

Performance Testing Council™(PTC)Membership Application

Name of Company			
Address:			
City, State, Country		Postal Code:	
Authorized Representative		Email:	
Title:		EIN #	
Phone:		Fax:	
Address:			
City, State Country		Postal Code:	
Other Co. Representatives		Email:	
Other Co. Representatives		Email:	
Other Co. Representative		Email:	

1. Membership Category

Please check one:

- A. Test Vendor**, Test Publisher, Test Consultant, Test Provider, etc. (voting, Regular Member)
- B. Company**, Non-profit, Educational, Government Department, etc. (voting, Regular Member)
- C. Associate**. Individuals only (non-voting Member, limited access to PTC data, publications)

2. Annual Dues

Please circle the dues level that most closely matches your Company's revenues. Choose the appropriate category in column A or B. Non-profits and public sector: choose level from B that matches annual budget of your organization. Applicants for C must demonstrate non-applicability of A or B. Applicants for D must demonstrate full-time relationship with an accredited academic institution. Determination of appropriate dues level and category is at sole discretion of PTC. Additional information may be requested. Dues and Company information on this Application is Confidential Information.

Cornerstone Sponsor	\$20,000	
Platinum Sponsor	\$16,000	
A. TEST VENDORS		B. COMPANIES, ORGS, GOVERNMENTS
Revenues from testing	DUES	Gross revenues
Over \$1.5M	\$14,684	1 B+
10M - 15M	\$12,283	500M - 1B
5M - 10M	\$9,431	250M - 500M
3M - 5M	\$7,050	100M - 250M
1M - 3M	\$4,549	25M - 100M
500k - 1M	\$2,136	5M - 25M
Under 500k	\$1,194	under 5M
C. Associate (Individuals only)	\$981	
	\$75	D. Academic Associate (Individuals only)

3. Payment

Please include payment of dues upon submission of this Application. Payments can be made by check or wire transfer. Make checks payable to: PTC, Inc. If you require an invoice the Secretary can provide one. Approved Purchase Order (PO) with payment terms net 30 may be accepted for dues over \$2000. Approved PO with quarterly invoicing payment plan may be accepted for the dues levels over \$5000

If there is a billing contact different than the Authorized Representative, please provide that information here:

Billing Contact:		Email:	
Phone:		Fax:	
Address:			
City		State/Province	
Postal Code		Country	

4. Submit Application

Application plus payment must be accompanied by signed "PTC Mutual Non-Disclosure Agreement" (unless already signed and forwarded to PTC). Application may be mailed via postal system to PTC Inc., 4569 Woodlawn Dr. Emmaus, PA 18049, emailed, or faxed to (610) 966-4902. To send via courier/private overnight express: PTC, Inc., 4569 Woodlawn Dr. Emmaus, PA 18049. Phone (610)966-4902.

Effect: By signing this Application Applicant and its Authorized Representative acknowledge that each has the requisite authority to commit and fulfill the PTC dues obligation indicated above immediately upon submission of this Application and to bind Applicant to the Terms and Conditions of the "PTC Membership Agreement" set forth in Exhibit "A" hereto which, upon approval of this Application by the PTC Board of Directors, shall become a binding agreement between the PTC and Applicant as a Member ("Member") of the PTC.

AGREED:

Applicant: [Organization name] _____

Authorized Representative name: _____

Representative's signature: _____

Date: _____

<p>NOTICE:</p> <p>The Performance Testing Council, Inc. is incorporated as a 501 - (C) (6) non-profit organization in the state of Delaware, USA. EIN# 20-0334163</p>
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Attachments: two (2)

Exhibit "A" PTC MEMBERSHIP AGREEMENT
Exhibit "B" PTC MUTUAL NON_DISCLOSURE AGREEMENT
The Performance Testing Council, Inc.™

PTC Mutual Non-Disclosure Agreement

PTC MEMBERSHIP AGREEMENT

Exhibit "A"

THIS MEMBERSHIP AGREEMENT is made as of _____ (the "Effective Date"), by and between the Performance Testing Council, Inc. ("PTC"), a Delaware, non-profit corporation and _____ ("Member") a [company / corporation / individual] located at _____ for the purposes of setting forth the terms and conditions of Member's membership in the PTC.

Terms and Conditions

- 1) **General.** Member acknowledges and agrees that, upon acceptance by the Secretary and approval by the Board of Directors of PTC, this Application represents a binding contract between the parties and commits Member to comply with all the terms and conditions of PTC Certificate of Incorporation and the PTC Bylaws (Member hereby acknowledges receipt of copies of these documents and Member has read and understood the Bylaws) and such rules and policies as the Board of Directors may from time to time adopt while Member is a member of the PTC. Member certifies that it meets the conditions of Membership as specified in the PTC Bylaws. Member authorizes PTC to make public the fact of Member's membership in PTC on the PTC web site and in PTC marketing and communications activities.
- 2) **Fees.** Member shall Pay annual membership dues and fees as determined from time to time by the PTC Board of Directors for initial Term and for each Renewal Term of this Agreement. Member further agrees that no refunds shall be paid by PTC in the event that Member terminates its membership in the PTC.
- 3) **Term.** Membership shall be for a Term of one (1) year, commencing on the Effective Date, and shall be renewed each year for one additional year (each a "Renewal Term"), unless sooner terminated by either party.
- 4) **Termination.** This Agreement, and Member's membership in the PTC, may be terminated as follows:
 - a) By Member by providing written notice to the Secretary of PTC, provided that certain obligations of Membership continue until the current Term is completed. No refunds of dues shall be made.
 - b) By the PTC pursuant to Section 3.6 of the PTC Bylaws.
- 5) **Intellectual Property and Non-Disclosure.** Member has signed the "PTC Mutual Non-Disclosure Agreement" ("PTC MNDA"; see Exhibit B) on [:]. Member acknowledges that its membership in the PTC will bring Member and its representative(s) into contact with Confidential Information and/or Intellectual Property (IP) of the PTC and its members and that the agreements and covenants contained in Bylaws Article IX are essential to protect the interests of the PTC and its members and that Member and the PTC would not enter this Agreement but for such agreements and covenants.
- 6) **Compliance with Anti-Trust Law (NCRPA).** PTC activities are subject to the provisions of US antitrust law. As basic protection for itself and its members, PTC may elect to avail itself of certain protections offered by the National Cooperative Research and Production Act of 1993 ("NCRPA"), as amended. This Act requires, among other things, disclosure of the names of all members of PTC. For purposes of complying with the Act, the undersigned hereby appoints such person who shall be the Chairman and President of PTC as the undersigned's true and lawful attorney-in-fact and authorizes him or her to (1) notify US government agencies of the undersigned's membership in PTC, (2) make, approve the form of, execute and deliver filings with US government agencies on

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behalf of PTC and on behalf of the undersigned as a member of PTC, (3) receive notifications, including without limitation, notifications pursuant to the National Cooperative Research and Production Act on behalf of PTC and on behalf of the undersigned as a member of PTC and (4) authorize and direct other officers of, and/or counsel to PTC, to do any of the foregoing acts. [

<http://consortiuminfo.com/government>

<http://www.consortiuminfo.org/links/ncrpa2.shtml>

- 7) **Authority to Contract.** Member represents that it has the full power and authority to enter into this Agreement and to convey the rights herein conveyed, and further represents that it has not entered into, nor will it enter into, any agreement that would conflict with its obligations hereunder or would render it incapable of satisfactorily performing hereunder.
- 8) **Governing Law; Jurisdiction; Venue.** This Agreement shall be governed by and shall be construed in accordance with the laws of the State of Delaware, regardless of its choice of law provisions. Member agrees that it is subject to the jurisdiction of the state and federal courts within the State of Delaware, and waives the right to challenge the personal jurisdiction of those courts over it.
- 9) **Waiver.** If one or more of the provisions contained in this Agreement is held invalid, illegal or unenforceable in any respect by any court of competent jurisdiction, the validity, legality, or enforceability of the remaining provisions will not be affected. Failure or delay on the part of any party to exercise any right under this Agreement will not operate as a waiver. Any waiver must be in writing and signed by the party granting such waiver.
- 10) **Assignment.** Member may not assign or otherwise transfer this Agreement, or any portion thereof, to any third party without the written permission of the other party.
- 11) **Notices.** Any notice to be given pursuant to this Agreement, including any notice of change of address for notice, shall be deemed given when sent to PTC to General Counsel, PTC Inc., 4569 Woodlawn Dr., Emmaus, PA 18049 and to Member at the address as set forth on the cover page of the Agreement (a) three (3) business days after being deposited with the U.S. Postal Service, postage prepaid, first class, certified, return receipt requested; (b) upon receipt when delivered in person; (c) two (2) business days after being deposited with a reputable international overnight delivery service; or (d) one (1) business day after being transmitted by facsimile with confirmation of delivery to the number for such party as set forth in this Agreement.

PTC Mutual Non-Disclosure Agreement

Exhibit "B"

In order to protect certain confidential information, The Performance Testing Council, Inc., a Delaware non-profit corporation comprising its directors, officers, employees and members and with its principal offices at PTC Inc., 4569 Woodlawn Dr., Emmaus, PA 18049 ("PTC"), and _____ with its place of business at _____ (the "Participant") agree that:

- 1) **Confidential Information.** "Confidential Information" means all information disclosed by either PTC or the Participant (the Disclosing Party) to the other (the Recipient), whether in written, oral, visual or machine readable form, that is either (i) marked Confidential, (ii) described orally as Confidential, (iii) contains or is described with a similar proprietary or confidential marking at the time it is furnished, or (iv) contains any other information relating to the technology, intellectual property, finances, plans, strategies, employees, products, services, customers, or relationships of the disclosing party which by its nature is reasonably recognized as confidential information; provided, however, that a written summary, marked Confidential, of Confidential Information disclosed in oral or visual form must be sent to the receiving party within thirty (30) days following such oral or visual disclosure. Confidential Information includes all notes, test results, or other data developed by the Recipient pertaining to the Confidential Information.
- 2) **Disclosure Period.** This Agreement pertains to Confidential Information disclosed after the Date of Execution of this Agreement (the "Effective Date") and for the longer of a) the duration of the Participant's communications with the PTC or b) Participant's term of membership in PTC.
- 3) **Confidentiality Period.** The party receiving Confidential Information (Recipient) shall not disclose such information for the longer of a) a period of three (3) years from the receipt of Confidential Information, or b) any period during which Participant is a Member of the PTC and for a period of three (3) years after the end of the term in which Participant's membership in the PTC is terminated.
- 4) **Purpose.** The Confidential Information shall only be used for the exclusive purpose of scholarly and scientific investigation, analysis, and discussion as carried out in the sanctioned activities of and by the PTC in furtherance of the projects and goals of the PTC.
- 5) **Nondisclosure and Use.** Each party agrees that during the Confidentiality Period, it shall use the same degree of care and means that it utilizes to protect its own information of a similar nature from loss or disclosure, but in any event not less than reasonable care and reasonable precautions to protect such information from loss, misuse, and unauthorized access, disclosure, alteration and destruction. The participant shall only use the Confidential Information for the purpose specified in Section 4 of this Agreement, and the Confidential Information may be disclosed only to employees, agents, or contractors of the Recipient with a need to know and who are under binding obligation to keep such information confidential. Such binding obligation shall provide at least the same level of confidentiality as is required by this agreement.
- 6) **Exceptions to Confidentiality.** Confidential Information shall not include information which: (i) is within or later falls within, the public domain without breach of this Agreement by the Recipient; (ii) is publicly disclosed with written approval of the Disclosing Party; (iii) is known to the Recipient at the time of disclosure by the Disclosing Party; (iv) is independently developed by Recipient without use of the Confidential Information as evidenced by the Recipient's written records; (v) becomes lawfully known or available to the Recipient without restriction from a source having the lawful right to disclose the information without breach of this

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Agreement by the Recipient. Confidential Information disclosed on a restricted basis pursuant to a judicial or other lawful governmental order shall remain Confidential Information as between the parties, and the Recipient shall endeavor to give sufficient prior notice to the Disclosing Party to allow the Disclosing Party to contest such order.

- 7) **Ownership of Confidential Information.** Both parties agree that all Confidential Information received is and will remain the property of the Disclosing Party. No right or license, express or implied, under any patent, copyright, trade secret or other proprietary right is granted under this Agreement.
- 8) **Return of Confidential Information.** After the purpose is fulfilled or upon expiration of this Agreement, and upon written request, the Recipient will, within thirty (30) days of such notice, return all the Confidential Information to the Disclosing Party or certify by written memorandum that all such Confidential Information has been destroyed, except that each party may retain archival copies of the Confidential Information, which are to be used only in case of a dispute concerning this Agreement.
- 9) **Independent Development.** Nothing herein shall prohibit or restrict the Recipient's right to develop, use or market products or services similar to or competitive with those of the Disclosing Party, as long as such activity does not otherwise constitute a breach of this Agreement. The Disclosing Party acknowledges that the Receiving Party may already possess, have access to, or have developed or marketed products, services, concepts, or ideas similar to or competitive with those of the Disclosing Party contained in the Confidential Information.
- 10) **Warranty.** Any Confidential Information disclosed is provided "AS IS" and without any warranty, except the Disclosing Party warrants it has the right to make such disclosures.
- 11) **Export Compliance.** Both parties recognize that the communication or transfer of any information received pursuant to this Agreement may be subject to specific government export approval. Both parties shall adhere to all applicable laws, regulations and rules relating to the export or re-export of technical data or products to any proscribed country listed in such applicable laws, regulations and rules unless properly authorized. The obligations under this paragraph shall survive any termination or expiration of this Agreement.
- 12) **Relationship of the Parties.** Nothing in this Agreement shall be deemed to establish an employer/ employee, partnership, joint venture, or agency relationship between the parties. Neither party shall have the right to obligate or bind the other party in any manner to any third party. Neither party has an obligation under this Agreement to purchase any item or service from the other party.
- 13) **Authority to Contract.** Each party represents that it has the full power and authority to enter into this Agreement and to convey the rights herein conveyed. Each party further represents that it has not entered into, nor will it enter into, any agreement that would conflict with its obligations hereunder or would render it incapable of satisfactorily performing hereunder.
- 14) **Equitable Relief.** Each party agrees that money damages would not be sufficient remedy for the Disclosing Party for any breach of this Agreement by the Recipient. A Disclosing Party shall be entitled to seek injunctive relief, in addition to money damages, to remedy or prevent any breach or threatened breach of this Agreement by the Recipient. Such remedy shall not be the exclusive remedy for any breach of this Agreement, but shall be in addition to all other rights and remedies available at law or in equity.

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- 15) **Governing Law, Jurisdiction, Venue.** This Agreement shall be governed by and shall be construed in accordance with the laws of the State of Delaware, regardless of its choice of law provisions. The parties each agree that they are subject to the personal jurisdiction of the state and federal courts within the State of Delaware, and each waives the right to challenge the personal jurisdiction of those courts over it.
- 16) **Waiver.** If one or more of the provisions contained in this Agreement is held invalid, illegal or unenforceable in any respect by any court of competent jurisdiction, the validity, legality, or enforceability of the remaining provisions will not be affected. Failure or delay on the part of any party to exercise any right under this Agreement will not operate as a waiver. Any waiver must be in writing and signed by the party granting such waiver. No provision of this Agreement is to be interpreted for or against either party on the grounds that one party or the other, or their legal counsel, drafted such provision. Neither party may assign or otherwise transfer this Agreement, or any portion thereof, to any third party without the written permission of the other party.
- 17) **Notices.** Any notice to be given pursuant to this Agreement, including any notice of change of address for notice, shall be deemed given when sent to PTC to General Counsel, PTC Inc., 4569 Woodlawn Dr. Emmaus, PA 18049 and to Participant at the address as set forth on the cover page of the Agreement (a) three (3) business days after being deposited with the U.S. Postal Service, postage prepaid, first class, certified, return receipt requested; (b) upon receipt when delivered in person; (c) two (2) business days after being deposited with a reputable international overnight delivery service; or (d) one (1) business day after being transmitted by facsimile with confirmation of delivery to the number for such party as set forth in this Agreement.

Agreed:

Agreed:

PTC, Inc.	Participant
PTC, Inc. 4569 Woodlawn Dr. Emmaus, PA 18049 FAX: (610) 966-4902	
Authorized Signature	Authorized Signature
Printed Signatory's Name	Printed Signatory's Name
Printed Signatory Title	Printed Signatory Title
Date:	Date: