

## SaaS Service: “*Proteus*<sup>®</sup> *Now Quantify*” (B2B)

**Status:** As of April 26, 2026

**Provider:** NETZSCH Instruments North America LLC, 129 Middlesex Turnpike, Burlington, MA 01803, USA

**Managing Director:** Vikrant Mahajan

(hereinafter named “Licensee”)

(Note: The proprietor of the *Proteus*<sup>®</sup> *Now Quantify* software is NETZSCH Gerätebau GmbH, Germany (“Licensor”). Licensor grants the Licensee a non-exclusive, non-transferable license to the software. The Licensee is granted the right of use and sublicensing to the Licensee’s customers.

### § 1 – Scope of Application

1. These NETZSCH SaaS Terms and Conditions apply to all agreements encompassing the use of Licensee’s and Licensor’s web-based software solutions, offered by either Licensee or Licensor, over the Internet as Software-as-a-Service (“SaaS”), in particular, to the use of *Proteus*<sup>®</sup> *Now Quantify* software.
2. Any term or condition in conflict with or in addition to the terms and conditions of this agreement will be valid only if expressly approved in writing by the Licensee.

### § 2 – Subject Matter of the Agreement; Services by Licensee

1. With *Proteus*<sup>®</sup> *Now Quantify*, the Licensee is providing the customer with a web-based software solution that permits to analyze **DSC measurements on polymer recyclates** with an automated process.
2. The software uses a **machine learning model** that, in a few seconds, calculates the **percent of polymers contained by weight** (currently: **polyolefins – PE, PP**) and delivers information regarding the analytical precision. The software is continually expanded with additional polymer classes.
3. The application was specially developed for **NETZSCH DSCs** and replaces manual calculations with automated expert results. Access is web-based via a browser – without installation – on PC, laptop or tablet.  
Prerequisites:
  - o NETZSCH *Proteus*<sup>®</sup> Version 9.7 (or higher), or measurement files thereby generated
  - o A stable Internet connection
  - o Access to [www.proteusnow.netzsch.com](http://www.proteusnow.netzsch.com)
4. Functions:
  - o Automated material analysis
  - o Export as a PDF or CSV for uses such as integration in the Digital Product Pass (DPP)
  - o English-language user interface
5. The scope of operation ensues from the current specification of services, to which the customer is given access prior to the signing of the agreement.
6. Use takes place exclusively online (SaaS). There is no right to the license of the software for local installation nor to issuing of the source code.
7. Access and use of the software take place via an Internet connection through the use of an Internet browser. The software is operated on a cloud infrastructure administered by Licensee and/or by Licensor, which is hosted on servers within the cloud of a third-party provider. The software remains on this cloud infrastructure at all times; installation at the customer’s site does not ensue.
8. Licensee guarantees provisioning of the *Proteus*<sup>®</sup> *Now* cloud at the router exit of the data center of the cloud of the third-party provider in which the cloud services are hosted (point of transfer). Licensee’s responsibility ends at the point of transfer. The customer is solely responsible for any details of the Internet connection between the point of transfer and the customer’s IT systems.

9. Neither documentation nor an instruction manual or handbook for the software is owed, unless this is expressly agreed upon in written form. The scope of services of the software at the time of the signing of the agreement will be described in the respective order confirmation.
10. The customer has the right to use the software exclusively for their own business activities within the business departments agreed in accordance with the written agreement. No expansion of use whatsoever will be allowed. Should the customer wish to use the software for purposes beyond the scope originally agreed upon (e.g., other business departments, number of uploads), a new specific written agreement with the Licensee and payment of an additional license fee will need to be set in place.
11. Licensee offers the customer the software always in its most current version as Software-as-a-Service for use with suitable clients (web browsers). Licensee guarantees its customers the same usage rights on the updates provided as on the original product.
12. Licensee is not obligated to develop the software further. However, if improvements (including both updates and upgrades), were carried out, Licensee will inform the customer within the software in time.
13. Licensee is not obligated to make the software available while an update procedure is underway.
14. A Subscription license is available for the standard version of the software. Additionally, other options are available for fixed periods of use. The order confirmation will include information regarding the specific type of license purchased.
15. The volume of data available to the customer (number of uploads per year) depends upon the option selected. The quote and order confirmation also specifies information regarding the volume of data allowed.
16. Licensee will provide the latest version of the program it currently markets and related maintenance services.
17. Licensee will provide only the services for the latest version it currently markets. The client's collaboration is essential for the fulfillment of Licensee's service.

**18. The following services are not included in the Agreement's subject matter:**

- Connection and communication with the software
- Loading of the measurement data to the cloud

### **§ 3 – Perfection of the Agreement**

1. The procedure to perfect the agreement is the following:
  - o Licensee provides client a binding quote and
  - o Customer accepts with a corresponding order perfecting the agreement, or.
  - o Customer sends order modified from the original quote, in which case the agreement is concluded only by the Licensee's specific written acceptance.

The customer receives the login details via email following the order confirmation. The agreement becomes effective at the latest 4 weeks after receipt of the login details / after installation for new instruments, if the customer does not log in initially during this time, § 8 No. 5 of this agreement applies.

### **§ 4 – Begin, Period of Validity and Termination**

1. When the software is ordered together with a new instrument, the license begins upon the **customer's first login** to the software, otherwise the license begins not later than **4 weeks following the instrument's commissioning**.
2. The number of uploads specified in the agreement defines the **maximum allowable units** per year.
3. The minimum duration of the standard agreement option is 12 months. After, the agreement extends automatically by an additional year, unless terminated in writing by one of the parties with a written notice three months prior the agreement extended term's expiration. During the extension period, either party can terminate the agreement with a three-month written notice prior the agreement extended term's expiration.
4. Additionally, options with fixed agreement durations from 1 to 5 years are also available. Following the expiry of this/these time period(s), a new agreement has to be set in place.
5. In the "Academia" option, the user is granted a perpetual license for non-commercial use of the product.
6. The license cannot be terminated in the first 12-month period except if the product were discontinued due to a business decision, in which case Licensee will give 6-month prior notice and the customer would receive a refund of the excess license fees paid in advance.
7. In exceptional cases and for important reasons, the right to extraordinary termination of the license without notice could be granted when, after having weighed the interests of both parties against each other, one of the parties cannot reasonably be required to continue the contractual relationship until the agreed end or until the expiry of a notice period.

The following circumstances, among others, would constitute an important reason:

- If the customer violates important contractual obligations or these conditions of use, and this violation, irrespective of warning, is not remedied within a reasonable amount of time; or
- If the customer is more than three months in arrears with payment; or
- A violation of legal requirements occurs (e.g. export control rights, data privacy rights); or
- The customer misuses the software services, in particular for unlawful data processing or transfer to unauthorized third parties; or
- An application has been submitted to open insolvency proceedings with regard to the customer's assets; or, due to lack of mass, such an application has been declined; or
- Licensee is more than three months behind with the provision of services according to the subject matter of the agreement.

No prior warning is required if it served no purpose or if it were unreasonable in view of the severity of the violation.

In the case of termination for an important reason by Licensee, the customer loses all access rights to the software services at the moment that the termination becomes effective. Any outstanding payments remain due and the terms and conditions hereby regarding termination apply.

## § 5 Obligations of the Customer, Usage Rights, Access Rights

1. The customer must pledge to only use the software within the scope stipulated in the agreement, in particular:
  - to handle access data confidentially and not to divulge them to third parties,
  - not to upload any unallowable content,
  - not to carry out any technical manipulation (e.g. reverse engineering).
2. The customer must ensure that the technical requirements at their end are fulfilled, in particular:
  - Adequate Internet access,
  - Up to date browser software,
  - valid measurement data in a supported format.
3. The customer receives a single, non-exclusive, non-transferable, locally restricted license to use for the limited duration of the agreement.
4. Use is restricted to the number of **Measurement Uploads** agreed upon in the agreement.
5. The software may not be rented, re-sold, or yielded to third-party use unless this is agreed upon in writing by Licensee.
6. The customer may use the software only for their own business activities.
7. For the duration of the agreement, the license to use is granted provided payments are full and timely and use is in accordance to the terms and conditions of this agreement.
8. Licensor remains the owner, holder, and author of all rights to the software being provided to the customer.
9. The customer is the unrestricted proprietor, older, author, and authorized user of all information and data that they enter into the software and were not used independently by Licensee or Licensor prior to receiving such data by the customer. If – and to the extent to which – one or more databases or database networks are generated during the period of validity for this agreement, in particular through the compilation of application data via contractually allowable customer activities on the server used by Licensee and/or Licensor, all rights thereto belong to the customer. The customer also remains proprietor of these databases or database networks following termination of the agreement except that Licensee and Licensor will own the data in their possession prior to receiving such data by the customer. The term database(s) and database network(s) here comprises customer content and not the database software.
10. The customer grants Licensee and its affiliates unrestricted, free-of-charge, non-exclusive, non-transferable, irrevocable, worldwide right to the use and reclamation of feedback, also in the form of incorporation of the feedback into the improvement of the software.
11. Any further developments of the software, or concepts or ideas for improvement of the software, that originate within the framework of the parties' collaboration belong exclusively to Licensee and its affiliates.
12. There will be no physical relinquishment of the software.
13. The administrator of the software product on the customer's side will receive access rights in the form of a username and a password (access data). Upon registration, the first name, last name, and email address of the primary user or contact person must be submitted.
14. The access data are to be kept strictly confidential by the customer. Any transfer of this access data to non-authorized third parties is forbidden, and the customer will indemnify Licensee and Licensor for any and all

damage resulting from leakage of confidential information to third parties. Furthermore, the customer must inform promptly Licensee of any unauthorized use of the access data with which they are entrusted, of which it becomes aware.

15. The customer is not entitled to any changes to the code of the software, including but not limited to for reasons of defect remediation. This does not apply to changes for defect remediation if Licensee is unable to remediate within 60 days after receiving notice from customer that remediation is necessary for the use of the software due to the opening of an insolvency proceeding.
16. The translation or reverse translation of the source code into other code forms (decompilation) as well as other forms of back development of the various production steps of the software (reverse engineering) are not permissible without prior written consent by Licensee.
17. Any information obtained through decompilation in accordance with this Agreement may not be used for purposes other than those allowed under this Agreement and must remain within the framework thereof; further, they may not be transferred to third parties. Particularly, the use of the information for the production or marketing of a program with a similar form of expression or for some other actions damaging to proprietary rights is prohibited.
18. The customer is forbidden to remove, alter, or render illegible the proprietary and copyright notices, stickers, labels or trade names of Licensee, and/or of Licensor, contained in the software as well as in any documentation.
19. The customer grants Licensee and its affiliates, the right to verify adherence to the terms and conditions of this Agreement through objectively suitable (technical) measures. The customer will support Licensee, if requested, in verifying to the extent necessary and will take care that the verification can be carried out unhindered. The customer will be notified by Licensee, and/or by Licensor, of any verification of their systems by Licensee and/or by Licensor, at least (5) working days in advance. If, during the verification, any violation of the agreement is observed (e.g., any overuse and/or any violation of the licenses acquired), against terms and conditions of the license in accordance with this agreement, the costs of the verification are to be borne by the customer.
20. For every case of infringement, the customer is obligated to back pay the license fees on the basis of the respectively valid price list. Licensee's rights to further recovery apply in addition.
21. In general, the customer may only use the software for the analysis of DSC measurement data generated in the laboratory with Licensee's instrument.
22. The usage right stands **under the condition of adherence to these NETZSCH SaaS Conditions and can be prematurely terminated or restricted** by Licensee, and Licensor, in the case of **serious violations**.

## § 6 Changes

1. Licensee and Licensor reserve the right to adapt, expand or change the services provided, including the functionalities, technical specifications and scope of the Software-as-a-Service (SaaS) services, per its own discretion, as long as these changes do not substantially impair the contractually agreed upon purpose.
2. Changes that could affect substantially the usage possibilities of the SaaS services will be communicated to the customer in writing (e.g., by email or via the SaaS platform) at least four (4) weeks before taking effect. Licensee and Licensor will thereby take the eligible interests of the customer appropriately into consideration.
3. The right to specify the performance serves to ensure the continued improvement of the SaaS services, the adaptation to technical innovations and to legal or regulatory requirements, and the optimization of security and stability of the services.
4. Should a substantial change in the SaaS services lead to a considerable influence on the eligible interests of the customer, the customer has the right to extraordinary termination of the agreement that, not to be lost, must be exercised within one month following notification of the change.
5. Neither Licensee nor Licensor must retain specific functions or characteristics of the SaaS services enduringly, as long as their removal or change does not substantially negatively affect the contractually agreed-upon core purpose of the SaaS services.

## § 7 Customer's Obligation to Cooperate

1. Before productive use of the software, the customer must test all of its functions within the system environment intended for its use. Should the customer determine that the software does not operate flawlessly in the intended system environment, the customer must notify Licensee and Licensor, in writing or by email, in traceable and detailed form promptly following this discovery. To this end, all information useful for flaw recognition and analysis is to be named and the flaw situation to be described as precisely as possible.
2. The customer must, in its own sphere of operation and at their own expense, to provide all necessary requirements for the due implementation of services by Licensee and Licensor, and to support Licensee and Licensor, if needed, in all concerns. To this end, the customer must designate for Licensee and Licensor, at least in text form, a technically competent, German- or English-speaking contact person and, if applicable,

their proxy, who possesses all of the knowledge, decision-making authorization and powers of attorney necessary for purposes of carrying out the agreement discretions, and who is familiar with the intended use of the software.

3. To the extent that this is necessary for the creation and/or use of a new program version, the customer will provide operational new versions of the operating system, the databases, or other third-party means needed for use of the software, at the customer's expense.
4. If, for the provision of the service, an on-site operation at the customer's location is necessary, the customer will grant Licensee and Licensor, and its employees' access to the appropriate spaces, hardware, and software during normal business hours, following prior arrangements.
5. The customer must prevent unauthorized access by third parties to the software and its contents by means of appropriate precautions. Upon the termination of work and service relationships, access to the software by the affected employees must be prevented.
6. The customer must check regularly the end devices used for access to the product for viruses or other detrimental components and, to this end, to utilize state-of-the-art virus protection programs.
7. The customer is responsible for the system environment (e.g., hardware, software, Internet connection, etc.).
8. The customer is responsible for adequate and regular data backups and outage precautions for data and components.
9. Regarding the aforementioned obligation to cooperate, it is a matter of substantial contractual obligations. If the customer breaches their obligation to cooperate, Licensee is not obligated to provide service. For repeated or grossly negligent violation of the obligation to cooperate, Licensee has the right to extraordinary termination of this agreement without notice for an important reason.
10. The customer is responsible for procuring the necessary hardware and software on the part of the customer, as well as for the telecommunication connection between the customer and Licensee.
11. Licensee and Licensor, support the respective current established browser versions.
12. Insofar as Licensee or/and its affiliates would need to access and/or work on the customer's IT systems in order to provide their services, the customer grants Licensee or/and its affiliates a usage and processing right, free of charge, non-exclusive, non-transferable, restricted temporally to the duration of the service provision, and restricted in terms of content to the scope and purpose of the agreement.

## § 8 Payment Terms & Conditions

1. Usage is based on an **annual license**, the payment of which is based on the currently valid price list. The license grants the right to the evaluation of a certain **number of measurement uploads** (e.g., 750 uploads).
2. Payment is due **in advance for the respective usage period**. Invoices are to be paid in full by the customer within 14 days following receipt thereof, unless another agreement has been made.
3. License fees are specified in the appertaining quote/order confirmation. All prices listed in the quote/order confirmation are shown without the respective legally applicable sales tax.
4. The supplier reserves the right to adjust the prices **with an advance notice of 6 weeks** prior to the next extension period. The customer has the right to terminate if the payment rates increase by more than five percent. The customer may terminate within one month from issue of the notice for the point in time from which such an increase becomes effective.
5. The license fees accrue beginning with access to the paid software in accordance with §4.1 of this Agreement.
6. Extensions, increases or changes to the system or the service effectuate an adjustment of the payment. These are confirmed by Licensee after acceptance and, if no settlement deadline has been negotiated, billed immediately following their implementation on the basis of quote or price list, as arranged thereafter. The order confirmation counts as proof of the extension.
7. The customer has the right to compensation or the right of retention only in the case of counterclaims that are legally determined or uncontested. The customer may not assign claims against Licensor and its affiliates. § 354a of the HGB (German Commercial Code) remains unaffected.

## § 9 Data Usage

1. , have the right to utilize statistical measurement data from the use of the software for the analysis and further development of the components of the product, including, but not limited to telemetry data – i.e., data that reflect how often each function was clicked. Licensee and its affiliates will, in these cases, respect the business and trade secrets of the customer and will use these data only internally.
2. All anonymous information that is derived from the use of the SaaS services (i.e., metadata, summarized and/or analytical information and/or findings with regard to the operation, the support and/or the use of the platform by the customer) which is not personally identifiable information and does not identify the customer ("analysis information") can be used for the provision of services, for development and/or for statistical purposes. Such analytical information is the exclusive property of Licensee and Licensor.

## § 10 Training

The software contains a Quick Guide and FAQs that are included in the agreement price. For questions outside of this scope, Licensee and Licensor's Customer Service as well as your respective sales representative are available.

## § 11 Support

Licensee and Licensor provide to the customer, for the remediation of technical disturbances and the rectification of any errors which may arise within the framework of software use, customer service by email. This is included in the agreement price. Licensee and Licensor's customer service can also be reached directly at the following email address:

[NGB-service@netsch.com](mailto:NGB-service@netsch.com)

Service is available from Monday through Friday in the period from 8:00 a.m. until 4:00 p.m. (CET/CEST), except on German national, regional, or local holidays.

If it turns out that an error reported by the customer actually does not exist and/or is not the fault of the software, the customer must pay Licensee according to the then-current Licensee's Service fees for the analysis and processing of work generated, following calculation of these services.

## § 12 Guarantee

1. For rights of the customer in the case of errors within the software, updates, and upgrades provided, the legal provisions apply, unless otherwise specified in the subsequent text.
2. The prerequisite for claims with regard to software errors is appropriate use of the software according to the Licensee and Licensor's guidelines.
3. Licensee guarantees that the software, when used as stipulated in the agreement, is fundamentally consistent with its service specifications and is not afflicted with errors which impair the aptitude for achieving its contractually stipulated use any more than negligibly. The customer is aware that, according to the current state of technology, it is not possible to develop software of this complex sort absolutely free of any error. Therefore, immaterial deviations from the service specifications do not qualify as errors.
4. The customer is obligated to immediately inform Licensee and Licensor, of any errors in writing, by email or via a ticket system provided by Licensee and Licensor, for this purpose – if existing – and thereby to indicate and to describe how the error manifests, what its effects are, and under what circumstances it occurs. Claims with regard to errors only exist when the errors reported are reproducible or can be demonstrated by machine-generated output.
5. Licensee and Licensor will remedy the errors properly reported by the customer by way of subsequent fulfillment, i.e. through subsequent remediation or subsequent supply, within a reasonable period. The right to election of the type of subsequent fulfillment lies with Licensee and Licensor. The right of Licensee and Licensor, to deny subsequent fulfillment under the legal requirements remains unaffected. Insofar as it can be expected of the customer, Licensee and Licensor, have the right to remedy any error by providing the customer with a new version of the software (e.g., an "update") no longer containing the reported error or remedies it, or to develop a substitute solution.
6. As long as the subsequent fulfillment has not failed, no customer's termination right arises.
7. Licensee and Licensor assume no liability insofar as the errors occurring are a result of the customer's non-adherence or faulty adherence to:
  - the service/functionality description, and/or
  - the system requirements needed at the customer's end, and/or
  - the requirements otherwise described in the contract documents.

This also applies in the case of customer misuse or faulty entry.

8. Neither Licensee nor Licensor, assume any liability insofar as the responsibility lies with the customer and/or the cloud provider.
9. Neither Licensee nor Licensor, assume any liability, for errors that occur following a change in the usage or operating conditions; following a change in the system environment; following installation or operational errors, as long as these are not founded in errors in the documentation; following interference with the software,

such as changes, adjustments, or connection with other programs; and/or following use contrary to agreement – unless the customer can document that the errors were already in existence at the time of the software transfer or do not have any causal relationship with the above-named occurrences.

10. Neither Licensee nor Licensor, assume any liability for the accuracy of customer data or third-party data found in the cloud nor for any errors resulting therefrom.
11. Any liability regardless of negligence or fault on the part of Licensee or Licensor, assume any liability, for errors already existing prior to the term of this Agreement is expressly excluded.
12. The customer may not implement any reduction of payment via deduction from the stipulated payment. Rights to claims regarding enrichment and damages remain unaffected.
13. If it turns out that an error reported by the customer actually does not exist and/or is not the fault of the software, the customer must pay Licensee according to the then-current Licensee price list for the analysis and processing of work generated, following calculation of these services.
14. The warranty period for material and title issues is 12 months following access to the software per § 3.
15. Supplementarily, § 13 of these conditions applies, as well as the regulations contained in the general terms and conditions of payment of the NETZSCH Group.

## § 13 Liability and Liability Limitations

1. The general terms and conditions of payment of the NETZSCH Group apply.
2. Licensee assumes responsibility in cases of mandatory liability in accordance with applicable law, in particular for willful intent and gross negligence, as well as for damages arising from injury to life, body or health, violations of product liability law, deceit, or a guarantee assumed by Licensee.
3. In cases of slight negligence, the provider is liable only if essential agreement obligations are violated (“material contractual obligations”) and only for foreseeable, typical damages.
4. In every case, liability is restricted to the amount of the annual license fee.
5. Supplementarily, the parties agree that neither Licensee nor Licensor has liability to the customer, for lost profits, missed savings, damages from third-party claims, or other collateral or consequential damages.
6. **Claims with Regard to Third-Party Property Rights:** Licensee releases the customer from any claims that third parties could invoke resulting from a violation of proprietary law or other industrial property rights in connection with contractually stipulated use of the software. This release also includes all judicially imposed costs and indemnities for damage imposed upon the customer as a result of such claims.

This release and defense by Licensee or Licensor, requires, however, that the customer:

- (i) immediately inform Licensee or Licensor, in writing after being informed of third party claims,
- (ii) is not responsible for infringement of industrial property right or any admission of guilt,
- (iii) leaves to Licensee or/and its affiliates the sole control over the defense and any settlement negotiations with the third party, and
- (iv) promptly and actively supports Licensee or/and its affiliates, in their defense against the claims.

Should it come to a legal dispute or arbitration, the customer must allow Licensee or/and its affiliates, sole command of the proceedings, appoint an attorney of its choice for Licensee or/and its affiliates, and cede to this attorney all necessary information. Should the customer not be able to undertake the entire assignment of the legal defense, then the customer must concede sole control over the defense to Licensee or/and its affiliates, in an internal relationship, whereby Licensee or/and its affiliates, will lead the legal defense in consultation with the customer.

If it turns out that, or there is cause to suspect that, the software or parts of it are subject to the rights of third parties, Licensee or/and its affiliates, may, at its own option and expense, either (a) acquire the corresponding rights from the third party, (b) exchange or alter the respective parts of the software such that no third-party rights are still being violated, while the essential contractual requirements continue to be fulfilled, or (c) otherwise adjust the respective parts of the software in such a way that they no longer violate the industrial property rights of third parties. If none of the named measures are feasible with reasonable expenditure, either party may terminate this agreement, either in whole or in part, in written form without advance notice.

7. Neither Licensee nor any of its affiliates is liable for any loss of data insofar as the damages are due to the customer having failed to carry out their own regular data backups (immediately following each use) and to thereby ensure that any lost data can be recovered with reasonable effort.
8. In cases where the liability of Licensee or/and its affiliates, is fully excluded or limited, the same is also valid for the personal liability of the affiliates, employees, and auxiliary persons of Licensee or/and its affiliates.
9. Neither Licensee nor any of its affiliates is liable for delays or outages in the provision of services that are attributable to circumstances or causes lying outside of the reasonable control of the company, including but not limited to strikes, shortages, unrest, insurrection, fires, floods, storms, explosions, acts of nature, war, governmental or quasi-governmental measures, turmoil, terrorist attacks, earthquakes, explosions, power outages, pandemics or epidemics (or similar regional health risks) or other causes. In such cases, the due dates shift by the duration of the disturbance – if necessary, including a reasonable period of relief.
10. **Auditing of Results and Exclusion of Liability:** (i) The software can generate evaluations and calculations and does not constitute a full scientific examination. The customer is obligated to verify all results prepared

by the software on their own authority for plausibility and technical suitability before their use. This comprises verification of the proposed compounds, reactions, formulas or processes for agreement with recognized scientific and industrial standards as well as for their suitability for the intended application. This obligation concerns, in particular, cases in which the generated data are to be used for legal, commercial, or security-relevant decisions. (ii) For this purpose, the customer must ensure that they either have the necessary specialist expertise available or secure suitable internal or external specialist resources (e.g., specialist departments, consultants or specialist third parties). All responsibility for the appropriate and safe use of the proposed results, including responsibility for their plausibility, lies exclusively with the customer. (iii) Neither Licensee nor any of its affiliates, is liable for damages or losses arising from the unverified or improper use of results generated by the software, insofar as the damages are not due to a deliberate or grossly negligent breach of duty by the provider. Liability for simple negligence is excluded, as long as no material contractual obligations are violated. In this case, liability is limited in amount to the typical damages and those foreseeable upon agreement closing.

11. Neither Licensee nor any of its affiliates, is liable for damages or losses that are caused by maloperation or disturbances of the software or services by third parties such as cloud providers, system providers or technological partners (e.g., Microsoft), unless Licensee or its affiliates, contributed in a deliberate or grossly negligent manner to their causation. Licensee guarantees careful selection and integration of the third parties named.

## § 14 Use of Open-Source Software (OSS)

1. **Use of Open-Source Software** The software solutions by Licensee or its affiliates, contain Open-Source Software (OSS) which is provided under the respective open-source licenses. A list of the open-source components used, as well as the respective terms of the license in their respectively relevant version, are available at [detailed list/link] and are part of these NETZSCH SaaS Conditions.
2. **Licenses and Rights** The use of Open-Source Software is subject to the conditions of the respective open-source licenses. These licenses guarantee the customer the right to use the software, but only in accordance with the respective license terms. The customer is obligated to adhere to the respective license terms of the open-source components used in *Proteus® Now Quantify*.
3. **Liability Exclusion** Neither Licensee nor any of its affiliates assumes any liability for the OSS, including for the quality, security or functionality of the OSS components.
4. **The core functionality** is secured by Licensee or/and its affiliates, in accordance with the current state of technology. Licensee or/and its affiliates ensures that the employed OSS and appertaining licenses are regularly updated and, if necessary, replaced.

## § 15 Use of Marketing Materials and Public Relations

With the customer's consent, Licensee or/and its affiliates, may use their logo as well as a quote or testimonial within the scope of marketing measures (e.g., website, brochures, presentations). Furthermore, following prior coordination, a case study or a webinar presenting the collaboration may be created jointly. The customer also declares themselves willing to act as a reference in the case of interested third parties. All contents are coordinated in advance with the customer; the rights to logos and brand materials remain, of course, with the customer. The confidentiality of sensitive information remains guaranteed.

## § 16 Termination of Agreement

1. The customer is obligated in the case of termination of the agreement – irrespective of the legal grounds – to fully secure the data administered via the cloud in a timely fashion.
2. If not otherwise negotiated between the parties, the customer will be able to download the calculation results in csv-format for a period of 60 days following termination of the contractual relationship; or, in the case of extraordinary termination, for a maximum of 30 days. After expiry of this period, the results along with the measurement data loaded on the cloud and the customer's user account will be deleted.
3. In the case of extraordinary termination by the provider due to grave contractual violation by the customer, the provider has the right to retain the release of the data until any pending claims are cleared or any liens secured.
4. Upon customer request, Licensee and Licensor, will completely and irrevocably delete all customer data saved on their production system within four weeks. Following the end of the contractual relationship, this deletion takes place at the latest after 60 days. Excepted from these time frames are data on backup systems which, for technical reasons, do not allow for selective deletion of individual data sets, and thus can first be removed from the system following the end of the maximum retention time of 90 days. In the case of restoration of a backup, if not otherwise negotiated between the parties, the recovered customer data that had previously been deleted from the production system in accordance with deadlines will be re-deleted by Licensee and Licensor, without solicitation and immediately.

5. The customer is expressly informed that, following the end of the agreement, the software may no longer be used; any continued use is a violation of the proprietary rights of Licensee or/and its affiliates.
6. Support for transferring the data to the customer's systems or to third parties will only be provided if specially ordered, and a charge will apply.

## § 17 Data Protection and Order Processing

1. The parties are obligated to adhere to the applicable data protection regulations, including, but not limited to local applicable laws as well as the European General Data Protection Regulation ("DSGVO") and the German Data Protection Act ("BDSG").
2. The customer concedes to Licensee and Licensor, the right to save the data generated by use of the software onto the server for which Licensee or/and its affiliates has responsibility for fulfillment of its contractual obligations, and to replicate these data for security onto a backup server (cloud), if this is necessary for purposes of agreement fulfillment.

## § 18 Confidentiality

1. Both parties are obligated to confidentially handle all information, trade secrets, and data known to them as a result of the contractual relationship that are not publicly known, and to not impart these to third parties.
2. Any non-disclosure agreement between the parties remains valid and its terms and conditions are incorporated to the terms and condition of this Agreement.
3. It is known to the agreement parties that there are security risks associated with electronic and unencrypted communication (e.g., via email). For this type of communication, therefore, they will not assert any claims that are due to the lacking encryption, unless encryption was previously agreed upon.

## § 19 Export Control and Compliance

1. The customer is obligated to independently adhere to all applicable domestic and foreign export and import regulations that apply to the use of the software services.
2. The customer is responsible in particular for verifying, before use of the software in another country, whether such use is subject to any export restrictions or licensing requirements.
3. In the case of transnational use, the customer bears any accruing customs duties, fees, or other dues along with the obligation to adhere to governmental procedures, insofar as no other arrangements were expressly made in written form.
4. Licensee and its affiliates reserve the right to restrict or bar access to the software if and insofar as this is necessary for adherence to export control regulations.

## § 20 Final Provisions

1. Except for confidentiality covenants, this Agreement supersedes prior verbal side agreements. The Terms and conditions of this Agreement, including any changes to this text form provision itself, can be changed only by a written agreement executed and delivered by both parties.
2. **Cancellations require at least the text form in order to be considered effective** (e.g., email is sufficient), unless the parties have expressly stipulated otherwise. Licensee and its affiliates also provide another means of cancellation via the contact form in the software.
3. This agreement is subject exclusively to the laws of the State of New York, United States of America. Any dispute arising out or related to this Agreement will be subject to the exclusive jurisdiction of the federal courts sitting in the city, county and state of New York.
4. The customer's terms and conditions of purchase do not apply.
5. Appendices to this agreement are constituent parts of the agreement.
6. Should certain provisions within this agreement be invalid in whole or in part, or should they become invalid following the closing of the agreement, the validity of the remaining provisions remains unaffected, provided the original intention of the parties is substantially and fairly preserved. In this case, the parties are obligated to negotiate an effective and reasonable substitute provision approximating the intended spirit and purpose of the invalid provision as closely as possible. This also applies in the case of any contractual gaps.

## Appendices:

- OSS components including terms of the license – [Link](#)
- General terms of delivery and payment of the NETZSCH Group - [Link](#)
- Non-disclosure agreement (if existent)

