided that: (a) PTC shall be notified promptly in writing by Customer of any notice of any such claim; (b) 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 (unless one or more of the exclusions in Section 8.3 applies); and (c) Customer shall cooperate fully at PTC's expense with PTC in the defense, settlement or compromise of such claim. This Section states PTC's sole and exclusive liability, and Customer's sole remedy, for any and all claims relating to infringement of any intellectual property right.

**8.2 PTC's Right to Act to Prevent a Claim.** If a claim described in Section 8.1 hereof occurs or, in PTC's opinion, may occur, Customer shall permit PTC, at PTC's option and expense to: (a) procure for Customer the right to continue using the Licensed Product; (b) modify the Licensed Product so that it becomes non-infringing without materially impairing its functionality; or (c) terminate the applicable Licenses, accept return of the applicable Licensed Products and grant Customer a credit thereon. For Licenses purchased with a perpetual License Term, such credit shall be equal to the license fees paid by Customer for such Licensed Product depreciated on a straight-line, five-year basis. For Licenses purchased on a term license or subscription basis, such credit shall be equal to the prepaid license or subscription fees for the remainder of the License Term.

**8.3 Exclusions from PTC's Obligation to Indemnify Customer.** PTC shall have no liability to Customer under Section 8.1 hereof or otherwise to the extent that any infringement or claim thereof is based upon: (a) use of the Licensed Product in combination with equipment or software not supplied hereunder where the Licensed Product itself would not be infringing; (b) use of other than a current release of the Licensed Product(s) provided to Customer; or (c) modification of the Licensed Product by anyone other than PTC or its employees or agents.

**8.4 Customer Indemnity.** Customer shall defend PTC and its respective officers, directors, employees and agents ("PTC Indemnitees") against any third party claim (i) arising out of any warranty claim related to the Customer Application, (ii) for breach or violation of applicable laws or regulations, (iii) alleging that the use or disposition of the Customer Application, whether standalone or in combination with the Licensed Product or other third party products, infringes a patent or copyright but only if the infringement would not occur by use of the Licensed Products on a standalone basis, and pay the resulting costs, fines, and damages awarded against PTC by a court of competent jurisdiction or assessed by a government or regulatory agency, provided that PTC (a) notifies Customer promptly in writing of such claim, (b) grants Customer sole control over the defense and settlement thereof, and (c) reasonably cooperates in response to Customer's request for assistance. THIS SECTION STATES PTC'S SOLE AND EXCLUSIVE REMEDY AND CUSTOMER'S ENTIRE LIABILITY FOR SUCH CLAIMS.

## **9. Limitation of Liability**

See Schedule A for a modified version of this Section 9 for Licensed Products licensed and used in Germany, Austria or Switzerland.

9.1 The warranty and indemnification provisions of Sections 7 and 8 hereof state the entire liability of PTC, its subsidiaries and affiliates, and each of their respective directors, officers, employees or agents, with respect to the PTC Products and Services, including (without limitation) any liability for breach of warranty, or for infringement or alleged infringement of patent, copyrights, trademarks, trade secrets and other intellectual or proprietary rights by the Licensed Products, or their use.

9.2 EXCEPT FOR PTC'S INDEMNIFICATION OBLIGATIONS IDENTIFIED IN SECTION 8.1 ABOVE AND EXCEPT FOR CLAIMS FOR DEATH OR PERSONAL INJURY, THE MAXIMUM LIABILITY OF PTC AND ITS AFFILIATES, RESELLERS, DISTRIBUTORS AND LICENSORS ARISING OUT OF, OR RELATING TO, THE CREATION, LICENSE, FUNCTIONING, USE OR SUPPLY OF THE PTC PRODUCTS AND SERVICES OR OTHERWISE RELATING TO THIS AGREEMENT, WHETHER BASED UPON WARRANTY, CONTRACT, TORT, OR OTHERWISE, SHALL NOT, EXCEED THE FEES PAID BY CUSTOMER IN THE TWELVE MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO DAMAGES FOR THE PTC PRODUCTS AND SERVICES THAT GAVE RISE TO THE CLAIM.

9.3 IN NO EVENT SHALL PTC AND ITS AFFILIATES, RESELLERS, DISTRIBUTORS AND LICENSORS OR ANY OF THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES OR AGENTS BE LIABLE FOR: (A) ANY LOSS OF PROFIT, LOSS OF USE DAMAGES, LOSS OF GOODWILL, LOSS OF BUSINESS OPPORTUNITY, LOSS OF SALES, LOSS OF REPUTATION OR LOSS OF ANTICIPATED SAVINGS; (B) ANY LOSS OR INACCURACY OF DATA OR BUSINESS INFORMATION OR FAILURE OR INADEQUACY OF ANY SECURITY SYSTEM OR FEATURE; AND (C) SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL LOSS OR DAMAGE HOWSOEVER CAUSED; IN EACH CASE EVEN IF PTC HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

9.4 NOTHING IN THIS SECTION 9 WILL EXCUSE OR LIMIT CUSTOMER'S OBLIGATION TO PAY THE APPLICABLE FEE(S) FOR ALL AUTHORIZED OR UNAUTHORIZED USE OF THE PTC PRODUCTS AND SERVICES.

9.5 Customer agrees not to bring any suit or action against PTC, and/or its subsidiaries and affiliates, PTC's licensors and/or any of their respective directors, officers, employees or agents for any reason whatsoever more than one year after the cause of action arises.

## **10. Term and Termination of PTC Products and Services**

10.1 Events Causing Termination. This Agreement and all PTC Products and Services will terminate (i) immediately upon a breach of Section 2 of this Agreement or (ii) thirty (30) days after written notice from PTC specifying any other breach of this Agreement, including failure to make any payment due to either PTC or a Reseller in connection with the Licensed Products in a timely manner, if that breach is not, within that thirty (30) day period, remedied to PTC's reasonable satisfaction.

10.2 Effects of Expiration or Termination. Upon expiration of a given License Term and/or any expiration or termination of this Agreement, Customer shall promptly pay all sums owed by Customer, return to PTC the original copies of all Licensed Products for which the License Term has expired or has been terminated, destroy and/or delete all copies and backup copies thereof from Customer's computer libraries, storage facilities and/or hosting facilities. PTC shall have no obligation to retain any Targets or any other data following termination or expiration of a given License Term or this Agreement, and that PTC may delete the Targets and any other data immediately upon termination or expiration of the applicable License Term, Services or this Agreement.

10.3 Survival. Sections 1.2, and 3 through 11 shall survive expiration or termination of this Agreement.

## **11. General**

11.1 Governing Law and Jurisdiction. Unless otherwise stated in the PTC Affiliate List document available at <https://www.ptc.com/en/documents/legal-agreements/ptc-affiliates>, all disputes arising under, out of, or in any way connected with this Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts without reference to conflict of laws principles (and specifically excluding the Uniform Computer Information Transactions Act). The parties hereby expressly disclaim the application of the U.N. Convention for the International Sale of Goods. 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. Notwithstanding the foregoing or anything to the contrary, PTC shall have the right to bring a claim in any court of competent jurisdiction to enforce any intellectual property rights and/or protect any confidential information. Customer stipulates that the state and federal courts situated in the Commonwealth of Massachusetts shall have personal jurisdiction over its person, and Customer hereby irrevocably (i) submits to the personal jurisdiction of said courts and (ii) consents to the service of process, pleadings, and notices in connection with any and all actions initiated in said courts. The parties agree that a final judgment in any such action or proceeding shall be conclusive and binding and may be enforced in any other jurisdiction. Each party waives its right to trial by jury in connection with any dispute arising out of this Agreement.

11.2 Notices. Any notice or communication required or permitted under this Agreement shall be in writing. Any notice provided under this section shall be deemed to have been received: (a) if given by mail, five (5) business days after posting; (b) if given by express courier service, the second business day following dispatch; or (c) if given by fax, upon receipt thereof by the recipient's fax machine.

11.3 Assignment, Waiver, Modification. Customer may not assign, transfer, delegate or sublicense any of Customer's rights or obligations hereunder (including without limitation by operation of law or by sale of Customer assets, whether directly or by merger, and a change in

control of Customer shall be deemed to be an “assignment” for purposes of the foregoing) without PTC’s prior written consent, and any such attempted delegation, assignment, transfer or sublicense shall be void and a breach of this Agreement. No waiver, consent, modification, amendment or change of the terms of this Agreement shall be binding unless in writing and signed by PTC and Customer. PTC reserves the right to charge a transfer fee for any proposed assignment, transfer or sublicense of this Agreement or any Licenses purchased hereunder.

#### 11.4 Compliance with Laws.

- (i) Each party shall be responsible for its own compliance with applicable laws, regulations and other legal requirements relating to the conduct of its business and this Agreement. Further, Customer represents and warrants that it will use the Licensed Products, as well as related technology and services, in full compliance with applicable laws and regulations.
- (ii) Customer hereby warrants and represents that neither Customer nor any of Customer’s directors, officers or affiliates 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, the U.S. Treasury Department’s List of Specially Designated Nationals and Blocked Persons or the Sectoral Sanctions Identifications (SSI) List (collectively, the “Restricted Party Lists”). Customer acknowledges and agrees that the Licensed Products and related technical data and services are subject to the export control laws and regulations of the United States and any country in which the Licensed Products or related technical data or services are developed, received, downloaded, used, or performed. Further, Customer understands and acknowledges that the release of software or technology to a non-U.S. person within the United States or elsewhere abroad is deemed to be an export to the non-U.S. person’s home country or countries, and that the transfer of the Licensed Products or related technology to Customer’s employees, affiliates, or any third party, may require a license from the United States Government and possibly other applicable authorities. Customer shall be solely responsible for determining whether Customer’s use or transfer of the Licensed Products or related technology or services requires an export license or approval from U.S. or other authorities, and for securing all required authorizations.

11.5 Severability. The unenforceability or invalidity of any provision shall not affect the validity of the remaining provisions, and such provisions determined to be invalid shall be deemed severed from this Agreement and replaced with terms which as closely as possible approximate the intent of such invalid provisions.

11.6 Entire Agreement. This Agreement is the complete and exclusive statement of the contract between PTC and Customer with respect to the subject matter hereof. No waiver, consent, modification, amendment or change of this Agreement shall be binding unless in writing and signed or otherwise expressly acknowledged by PTC and Customer.

11.7 Third Party Beneficiaries. It is agreed by the parties to this Agreement that PTC’s third-party licensors are intended beneficiaries of this Agreement and have the right to rely upon and directly enforce its terms with respect to the products of such licensors.

11.8 Processing Personal Data. 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/legal-agreements> and PTC’s privacy policy available at <https://www.ptc.com/en/documents/policies>. 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.

11.9 Statistics Customer understands and agrees that the Licensed Product sends to PTC and/or its affiliates and service providers Statistics. Customer further understands and agrees that PTC and/or its affiliates and service providers may collect and use Statistics: (a) to provide the Licensed Products; (b) to improve and optimize the Licensed Products for different hardware and software requirements on various consumer devices (commonly referred to as device fragmentation); and (c) to facilitate the creation of new products, updates, enhancements, technologies, and other services.

11.10 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.

11.11 Government Licensees. If Customer is a United States Governmental entity, Customer agrees that the Licensed Products are “commercial computer software” under the applicable federal acquisition regulations and are provided with the commercial license rights and restrictions described elsewhere herein. If Customer is acquiring the Licensed Product(s) under a United States government contract, Customer agrees that Customer will include all necessary and applicable restricted rights legends on the Licensed Products to protect PTC’s proprietary rights under the FAR or other similar regulations of other federal agencies. Customer agrees to always include such legends whenever the Licensed Products are, or are deemed to be, a deliverable under a government contract.

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#### **Schedule A – Specific Provisions for Austria, Germany and Switzerland**

For Licensed Products licensed and used in Austria, Germany or Switzerland, the following provisions shall apply. The following provisions shall have no applicability to any Licensed Products or Services purchased outside of Austria, Germany or Switzerland. References to sections below are references to the applicable sections in the body of the Agreement.



- Section 2.4 (iv) above shall not apply to the extent that (i) the processes Customer undertakes are required to achieve information necessary to achieve interoperability of an independently created computer program with other software programs, (ii) the further requirements of Section 69e of the German Copyright Act are fulfilled and (iii) PTC, upon Customer's written request, has not made available the information required for this within a reasonable period.
- Sections 7.1 (Warranty), 7.2 (Sole Remedy), 7.4 (No Additional Warranties) and 7.5 (Disclaimer of Warranties) are hereby replaced by the following provisions:

#### 7. Warranty; Disclaimer of Warranties

Sections 7.1 to 7.6 apply to warranty claims with regard to perpetual licenses; for warranty claims with regard to subscription licenses Section 7.7 applies.

7.1 Warranty Period, Restarts and Investigation Duty. The limitation period for warranty claims shall be twelve (12) months from delivery. Any replacement of the Licensed Product(s) and/or repair of Errors will not restart the warranty period. The pre-requisite for the Customer's warranty claims (Mängelansprüche) is that: (i) the Customer inspects the Licensed Products according to Section 377 German Commercial Code, (ii) the defect is an Error as defined in this Agreement, (iii) the Error already existed at the time of delivery and (iv) the Customer effects a proper notification of the Error. Customer shall provide notifications of Errors to PTC in writing and Customer shall provide specific details of the Error as deemed reasonable under the specific circumstances. Customer shall notify PTC of obvious Errors in writing within one week of delivery and of latent Errors within one week of discovery of such Error. The periods specified are preclusion periods.

7.2 Remedies. In the event of an Error, PTC in its sole discretion may: (a) replace the Licensed Product(s) or (b) repair the Error, provided that notice of the Error is received by PTC within the periods set forth in Section 7.1 and Customer provides such additional information regarding the Error as PTC may reasonably request. If the repair (either by providing a bug fix, a workaround or otherwise) or replacement is not successful (after at least two repair attempts for the same Error by PTC within a reasonable period of time), Customer shall be entitled, at Customer's choice, to either: (i) rescission of the affected order so that PTC provides a refund of the license fees paid by Customer for the applicable Licensed Product(s) containing the Error upon return of such Licensed Product(s) and any copies made thereof or (ii) a reasonable reduction in the purchase price. 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 Licensed Products.

7.3 Warranty Exceptions. PTC shall have no warranty obligations hereunder with respect to any (i) New Releases, (ii) Errors attributable to any modifications or customizations of the Licensed Products, (iii) Licensed Products that are provided by PTC free of charge to Customer, including but not limited to Pre-Release Software, and/or (iv) Bundled Third Party Products (as defined in the Schedule of Third Party Terms).

7.4 No Additional Warranties. No employee, partner, distributor (including any Reseller) or agent of PTC or any of its resellers or sales agents is authorized to give representations, warranties or covenants greater or different than those contained in this Agreement, except as specifically set forth in a written agreement signed on behalf of Customer by an authorized officer and on behalf of PTC by its legal counsel or Corporate Controller. Apart from claims for damages based on Errors that are subject to the limitation of liability as set forth in Section 8, the obligations provided for in this Section 6.1 to 6.6 shall be PTC's exclusive liability in case of warranty claims.

7.5 Customer Responsibility. The Licensed Products are intended to be used by trained professionals and are not a substitute for the exercise by Customer of professional judgement, testing, safety and utility in their use. Customer is solely responsible for any results which were obtained by using the Licensed Products, including the adequacy of independent testing of reliability and accuracy of any item designed using Licensed Products.

7.6 Qualities (Beschaffenheit), Guarantees. Qualities of the Licensed Products 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 on packaging and labeling of the Licensed Products, or which fall under trade usages, shall only be deemed to be covered by the contractual quality of the Licensed Products 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 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.

#### 7.7. Warranty claims with regard to subscription licenses

7.7.1 PTC will provide and maintain the subscription licenses in a suitable condition for the contractual use ("fitness for contractual use"). The maintenance of the subscription licenses' fitness for contractual use will be provided by way of Support Services in accordance with the terms and conditions for Support Services as set out under <http://support.ptc.com/support/services/support-policies/>, such Support Services being included with the purchase of subscription licenses without additional fee. The obligation to maintain the Licensed Products does not include adjustments to changes in operating conditions or the IT environment, in particular to changes in hardware or operating systems or to new file formats.

7.7.2 In the event of an Error as defined in Schedule B affecting a Licensed Product's fitness for contractual use, PTC at its sole discretion may (a) replace the Licensed Product(s) 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 Licensed Product(s) containing the Error so that PTC provides a refund of the prepaid subscription fees for the remainder of the subscription term for the Licensed Product(s) containing the Error upon return of such Licensed Product(s) and any copies made thereof or (b) a reasonable reduction in the subscription fee of the respective Licensed Product(s). 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 Licensed Products.

7.7.3 PTC's liability for damages without fault (verschuldensunabhängige Haftung) for defects that existed upon PTC's acceptance of an order is excluded.

7.7.4 The Customer's right to terminate for deprivation of use in accordance with section 543 para. (2) sentence 1 no. 1 BGB (German Civil Code) shall be excluded, unless the repair or replacement is deemed to have finally failed.

7.7.5 The provisions set out in in Sections 7.3, 7.4 sentence 1, 7.5 and 7.6 apply.

7.7.6 Apart from claims for damages based on Errors that are subject to the limitation of liability as set forth in Section 9, the obligations provided for in this Section 7.7 shall be PTC's exclusive liability in case of warranty claims.

- Section 9 is hereby replaced by the following provisions:

#### 9. Limitation of Liability

9.1 Liability Categories. PTC shall be liable for damages, 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.

9.2 Predictability. 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).

9.3 Maximum Amount. In the cases of Section 9.2 (i) and (ii), PTC's liability shall be limited to a maximum amount of EURO 1,000,000 or, in case of purely financial losses, to a maximum amount of EURO 100,000.

9.4 Indirect Damages. In the cases of Section 9.2, PTC shall not be liable for indirect damages, consequential damages or loss of profit.

9.5 Further Limitation of Liability. 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, devices or features (including "Patches", "Fixes" and Updates) for the Licensed Products provided or made available by PTC to Customer.

9.6 Liability Period. 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. For claims based on Errors of the Licensed Product(s), the warranty limitation period pursuant to Section 7.1 shall apply.

9.7 Mandatory Liability. 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.

9.8 Employees. Sections 9.1 to 9.7 shall also apply in the case of any claims for damages of Customer against employees or agents of PTC and/or PTC's affiliates.

9.9 Contributory Negligence. 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.

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## Schedule B - Definitions

“Area Target” means a Target that is created from a 3D scanned environment. using a supported 3D scanner in the Area Target Generator, Area Target Creator and/ or Area Target Capture API.

“Area Target Capture API” means an API that enables your application to capture and generate Area Targets at runtime and use them instantly to augment environments.

“Area Target Creator Application” means a supported PTC mobile device application intended for the capturing of 3D environments to be used for creating Area Targets.

“Area Target Generator” means a desktop application intended for the creation of Area Targets from a supported capture scanning device.

“Camera View” means an image from a device’s camera that is automatically captured by the Licensed Product for use with the Cloud Recognition Service.

“Client” means a third party for whom Customer develops a Customer Application.

“Cloud-Based Reco” means an event that is registered by the Licensed Product when a Cloud Target is recognized successfully.

“Cloud Target Database” means the database containing Targets that is accessed by the Cloud Recognition Service.

“Cloud Recognition Service” means the cloud-based service used to recognize Targets stored in a Cloud Target Database, whether accessed through the Licensed Product or the VWS APIs.

“Cloud Target” means a Target for use with the Cloud Recognition Service.

“Cloud Target Limit” means the maximum number of Targets that can be uploaded to the Cloud Target Database.

“Client Personnel” means the employees, officers, directors, agents, contractors, consultants, or partners of Client who have written and binding agreements with Client that require compliance with this Agreement.

“Customer Application” means a software application that is developed by Customer using the Licensed Product for which Customer has purchased a commercial license.

“Developer Account” means the account identified by a unique login.

“Documentation” means the applicable Licensed Product user manuals provided or made available by electronic means by PTC as part of the Licensed Product.

“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.

“Early Access” means a program, designated by PTC, that provides pre-release versions of the Software that is not otherwise made generally available.

“End-User” means a licensed user of the Customer Application, including Client and Client Personnel.

“Engine Developer Portal” means the Vuforia developer portal located at developer.vuforia.com that includes access to, without limitation, the Target Manager and License Manager.

“Error” means a failure of the Licensed Product to conform substantially to the applicable Documentation, provided that Customer informs PTC of such failure in writing.

“Excused Downtime” means any and all of the following:

- (i) Force Majeure event.
- (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 Cloud Recognition Service.
- (iv) Downtime resulting from third party software utilized by the 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.

“Force Majeure” means an event where PTC shall not be in default of its obligations to the extent its performance is delayed or prevented by causes beyond its control.

“License” means the non-exclusive, non-transferable right, without any right to sub-license, to install and use a Licensed Product (in object code form).

“License Key” means a unique key generated by PTC that enables the use of the Licensed Product in a Customer Application.

“License Manager” means the Vuforia License Manager available through the Engine Developer Portal that is used to manage License Keys.

“License Term” means the time period during which the License for the applicable Licensed Products shall be in effect as specified in the part name of the Licensed Product or in the applicable Quote. The License Term for evaluation Licenses shall be no longer than thirty days. The License Term of a “subscription” License is as specified in the Quote and/or the invoice.

“Licensed Products” means the computer software products identified in the applicable Quote and Documentation, including any Sample Code, provided with such computer software products.

“Licensing Basis Document” means the “Licensing Basis” document located at the Licensing Documents Webpage, which specifies the licensing basis of PTC’s different products and states certain additional product-specific terms and conditions.

“Licensing Documents Webpage” is located at <https://www.ptc.com/en/legal-agreements>.

“Model Target” means a Target that is created from a 3D model in the Model Target Generator.

“Model Target Generator” means a desktop application intended for the creation of 3D model Targets. “Model Target Web API” means a method creating Model Targets that are processed in the Cloud Recognition Service.

“New Release” means a modified or enhanced version of a Licensed Product that is designated by PTC as a new release of that product and that PTC makes generally available to its Support Services customers.

“Open Source License” means any agreement that requires, as a condition of use, modification and/or distribution of any software or other software incorporated into, derived from or distributed with such software (each, a “work”), any of the following: (a) the making available of source code, object code or design information regarding a work; (b) the granting of any permission or other right for creating modifications to or derivative works regarding a work; or (c) the granting of any royalty-free license rights to any party under any patents or other intellectual property rights regarding a work. By means of example and without limitation, “Open Source License” includes the following licenses and/or distribution models: (i) the GNU General Public License, (ii) the GNU Lesser General Public License, (iii) the Mozilla Public License or (iv) any other open source, free software or community licenses (including those listed on <http://www.opensource.org/licenses/alphabetical>).

“Personnel” means the employees, officers, directors, agents, contractors, consultants, or partners of Customer who have written and binding agreements with Customer that require compliance with this Agreement.

“Permitted User” means an individual who is authorized by Customer to use the Licensed Products, such use to be solely in accordance with the terms and conditions of this Agreement. Permitted Users are limited to Customer’s employees, consultants, subcontractors, suppliers, business partners and customers who (i) are not competitors of PTC or employed by competitors of PTC and (ii) are directly involved in the utilization of the Licensed Products solely in support of Customer’s internal business purposes.

“Pre-Release Software” means the pre-release versions of the PTC Products and Services, including Documentation not made generally available except as part of PTC’s Early Access and is designated as such.

“PTC Products and Services” means collectively the Licensed Products, Support Services, and the Services and Tools.

“Quote” means the product schedule, quote, or other written agreement provided to, or signed by, Customer in connection with the purchase of the applicable items.

“Reseller” means a third-party appointed and authorized by PTC to resell or distribute any PTC Products and Services to Customer.

“Sample Code” means the application source code provided with the Licensed Product to demonstrate Vuforia Engine features.

“Services” means the Cloud Recognition Service and VuMark Generation Service, including VuMark Templates, whether accessed through the Licensed Product or VWS APIs.

“Statistics” means the data collected by the Licensed Products listed at <https://developer.vuforia.com/legal/statistics>.

“Support Services” means the provision of New Releases and, depending on the level of Support Services ordered, may also include telephone support, web-based support tools, and correction of Errors.

“Target” means an image or set of images (including, without limitation, a set of markers), VuMarks, Model Targets or Area Targets that are recognizable by the Software.

“Target Manager” means the web application available through the Engine Developer Portal used to manage Targets.

“Third-Party Provider” means a Customer that develops a Customer Application for distribution to a Client.

“Tools” means the, VuMark Designer, Model Target Generator, Target Manager, Area Target Generator, Areas Target Creator Application, Area Target Capture API, and License Manager provided by PTC for the development of the Customer Application.

“Transaction Outage” means any period (measured in minutes) during which the Cloud Recognition Service, and the connections for such servers to the Internet, do not have adequate bandwidth capacity and speed to meet the peak demands of Permitted Users

accessing the Cloud Recognition Service, resulting in such Permitted Users being denied access or experiencing unavailable or interrupted access due to lack of capacity or speed of the servers' internet connections, excluding Excused Downtime.

“Vuforia Engine” means the software that detects and tracks physical objects and environments, whether packaged with Unity or as a standalone SDK

“VuMark” means the .svg, .png, or .pdf file that is created with the VWS APIs or the Target Manager.

“VuMark Designer” means scripts for Adobe Illustrator used to create VuMark Templates.

“VuMark Generation Service” means the cloud-based service used to generate a VuMark Instance from a VuMark Template, whether accessed through the Target Manager or VWS APIs.

“VuMark Instance” means the .svg, .png, or .pdf file that is created using the Target Manager or VWS APIs.

“VuMark Template” means the .svg file created by Customer that defines the encoding scheme and visual design for VuMark Instances.

“VWS APIs” means the APIs for VuMark Generation Service and the Cloud Recognition Service.