

CUSTOMER AGREEMENT FOR PTC PRODUCTS

"This Customer Agreement (together with the applicable Product Schedule, this "Agreement") shall apply only in the event that the person or company that is specified on the Product Schedule as Licensee of the Licensed Products (the "Customer") and Parametric Technology GmbH, Edisonstr. 8, 85716 Unterschleissheim, Germany, or one of its affiliates ("PTC") *has not* signed after 01.01.2002 a written *Customer Agreement for PTC Products* or other written agreement for the licensing and use of Licensed Products ("Licence Agreement"). If Customer and PTC have signed a Licence Agreement after 01.01.2002, such Licence Agreement shall govern Customer's licensing and use of the Licensed Products and the terms and conditions of this Agreement shall not apply. As used in this Agreement, "you" or "your" refer to Customer's representative authorised to accept the terms of this Agreement on Customer's behalf.

PLEASE READ THE TERMS AND CONDITIONS OF THIS AGREEMENT CAREFULLY BEFORE INSTALLING OR ACCESSING THE LICENSED PRODUCTS (AS DEFINED BELOW). BY CLICKING ON THE "ACCEPT" BUTTON BELOW, YOU ARE AGREEING ON BEHALF OF THE CUSTOMER TO BE BOUND BY THIS AGREEMENT AND REPRESENTING THAT YOU ARE AUTHORISED TO DO SO.

IF YOU DO NOT AGREE TO ALL OF THE TERMS OF THIS AGREEMENT, CLICK THE "DECLINE" BUTTON AND PROMPTLY RETURN TO PTC THE LICENSED PRODUCTS. CUSTOMER MAY NOT CANCEL AN ORDER FOR OR RETURN LICENSED PRODUCTS ONCE YOU HAVE CLICKED THE ACCEPT BUTTON."

Definitions.

1.1. "Concurrent User Products" means the Licensed Products licensed on a concurrent user basis as identified in the Product Schedule.

1.2. "Confidential Information" means such information as defined in Section 4.2 of this Agreement.

1.3. "Designated Computer" means the central processing unit(s) designated by Customer in connection with the installation of the Licensed Products which are under the control of Customer.

1.4. "Designated Country" means the country of the installation address specified on the applicable Product Schedule. The Designated Country may be changed only in accordance with Sections 2.2 and 2.3 of this Agreement.

1.5. "Designated Network" means the network designated by Customer in connection with the installation of the Licensed Products.

1.6. "Designated Server" means a computer server designated by Customer in connection with the installation of the Licensed Products that has one unique instance of the applicable installed Licensed Product application.

1.7. "Designated Server Products" means the Licensed Products licensed on a Designated Server basis as identified in the Product Schedule.

1.8. "Documentation" means the applicable Licensed Software user manuals provided or made available by electronic means by PTC at the time of shipment of the Licensed Software.

1.9. "Error" means a failure of the Licensed Software to conform substantially to the applicable Documentation, provided that Customer informs PTC of such failure in writing and PTC is able to replicate such failure after making reasonable efforts.

1.10. "Licence" means the non-exclusive, non-transferable right, without any right to sub-licence, to use a Licensed Product during the applicable Licence Term subject to the terms and conditions hereof and in accordance with the applicable restrictions set out in the Product Schedule.

1.11. "Licence Term" means the time period during which the Licence shall be in effect as specified in the applicable

Product Schedule (subject to earlier termination pursuant to the terms of this Agreement).

1.12. "Licensed Products" means collectively the Licensed Software and the Documentation.

1.13. "Licensed Software" means, collectively, the computer software products specified in a Product Schedule as well as (i) any Error corrections pursuant to Section 5.2 of this Agreement, (ii) any updates, Error corrections and/or New Releases provided to Customer by PTC pursuant to Maintenance Services purchased by Customer and (iii) any computer software provided to Customer in the course PTC's delivery of Training Services.

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

1.15. "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 Maintenance Services customers.

1.16. "Permitted User" means an individual who is authorised by Customer to use the Licensed Products (being either Concurrent User Products or Registered User Products), such use to be solely in accordance with the terms and conditions hereof. 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 utilisation of the Licensed Products solely in support of Customer's internal product development and information management operations. Customer shall at all times be responsible for its Permitted Users' compliance with this Agreement.

1.17. "Product Schedule" means PTC's standard order form entitled "PTC Product Schedule" (including all schedules, attachments and other document(s) specifically referenced therein) or such alternative order form as may be submitted by Customer and accepted by PTC, in each case that specifies (i) the Licensed Products and/or Services ordered; and (ii) for Licensed Products, the

installation address (including the Designated Country) and the Licence Term.

1.18. "Registered User" means a Permitted User for whom Customer has purchased a Licence to use a Registered User Product and for whom Customer has issued a password or other unique identifier to enable such individual to use the Registered User Product.

1.19. "Registered User Products" means the Licensed Products licensed on a Registered User basis as identified in the Product Schedule.

1.20. "Services" means collectively, Maintenance Services and Training Services.

1.21. "Subscription Licence Fee" or "Usage Licence Fee" mean a periodic fee payable beginning upon shipment of Licensed Products that are specified in the applicable Product Schedule as being subject to a Subscription Licence Fee or Usage Licence Fee and that, only during the period for which the Subscription Licence Fee or Usage Licence Fee is paid, entitles Customer to (i) use the Licensed Products pursuant to the applicable Licence and (ii) if applicable, receive Maintenance Services at the Maintenance Services level specified in the applicable Product Schedule.

1.22. "Third Party Components" means the software components defined in Section 2.8 of this Agreement.

1.23. "Training Services" means instruction or other training in the use of the Licensed Products.

1.24. "Uplift Fee" means a fee based upon the difference between the fees applicable in the original Designated Country and the fees applicable in the Designated Country to which Customer is transferring the Licensed Product together with all VAT and other duties or taxes that may be payable on the transfer of Licensed Products.

1.25. "Warranty Period" means such period as defined in Section 5.3 of the Agreement.

2. Licence to Licensed Products.

2.1 Licence Grant. Upon PTC's acceptance of an order for Licensed Products, PTC grants to Customer a Licence to install and use the Licensed Products solely for Customer's internal product development and information management operations during the applicable Licence Term. The Licence shall be subject to the applicable restrictions in Section 2, to the other terms and conditions hereof, and to any limitations or other terms and conditions contained in the Product Schedule.

2.2 Designated Country/Computer Networks Customer may only install and operate Licensed Products on computer systems and networks situated in the applicable Designated Country. Customer may, from time to time, change the Designated Country in which Customer seeks to install or operate a Licensed Product, provided that (i) in each case Customer shall give prior written notice to PTC of any such change, and (ii) upon transferring the Licensed Products to a different Designated Country, Customer shall pay the Uplift Fees, as well as any taxes, tariffs or duties that may be payable on such transfer.

2.3 Restrictions on Use relating to Permitted Users. The number of Permitted Users accessing or operating a Licensed Product at any point in time may not exceed the number of Licences in effect at such time for that particular

Licensed Product. Only Permitted Users located in the Designated Country may access, operate and/or use the Licensed Products. Permitted Users who are not employees of Customer shall use the Licensed Products on Customer's site only.

2.4 Only Permitted Users may access or operate the Licensed Products. Customer shall not and shall not permit any third party to:

- (i) modify or create any derivative work of any part of the Licensed Products;
- (ii) rent, lease, or loan the Licensed Products;
- (iii) Use the Licensed Products, or permit them to be used, for third-party training, commercial time-sharing or service bureau use;
- (iii) disassemble, decompile, reverse engineer the Licensed Products or otherwise attempt to gain access to its source code;
- (iv) sell, licence, sublicense, loan, assign, or otherwise transfer (whether by sale, exchange, gift, operation of law, or otherwise) to a third party the Licensed Products, any copy thereof, or any Licence or other rights thereto, in whole or in part, without PTC's prior written consent;
- (v) alter, remove, or obscure any copyright, trade secret, patent, trademark, logo, proprietary and/or other legal notices on or in copies of the Licensed Products; and
- (vii) copy or otherwise reproduce the Licensed Products in whole or in part, except 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 except 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 shall reproduce all PTC copyright, trade secret, patent, trademark, logo, proprietary and/or other legal notices contained in the original copy obtained from PTC).

2.5 Additional Restrictions on Use Applicable to Concurrent User Products. Customer may only install and operate Concurrent User Products on the applicable Designated Computers or Designated Networks on computer systems and networks situated in the applicable Designated Country. Only Permitted Users located in the Designated Country may access or operate the Licensed Products. Permitted Users who are not employees of Customer shall use the Concurrent User Products on Customer's site only. The number of Permitted Users accessing or operating a Concurrent User Product at any point in time may not exceed the number of Licences in effect at such time for that particular Licensed Product. Customer may, from time to time, change the Designated Computer or the Designated Network for a Licensed Product, and/or the location thereof, provided that in each case (a) Customer shall give prior written notice to PTC of any such change, and (b) upon transferring the Licensed Products to a different Designated Country, Customer pays all applicable Uplift Fees.

2.6 Additional Restrictions on Use Applicable to Registered User Products. Registered User Products may only be used by Registered Users. Customer may add and/or

substitute from time to time new Registered Users as long as the aggregate number of Registered Users does not exceed at any point in time the number of Licences in effect at such time for that particular Licensed Product and, provided further, that if a person who was previously a Registered User returns to Registered User status, a new Licence fee must be paid to PTC at PTC's then current rates.

2.7 Additional Restrictions on Use Applicable to Designated Server Products. Customer may only install and operate Designated Server Products on the applicable Designated Server(s) situated in the applicable Designated Country. Customer may, from time to time, change the Designated Server(s) for a Designated Server Product, and/or the location thereof, provided that in each case (a) Customer shall give prior written notice to PTC of any such change, and (b) upon transferring the Designated Server Products to a different Designated Country, Customer pays all applicable Uplift Fees.

2.8 Third Party Components and Bundled Third Party Products. Certain of the Licensed Products may contain third party software components that are licensed to Customer by PTC but for which additional terms apply ("Third Party Components"). The current additional terms are set out on the Schedule of Third Party Terms attached as Schedule A, and also available in the legal policies and guidelines section of <http://www.ptc.com>. Separately, certain third party software products that PTC may elect to bundle for distribution with the Licensed Products are licensed to Customer directly by the manufacturer of such third party software products ("Bundled Third Party Products"). Such Bundled Third Party Products are also described on the Schedule of Third Party Terms. Customer agrees that its use of Third Party Components and/or Bundled Third Party Products is subject to the terms of the Schedule of Third Party Terms. New Releases containing Third Party Components or Bundled Third Party Products may be subject to additional or different third party terms, of which PTC shall notify the Customer at the time of such New Releases.

3. Audit

3.1 Audit. To confirm Customer's compliance with the terms and conditions hereof, Customer agrees that PTC may audit Customer's use of the Licensed Products. 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 audit, all during normal business hours, and after reasonable prior notice from PTC.

4. Intellectual Property; Confidential Information.

4.1 Proprietary Rights. PTC and its licensors are the sole owners of the Licensed Products 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 the Licensed Products. 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 Licence Term. Customer acknowledges that the Licence granted to Customer does not provide Customer with title to or ownership of the Licensed Products or any copies thereof, but only a right of limited use under 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 Licensed Products. Except for the rights expressly granted herein, no other rights are granted to Customer with respect to the Licensed Products.

4.2 Confidential Information. Customer agrees that the non-public ideas, and the expressions of those ideas, contained in the Licensed Products and/or provided to Customer in the course of PTC's delivery of Services comprise trade secrets and confidential and proprietary information and know-how of PTC and its licensors (the "Confidential Information"), and that PTC discloses such Confidential Information to Customer in confidence. Customer shall maintain the confidentiality of this Confidential Information and shall not disclose or otherwise make available this Confidential Information to any third party nor use such Confidential Information except as necessary to exercise Customer's Licence under Section 3. Customer shall be responsible for taking all appropriate and reasonable steps with regard to Customer's employees, consultants, or agents and with regard to Permitted Users to satisfy Customer's obligations hereunder. Customer agrees to notify PTC immediately of the unauthorised access to or disclosure or use of the Confidential Information or Licensed Products and to take such further steps as may reasonably be requested by PTC to prevent or remedy any violation of this Section.

5. Warranty.

5.1 Investigation Duty. 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 in the sense of this Agreement, (iii) the Error already existed at the time of delivery and (iv) the Customer effects a proper notification of Errors. Notifications of Errors shall be made in writing and provide specific details of the Error as deemed reasonable under the specific circumstances. Obvious Errors shall be notified to PTC in writing within one week of delivery, hidden Errors within one week of being discovered. The periods specified are preclusion periods.

5.2 Remedies. In the event of an Error, PTC at its sole discretion may (a) replace the Licensed Product(s) or (b) repair the Error, provided that the notice of the Error is received by PTC within the periods set forth in Sections 5.1 and 5.3 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 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 rescission of the affected order so that PTC provides a refund of the licence fees paid by Customer for the applicable Licensed Product(s) upon return of such Licensed Product(s) and any copies made thereof or (b) 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.

5.3 Warranty Period. The limitation period for warranty claims is twelve (12) months from delivery.

5.4 Restart. Any replacement of the Licensed Product(s) and/or repair of Errors does not restart the warranty period.

5.5 Warranty Exceptions. PTC shall have no warranty obligations hereunder with respect to (i) New Releases as well as corrections of Errors, updates and/or week versions (for all of which the terms of Maintenance Services shall apply), (ii) computer software provided to Customer in the course of PTC's delivery of Training Services; (iii) any Error attributable to the use of the Licensed Product in an application or environment for which it was not designed or contemplated, or attributable to modifications of the Licensed Product by anyone other than PTC or its employees or agents; and/or (iv) Bundled Third Party Products. Further warranty claims are excluded in the cases set forth under Section 6.3 a) to e) of this Agreement.

5.6 Further Warranty Claims. Apart from claims for damages based on Errors that are subject to the limitation of liability as set forth in Section 7 the foregoing shall be PTC's exclusive liability in case of warranty claims.

5.7 No Additional Warranties. No employee, partner, distributor or agent of PTC or any of its resellers or sales agents is authorised to give representations, warranties or covenants greater or different than those contained in this Agreement, except as specifically set forth in a written amendment to this Agreement signed on behalf of Customer by an authorised officer and on behalf of PTC by its legal counsel or Finance Director.

5.8 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.

5.9 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 labelling 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.

5.10 Warranty for Third Party Products. PTC disclaims all warranties of any kind, express or implied, with respect to Sun Software, Oracle Software and any Bundled Third Party Products (described on the Schedule of Third Party Terms), and if any such products are supplied by PTC, they are provided without any warranties except as expressly stated in Section 2.8 hereof.

6. Indemnification; Infringement.

6.1 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 and/or European Union member states' patent, copyright or trademark and, at PTC's 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 defence of any action on such claim and all negotiations for its settlement or compromise and shall bear the costs of the same (save where one or more of the exclusions in Section 6.3 applies); and (c) Customer shall cooperate fully at PTC's expense with PTC in the defence, settlement or compromise of such claim. Any claims for damages based on the infringement of any third party rights set out above are subject to the limitation of liability as set forth in Section 7.

6.2 PTC's Right to Act to Prevent a Claim. If a claim described in Section 6.1 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 Licences, accept return of the Licensed Products and grant Customer a credit thereon equal to the lesser of the licence fees paid by Customer for such Licensed Product or PTC's list price for such Licensed Product at the time of the order therefor, in each case depreciated on a straight-line, five year basis.

6.3 Exclusions from PTC's Obligation to Indemnify Customer. PTC shall have no liability to Customer under Section 7.1 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) compliance with designs, plans, instructions, or specifications provided by Customer; (c) use of the Licensed Product in an application or environment for which it was not designed or not contemplated under this Agreement; (d) use of other than a current release of the Licensed Product(s) provided to Customer; (e) modification of the Licensed Product by anyone other than PTC or its employees or agents; or (f) any claims of infringement of any patent, copyright, trade secret, trademark or other proprietary right in which Customer has an interest.

6.4 Customer's Obligation to Indemnify PTC. Customer, at Customer's own expense, will indemnify and hold PTC harmless from and against any damages, liabilities, costs and expenses arising out of any third party claim resulting from any of the circumstances listed in any of the clauses of Section 6.3 above.

7. Limitation of Liability.

7.1 Liability Categories. 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 wilful intent on the part of PTC or (iii) PTC has assumed a guarantee.

7.2 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*).

7.3 Maximum Amount. In the cases of Section 7.2 (i) and (ii), PTC's liability is limited to a maximum amount of EURO 1.000.000,-, respectively EURO 100.000,- for financial losses.

7.4 Indirect Damages. In the cases of Section 7.2 PTC shall not be liable for indirect damages, consequential damages or loss of profit.

7.5 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 limitation period pursuant to Section 5.3 shall apply.

7.6 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.

7.7 Employees. Sections 7.1 to 7.6 shall also apply in the case of any claims for damages of Customer against employees or agents of PTC and/or PTC's affiliates.

7.8 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.

8. Expiration or Termination of Licences or Maintenance Services.

8.1 Events Causing Termination. This Agreement and all Licences and the provision of Maintenance Services on Licensed Products will terminate:

- (a) Automatically and without notice on the following events: (I) Customer's breach of clauses (i) through (vii) of Section 2.2 or Sections 4 or 9.5 hereof; (II) a receiver, trustee, liquidator, or such similar officer is appointed for Customer or for any of Customer's properties or assets; (III) Customer makes a general assignment for the benefit of Customer's creditors; (IV) Customer files a petition for its reorganisation, dissolution or liquidation, or such a petition is filed against Customer and is not dismissed within sixty (60) days thereafter; or (V) Customer ceases doing business or commences dissolution or liquidation proceedings; or
- (b) By written notice provided by PTC thirty (30) days after PTC has notified Customer specifying a breach (other than as listed in Section 8.1(a) above) of this Agreement, including failure to make any payment due hereunder in a timely manner, if that breach is not, within that thirty (30) day period, remedied to PTC's reasonable satisfaction.

8.2. Effects of Expiration or Termination. Upon expiration of the Licence Term or termination of this Agreement, Customer shall promptly pay all sums owed under this Agreement by Customer, return the original copies of all Licensed Products to PTC, destroy and/or delete all copies and backup copies thereof from Customer's computer libraries, storage facilities and/or hosting facilities, and certify in writing by an officer that Customer is in compliance with the foregoing requirements and that the Licensed Products are no longer in Customer's possession or in use.

9. General.

9.1 Governing Law. This Agreement shall be governed by and construed in accordance with German law excluding the United Nations Convention for the International Sale of Goods. All disputes, controversies or differences arising from or in connection with this agreement shall first be submitted to mediation. The parties agree to participate and attend the mediation in good faith and undertake to abide by the terms of any reached settlement. Both parties further agree to share equally the cost of the mediation. If mediation has been unsuccessful, exclusive venue shall be Munich, Regional Court I (*Landgericht München 1*).

9.2 Notices. Any notice or communication required or permitted under this Agreement shall be in writing. In the case of notice to Customer, the notice shall be directed to the addresses set forth on the Product Schedule submitted by Customer and accepted by PTC or to such other address as may be provided to PTC in writing. In the case of notice to PTC, such notice shall be directed to PTC, Attn: VP Finance, with a copy to the Counsel for Central Europe.

9.3 Authorisation. Each party represents that the acceptance, execution, delivery and performance of this Agreement have been duly authorised by such party, and that the person signing on each party's behalf has the power and authority to do so.

9.4 Assignment, Waiver, Modification. Customer may not assign, transfer, delegate or sublicense any of Customer's rights or obligations hereunder without PTC's prior written consent, and any such attempted delegation, assignment, transfer or sublicense shall be void and a breach of this Agreement. PTC is entitled to terminate this Agreement in the event of a material change to the management control at Customer.

9.5 Export. Customer shall not export or re-export, directly or indirectly, or provide to any other person or entity for export or re-export, any Licensed Products, or technical data related thereto, without first complying with all applicable export control regulations of any jurisdiction to which Customer or the Licensed Products are subject, including, without limitation, obtaining any necessary export or re-export consent from the U.S. Department of Commerce or other governmental authority. Customer will indemnify PTC and its licensors against any damage, loss, liability or expense incurred as a result of Customer's failure to comply with this Section 9.5.

9.6 Severability. It is intended that this Agreement shall not violate any applicable law and the unenforceability or invalidity of any provision shall not affect the force and validity of the remaining provisions and such provisions determined to be invalid shall be deemed severed from this Agreement and, to the extent possible, be replaced with

terms which as closely as possible approximate the interest and economic intent of such invalid provisions.

9.7 Entire Agreement. This Agreement (including any schedules, attachments, exhibits, or appendices hereto) together with the Product Schedule is the complete and exclusive statement of the contract between PTC and Customer with respect to the subject matter hereof and replaces any prior agreement between the parties with regard to the subject matter hereof. No waiver, consent, modification, amendment or change of this Agreement shall be binding unless in writing and signed by PTC and Customer.

9.8 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 third party licensors.

9.9 Data Protection PTC will not disclose any personal data or information provided by Customer to any third party without Customer's permission and all such personal data

or information will be used for purposes of Customer account and License management (including ensuring compliance with the terms of this Agreement) only. Please note that the personal information Customer provides may be transferred outside the European Economic Area for the purposes of data processing by PTC, its subsidiaries, and its affiliated companies. Any transfer of personal information outside of the European Economic Area is done in circumstances ensuring that the information is processed only in accordance with applicable data protection laws. By submitting personal information, Customer consents to the use of that information as set out in this subsection. Where the personal information is that of a third party data subject, including an employee, Customer certifies that it has used best endeavours to obtain that information pursuant to applicable data protection laws and has the third party's consent to disclose that personal information to PTC in the circumstances set out in this subsection.

Schedule A - Schedule of Third Party Terms

Third Party Component Terms

1. *Sun Components*

The following terms apply to software and documentation provided by Sun Microsystems, Inc. ("Sun") to the extent any Sun software or documentation ("Sun Software") is included in the Licensed Products, including without limitations Java™ Runtime Environment, Java Naming and Directory Interface™ 1.2.1, JavaMail™ 1.2, JavaBeans™ Activation Framework 1.0.1, Java™ Secure Socket Extension 1.0.2, and Java™ Software Developers Kit:

Customer may not modify the Java Platform Interface ("JPI", identified as classes contained within the "java" package or any subpackages of the "java" package), by creating additional classes within the JPI or otherwise causing the addition to or modification of the classes in the JPI.

In the event that Customer creates an additional class and associated API(s) which (i) extends the functionality of a Java platform and (ii) is exposed to third party software developers for the purpose of developing additional software which involves such additional API, Customer must promptly publish broadly an accurate specification for such API for free use by all developers.

Sun Software is confidential copyrighted information of Sun and title to all copies is retained by Sun and/or its licensors. Sun Software is not designed, licensed or intended for use in the design, construction, operation or maintenance of any nuclear facility and Sun expressly disclaims any implied warranty of fitness for such uses.

Sun disclaims all express or implied conditions, representations and warranties, including any implied warranty of merchantability, fitness for a particular purpose or non-infringement, except to the extent that these disclaimers are held to be legally invalid.

To the extent not prohibited by law, in no event will Sun or its licensors be liable for any lost revenue, profit or data, or for direct, indirect, special, consequential, incidental or punitive damages, however caused and regardless of the theory of liability, arising out of or related to the use of or inability to use Sun Software, even if Sun has been advised of the possibility of such damages.

2. *Oracle Components*

The following terms apply to software and documentation provided by Oracle Corporation ("Oracle") to the extent any Oracle software or documentation is included in or with the Licensed Products (the "Oracle Software"): Customer understands and agrees that the Oracle Software may only be used in conjunction with the Licensed Products and that Customer will not modify the Oracle Software or publish the results of any benchmark tests

run on the Oracle Software. Oracle is a third party beneficiary of this Agreement.

3. *Open Source Components*

If any open source software is included in the Licensed Products, such open source software is identified in the notices which accompany the Licensed Products. The warranty and support services provided under the License Agreement apply to such open source software and are provided by PTC alone and not by the original licensor. The original licensor of the open source software provides it on an "as is" basis and without any liability whatsoever to Customer

Bundled Third Party Product Terms

Certain third party products that are provided with the License Products are provided under a separate licence directly from the manufacturer of the applicable third party products ("Bundled Third Party Products"). Customer agrees and acknowledges that, to the extent that any such Bundled Third Party Products are provided with the Licensed Products: (i) such Bundled Third Party Products are provided on an "as-is", pass-through basis, and as such are provided to Customer without warranty, indemnification, support or other representation by PTC; (ii) PTC bears no liability with respect to such Bundled Third Party Products and Maintenance Services for such software will be provided at PTC's discretion; and (iii) Customer may be required to purchase new versions of such Bundled Third Party Products as they become available and supported by their respective manufacturer.

The following Bundled Third Party Products are provided by PTC with certain of the Licensed Products, as at the date of this Agreement:

- Adobe® Acrobat® Reader. Customer agrees that any copies of Adobe® Acrobat® Reader it receives from PTC are subject to the terms and conditions of the Adobe® Systems Incorporated Electronic End-User Licence Agreement for Adobe® Acrobat® Reader included therewith.

Citrix Systems Presentation Manager and Lakeside Software SysTrack are available as optional applications furnished with certain Arbortext Licensed Products. Customer agrees that any copies of Citrix Systems Presentation Manager and/or of Lakeside Software SysTrack it purchases from PTC are subject to the terms and conditions of the respective Citrix Systems and Lakeside Software license agreements furnished therewith.

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