Braunschweiger Flammenfilter

PROTEGO

für Sicherheit und Umweltschutz

PROTEGO® QuEST
Terms and conditions of use and licensing
Braunschweiger Flammenfilter GmbH

1. Subject-matter of the Agreement

1.1. PROTEGO® QuEST is software by Braunschweiger Flammenfilter GmbH (hereinafter: "PROTEGO®") designed to support the calculation of the venting performance from tanks with a view to sizing and adapting suitable PROTEGO® devices as needed. The program is also designed to display product and performance data of PROTEGO® devices for certain process conditions.

1.2. PROTEGO® QuEST is the acronym of PROTEGO® Quick Engineering and Sizing Tool.

1.3. The specific features and functionality of PROTEGO® QuEST and their restrictions are set forth in the software specification.

1.4. PROTEGO® QuEST can only provide support in calculating and selecting PROTEGO® devices. However, it cannot substitute technical analysis and assessment from an engineer's point of view! Nor can it substitute any personal technical consulting by PROTEGO® representatives!

1.5. The software is offered as a web application or as an MS Windows application. Their use shall always be permitted for a certain period. A valid registration on PROTEGO's® website will be required in all circumstances. Use as an MS Windows application requires an internet connection to enable regular verification of user authorization.

1.6. The web application does not include any services of backing up or storing and administrating data.

1.7. Any costs of transferring data towards PROTEGO's® servers shall be borne by the customer.

2. Conclusion of contract, application of these terms and conditions of use

2.1. By using PROTEGO® QuEST, the customer agrees to the following terms and conditions of use. They shall govern the relationship between PROTEGO® as the provider and the PROTEGO® QuEST customer as well as the mutual relationship between the parties concerned.

**Braunschweiger
Flammenfilter**

PROTEGO®
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2.2. The user relationship shall come into effect only upon activation of the customer's access identification for PROTEGO® QuEST by PROTEGO®. The customer shall not have any entitlement to such activation for PROTEGO® QuEST. As a matter of principle, only individual users within companies purchasing or intending to purchase products from PROTEGO® can be granted the right to use PROTEGO® QuEST by PROTEGO®. This requires that any necessary data be provided fully and accurately.

2.3. The customer shall likewise not have any entitlement to any activation for a specific type of PROTEGO® QuEST (web application or MS Windows application).

2.4. Any terms and conditions of business from the customer deviating from these terms and conditions of use shall not apply, except where PROTEGO® expressly consents to their application. These terms and conditions of use apply also if PROTEGO® has knowledge of terms and conditions of the customer conflicting with or deviating from the terms and conditions set forth herein and effects supplies or services without reservation.

2.5. PROTEGO® may amend these terms and conditions of use giving six weeks' notice. If the customer does not object to the amendment within a period of four weeks, such amendment shall be deemed accepted. PROTEGO® will explicitly inform the customer of this consequence in the prior notification of the amendment.

2.6. PROTEGO® may communicate the full text of the terms and conditions of use by providing a link through which the full text is available on the internet.

3. **Supplies and services by PROTEGO®**

3.1. PROTEGO® shall enable the customer to use PROTEGO® QuEST for a limited period of time. The specific features and functionality of PROTEGO® QuEST shall be as set forth in the specification as last amended at the time of the conclusion of the contract (available on demand).

3.2. In case of activation for the web application, the customer shall be granted access for a limited period of time to PROTEGO's® web-accessible service which shall have the functionality of PROTEGO® QuEST. The customer shall only be entitled to use the results generated by PROTEGO® QuEST. It shall not be permitted to duplicate the service or input masks.

**Braunschweiger
Flammenfilter**

PROTEGO
für Sicherheit und Umweltschutz

3.3. In case of use of PROTEGO® QuEST by means of the MS Windows application, the customer shall be granted the non-exclusive right for a limited period of time to use PROTEGO® QuEST software on a single computer in accordance with the following terms:

a) The customer shall be entitled to install the software on the mass memory of the hardware used by him and to load it into the working memory. In addition, he shall be entitled to make one single backup copy which shall be identified as such. The customer shall not be permitted to make any further copies or reproductions, which shall include any output of the program code on a printer and any photocopying of the entire handbook or essential parts thereof.

b) The customer shall not be entitled to sell the software, including the user handbook and other accessories, to any third party, or allow it to be used for a limited period of time by any third party, including without limitation by renting or allowing it to be used gratuitously. It shall however be permitted to allow it to be used by third parties who are not granted any independent right of use and who are subject to the customer's directions regarding the way in which it is used. The latter category of persons shall include in particular the customer's employees. The prohibition of multiple usage as set forth in sections c) and d) of these terms of contract shall, however, also apply in the aforementioned circumstances.

c) The customer shall be entitled to use the software on any hardware that is at his disposal. However, where the customer changes such hardware, the software shall be deleted from any previously used hardware. Any simultaneous storage, availability or use on more than one hardware system shall not be permitted.

d) Any use of the licensed software within a network or other multi-station computer system shall not be permitted where it creates the possibility of making any simultaneous multiple use of the program. If the customer wishes to use the software within a network or other multi-station computer system, he shall obtain PROTEGO's® prior consent and preclude any simultaneous multiple use by access protection mechanisms. Any use on any such network or multi-station computer system shall be permitted only when these prerequisites are met.

e) The MS Windows application encompasses a mechanism verifying on a regular basis the existence of sufficient user authorization for the software. This requires a connection to the internet. If such connection is not enabled, the use of the MS Windows application will no longer be possible.

f) Upon termination of the contractual relationship, the customer shall return the program to PROTEGO® on the original data storage media, including handbooks and documentation. Where copies were made of the program

- 4 -

Braunschweiger
Flammenfilter

PROTEGO
für Sicherheit und Umweltschutz

licensed by the provider, such copies shall be deleted completely and permanently. Instead of it being returned, PROTEGO® shall also be entitled to request the licensed program to be deleted as well as any handbooks and documentation provided to be destroyed. Any use of the software after the end of the contractual relationship shall not be permitted.

3.4. During the term of contract, the customer shall be entitled to receive program updates of PROTEGO® QuEST from PROTEGO®. PROTEGO® offers user support for the program only for the current PROTEGO® QuEST version and its predecessor by email.

3.5. PROTEGO® may make changes to its supplies and services where that is acceptable for the customer taking into account the interests of both the customer and PROTEGO®. There shall, however, be no obligation to further develop the software.

3.6. Where necessary and acceptable, the customer shall provide active cooperation in case of changes, e. g. by reentering access data or making simple adaptions in his systems.

4. Main user, sharing of projects

4.1. PROTEGO® QuEST affords customers the opportunity to allow other customers already registered with PROTEGO® to edit the customer's own projects. In case of such sharing, it will always be **all** projects that will be shared.

4.2. The other customers can change and export the projects, but cannot delete them.

4.3. It is only the customer himself who is capable of deleting his projects and excluding individual customers from accessing them.

4.4. As the account holder, the customer shall be responsible to PROTEGO® for all processes applied to the projects through his account.

5. Obligations of the customer

5.1. The customer shall provide any necessary data fully and accurately and shall promptly notify any changes. That shall apply in particular to company details and the email address.

5.2. PROTEGO® may send information and communications pertaining to the contractual relationship to the customer's email address. The customer shall check the email address serving as the contact address in relation to PROTEGO® on a regular basis.

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Postbank Hannover (BLZ 250 100 30) 941 09 308
IBAN: DE59 2501 0030 0094 1093 08   SWIFT-BIC: PBNK DE FF

Geschäftsführer:
Dr.-Ing. Michael Davies
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USt-IdNr: DE 811188775

Braunschweiger Flammenfilter

PROTEGO
für Sicherheit und Umweltschutz

5.3. The customer shall configure and run his systems and programs so as to ensure that the systems used by PROTEGO® to perform its services are not negatively affected in their security, integrity or availability. PROTEGO® may suspend services if systems act or react in a way that deviates from their regular operation patterns and thereby affect the security, integrity or availability of PROTEGO's® systems.

5.4. The customer agrees to change any passwords assigned immediately. He shall carefully administrate passwords and other access data and keep them secret.

5.5. The customer shall keep backup copies of any data entered or transferred by him into PROTEGO® QuEST. In the event of any loss of data, the customer shall transfer the documents concerned back again on PROTEGO's® servers at no cost. To that end, an im- and export function is available to the customer in PROTEGO® QuEST.

6. Liability for defects

6.1. Any defects of the licensed software, including handbooks and other documents, shall be remedied by PROTEGO® within an appropriate period of time after their notification by the customer. Defects shall be remedied, at PROTEGO's® option, by subsequent improvement at no cost or replacement delivery.

6.2. The right of the customer to terminate the contract on the grounds of failure to permit the use under sec. 543 (2) (1) (1) of the German Civil Code (BGB) shall be excluded, except where subsequent improvement or replacement delivery must be deemed to have failed. Subsequent improvement or replacement delivery may be considered to have failed only if PROTEGO® has had sufficient opportunity to effect subsequent improvement or replacement delivery, if it is impossible, if it is refused or unreasonably delayed by PROTEGO®, if there are reasonable doubts as to its prospects of succeeding or if they cannot be reasonably expected to be accepted for any other reason.

7. Liability for damages

7.1. The customer's rights to claim damages shall be excluded. That shall not apply to claims for damages based on injury to life, body or health, or on breach of essential contractual obligations as well as to liability for other damages resulting from an intentional or grossly negligent breach of duty by PROTEGO®, its legal representatives or agents. Essential contractual obligations are obligations the fulfilment of which is a fundamental condition for the proper execution of the contract and the respect of which is regularly and justifiably relied upon by the customer.

Braunschweiger
Flammenfilter

PROTEGO
für Sicherheit und Umweltschutz

7.2. Any liability without fault for preexisting damages under sec. 536a (1) of the German Civil Code (BGB) shall be excluded.

7.3. The limitations under the foregoing paragraphs 1 and 2 apply also in favour of PROTEGO's® legal representatives and agents if claims are made directly against them.

8. Term of contract, termination

8.1. Unless otherwise agreed, the contractual relationship shall start upon activation of the user account by PROTEGO®.

8.2. The contractual relationship is always entered into for a period of one year. It may be extended with PROTEGO's® consent.

8.3. The right to terminate the contract for good cause remains unaffected. Good cause shall be deemed to exist in particular in the following circumstances:

a) Provision of inaccurate data upon registration;

b) Allowing PROTEGO® QuEST or access data to be used by third parties, where that is not expressly permitted;

c) Move of the customer to a company not purchasing or intending to purchase products from PROTEGO®; the same applies if the customer's company ceases its purchases;

d) Use of PROTEGO® QuEST beyond the scope agreed under the contract;

e) Attempt to manipulate or decompile PROTEGO® QuEST incl. its databases;

f) Provision of data on PROTEGO® QuEST to PROTEGO's® competitors;

g) Manipulation of calculation results of PROTEGO® QuEST.

8.4. Notice of termination shall be given in text form as provided in sec. 126b of the German Civil Code (BGB) (e. g. letter, fax, email). Notice of termination of the contract may also be validly given through the secure customer service area, where that possibility is available.

9. Data protection

9.1. PROTEGO® collects and processes data within the framework of the statutory data protection rules.

Braunschweiger
Flammenfilter

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für Sicherheit und Umweltschutz

9.2. After the end of the contractual relationship, PROTEGO® shall be entitled to delete data transferred by the customer from the servers. Such deletion shall occur no later than 30 days after the contract has ended.

9.3. If PROTEGO® uses subcontractors, it shall be incumbent upon PROTEGO® to transfer its obligations under this agreement to any such subcontractor. Sentence 1 applies in particular to any requirements regarding confidentiality, data protection and data security.

10. Contractual language, applicable law, place of jurisdiction

10.1. The contractual language shall be German. In case of translations in other languages, however, only the German original version shall be binding.

10.2. The applicable law shall be that of the Federal Republic of Germany, excepting any conflict of laws rules that would lead to the application of any law other than that of Germany.

10.3. The exclusive place of jurisdiction in case of contracts with merchants under the German Commercial Code (HGB), legal persons under public law or special funds under public law shall be the court having jurisdiction for Braunschweig/Germany. The same applies where the customer has no place of general jurisdiction in Germany, or where the customer against whom legal action is to be brought has transferred his domicile or habitual residence to a foreign country after the conclusion of the contract, or where his domicile or habitual residence is unknown at the time when legal action is brought. PROTEGO® shall also be entitled to bring legal action at the customer's place of business.

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