

LICENCE CONDITIONS & LICENCE CONTRACT
of



HiCo-ICS GmbH

Eisenstadt district court (DC), Commercial register "FN161.958z"

A-7000 EISENSTADT/AUSTRIA, THOMAS ALVA-EDISON STRASSE 2, TECHLAB
hereinafter referred to as "HiCo-ICS"

HiCo-ICS AND THE CONTRACT PARTNER ("CP") AGREE THAT THE TERMS AND CONDITIONS OF THIS CONTRACT APPLY TO ALL CONTRACTS FOR LICENSED PRODUCTS AGREED BETWEEN THE CP AND HiCo-ICS.

1	Foreword.....	1	17	Liability.....	8
2	Scope.....	1	18	Contract Penalties.....	8
3	Definition of Terms.....	1	19	Liability of the CP for Persons in its Hazard Area.....	8
4	Offer and Contract Conclusion.....	5	20	Cancellation of the Licence Contract.....	8
5	Prices.....	5	21	Reservation of Proprietary Rights.....	8
6	Terms of Payment.....	5	22	Offsetting.....	8
7	Rights and Obligations of the Licensee.....	6	23	Assignment.....	8
8	Scope of Performance.....	6	24	Non-disclosure.....	9
9	Delivery.....	6	25	Loyalty.....	9
10	Data Backup.....	6	26	Product Liability.....	9
11	Acceptance.....	7	27	Customer & Product Support.....	9
12	Formal Acceptance.....	7	28	Language.....	9
13	Warranty.....	7	29	Jurisdiction and Applicable Law.....	9
14	Trial or Demo Licence.....	8	30	Final Conditions.....	9
15	Corporate Licence.....	8	31	Special Contract Provisions with the Contract Partner ("CP").....	9
16	Supplementary Conditions for Third-party Products.....	8			

1 Foreword

- 1.1 Industry applications are application programs that can be used for standard functions in a company and, in contrast to cross-functional or function-related standard software, are intended for specific market segments. Industry applications are not individual solutions.
In the IT industry, an individual solution refers to an application software written specifically for one customer.
- 1.2 HiCo Informations- und Kommunikations-Management Gesellschaft m.b.H. is a system integrator that supplies its own software and software from third parties as industry applications to support business processes.
- 1.3 HiCo Informations- und Kommunikations-Management Gesellschaft m.b.H. also supplies industry application components as individual products and cross-functional or function-related standard software.
- 1.4 HiCo Informations- und Kommunikations-Management Gesellschaft m.b.H. is hereinafter referred to as "HiCo-ICS", and the contract partner as "CP".

2 Scope

- 2.1 These licence conditions apply to all software contracts for third-party products, HiCo products, standard configurations, individual configurations and customer solutions, for which a licence is granted by HiCo-ICS.
- 2.2 In the scope of these licence conditions, they replace the general terms and conditions of HiCo-ICS.
- 2.3 When the CP accepts the licence conditions, these will become the licence contract.

3 Definition of Terms

- 3.1 **Software:** Computer programs, as well as certain data, document and information type declarations (DTD, schema, etc.), style sheets and also user documentation, to be used with those computer programs.
The term "Software" or "Computer program" does not imply that it is capable of running independently.
- 3.2 **Third-party Products:**
- 3.2.1 Commercial software from third parties:
This includes all products from partners of HiCo-ICS as well as other third-party suppliers, particularly COTS (Commercial Off The Shelf).
Commercial software also includes all software provided for use at no cost (e.g. S1000D™-DTDs/Schemas)
- 3.2.2 **Open Source Software (OpS):** Software protected by an Open Source Licence.
- 3.2.3 **Third-party Standard Products** Commercial software from third parties or Open Source Software, for which a licence is granted without individual adaptation ("as is").

- 3.3 **Own Products:** Software products developed by HiCo-ICS.
Own products include:
- 3.3.1 **HiCo Standard Products:**
- 3.3.1.1 **Basic Products:** Software for which HiCo-ICS grants a licence without individual adaptation ("as is").
- 3.3.1.2 **Add-ons:** Supplement to a third-party product or to a HiCo standard product, which adds to or extends its functions without individual adaptation ("as is"), and for which a licence is granted. Plug-ins are supplements or additional modules in the sense of "Add-ons".
- 3.3.1.3 **Extensions:** Software from HiCo-ICS that supplements OpS by using the interface provided by OpS, without processing or modifying the OpS itself. The extension is licensed without individual adaptation ("as is").
- 3.3.2 **Adaptations:** The extension, adaptation or supplementation of HiCo standard products or third-party products by HiCo-ICS, based on special or individual customer requirements (individual software).
- 3.4 **Standard Configurations:** Compilation of HiCo standard products and/or third-party products based on defined system prerequisites.
- 3.5 **Individual Configurations:** The grouping of HiCo standard products and adaptations, as well as (where applicable) third-party products based on defined system requirements.
- 3.6 **Customer Solutions:** One or several standard configurations and/or one or several individual configurations.
- 3.7 **Application Database:** An application database is a compilation of one or several logical databases, within one physical database for defined software in a defined application context. For an application database, the logical databases that are defined by this application database are determined and documented in the framework of the licensing. Management software (e.g. HiCo X-ContentBase®, HiCo ietdSuite®) can use several application databases in one database system. Each application database fulfils a specific task in the application context of a configuration or customer solution. The licences for the management software (e.g. HiCo X-ContentBase®), and for the database system (e.g. MS-SQL-Server, ORACLE DB), are separate licences. An extension to include additional application databases must observe the specific licence models for the database systems. Each licence granted for an application database entitles the licenceholder to use the application database for the specific purpose given only. Unless otherwise specified in writing in the licence certificate, the contract partner must provide the management software and database system with authorisation for the purchase and operation of the application databases.
- 3.8 **System Requirements:** Defined version status of software (particularly operating systems and database systems) and/or defined hardware requirements. The system requirements can be obtained from the respective "Technical System Requirements" document and/or the "Release Notes".
- 3.9 **IT Infrastructure:** The entirety of all buildings, machines (computer hardware, peripheral equipment), communications services (networks) and software (particularly operating systems and database systems) provided for automated information processing. In particular, this also includes: all systems that serve for data storage as well as data security and protection.
- 3.10 **Interoperability:** This term describes the capacity of software to interact as seamlessly as possible with other software to exchange information in an efficient, usable and standardised manner, without having to provide separate interfaces for this purpose.
- 3.11 **Installation Types:**
- 3.11.1 **Client Installation:** Client software allows a machine to access, to use, to manage or be managed by server software installed on another machine as necessary, and, where applicable, to use certain aspects of the software, when there is no connection to the server.
- 3.11.2 **Server Installation:** Server software allows client software installed on another machine to access, to use, and, where applicable, to manage or be managed by the server software. The licence certificate must specify how many clients or users are permitted access to the server software (a separate licence must be purchased for clients or users). The location of the installation must be specified.
- 3.11.3 **Single Workstation Installation:** A software that provides the necessary components for its function on one single computer, without requiring access to a server. The software can include and provide server functions, as necessary. The software may be installed on one computer and used in accordance with the licence conditions. Unless otherwise specified in the licence certificate, the licence does not allow the provision of server services.
- 3.11.4 **Terminal Servers** are treated as server and client installations.
- 3.11.5 Unless otherwise specified in writing in the licence certificate, the licence is only valid for single processor systems with a single core. For multiple processor systems, multi-core systems or (hardware) hyper-threading systems, licences must be purchased for each processor, for each core or for each virtual processor (hyper-threading technology).
- 3.11.6 Unless otherwise specified in writing in the licence certificate, each core of a multi-core processor is essentially considered as a separate processor for HiCo-ICS own products, although each core only counts as 50% (so that dual core processors are treated in the same way as single core processors).
- 3.11.7 Unless otherwise specified in writing in the licence certificate, the licence fees for HiCo-ICS own products will not increase when used with hyper-threading.
- 3.11.8 Virtualizations are considered as separate installations.

3.12 **Licence Types:**

- 3.12.1 **User licence:** The software may be used by one user in accordance with the licensing conditions.
In so doing, a differentiation is made between:
- **named:** A "*named licence*" allows one user defined by name, to use the product with one installation.
 - **locked:** A "*locked licence*" allows the product to be used on 1 (one) identified or registered piece of hardware.
 - **dongle:** A "*dongled licence*" allows the product to be used on one installation with a "dongle" (hardlock).
 - **volume:** A "*volume licence*" allows the software to be installed on the number of contract partner computers that corresponds to the number of licences purchased, and to be used by a number of non-named CP employees corresponding to this number.
 - **concurrent:** A "*concurrent licence*" allows the software to be installed on 1 (one) contract partner computer ("hardware") and to be used by the desired number of contract partner employees, whereby the number of employees using the software simultaneously must not exceed the number of licences purchased by the contract partner. It is necessary to specify in the licence certificate whether the computer in question is an identified or registered computer.
 - **combined:** A "*combined licence*" is a combination of licence types. The exact definition of the combination must be specified in the licence certificate.
- 3.12.2 **Corporate Licence:** The software may be used within the corporation in *unlimited* numbers in accordance with the licensing conditions. In the event that the number of employees within the company more than doubles in comparison to the number present at the time the licence is purchased, the CP is obligated to purchase additional licences corresponding to the percentage increase in the number of employees, according to the price list valid at the time. In the event of divisions, splits or similar company processes, the software may continue to be used by only one of the companies then in existence.
- 3.13 **Right of Use:** This is the non-exclusive right for employees permanently employed by the contract partner to use the software for its intended use, for a limited or unlimited period of time for the contract partner company's own purposes.
- 3.14 **Editing Privileges:** This is the non-exclusive right for employees permanently employed by the contract partner to edit the software for a limited or unlimited period of time, and for employees permanently employed by the contract partner to use the edited software for a limited or unlimited period of time for the contract partner company's own purposes.
- 3.15 **Right of Reproduction:** This is the non-exclusive right for employees permanently employed by the contract partner to reproduce the software for a limited or unlimited period of time.
- 3.16 **Right of Distribution:** This is the non-exclusive right to distribute software, reproduced in a permitted way for a limited or unlimited period of time, and to allow employees permanently employed by the contract partner to use the reproduced elements for a limited or unlimited period of time for the contract partner company's own purposes.
- 3.17 **Licence Certificate:** This defines the software (third-party products, own products, standard configurations, individual configurations, customer solutions), installation type and licence type, for which a licence is granted. The licence certificate must also specify whether the contract partner is granted rights other than the right of use, as well as the period of time for which such rights are granted. Furthermore, the licence certificate must specify whether the software may also be used by any CP customers ("final customers") (e.g. HiCo X Browser®); in this case the CP customers must be specified by name in the licence certificate.
- 3.18 **Lack:** The absence of an expressly-guaranteed feature or of a feature necessary for the intended use.
- 3.19 **Functional Acceptance:** Acceptance regarding the functions guaranteed by the contract.
- 3.20 **Operational Acceptance:** Acceptance regarding the capability of the software to run on the system defined in the contract.
- 3.21 **Major Releases:** The latest major release software, which is usually released each year. New versions may contain technical as well as functional adaptations or improvements. Technical adaptations may also include support for newer versions of operating systems and database systems. Generally, modified functions result in changes to the user documentation. For the company's own products, the version number for a major release can be identified by the first block of numbers and is provided with a build number. Major releases are also called "software upgrades".
- 3.22 **Minor Releases:** However, technically-improved minor releases serving above all to eliminate errors, may also contain minor program improvements and additional functions. Generally, minor releases do not result in any changes to the user documentation. For the company's own products, the version number for a minor release can be identified by the second block of numbers and is provided with a build number. Minor releases are also called "software updates".
- 3.23 **Patch Releases:** Technically-improved versions serving exclusively to eliminate errors (e.g. patches, bug fixes). These modifications do not result in any changes to the user documentation. For the company's own products, the version number for patch releases can be identified by the third block of numbers and is provided with a build number.

- 3.24 **Customer & Product Support Services:** All services offered to customers by HiCo-ICS following the sale and start-up of the software, based on a separately-agreed contract, specifically:
- 3.24.1 **MSP (Maintenance Service Provider) Support:** Provision of 1st level support for standard third-party products.
- 3.24.2 **Standard Support Package:**
The standard support package includes:
- 3.24.2.1 **Helpdesk & Application Support:** Provision of a telephone hotline for questions from defined key users, as well as online & helpdesk support using the HiCo "In Service Support System (ISS system)". The purpose of application support is also to provide 1st level support.
- 3.24.2.2 **Technical Support:** Provision of 2nd and 3rd level support by application engineers and technical support engineers.
- 3.24.3 **Supplementary Support Package:** Standard support package supplemented by specific support management services and a named, dedicated support engineer for the customer. Duties include periodic reporting, editing of statistics and customer-specific process reviews based on evaluations from the support database. In coordination with the customer, the dedicated support engineer completes customer-specific operational documentation and documents this in an operating manual.
- 3.24.4 **Maintenance & Support of Customer Solutions:** This guarantees the compatibility of the company's own products with third-party products, compiled in an individual configuration or customer solution based on defined system requirements. Maintenance and support of customer solutions is provided, according to the service, by existing contingents or by additional contingents to be purchased for the provision of technical personnel. In agreement with the CP, this service is provided as an in-house task at HiCo-ICS or on-site at the CP.
- The services to be provided are specified in detail in the respective description of services, and can occur as follows:
- Project and system configuration, quality assurance, evaluation of future software requirements, software development and management of customer-specific system and operating documentation.
 - Services at the customer site, particularly regarding software installation support, troubleshooting for software and know-how transfer for software via training measures and on-call application support with operation in progress.
- 3.24.5 **On-occasion Call Service:** Support to ensure trouble-free operation of software even outside regular support hours, whereby the support services may also be offered within a defined time at the customer site or at a defined location.
- 3.24.6 **IT System Management Support:** Analysis and evaluation of the IT infrastructure required for operation of the software, as well as services at the customer site, particularly regarding installation support for defined components in the IT infrastructure and support for troubleshooting on defined components in the IT infrastructure.
- 3.24.7 **Software Maintenance:** Provision of available major releases, minor releases and/or patch releases for third-party products, HiCo standard products and standard configurations.
- 3.25 **Software Maintenance Certificate:** Defines the software, type of software specified in the licence (third-party product, HiCo standard product, standard configuration), installation type, licence type and the period for which a software maintenance contract has been agreed.
- 3.26 **Product Configuration Certificate:** For standard configurations, individual configurations and customer solutions, it documents the company's own products and third-party products comprising the configuration for the defined application scenarios in hierarchical form. The product configuration certificate serves as the basis for software maintenance for standard configurations and for maintenance and support for custom configurations and customer solutions.
 The product configuration certificate may also include third-party software, for which HiCo-ICS has not granted a licence; for this third-party software, compatibility with the company's own software or third-party software comprising the standard configuration, the custom configuration or the customer solution is guaranteed only when specifically listed in the product configuration certificate.
 The licence certificate, also referred to as the directory of software products or product directory, applies as a form of the product configuration certificate.
- 3.27 **Support Certificate:** Defines the software and areas of Customer & Product Support provided by HiCo-ICS to the CP and, where applicable, to end customers of the CP. The support certificate must also list the period of time for which services are to be provided from the area of Customer & Product Support, and which service contingents are purchased by the CP. Unless specified otherwise, a support certificate mutually accepted by the CP and by HiCo-ICS, also applies as a support contract.
- 3.28 **Time of Day/Time Specifications:** The time of day and time specifications are based on Central European Time (CET).
- 3.29 **Workdays:** From Monday to Friday. A workday, which is equivalent to a Person Day (PD), is defined as 8 Person Hours (PH). A working week consists of 5 workdays (WD).
- 3.30 **Calendar Year:** The calendar year (CY) starts on January 1st [00:00 hours] and ends on December 31st [24:00 hours]. Calendar dates are specified according to the Gregorian calendar.
- 3.31 **Training Day:** Training days, as well as workshops, are defined as 7 Person Hours (PH) for the purposes of calculation. One training hour is 55 minutes.

4 Offer and Contract Conclusion

- 4.1 Unless otherwise specified in HiCo-ICS's offer, offers from HiCo-ICS are subject to change without notice.
- 4.2 A contract is concluded only when duly signed by HiCo-ICS, i.e. signed by company officials authorised by the commercial register to represent the company to outside parties.
- 4.3 Oral agreements or amendments are not permitted. Supplements to the contract are effective only when confirmed in writing by HiCo-ICS and the CP (duly signed and sent by post or fax, not, however, by email).
- 4.4 General terms of business of the CP are expressly excluded.

5 Prices

- 5.1 All prices quoted are net prices. Any value added tax to be included in the invoice must be added to this price. Unless specified otherwise, prices are quoted in euros.
- 5.2 In the event of a continuing obligation, the stability of value of the price will be agreed. The price remains unchanged until Dec. 31st of the calendar year subsequent to the calendar year in which the contract is concluded. The consumer price index 2000 published by the Austrian Bureau of Statistics or an index agreed in place of this, will serve as the basis for calculation of the price stability. The initial basis for calculation of the value adaptation is the month in which the contract is concluded. The value adaptation will be reassessed on January 1st of each and every calendar year. Variations in the index figure up to and including 5% shall be disregarded. However, upon exceeding the range of 5%, the entire change will be taken into consideration. The range will be recalculated each time it is exceeded in the plus or minus direction. The index adaptation may also be applied retroactively by HiCo-ICS.

6 Terms of Payment

- 6.1 Unless otherwise agreed in writing in the contract, HiCo-ICS is entitled to demand an advance payment of 30% when an order is placed.
- 6.2 HiCo-ICS is entitled to invoice partial deliveries.
- 6.3 Payments must be paid into the HiCo-ICS account within 30 days of billing, with no discounts or other charges. If the payment condition is agreed upon as "prompt", payment must be made within 5 days of billing, with no discounts or other charges.
- 6.4 The CP is not entitled to withhold payments as a result of incomplete deliveries, guarantee or warranty claims, or complaints.
- 6.5 Payments received by HiCo-ICS will first redeem compound interest, interest and additional charges, legal costs, such as the costs of involving a lawyer or debt collection agencies, then the outstanding capital, starting with the oldest debt.
- 6.6 In the event of late payment, HiCo-ICS is entitled to charge default interest according to § 352 UGB (Austrian Commercial Code).
- 6.7 Observance of the agreed payment dates is an essential condition for fulfilment of the contract by HiCo-ICS. Failure to make the agreed payments entitles HiCo-ICS to stop its services and withdraw from the contract. All associated costs, as well as loss of profit, shall be borne by the CP.

7 Rights and Obligations of the Licensee

- 7.1 Unless specified otherwise in the licence certificate, the CP has the right to use the software specified in the licence certificate for one installation in the company owned by the CP.
Editing, reproduction and processing rights are not granted to the CP unless otherwise agreed in writing.
- 7.2 Unless otherwise agreed in writing, the CP will be given the software in machine code only. The CP has no rights whatsoever to the source code. The source code will not be given to the CP.
- 7.3 The CP has the right, to make 1 (one) backup copy of the software. The backup copy is to be marked as such.
- 7.4 Unless otherwise agreed in writing, the CP will be given the forwarded manuals only in electronic form on a data storage device, via email or by means of access to a web server.
Manuals will not be provided in printed form. The physical printout of one manual is permitted for each installation. Reproduction or use of the manual that goes beyond this is prohibited.
- 7.5 Assuming that the licence fees have been paid as due, the CP is entitled to use the software according to the licence granted. The CP shall forfeit this right if subsequent licence fees are not paid as due.
- 7.6 The CP must not use any type of process to disassemble and/or decompile applications into parts, nor use essential processes or ideas from the software provided, directly or indirectly, for the creation of his own software or for purposes of reverse engineering.
- 7.7 In the event that the CP is entitled to edit the software, the CP is obligated to submit the edited software to HiCo-ICS in the source code.
HiCo-ICS is exclusively entitled use the edited software (with the exception of the right of use of the CP), to further edit it and to reproduce and distribute it at a charge or for free.
The CP must also be in possession of a valid licence for the original (unedited) software for each installation of the software edited by the CP (for example, if the CP intends to use the software it has edited at three workstations, it must have three licences for the original software).
- 7.8 The CP is obligated to install the necessary software for operation that is either to be provided by him or is freely available.
- 7.9 Unless otherwise agreed in writing, the CP is responsible for the IT infrastructure.
- 7.10 Unless otherwise agreed in writing, transfer of software or rights of use to third parties is expressly prohibited. "Third parties" also includes associated companies.
- 7.11 A customers of the CP ("end customer") is not entitled to use the software.
- 7.12 By purchasing a "Distribution Kit" or "Package for Endusers" (e.g. for the "HiCo X-Browser®"), the CP will become an OEM partner of HiCo-ICS. On the basis of the terms of OEM partnership, OEM partners are entitled to grant a licence for use of the software in question to their end customer. The OEM Partner must specify all end customers by name and in writing to HiCo-ICS. Unless otherwise agreed in individual cases, the standard licence conditions of HiCo-ICS apply to all end customers of the CP. Reference is made to the standard licence conditions in all user manuals and set-up files, and the former are published in German and English.

8 Scope of Performance

- 8.1 When ordering third-party products, HiCo standard products and standard configurations, by placing the order the CP confirms that it is aware of the scope of performance of the ordered software.
- 8.2 Unless otherwise expressly agreed in writing, the compatibility of the software supplied with software not supplied by HiCo-ICS is not guaranteed.

9 Delivery

- 9.1 Unless otherwise expressly agreed in writing, the place of order fulfilment is the headquarters of HiCo-ICS. In the case of shipping, the risk passes to the CP upon handover to the shipping agent.
- 9.2 HiCo-ICS is entitled to make partial deliveries.
- 9.3 Announced dates for delivery and supply of services are estimated approximately, and are not binding when fixed dates have not been agreed.
- 9.4 The CP is obligated to complete the necessary work and provide all documents required to meet the deadlines, and to fulfil all obligations for cooperation to the extent required.
- 9.5 Delays in delivery and increases in price resulting from incorrect, incomplete or subsequently modified data and information or provision of documents by the CP, are not the responsibility of HiCo-ICS and cannot lead to HiCo-ICS being in default.
The CP shall bear all resulting costs.
- 9.6 If delivery is not possible or becomes impossible for actual or legal reasons, HiCo-ICS is obligated to advise the CP of this immediately. If the CP does not change the service description accordingly or does not provide the conditions to make delivery possible, HiCo-ICS is entitled to refuse the delivery.
If the impossibility of delivery is the result of a default or omission on the part of the CP, HiCo-ICS is entitled to withdraw from the contract. The CP will reimburse all expenses and costs (those of HiCo-ICS as well as those of others) resulting from HiCo-ICS activities up to that time, as well as all loss of profit.
- 9.7 Operating and traffic disruptions, incorrect delivery by sub-suppliers, force majeure or other unforeseen obstacles in the sphere of HiCo-ICS or his sub-suppliers, exonerate HiCo-ICS from keeping the agreed deadline, even in the case of a fixed deadline.

10 Data Backup

- 10.1 The CP is itself responsible for backing up the data before installing the software and during operation.

11 Acceptance

- 11.1 Formal acceptance will only occur for the delivery of adaptations, individual configurations and customer solutions.
- 11.2 In the case of third-party products, HiCo standard products and standard configurations, no formal acceptance will occur, instead acceptance will be achieved through delivery.

12 Formal Acceptance

- 12.1 Unless otherwise agreed in writing, the acceptance test for the software must start within 4 (four) calendar weeks after notification that HiCo-ICS is ready to perform, and must be completed within 2 (two) further calendar weeks.
- 12.2 Unless otherwise agreed in writing, the acceptance test will consist of just one function test and one performance test (functional acceptance). The acceptance test does not include an endurance test (trial real-time operation), unless otherwise agreed in writing.
- 12.3 Performance of an operational acceptance test is to be agreed separately in writing.
- 12.4 In the event that an operational acceptance test is not agreed upon, HiCo-ICS does not assume any responsibility for the ability of the software to run on the IT infrastructure used by the CP.
- 12.5 In the event that an operational acceptance test is agreed upon, the IT infrastructure used at the CP must meet the system requirements.
- 12.6 In the event that an operational acceptance test does not take place on the production system, HiCo-ICS does not assume any responsibility for the ability of the software to run on the production system.
- 12.7 During the acceptance test, an acceptance report will be completed in which all defects are to be listed. The CP must cooperate in the acceptance test and assign qualified personnel for this purpose (qualified testing). Defects not recorded during acceptance will be considered as approved, unless they consist of concealed defects that were not recognisable at the time of acceptance, despite all due diligence being applied. The CP is not entitled to refuse acceptance due to minor defects.
- 12.8 If an appointment for starting the acceptance test is not made within 4 (four) calendar weeks after notification of readiness to perform, or the CP does not cooperate in the acceptance, the software shall be considered as accepted. Agreement of a later date for the acceptance test, or a period of time that is longer than two calendar weeks, requires the express approval of HiCo-ICS.
- 12.9 The software will also be considered as approved by the CP, when the software is put into service in the production system.

13 Warranty

- 13.1 The CP is aware of the fact that in accordance with the latest technical standard, software cannot be developed entirely without errors.
- 13.2 HiCo-ICS only guarantees that the software is capable of running properly when the specified system requirements are adhered to. If the CP uses software versions, i.e. lower or higher, or hardware or hardware components other than those specified in the system requirements, HiCo-ICS cannot guarantee the correct operation of the software and HiCo-ICS may refuse to perform the acceptance test. In this case, the software will be considered as accepted at the time of handover.
- 13.3 If formal acceptance does not take place, the CP will be obligated to immediately analyse the goods and services provided for defects within 2 calendar weeks and to notify HiCo-ICS immediately of any defects in writing (by post or fax duly signed, however not via email) within 4 (four) workdays or accept losing all warranty rights.
- 13.4 If concealed defects occur, the CP is obligated to notify HiCo-ICS immediately in writing (by post or fax duly signed, however not via email) within 4 (four) workdays or risk losing all warranty rights.
- 13.5 Any defects and resulting symptoms must be described in as much detail as possible. A defect is recognised as such only when it is reproducible and stems from an error in the software supplied by HiCo-ICS. Any defects that occur will be eliminated at HiCo-ICS's option by resolving the defect, delivering a major release, minor release or patch release, notification of a possibility to bypass the error or by replacing the defective software for a software without defects. A reduction in the price may be demanded only when a solution for resolving or bypassing the defect is not supplied within the reasonable time period of 90 calendar days. The CP is entitled to demand cancellation of the contract when a fundamental or unrepairable defect is present. A defect that is repairable becomes unrepairable when not resolved within a period of 90 calendar days for HiCo-ICS own products or 120 calendar days for third-party products; section 16 remains unaffected. Partial items that can be used separately remain unaffected.
- 13.6 The warranty does not cover defects caused by failure to observe the specified conditions of use (hardware faults, incompatibility of hardware or software used in parallel, failure to observe the system requirements, etc.) or by improper handling.
- 13.7 Modification of the software by the CP's own programmers or third parties voids the warranty by HiCo-ICS.
- 13.8 If HiCo-ICS modifies or supplements existing software in compliance with the order or in the course of warranty claims, the guarantee for the modification or supplement applies only to the modification or supplement undertaken. This does not renew the warranty for the original software.
- 13.9 The CP has no right to demand that additional functions or adaptation work be performed (e.g. elimination of representation anomalies for unapproved hardware, etc.).
- 13.10 The CP shall provide HiCo-ICS with all necessary and relevant information immediately and at no cost, where applicable grant access to the equipment and data in question, and provide all required data and machine time at no cost.
- 13.11 HiCo-ICS is not liable for expenses and costs incurred by the CP in finding defects or in the course of eliminating defects.
- 13.12 The CP is obligated to file a court claim for its warranty rights within 12 (twelve) months from the time the goods and services are handed over, or lose such warranty rights (including the right to enforce a plea claim for a defect). The deadline applies even when formal acceptance is not associated with the handover.
- 13.13 The burden of proof for presence of a defect is borne by the CP.

14 Trial or Demo Licence

- 14.1 If the software was installed on the basis of a trial or demo licence, the parties agree that the product has been accepted as "used" and "as tested" in a legal sense. Unless otherwise agreed in writing in such cases, the software will be considered as accepted when acquired; a separate acceptance test will not be performed.
- 14.2 HiCo-ICS assumes absolutely no guarantee or liability for software installed on a trial basis.

15 Corporate Licence

- 15.1 In the event that the CP obtains a corporate licence, the latter thereby declares that it is familiar with the performance data of the software (maximum technical limit for authorised access, hardware requirements, etc.).

16 Supplementary Conditions for Third-party Products

- 16.1 In the case of third-party products, the licence conditions of the third party apply. The CP agrees to recognise these conditions and to observe the licence conditions in their entirety.
- 16.2 In the event of contradictory conditions, those most favourable for HiCo-ICS shall apply, and in further sequence for the third-party supplier.
- 16.3 HiCo-ICS assumes absolutely no liability for third-party products. In this case, the CP is limited to the rights granted by the licence conditions of the third-party supplier.

17 Liability

- 17.1 HiCo-ICS is only liable for deliberate acts or gross negligence. In the case of gross negligence, HiCo-ICS's liability is limited to three times the contract value of the benefit in question. In the case of contracts with recurring benefits, the maximum liability is limited to one single annual payment.
- 17.2 HiCo-ICS is not liable for loss of data or for direct, indirect or subsequent damages, and particularly not for loss of profits.
- 17.3 The CP is not entitled to charge for expenses incurred in the course of finding and/or eliminating defects, or damage or in the case of delay of performance.
- 17.4 The burden of proof for the presence of damage and the guilt of HiCo-ICS is borne by the CP.

18 Contract Penalties

- 18.1 For each and every unauthorised installation of the software, the CP will pay a contract penalty amounting to twice the amount of the licence fee for the software in question.
- 18.2 For each and every instance of unauthorised editing or other modification, unauthorised reverse engineering or unauthorised disassembly/decompiling, the CP will pay a contract penalty that is five times the cost of the licence fee.
- 18.3 For each and every instance of unauthorised transfer to a third party, the CP will pay a contract penalty that is five times the licence fee.
- 18.4 The contract penalty shall not be subject to reduction by order of a court of law. HiCo-ICS maintains all rights to claim damages going beyond the contract penalty.

19 Liability of the CP for Persons in its Hazard Area

- 19.1 The CP shall be liable for all persons performing activities in its hazard area (vicarious agents, employees, freelancers) and for organisational defects. The CP is responsible for taking all required organisational measures to prevent, to the greatest extent possible, the creation of copies and discovery of passwords by third parties in its hazard area.
- 19.2 In the event that the CP is authorised to grant rights to the software to third parties (e.g. to its customers), the CP shall be liable for unauthorised actions of such third parties in the same manner as for its own actions. The CP shall bear the burden of proof for the authorised behaviour of third parties.
- 19.3 On request, the CP shall be obligated to provide to HiCo-ICS information regarding the number and installation type of programs installed by it or by third parties, where applicable, and to ensure their correctness in a legally binding manner.

20 Cancellation of the Licence Contract

- 20.1 If the CP violates its obligations as specified in section 7 of the licence conditions, HiCo-ICS shall be entitled to cancel the licence contract with immediate effect. In such cases, the CP will be obligated to immediately return the original data storage device to HiCo-ICS, to irretrievably delete or otherwise destroy any and all installations or copies made and to make a legally binding declaration to this effect. Nevertheless, the CP will remain obligated to pay the full licence fee as well as any penalty specified in Section 18.

21 Reservation of Proprietary Rights

- 21.1 Data storage devices, manuals and other documentary material handed over remain the unlimited property of HiCo-ICS until payment has been received in full.
- 21.2 If the CP does not properly discharge his obligations specified in the contract, HiCo-ICS is entitled to retrieve their property at the cost of the CP at any time, and to whose surrender the CP is obligated.
- 21.3 Assertion of property rights by HiCo-ICS does not represent withdrawal from the contract by HiCo-ICS - unless otherwise expressly declared.

22 Offsetting

- 22.1 An offsetting of amounts receivable from the CP against claims of HiCo-ICS is not permitted, unless the amount from the CP has been established by a court of law or recognised by HiCo-ICS in writing (by post or fax duly signed, however not via email).

23 Assignment

- 23.1 The CP is not entitled to assign claims arising from this contract to third parties.

24 **Non-disclosure**

- 24.1 The CP is obligated to treat the licensed software confidentially, as well as all associated documents, and to keep secret all information issuing from or in the context of this contract.
- 24.2 The CP is permitted to make the licensed software and all associated documents available and accessible only to authorised personnel permanently employed by the company and to the extent required in order to exercise the right of use. The CP will obligate all those granted knowledge of the licensed software or associated documents, to treat them confidentially.
- 24.3 This non-disclosure obligation will continue in effect even after termination of this contract.
- 24.4 For each and every breach of this non-disclosure obligation, the CP will pay a penalty to the amount of 10,000.00 EUR; this amount is not subject to reduction by a court of law. HiCo-ICS retains all rights to claim damages going beyond this penalty.
- 24.5 HiCo-ICS is entitled to name the CP and - to the extent that customers of the CP are entitled to use the software in compliance with this contract - its customers as reference clients for advertising purposes.

25 **Loyalty**

HiCo-ICS and the CP both agree to mutual loyalty. They pledge not to engage in labour piracy or employment of personnel from the other party of the contract for the duration of the contract, and for 24 months after termination of the contract; this also includes employment by third parties or as an employment service. The contract partner violating this term will pay a penalty to the amount of 2 (two) times the annual salary of the employee in question; this amount is not subject to reduction by a court of law. HiCo-ICS retains all rights to claim damages going beyond this penalty.

26 **Product Liability**

- 26.1 Claims for compensation in the context of § 12 of the Product Liability Law are excluded, unless the party entitled to compensation proves that the fault originated in the sphere of HiCo-ICS and that HiCo-ICS was guilty of at least gross negligence.

27 **Customer & Product Support**

- 27.1 The licence fee does not entitle the CP to support from the Customer & Product Support area. The services from the Customer & Product Support area can be purchased by the CP in a separate contract.
- 27.2 Unless otherwise agreed in writing, the CP is obligated to conclude a software maintenance contract upon acquiring a licence for third-party products, HiCo standard products and standard configurations.
- 27.3 Unless otherwise agreed in writing, the CP is obligated to obtain a standard support package upon acquiring a licence for HiCo-ICS's own products, standard configurations, individual configurations and customer solutions.
- 27.4 In the event that the software is accepted by March 31st of a given year, the minimum term for the software maintenance contract or the standard support package will be up to and including December 31st of the same year. In the event that the software is accepted after March 31st of a given year, the minimum term for the software maintenance contract or the standard support package will be up to and including December 31st of the subsequent year.

28 **Language**

- 28.1 Unless otherwise agreed in writing, all documents for HiCo-ICS's own products will be provided in printed or electronic form in German and/or in English. HiCo-ICS is not liable for translation errors. In the event of translation errors, the German version is legally binding.
- 28.2 For third-party products, the documents will be provided in printed or electronic form in the language designated by the third-party supplier.

29 **Jurisdiction and Applicable Law**

- 29.1 The parties agree that the factually competent court of law in Vienna (Austria) will have local jurisdiction for any disputes arising from or in the context of this contract relationship.
- 29.2 Austrian substantive law applies. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods shall not apply.

30 **Final Conditions**

- 30.1 If a condition of this contract is or becomes ineffective due to the breach of a law or contra bonos mores, or any other reason, the validity of the remaining conditions will not be affected. In place of the ineffective condition, a condition will be agreed on that is permissible and is as close as possible to the economic intent of the original condition.
- 30.2 Within the scope of the installation procedures for the software ("*Set Up*"), the personnel performing the work shall be advised that the licence conditions of HiCo-ICS apply and the generally valid licence conditions will be posted. Moreover, these personnel will be obligated to confirm that they are familiar with and accept these licence conditions. It will not be necessary to post any customer-specific details or changes to these licence conditions, because these are standardised installation procedures.
- 30.3 The CP and HiCo-ICS hereby contractually agree that the CP shall notify all users of the software, and particularly those personnel responsible for installation, administration, management and operation of the software, as well as archiving/filing of the software media, of the licence conditions specified in this contract and will make these conditions available for perusal. For this purpose, the personnel in question are obligated by the CP to strict and mandatory observance of these contract conditions, even before beginning use or performing work within the scope of start-up and management of the software (installation, administrative and configuration activities).

31 **Special Contract Provisions with the Contract Partner ("CP")**

These licence conditions are accepted without any changes or supplements by the contract partner ("CP").