

General Terms and Conditions of Business

I. General

§ 1 General provisions

1. All legal relations between IPETRONIK GmbH & Co. KG (hereinafter called IPETRONIK) and its customers related to deliveries and/or services of IPETRONIK shall be exclusively based on these terms and conditions of business. General terms and conditions of the customers shall apply only if IPETRONIK has explicitly agreed to them in writing. For the scope of deliveries the mutually agreed written statements shall be decisive.
2. Unless agreed otherwise by the contracting parties in writing, the General Terms and Conditions of IPETRONIK in force at the time of the customer's statement and accessible for consultation and downloading at <http://www.ipetronik.com/terms-and-conditions.html> shall be applicable exclusively even if not referred to again when concluding similar contracts.
3. In spite of utmost care in preparing this document printing, typing or transmission errors cannot be ruled out. For such errors no warranty can be assumed.

§ 2 Subject matter of contract, scope of performance

1. Scope, nature and quality of deliveries and services shall be based on the contract signed by both parties or IPETRONIK's acknowledgement of order or IPETRONIK's offer, if applicable. Other specific actions or requirements shall be part of the contract only if agreed so by the contracting parties in writing or if IPETRONIK has confirmed them in writing. Subsequent modifications of the scope of performance shall be valid only if agreed in writing or acknowledged by IPETRONIK in writing.
2. Product specifications, descriptions, test programs etc. are performance descriptions, but no warranties. A warranty must be declared by IPETRONIK in writing.
3. All product data, specifications, drawings etc. correspond to the current status at the indicated date of creation. For reasons of technical progress and product optimization details of our modules and the accessory components may be changed at any time without prior notice.
4. Copyrights, patent rights, trademark rights and any other intellectual property rights in the products and documents made available or accessible to the Customer by IPETRONIK within the scope of initiating and implementing the contract or created during the execution of the order shall belong to IPETRONIK exclusively. As far as such rights are the property of any third party, IPETRONIK shall have the appropriate rights of exploitation. IPETRONIK grants a non-exclusive right of use to the Customer.
5. Any arrangements ensuring the future supply of spare parts for a defined period of time shall require a written agreement or the written acknowledgement of IPETRONIK.

§ 3 Delivery dates and default

1. Dates of delivery and performance shall not be binding unless they have been specified as binding by IPETRONIK in writing. IPETRONIK shall be entitled to effect partial deliveries as far as the delivered parts can be reasonably used by the Customer.
2. Observance of delivery dates requires the due receipt of all documents to be provided by the Customer, necessary approvals and releases, including, but not limited to, drawings, as well as adherence by the Customer to all conditions of payment and other obligations agreed. If such conditions are not fulfilled in due time, the deadlines shall be adequately extended; this shall not be applicable if IPETRONIK is responsible for the delay.
3. If non-observance of deadlines is attributable to
 - a) force majeure, such as mobilization, war, acts of terror, riots or similar events (e.g. strike and lock-out),
 - b) virus and other attacks of any third party on the IT system of IPETRONIK, as far as such attacks occurred in spite of maintaining the usual care for protective measures,
 - c) obstacles due to German, US-American or other applicable national, EU or international provisions of foreign trade legislation or any other circumstances beyond the control of IPETRONIK,
 - d) late or incorrect supply of IPETRONIK; or
 - e) the subsequent agreement of other or additional services affecting the agreed deadlines, the deadlines shall be appropriately extended.
4. Reminders and time limits specified by the Customer shall only be valid if made in writing. An additional period of time granted shall be adequate and a time limit of less than two weeks shall be deemed adequate only in case of special urgency.
5. If a delay in delivery occurs, the Customer shall not be entitled to any claims for damages for delayed delivery or claims for damages in lieu of performance beyond the limits specified in paragraph 3. This shall even apply after a specified period for delivery granted to IPETRONIK has expired, but not in the event that damage was caused intentionally or by gross negligence or in case of injuries to life, body and health. The Customer shall be entitled to withdraw from the contract within the scope of the statutory regulations only as far as IPETRONIK is responsible for the delay in delivery. The above provisions do not change the burden of proof to the disadvantage of the Customer.
6. The Customer undertakes to notify IPETRONIK at the latter's request within a reasonable period of time whether it withdraws from the contract for the delay in delivery or insists on delivery.
7. If shipment or delivery are delayed by more than one month at the Customer's request after notifying the Customer that the goods are ready for dispatch, storage costs may be charged to the Customer equal to zero point five percent (0.5%) of the price of the goods to be delivered per month commenced, but not more than a total of five percent (5%). The right of the parties to prove higher or lower storage costs shall remain unaffected.

§ 4 Passage of risk

1. The risk shall pass to the Customer as follows, also for shipments delivered free:

- a) In case of delivery without installation or assembly at the time of shipment or collection. At the request and expense of the Customer the shipment shall be insured by IPETRONIK against usual transportation risks;
 - b) In case of delivery including installation or assembly on the day of acceptance at the site of the Customer or, if agreed so, after successful trial run.
2. In case that shipment, delivery, start and implementation of the installation or assembly or acceptance at the Customer's site or trial run are delayed for reasons for which the Customer is responsible or the Customer is in default of acceptance for any other reasons, the risk shall pass to the Customer.
 3. Place of performance for services shall be the place where the service is to be rendered. In all other respects, the registered domicile of IPETRONIK shall be the place of performance for all performances rendered under and in relation to this contract.

§ 5 Installation and assembly

Unless agreed otherwise in writing, the following provisions shall be applicable for installation and assembly:

1. The Customer shall provide at its own costs and expense and in due time:
 - a) any groundwork, construction and other extra work outside the particular section of industry including the necessary skilled and unskilled workers, construction materials and tools including their service and maintenance;
 - b) the equipment and material required for assembly and start-up such as scaffolding, lifting tools and other devices, fuels and lubricants;
 - c) energy and water at the installation site including technical connections, heating and lighting;
 - d) sufficiently large, suitable, dry and lockable rooms for storing machine parts, devices, materials, tools etc. as well as appropriate working and recreation rooms including sanitary facilities as are appropriate in the specific circumstances near the installation site for the assembly staff; in all other respects, the Customer shall take all measures it would take for the protection of its own possessions to protect the possessions of IPETRONIK and of the assembly staff at the construction site;
 - e) protective clothing and safety devices required due to special circumstances at the construction site.
2. Prior to the start of the assembly work, the Customer shall provide without specific request the required information about the location of subsurface electric power, gas and water lines or similar installations as well as the necessary structural data.
3. Prior to the start of installation or assembly, all supplies and objects necessary for work to begin must be at the installation or assembly site and all preliminary work must have progressed to the point that installation or assembly can begin as agreed and the work can be carried out without interruption; all supply routes and the installation or assembly site must be level and cleared.
4. In case that installation, assembly or start-up is delayed for reasons beyond IPETRONIK's control, the Customer shall bear an adequate share of the costs for waiting time and additional travelling of IPETRONIK or the assembly staff.

5. The Customer shall provide IPETRONIK with weekly information on the number of working hours worked by the assembly staff and confirm the completion of installation, assembly or start-up without delay.
6. If IPETRONIK demands acceptance of the delivered unit after completion, the Customer shall effect such acceptance within two weeks. Acceptance shall be deemed to have been effected, if the Customer fails to observe the time limit of two weeks or if the delivered unit has been taken into operation – after completion of an agreed test phase, if applicable.

§ 6 Duration and termination of contract

1. Any termination of the further exchange of performances (such as withdrawal, reduction of the purchase price, notice of termination for good cause, claim for damages in lieu of performance) shall always be announced giving reasons and setting an adequate period for remedying the defect (usually at least two weeks) and can only be declared within two weeks after expiration of the time limit. In the statutory cases as defined in Section 323 subs. 2 German Civil Code (BGB), no deadline needs to be fixed. Rescission cannot be demanded by the party fully or mainly responsible for the breach of the contract.
2. If the customer terminates the contract, IPETRONIK shall be entitled to claim the agreed remuneration, minus the expenses saved due to the termination of the contract.
3. All notifications made in this context shall be made in writing in order to be valid.

§ 7 Prices, conditions of payment and offsetting

1. All prices are understood ex works excluding package plus applicable statutory sales tax.
2. If IPETRONIK is responsible for installation or assembly and unless otherwise agreed, the Customer shall pay any incidental costs required such as travel and transportation costs as well as allowances.
3. The agreed remuneration shall be payable net within 14 days following delivery of the goods or rendering the performance and receipt of the invoice by the Customer.
4. The Customer shall be permitted to set off claims only with uncontested claims or claims which have been established by final court decision.
5. Except as defined in Section 354a German Commercial Code (HGB), the Customer shall not assign any claims under this contract to any third party without the prior written approval of IPETRONIK and it shall have a right of retention or defence of non-performance only within the present contractual relationship.
6. IPETRONIK shall be entitled to assign its claims against the Customer or to have them collected by any third party.

§ 8 Retention of title

1. The delivered objects (goods subject to reservation of title) shall remain the property of IPETRONIK until all its claims against the Customer under the contractual relationship have been fulfilled. If the total value of the securities to which IPETRONIK is entitled exceeds the total amount of all secured claims by more than 20%, then on demand of the Customer IPETRONIK shall release a corresponding part of such securities; IPETRONIK shall have the choice of release between different securities.
2. Goods subject to retention of title shall not be pledged or assigned for security purposes and shall be resold to distributors only within the usual course of business and subject to the proviso that the distributor is paid by its customer or makes the reservation that the property will pass to the customer only after the latter has fulfilled its obligations to pay.
3. If goods subject to reservation of title are resold by the Customer, it assigns to IPETRONIK all its future claims arising from the resale to its customers including any ancillary rights – and including the settlement of all outstanding balances – by way of security without the need for any further special declarations. If the goods subject to reservation of title are sold together with other objects and no separate price is agreed for the goods subject to retention of title, the Customer shall assign to IPETRONIK that part of the total price corresponding to the price of the goods subject to retention of title invoiced by IPETRONIK.
 - a) The Customer is entitled to process the goods subject to retention of title or to combine or mix them with other objects. Processing shall be effected for IPETRONIK. The Customer shall handle the new product thereby created for IPETRONIK with the care of a scrupulous merchant. The new product shall be deemed to be merchandise subject to retention of title.
 - b) IPETRONIK and the Customer agree that upon combination or mixture with other goods not belonging to IPETRONIK it shall have the co-ownership in the new product to the amount resulting from the ratio of the value of the combined or mixed merchandise subject to retention of title to the value of the re-maining merchandise at the time of combining or mixing it. In so far, the new product shall be deemed to be merchandise subject to retention of title.
 - c) The provision concerning the assignment of claims according to paragraph 3 shall also apply to the new product. However, the assignment shall apply only to the amount corresponding to the value of the processed, combined or mixed merchandise subject to retention of title and invoiced by IPETRONIK.
 - d) If the Customer combines the goods subject to retention of title with movable or immovable property, it shall assign its claim payable to it as remuneration for the combination including any ancillary rights to IPETRONIK by way of security to the amount of the ratio of the value of the combined reserved merchandise to the remaining combined merchandise at the time of combining them without the need for any further special declarations.
4. Until further notice, the Customer shall be entitled to collect assigned claims from resale. If there is good cause, and in particular in the event of a default in payment, suspension of payments, insolvency proceedings being opened, a protest being made in respect of a bill of exchange or well-founded evidence of over-indebtedness or an imminent inability to pay on the part of the Customer, then IPETRONIK shall be entitled to revoke the Customer's collection powers. Moreover, IPETRONIK may disclose the security assignment after prior warning of impending disclosure and complying with a reasonable period of notice, realize the assigned claims and demand that the Customer disclose the assignment to its customer.
5. In the event of attachments, seizures or other dispositions or interventions by any third party, the Customer shall notify IPETRONIK without delay. In the event of a substantiated legitimate

interest, the Customer shall provide IPETRONIK with the information and hand over the documents required to claim its rights against the customer.

6. If the Customer violates any of its obligations, including, but not limited to, default in payment, IPETRONIK may, after expiration of a reasonable deadline set by IPETRONIK, take back the goods or withdraw from the contract; the statutory regulations on the dispensability of setting deadlines remain unaffected. The Customer is obliged to return the goods. Taking back the goods or exercising the right of retention of title or seizing the goods subject to reservation of title does not imply withdrawal from the contract, except if expressly stated by IPETRONIK.

§ 9 Obligations of the Customer

1. The Customer shall acknowledge complete receipt of the delivered goods to IPETRONIK in writing. Such acknowledgement of receipt shall be binding.
2. The Customer undertakes to have all goods delivered by IPETRONIK professionally checked immediately after delivery or after obtaining access to them in accordance with the commercial provisions of Section 377 of the German Commercial Code (HGB) and to notify any defects found in writing with a detailed description of the defect. The Customer shall thoroughly test each module for usability in the concrete situation before starting to use it for productive purposes.
3. The Customer shall not refuse acceptance of deliveries for insignificant defects.

§ 10 Material defects

1. A product is free from material defects if it has the warranted characteristics, in particular the agreed quality, at the time of the passing of the risk. As far as no agreement has been made as to quality, a product is free from material defects if it is fully suitable for the use expected in the contract and corresponds at least to the specifications in its documentation.
2. IPETRONIK shall have the choice to repair or supply all those parts or render all those services again free of charge that show a material defect, provided that its cause was present already when the risk passed.
3. In case of complaints, payments by the Customer shall be retained only to such extent as is justified in proportion to the defects found. The Customer may retain payment only after notifying a complaint that is justified beyond any doubt. The Customer does not have any right of retention if its claims with regard to defects have already become statute-barred. If a complaint for a defect is unjustified, IPETRONIK is entitled to demand compensation for the expenses incurred by it from the Customer.
4. IPETRONIK shall first be given an opportunity to remedy the defect within a reasonable period of time.
5. Claims for defects shall not exist in the event of slight deviations from the agreed condition, of slight impairment to use, of natural wear and tear or damage occurring after the passing of the risk because of faulty or negligent handling, excessively heavy use, unsuitable equipment, faulty construction work, unsuitable building ground or due to any special external influences not foreseen in the contract as well as for any non-reproducible software errors. If the Customer or any third party performs any improper modifications or repair work, all claims for defects shall also be excluded for these and any ensuing consequences.

6. If IPETRONIK refuses supplementary performance for goods or if such supplementary performance has definitely failed or is deemed unacceptable to the Customer, the Customer may either withdraw from the contract or appropriately reduce the remuneration and demand compensation for damages or reimbursement of expenses according to § 12 in addition. Such claims shall become statutebarred as stipulated in § 14.
7. Claims of the Customer for expenses necessary for subsequent performance, including, but not limited to, costs for transportation, labour and material, shall be excluded if expenses increase because the delivered object was subsequently taken to a location other than the Customer's premises, unless this transport was necessary to fulfil its intended use.
8. Claims of the Customer against IPETRONIK under a right of recourse pursuant to Section 478 German Civil Code (BGB, recourse of the entrepreneur) shall apply only in as far as the Customer has not made an agreement with its customer exceeding the statutory warranty claims. For the scope of the Customer's right of recourse against IPETRONIK according to Section 478 subs. 2 German Civil Code (BGB) paragraph 7 shall apply mutatis mutandis.

§ 11 Defects of title

1. Unless agreed otherwise, IPETRONIK undertakes to effect delivery in the country of the place of delivery free from any industrial property rights and copyrights of any third party (hereinafter called: property rights). If a third party raises justified claims against the Customer for violation of property rights due to deliveries effected by IPETRONIK and used in accordance with the terms of the contract, IPETRONIK shall assume liability towards the Customer within the time limit defined in § 14 as follows:
 - a) At its discretion and expense, IPETRONIK shall either obtain a right of use for the deliveries in question or modify them such that they do not violate the property right or exchange them. If IPETRONIK is not able to do so under reasonable conditions, the Customer may cancel the contract or reduce the purchase price in accordance with the applicable statutory provisions;
 - b) IPETRONIK's obligation to pay damages shall be governed by § 12;
 - c) The above obligations of IPETRONIK shall apply only if the Customer immediately informs IPETRONIK in writing of the claims raised by any third party, does not recognize a violation and leaves any protective measures and settlement negotiations to the discretion of IPETRONIK. If the Customer refrains from using the goods in question in order to minimise the damage or for other important reasons, it shall point out to such third party that this behaviour does not constitute an acknowledgement of any industrial property infringement.
2. If the Customer is responsible for the violation of the industrial property right, all claims shall be excluded.
3. Claims on the part of the Customer shall also be excluded if the violation of industrial property rights is due to special conditions of the Customer, a use not foreseeable for IPETRONIK or due to the fact that the Customer has modified the goods in question or used them together with products not supplied by IPETRONIK.
4. For violations of industrial property rights the provisions of § 10 subs. 3, 4 and 8 shall apply to the claims of the Customer defined in subs. 1a) accordingly.
5. For other defects of title the provisions of § 10 shall apply accordingly.

6. Any further claims of the Customer, or claims other than those provided for in this § 11 against IPETRONIK and its vicarious agents for any defect of title shall be excluded.

§12 Liability

IPETRONIK shall pay damages or compensation for expenses incurred in vain for any legal ground whatsoever (e.g. for obligations created by legal transactions or similar obligations, material defects or defects of title, violation of duty and unlawful acts) to the following extent only:

- a) The liability in the event of wilful acts and under warranties is unlimited.
 - b) In the event of gross negligence, IPETRONIK shall be liable to the extent of the typical damage foreseeable at the time of concluding the contract.
 - c) In the event of not grossly negligent violation of a substantial obligation threatening the achievement of the purpose of the contract (cardinal obligation, including, but not limited to, default) IPETRONIK shall be liable to the extent of the typical damage foreseeable at the time of concluding the contract, but not more than EUR 1,000,000.00 per event and EUR 2,000,000.00 for all events from and in relation to the contract as a whole.
2. IPETRONIK reserves the option to claim contributory negligence.
 3. In the event of injury to life, body or health and for claims under the Product Liability Act the statutory provisions shall apply without limitation.

§ 13 Impossibility of performance, amendment of contract

1. As far as delivery is impossible, the Customer shall be entitled to claim damages unless IPETRONIK is not responsible for the impossibility of performance. However, the Customer's claim for damages shall be limited to 10% of the value of that part of the delivery which cannot be used for the intended purpose because of the impossibility. This restriction shall not apply in cases of liability for wilful intent, gross negligence or for injury to life, body or health; the foregoing does not constitute a change in the burden of proof to the disadvantage of the Customer. The Customer's right to withdraw from the contract remains unaffected.
2. If events as defined in § 3 para. 2 a–c essentially change the economic significance or content of the delivery or have a considerable effect on the operations of IPETRONIK, the contract shall be adequately adapted in accordance with the requirements of good faith. If this is deemed economically unreasonable, IPETRONIK shall be entitled to cancel the contract. The same shall apply if necessary export licences are not granted or cannot be used. If IPETRONIK intends to make use of such right of cancellation, it shall immediately notify the Customer after becoming aware of the importance of the event, also if an extension of the term of delivery has been agreed with the Customer before.

§ 14 Statute of limitations

1. The limitation period is
 - a) one year from delivery or rendering performance for claims for return of the purchase price due to withdrawal from the contract or reduction of the purchase price, but for properly notified

defects not less than three months from the effective notice of withdrawal or reduction of the purchase price;

- b) one year for other claims due to material defects;
 - c) two years for claims due to defects in title provided that the defect in title does not refer to a right of any third party for which such third party may demand surrender of the delivered products or termination of their use;
 - d) two years for claims for damages or compensation for expenses incurred in vain not based on material defects or defects in title; the deadline begins at the time when the Customer obtains knowledge of the circumstances giving rise to the claim or would have obtained knowledge if it had not shown gross negligence.
2. At the latest, claims become statute-barred at the expiration of the maximum limitation periods stipulated in Section 199 German Civil Code (BGB).
 3. However, the statutory periods of limitation shall always apply in case of damages and compensation for wilful intent, gross negligence, warranty, fraudulent intent as well as for injuries to life, body and health and for claims based on the Product Liability Act and as far as the law provides for longer limitation periods according to Section 438 subs. 1 no. 2 (buildings and things used for buildings), 479 subs.1 (recourse claim) and 634a subs. 1 no. 2 (building defects) of the German Civil Code (BGB).

§ 15 Reservation of non-performance

1. Performance of the contract is subject to the reservation that there are no obstacles due to German, US-American or other applicable national, EU or international regulations of foreign trade legislation nor any embargos or other sanctions.
2. The Customer undertakes to supply all information and documents required for exportation, transport or importation.

§ 16 Secrecy and Data protection

1. The contracting parties undertake to treat all materials made available or disclosed to them by the other contracting party prior to or during the execution of the contract (e.g. software, documents, information and drawings) which are legally protected or contain business or trade secrets or are designated as confidential also after termination of the contract unless they are part of the public knowledge without violation of the obligation to observe secrecy. The contracting parties shall keep and secure this material such that access by any third party is ruled out.
2. The Customer shall make this material available solely to those staff members or other third parties who require access to it in order to execute their official responsibilities. It shall instruct these persons regarding the confidentiality of the materials in question.
3. IPETRONIK shall observe the data protection regulations in processing the Customer's data required for business purposes.

§ 17 Venue and applicable law

1. If the Customer is a merchant, the sole place of jurisdiction for all disputes directly or indirectly arising from the contractual relationship shall be the registered domicile of IPETRONIK. However, IPETRONIK is also entitled to take legal action at the Customer's registered office.
2. This contract shall be governed by and construed in accordance with German law. Cross-border transactions shall be handled according to the United Nations Convention on Contracts for the International Sale of Goods (CISG).

§ 18 Invalidity

Should any of the provisions of these General Terms and Conditions of Business be or become invalid or unenforceable or contain gaps, the validity of the remaining provisions shall not be in any way affected or impaired. In such a case, the parties undertake to replace the invalid, impracticable or missing provisions by such provisions the effect of which will approximate best the meaning and economic purpose as well as the will of the parties.

§ 19 Written form requirement

The parties have not made any agreements deviating from or going beyond the written contracts. Amendments or supplements to a contract shall be made in writing in order to be valid. Any renouncement of said provision as to form shall also be valid only if made in writing.

II. Purchase of software

The provisions of Part I are supplemented by the following provisions.

§ 20 Rights of the Customer in the software

1. The software is legally protected. Copyright, patent rights, trademark rights and any other industrial and intellectual property rights in the software made available or accessible to the Customer by IPETRONIK within the scope of initiating and implementing the contract shall exclusively belong to IPETRONIK in the contractual relationship. As far as such rights belong to any third party, IPETRONIK possesses the respective rights of use.
2. The Customer shall only be entitled to use the program for processing its own data for its own purposes. In addition to using it for its own purposes, it may authorize companies affiliated to it according to Sections 15ff German Stock Corporation Law (AktG) to use it for their own local purposes in accordance with the provisions of this contract. This right of use shall be temporary and ends if the Customer and the using companies are no longer affiliated to each other. IPETRONIK hereby grants the Customer the permission necessary for such use as a non-exclusive right of use including the right to eliminate errors.
3. The Customer may create backup files of the programs necessary for secure operation by a person properly authorized according to Section 69d subs. 2 German Copyright Act (UrhG). Such backup files have to be kept in a safe place and, as far as technically feasible, show the copyright notice of the original data storage device. Copyright notices, trademarks and product designations must not be deleted, changed or suppressed. Copies no longer needed have to be

deleted or destroyed. The user manual and other documents made available by IPETRONIK may only be copied for internal purposes.

4. The Customer shall make the software or parts of it available to any third party only subject to the following rules and after execution of the following procedures:
 - a) The Customer deletes all other copies of the software (irrespective of the status), particularly on data media and in the hard disk or the working memories. It will stop using it for good. It undertakes to carry out these measures before giving the original data medium to the third party and to confirm them to IPETRONIK in writing without delay.
 - b) The software is permanently given to the third party, i.e. without obligation to return it or option to repurchase it.
 - c) Said third party shall acknowledge in writing to IPETRONIK directly that it will observe §§ 8, 16 and 20 of these General Terms and Conditions towards IPETRONIK directly.
 - d) IPETRONIK has given its written approval, which it shall not withhold unless there are important reasons to do so (e.g. protection against competition). If the Customer violates these rules, it shall owe to IPETRONIK a contractual penalty equivalent to half the amount the third party would have had to pay to IPETRONIK for the software according to the pricelist in force at the time, but not less than half the purchase price agreed today.
5. The provisions according to para. 2, 3, 4c) and d) shall also apply if the Customer eliminates an error or (as far as permitted) modifies the programs in some other way or uses the software for teaching purposes.
6. The Customer may only decompile the interface information of the software in accordance with the regulations set forth in Section 69 e German Copyright Act (UrhG) and may do so only after informing IPETRONIK of its intention in writing and asking for submission of the necessary interface information with a deadline of at least two weeks. Any knowledge and information made available to the Customer on the software in connection with the decompilation shall be subject to § 16. Prior to employing any third party, the Customer will obtain a written statement of such third party for IPETRONIK that such third party undertakes to observe the rules stipulated in §§ 16 and 20 directly towards IPETRONIK.
7. Without the prior written consent of IPETRONIK no other acts of use including, but not limited to, renting, leasing and distribution in material or immaterial form, use of the software by and for any third party (e.g. by outsourcing, data centre services, application service providing) shall be permitted.
8. Materials, documents, proposals, test programs etc. belonging to IPETRONIK and becoming accessible to the Customer before or after concluding the contract shall be deemed to be the intellectual property and business and trade secrets of IPETRONIK. They shall not be used in any way whatsoever without the written consent of IPETRONIK and shall be treated as confidential in accordance with § 16.

§ 21 Material defects of the software

1. The software has the agreed quality and is suitable for the contractual purpose or for the usual application if the quality has not been defined. It fulfils the criterion of suitability for practical application and has the quality usual for software of this kind, but is not faultless. Impaired function of the program due to hardware defects, environmental conditions, incorrect operation

etc. does not constitute a defect. An insignificant reduction of quality remains out of consideration.

2. In the case of a material defect, IPETRONIK can first provide subsequent performance. At its choice, it may provide subsequent performance either by remedying the defect or supplying software free from the defect or by showing options to avoid the effects of the defect. IPETRONIK shall be granted at least three attempts at subsequent improvement of the defect. To the extent just and reasonable the Customer is expected to accept an equivalent new version of the program or the equivalent previous version of the program without the defect.
3. The Customer shall support IPETRONIK in the analysis and elimination of the defect including, but not limited to, concretely describing the experienced problems, thoroughly informing IPETRONIK and granting it sufficient time and opportunity for remedying the defect. At its choice, IPETRONIK may repair the defect either at the Customer's site or on its own premises. IPETRONIK may also provide services by remote maintenance. The Customer shall ensure the necessary technical conditions at its own expense and grant IPETRONIK electronic access upon due prior notice.

§ 22 Liability for software

1. IPETRONIK reserves the option to claim contributory negligence. In particular, the Customer shall ensure the creation of data backup copies and take state-of-the-art measures to ward off malware.
2. Liability of IPETRONIK for data loss is limited to the recovery costs which would have arisen if appropriate and regular backup copies had been created.
3. In the event of injury to life, body or health and for claims under the Product Liability Act the statutory provisions shall apply without limitation.
4. IPETRONIK does not assume liability for plugins of any third party developers. Such plugins are not a product of IPETRONIK and thus no component of the software. They shall be subject to the licence conditions of the respective developer.

§ 23 Extended obligations of the Customer

1. The examination obligation according to § 9 shall also apply to programs made available to the Customer within the scope of warranty and a maintenance agreement.
2. The Customer shall take adequate precautions in case that the program does not work properly in whole or in part (e.g. by backups, error diagnosis, regular checks of results, emergency plans). It shall be responsible to ensure the functionality of the work environment of the program.