



PTC SaaS Services Terms and Conditions

These SaaS Services Terms and Conditions (“Services Terms”) set forth the terms and conditions pursuant to which PTC provides SaaS Services (and in some cases Managed Services, as applicable the “Services”) to customers (“Customer”), as specified in a quote or order agreement that references these Services Terms (each a “Quote”). PTC may update these Services Terms from time to time, provided, however, that if such changes have a material adverse effect on a particular Service, such changes shall not be effective for such Service until the next renewal date for such Service.

1. Documents Making Up this Agreement

This agreement (“Agreement”) consists of the following documents:

- a) The Quote
- b) The PTC SaaS Offering Specific Provisions available at <http://www.ptc.com/legal-agreements> (“OSP”)
- c) These Services Terms including its **Exhibit A** (SLA) and **Exhibit B** (PTC CER Provisions, if applicable)
- d) The PTC Data Processing Terms & Conditions (DPA) available at <https://www.ptc.com/en/documents/legal-agreements/data-processing-terms-and-conditions>
- e) 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.

“**Data**” means the data that is created using the Service or transmitted to, loaded into, or stored in the Service by Customer and Users.

“**Managed Services**” means PTC providing cloud hosting services so that Customer may access licenses of PTC software that Customer has purchased via the internet, along with certain IT administration and application administration support services, as specified in this Agreement. It is a prerequisite for Managed Services that the Customer must own a valid license to the software being hosted and also an active support services contract for such software (either as part of a subscription license or as a separate support contract).

“**Offering**” means a purchasable Service offering as defined in the OSP.

“**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.

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

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

“SaaS Services” means PTC providing SaaS services so that Customer may access the Service via the internet, along with certain IT administration and application administration support services, as specified in this Agreement.

“Service Level Agreement” (“SLA”) means PTC’s commitments related to Service availability as specified in **Exhibit A**.

“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 persistent storage consumed by the Data included in the applicable Service. Refer to the Offering Specific Provisions for details in regards to particular Service offerings.

“Synthetic User” means an account that is not for a human user that enables indirect access to the Service or the Data by multiple users.

“Third Party Application” means non-PTC software that Customer requests PTC to host for Customer as a part of the Service.

“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 Service.

3. Services

(a) PTC will provide Customer with the non-exclusive right to access the Service during the Service Period solely for Customer’s internal business purposes and solely in accordance with this Agreement. Customer may permit its wholly-owned subsidiaries to exercise its rights or perform its obligations under this Agreement; provided that, (a) all acts and omissions of any such subsidiary shall be deemed to be those of Customer and Customer shall be responsible therefor, and (b) Customer hereby agrees to the relevant provisions of this Agreement on behalf of such subsidiaries.

(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 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 Service, but not necessarily all features and functionality of such Service. Furthermore, it may be technically possible for Customer to access PTC software or functionality that Customer has not purchased the right to access, and Customer agrees that it shall not access such other PTC software or functionality.

(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 Service 24/7. The availability of the production Services will be as specified in **Exhibit A**.

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 access to the Services may not be used by more than one individual. Customer may not create an account to serve as a Synthetic User of the Services. Customer is responsible for use of the Services by all Users that access the Services with Customer’s account credentials.

(c) The Services may not be used for unlawful, obscene, offensive or fraudulent content or activity. If there is a complaint or notice of violation, or if PTC otherwise learns of violation, use and access may be suspended until the same is resolved.

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

(e) 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.

6. Data Center/Security

(a) PTC uses industry standard measures designed to protect the operating environment of the Services and Service against unauthorized physical access and the threats of fire, power, temperature, humidity and other physical forces.

(b) In addition to the physical access protections described above, PTC will implement and maintain appropriate technical and organizational measures to protect Data against accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, personal data transmitted, stored or otherwise processed including:

- i. PTC will maintain controls consistent with the ISO 27001:2013 framework and PTC will be ISO 27001:2013 certified.
- ii. Data in the production environment 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 Service. In the event viruses, worms or similar problems are determined to have infected the Service, PTC will use commercially reasonable efforts to restore the Service as quickly as reasonably possible.
- iii. This subsection (b) shall not apply to Vuforia or Onshape Offerings.

(c) Customer is responsible for making an independent determination as to whether the technical and organizational measures for the Service meet Customer’s requirements, including its security obligations under applicable law or regulations. Customer acknowledges and agrees that (taking into account the state of the art, the costs of implementation, and the nature, scope, context and purposes of the processing of its Data as well as the risks to individuals) the security practices and policies implemented and maintained by PTC provide a level of security appropriate to the risk with respect to its Data.

(d) Customer is responsible for implementing and maintaining privacy protections and security measures for components of the Services that Customer provides or controls such as ensuring, (i) it uses utmost discretion in granting administrator privileges, (ii) that Users do not share accounts and their passwords, and (iii) maintaining security of its systems, machines, and User’s devices that connect to and use the Service, including implementation of necessary patches and operating system updates and (iv) designing, authoring, validating, and approving all custom reports or any other integrations or customizations.

(e) 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 or load testing of the Service without obtaining PTC’s prior written permission, and then only subject to such conditions as PTC reasonably requires. PTC may terminate any testing of the Service at any time, as PTC determines necessary or advisable to protect the Service’s operation or integrity.

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 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 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 Service. Customer shall not and shall not attempt to (i) reverse engineer the Service or derive its algorithms from its use; (ii) created derivative works of the Service or disassemble,

decompile or reverse engineer the Service or the file format of the Service, or otherwise attempt to gain access to the source code or file format (iii) 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 Service, any copy thereof, or any other rights thereto, in whole or in part, without in each case obtaining PTC's prior written consent (iv) alter, remove, or obscure any copyright, trade secret, patent, trademark, logo, proprietary and/or other legal notices on or in any copies of the Service or (v) 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) In performing the Services, PTC will comply with the PTC privacy policy available at <https://www.ptc.com/en/documents/policies/privacy>

(d) PTC's Data Processing Terms and Conditions (DPA) which is available at <https://www.ptc.com/en/documents/legal-agreements/data-processing-terms-and-conditions> and which is incorporated herein by reference describes how PTC will process Personal Information (as defined in the DPA) that Customer provides as part of the provision of the Services.

(e) 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.

(f) If Customer provides PTC with any feedback or suggestions regarding the Service, including potential improvements or changes thereto (collectively, "Feedback"), the Feedback shall not be considered confidential information of Customer, and PTC shall be free to use, disclose, and otherwise exploit in any manner, the Feedback for any purpose and without compensation to Customer.

10. Data

(a) Customer agrees that the 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 relating to the health of an individual, including without limitation any protected health information, 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").
 - iii. any personal credit information, including without limitation credit card account numbers, cardholder names, card expiration dates and security codes.
- (b) PTC shall treat all Data as confidential and shall only use the 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 Service 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 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 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) If PTC discontinues a Service during the term of such Service, PTC shall provide to Customer a refund of the prepaid fees for the terminated portion of the term.

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

(d) If the Service is terminated, 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 A** shall be to credit to Customer a portion of its fees for the month 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 A**, 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 Service shall function substantially in accordance with the then applicable documentation accompanying the Service.

(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 DATA WILL NOT BE DESTROYED, LOST, INTERCEPTED, OR ALTERED BY UNAUTHORIZED PERSONS. PTC DOES NOT WARRANT THAT THE OPERATION OR OTHER USE OF THE SERVICE WILL BE UNINTERRUPTED OR ERROR FREE OR WILL NOT CAUSE DAMAGE OR DISRUPTION TO DATA. WITHOUT LIMITING THE FOREGOING, IF CUSTOMER REQUESTS THAT PTC DELAY IMPLEMENTATION OF A NEW VERSION, UPDATE OR UPGRADE TO THE SERVICE AND PTC (IN ITS SOLE DISCRETION) AGREES TO SUCH DELAY, PTC WILL HAVE NO LIABILITY ARISING FROM ANY SECURITY INCIDENT OR DATA LOSS THAT WOULD HAVE BEEN PREVENTED IF SUCH NEW VERSION, UPDATE OR UPGRADE HAD BEEN IMPLEMENTED.

(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 Service (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-affiliates>.

(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) 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.

(e) 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.

(f) 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.

(g) 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 - Service Level Agreement

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

2) Testing and Calculation. 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) PTC Responsibilities

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

4) Exclusions. The service availability commitment is only applicable to production Services, it does not apply to any non-production environments. The commitment 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 Service.

5) Reports for Service Availability (not applicable to Vuforia SaaS Services).

PTC will provide to Customers a quarterly report describing the service availability for the applicable 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.

Exhibit B - 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 Service 24/7. The availability of the production Services will be as specified in **Exhibit A. Exhibit A - Service Level Agreement** and its content cannot be regarded as a warranted quality (*zugesicherte Eigenschaft*), guarantee (*Garantie*) or guarantee as to condition (*Beschaffheitsgarantie*) 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 Service that are part of Managed Services please refer to the respective PTC Customer Agreement or other license agreement between the parties. As to Service in SaaS Services, the following shall apply:

- (1) PTC will provide and maintain the Service in a suitable condition for the contractual use ("fitness for contractual use"). The maintenance of the Service'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 Service in SaaS Services without additional fee. Unless specified in the Agreement, the obligation to maintain the Service 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 Service to conform substantially to the applicable documentation accompanying the Service, provided that Customer informs PTC of such failure in writing ("Error"), affecting a Service's fitness for contractual use, PTC at its sole discretion may (a) replace the Service 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 Service containing the Error so that PTC provides a refund of the prepaid Service fees for the remainder of the Service term for the Service containing the Error upon or (b) a reasonable reduction in the Service fee of the respective Service. 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 Service.

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

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

12 (D) (1) 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.

12 (D) (2) 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 (*Beschaffenhheitsgarantie*).

12 (D) (3) 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.

12 (D) (4) 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 Data.

12 (D) (5) Notwithstanding the applicability of the limitations of liability set out above, in case of a loss of Data PTC is only liable for the costs of the recovery of such 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 Service provided or made available by PTC to customer.

12 (D) (6) 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.

12 (D) (7) 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 (*Beschaffenhheitsgarantie*) remains unaffected.

12 (D) (8) 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.

12 (D) (9) 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.