PTC FREEWARE AGREEMENT

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      3. except as explicitly provided by this Agreement, 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, 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; and
      4. 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.
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1. **Warranty; Disclaimer of Warranties.**
   1. Disclaimer of Warranties. THE LICENSED SOFTWARE IS PROVIDED “AS IS” WITHOUT ANY WARRANTY WHATSOEVER. 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.
2. **Limitation of Liability.**
   1. 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. CUSTOMER WILL TAKE REASONABLE MEASURES TO INSURE THAT THE TERMS AND CONDITIONS SET FORTH IN THIS SECTION ARE INCORPORATED INTO ANY AGREEMENT BETWEEN CUSTOMER AND ANY THIRD PARTY TO WHICH CUSTOMER DISTRIBUTES THE LICENSED PRODUCTS. IN NO EVENT SHALL PTC’S LIABILITY UNDER THIS AGREEMENT EXCEED $1,000 USD.
   2. 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.
3. **Term and Termination of Licenses or Support Services.**
   1. Events Causing Termination. This Agreement and all Licenses will terminate thirty (30) days after written notice from Customer to PTC for any reason or from PTC to Customer specifying a 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.
   2. Effects of Expiration or Termination. Upon termination of this Agreement, Customer shall promptly return to PTC the original copies of all Licensed Products, destroy and/or delete all copies and backup copies thereof from Customer’s computer libraries, storage facilities and/or hosting facilities.
   3. Survival. Sections 1.2, and 2 through 4 shall survive expiration or termination of this Agreement.
4. **General.**
   1. Governing Law and Jurisdiction. 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.
   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.
   3. Compliance with Laws.
      1. Customer represents and warrants that it will use the Licensed Products in full compliance with applicable laws and regulations.
      2. 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.
   4. 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.
   5. 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.
   6. 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.
   7. 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.