General License Terms for Proteus and Advanced Software by NETZSCH-Gerätebau GmbH ("NETZSCH")

(Proteus and Advanced Software)

1. Scope and Subject-Matter of the Contract

1.1 For Proteus and Advanced Software by NETZSCH ("software"), the following license terms apply exclusively. Additionally, the current version of the "General Terms of Delivery and Payment for the NETZSCH Group (Germany)" also apply. In the case of any objection to those terms, these license terms override. Any divergent terms on the part of the customer which have not been explicitly acknowledged by NETZSCH in writing are non-binding for NETZSCH, even if NETZSCH has not explicitly objected to them.

1.2 The subject-matter of the contract is the licensing of the software by NETZSCH to the customer. The software is comprised of one or more programs for implementing measurements and saving measurement data ("Measuring software"), and/or one or more programs for the analysis and graphic depiction of the measurement results ("Analysis software") and the corresponding documentation.

1.3 The software is licensed to the customer by NETZSCH for their exclusive use (license). Upon payoff to NETZSCH, the customer shall receive this license for the supplied version for an unlimited period, as per the following terms.

2. Definitions

2.1 **License Level** is defined as the allowed level of usage the Software licensed to the Licensee. The License Level is usually shown in the order confirmation.

2.2 **Site** is defined as:

(a) for Proteus Software - the customer facility at which the corresponding measuring instrument is physically located.

(b) for Advanced Software - a specific customer facility at which the Software from Advanced Software package is installed.

2.3 **Software** is defined as both the measurement software and the evaluation software; specifically, the entire contents of the files along with the data carriers which are supplied with the contract. This includes, but is not limited to, computer information and programs in object code, as well as documentation. Software does not include the source code.

2.4 The term "software" additionally refers to any updates, upgrades and other addenda. Updates and upgrades must be separately licensed; in certain cases, an additional one-time license fee may be charged.

2.5 **Update** is defined as an update of an existing version within a given generation of software.

2.6 **Upgrade** is defined as an upgrade to a new generation of software.

3. Use and Exploitation Rights of the Customer

3.1 NETZSCH hereby grants the customer the non-exclusive, non-transferable right to use the software within the terms of this contract at a given site for its own purposes ("software user license"); NETZSCH retains all rights to the software and the documentation beyond this scope.

3.2 License Levels

3.2.1 Node-Locked Licenses. If customer has licensed Software on a node-locked basis, customer may install and use one instance of the Software on a single computer only at customer's site(s) for customer's internal business purposes only in accordance with the License Level. A node-locked license is limited to use by a single User on a single computer; customer may not install the Software on a shared computer. Copying a virtual image for the purposes of using the image either simultaneously or as a replacement on another machine is prohibited.

3.2.2 Site Licenses. The customer has the right to install and use the Analysis software on any number of PCs within the given customer site. For the Proteus software, this applies only if these individual user stations access the same measuring instrument's data. The measuring software may be used only as individual user-station software; i.e., the measuring software may only be used at a user station that is the direct property of the customer and is connected with the measuring instrument.

3.3 The software user license is granted for only a single site; for installation or use of the software at multiple sites, and/or on different measuring instruments of the same type, the procurement of additional licenses is required. The customer may duplicate the software within the scope of application execution, in accordance with the technical specifications. The customer also has the right to generate any necessary backup copies of the software, as long as the copies serve exclusively for purposes of data protection. Duplication of the user manual and of the other documents (accompanying texts, included images, etc.) is not permitted. The software may only be used in the operating system environment approved by NETZSCH and under the recommended hardware requirements.

3.4 The right to process the software is restricted to the attainment or restoration of the contractual functionality of the software. This comprises the Software installation, creation of an archival backup copy, the download of the Software and its process. The License does not cover any other kind of usage. Specifically, the customer does not have the right to translate, process, decompile, reverse-engineer, or disassemble the software.

3.5 The customer is forbidden from changing copyright notations, logos and/or proprietary specifications by NETZSCH on the software.

3.6 Rental of the software, issuance of sub-licenses, and use of the software within an Application Service Provider (ASP) may only be carried out with the express consent of NETZSCH.

3.7 The aforementioned use rights are granted to the customer under the suspensory condition of the customer having paid, in full, the purchase price for the

software, or for the bundle if the measuring instrument and software were acquired as such.

4. Warranty

4.1 The warranty covers the software exclusively in the version delivered by NETZSCH. Errors in the software that can be attributed to subsequent intervention by the customer are not covered by the warranty, nor are malfunctions on the customer's operating system or third-party products. The customer does not have any right to the implementation of program enhancements or program changes after the passing of risk, even if these are necessary due to legal changes.

4.2 The software referred to in this contract has been designed for a variety of measuring and evaluation possibilities and cannot make allowances for each detail of every potential application situation. The software issued by NETZSCH fundamentally meets the technical specifications. It fulfills the criterion of practical aptitude and possesses the level of quality customary for software of this type; however, it is not warranted to be error-free.

4.3 The term of the warranty is one year.

4.4 NETZSCH has the right to remedy any deficiencies by its choice of either removing the deficiency (e.g., via updates or upgrades), supplying software that is free of the deficiency, or presenting possibilities for evading the effects of the deficiency. NETZSCH additionally has the right to remedy deficiencies by issuing a new software version or by carrying out, without additional charges to the customer, any changes to the product that are necessary due to deficiencies, as long as any resulting changes to the contractually stipulated performance are negligible at a maximum. Legal rights to contract withdrawal and fee reduction, as well as to compensation for damages and reimbursement of expenses, remain unaffected, unless a corresponding restriction is listed in Point 5.

4.5 The customer must provide NETZSCH with a reasonable level of support in localizing a deficiency; for example, by providing printouts, screenshots or system descriptions.

4.6 The customer is responsible for regular back-up and maintenance of its own specific data.

5. Liability

Rights to damage compensation are barred, irrespective of the legal grounds, unless NETZSCH is accused of a deliberate act; or unless NETZSCH-Gerätebau GmbH must answer for its own gross negligence, for a deliberate act, or for the gross negligence of a vicarious agent; or unless the right to damage compensation results from the breach of basic contractual obligations. For a breach of basic contractual obligations that was only slightly negligent, liability is limited to the foreseeable damages typical for this type of contract. Liability for damages resulting from injury to life, body or health, along with liability as per the German Product Liability Act ("Produkthaftungsgesetz"), remain unaffected.

6. Applicable Law, Final Provisions

6.1 The terms of the license are subject to the laws of the Federal Republic of Germany. Application of the United Nations Convention on Contracts for the International Sale of Goods (CISG) is barred. For all disputes arising from and in conjunction with this contract, the court with jurisdiction over NETZSCH's location has exclusive ruling power. NETZSCH has the right, however, to file a suit at any other place of legal jurisdiction.

6.2 Unless otherwise specified in these license terms or in some other agreement between NETZSCH and the customer with regard to the software, the customer does not have the right to transfer rights from this contract to any third parties without the consent of NETZSCH.

6.3 Collateral agreements, exceptions, changes or amendments are only valid if they have been agreed upon in writing.

6.4 The deemed invalidity of any individual provisions within this contract does not affect the validity of the remainder of the provisions. The same holds if the contract fails to include any necessary specific provision. In place of the invalid or non-implementable provision, or to fill the provisional gap, the legally permissible and implementable provision most closely approximating the economic spirit and purpose of the invalid, non-implementable or missing provision as intended by the parties, shall be applied.