

SOFTWARE MAINTENANCE 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 FOR ALL CONTRACT CONCLUDED BETWEEN THE CP AND HiCo-ICS REGARDING SOFTWARE MAINTENANCE.

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1 Scope

- 1.1 These general contract conditions apply for all contracts regarding third-party products, our own products and standard configurations for which a licence is granted by HiCo Informations- und Kommunikations-Management Gesellschaft m.b.H. in compliance with their licence conditions and for which a software maintenance contract is concluded.
- 1.2 Within the range of application of this software contract it replaces the general terms of business of HiCo Informations- und Kommunikations- Management Gesellschaft m.b.H.
- 1.3 HiCo Informations- und Kommunikations-Management Gesellschaft m.b.H. is hereinafter referred to as "HiCo-ICS", and the contract partner as "CP".

2 Definition of Terms

- 2.1 **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.
- 2.2 **Third-party Products:**
- 2.2.1 **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)
- 2.2.2 **Open Source Software (OpS):** Software protected by an Open Source Licence.
- 2.2.3 **Third-party Standard Products** Commercial software from third parties or Open Source Software, for which a licence is granted without individual adaptation ("as is").
- 2.3 **Own Products:** Software products developed by HiCo-ICS.
Own products include:
- 2.3.1 **HiCo Standard Products:**
- 2.3.1.1 **Basic Products:** Software for which HiCo-ICS grants a licence without individual adaptation ("as is").
- 2.3.1.2 **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".
- 2.3.1.3 **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").
- 2.3.2 **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).

- 2.4 **Standard Configurations:** Compilation of HiCo standard products and/or third-party products based on defined system prerequisites.
- 2.5 **Individual Configurations:** The grouping of HiCo standard products and adaptations, as well as (where applicable) third-party products based on defined system requirements.
- 2.6 **Customer Solutions:** One or several standard configurations and/or one or several individual configurations.
- 2.7 **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 licenseeholder 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.
- 2.8 **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".
- 2.9 **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.
- 2.10 **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.
- 2.11 **Installation Types:**
- 2.11.1 **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.
- 2.11.2 **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.
- 2.11.3 **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.
- 2.11.4 "Terminal Servers" are treated as server and client installations.
- 2.11.5 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).
- 2.11.6 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).
- 2.11.7 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.
- 2.11.8 Virtualizations are considered as separate installations.
- 2.12 **Licence Types:**
- 2.12.1 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 "dongle 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.

- 2.12.2 **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.
- 2.13 **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.
- 2.14 **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.
- 2.15 **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.
- 2.16 **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.
- 2.17 **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.
- 2.18 **Lack:** The absence of an expressly-guaranteed feature or of a feature necessary for the intended use.
- 2.19 **Functional Acceptance:** Acceptance regarding the functions guaranteed by the contract.
- 2.20 **Operational Acceptance:** Acceptance regarding the capability of the software to run on the system defined in the contract.
- 2.21 **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".
- 2.22 **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".
- 2.23 **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.
- 2.24 **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:
- 2.24.1 **MSP (Maintenance Service Provider) Support:** Provision of 1st level support for standard third-party products.
- 2.24.2 **Standard Support Package:**
The standard support package includes:
- 2.24.2.1 **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.
- 2.24.2.2 **Technical Support:** Provision of 2nd and 3rd level support by application engineers and technical support engineers.
- 2.24.3 **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.
- 2.24.4 **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.

- 2.24.5 **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.
- 2.24.6 **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.
- 2.24.7 A valid software maintenance contract is a requirement for "Customer & Product Support Services (CPSS)".
- 2.25 **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.
- 2.26 **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.
- 2.27 **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.
- 2.28 **Time of Day/Time Specifications:** The time of day and time specifications are based on Central European Time (CET).
- 2.29 **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).
- 2.30 **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.
- 2.31 **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.

3 **Offer and Contract Conclusion**

- 3.1 Unless otherwise specified in HiCo-ICS's offer, offers from HiCo-ICS are subject to change without notice.
- 3.2 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.
- 3.3 Oral agreements or amendments are not permitted. Supplements to the contract are effective only when confirmed in writing by HiCo-ICS (duly signed and sent by post or fax, not, however, by email).
- 3.4 General terms of business of the CP are expressly excluded.

4 **Prices**

- 4.1 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.
- 4.2 Unless otherwise specified in the software maintenance certificate, the specified fee applies for a contract period of one year.
- 4.3 For new versions HiCo-ICS retains the right to charge a nominal fee for computer media, shipping and handling.
- 4.4 The parties agree to stability of the price. 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.

5 **Terms of Payment**

- 5.1 Unless otherwise agreed in writing in the contract, HiCo-ICS is entitled to demand an advance payment of 30% when an order is placed.
- 5.2 HiCo-ICS is entitled to invoice partial deliveries.
- 5.3 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.
- 5.4 The CP is not entitled to withhold payments as a result of incomplete deliveries, guarantee or warranty claims, or complaints.
- 5.5 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.
- 5.6 In the event of late payment, HiCo-ICS is entitled to charge default interest according to § 352 UGB (Austrian Commercial Code).

- 5.7 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.

6 Duration of Contract

- 6.1 Unless otherwise specified in the software maintenance certificate, software maintenance services shall start with acceptance of the software for which the software maintenance contract was concluded.
- 6.2 If the software maintenance contract is concluded for a number of software products, the software maintenance contract shall start as soon as acceptance testing is completed for one software product.
- 6.3 Unless otherwise specified in the software maintenance certificate, the software maintenance contract shall be concluded for a period of 1 (one) year. If notification of termination of the software maintenance contract is not made in writing by one of the parties within due time with advance notice of 6 (six) months before the end of any contract year, the contract shall be extended automatically by one year.

7 Software Maintenance

- 7.1 The software maintenance contract is concluded for the third-party product, HiCo standard products and standard configurations specified in the software maintenance certificate.
- 7.2 Conclusion of a software maintenance contract for adaptations, custom configurations and customer solutions is not possible. A special contract for maintenance and support can be concluded between HiCo-ICS and the CP for such products.
- 7.3 The Software maintenance for HiCo standard products and standard configurations comprises:
- 7.3.1 Delivery or provision of major releases, minor releases and patch releases, released during the term of the software maintenance contract.
- 7.3.2 Delivery or provision of the user guide and installation guide in electronic form in PDF format.
- 7.4 The software maintenance for third-party products comprises:
- 7.4.1 Delivery or provision of available minor releases, patch releases and - if specified accordingly in the software maintenance certificate - major releases, released during the term of the software maintenance contract.
- 7.4.2 Delivery or provision of user documentation in the language, form and scope provided by the third-party supplier.
- 7.5 Software maintenance for third-party products and HiCo standard products does not guarantee compatibility and interoperability of the software products. Installation and start-up of the major releases, minor releases and patch releases supplied shall be at the risk of the CP.
- 7.6 The software maintenance for standard configurations, into which third-party products are also integrated, ensures compatibility and interoperability of the HiCo standard products and third-party products integrated into the standard configuration. This assumes that
- 7.6.1 only major releases, minor releases and patch releases approved by HiCo-ICS for use in the standard configuration are installed,
- 7.6.2 the system requirements are observed by the CP and
- 7.6.3 a valid software maintenance contract exists for all HiCo standard products and third-party products integrated into the standard configuration.
- 7.7 The obligation to pay the fee for the software maintenance contract for standard configurations remains even when software maintenance for standard configurations is not possible because the requirements listed in the previous point are not present.
- 7.8 Adaptations required as a result of delivery of modified DTDs/schemas and style sheets are not covered by the software maintenance for standard configurations. Changes required on this basis must be requested by the CP separately or included in an agreement for applicable maintenance and support of a customer solution.

8 Maintenance & Support of Customer Solution

- 8.1 Maintenance & support of a customer solution ensures compatibility of HiCo's own products and third-party products integrated into a custom configuration or customer solution under defined conditions.
- 8.2 This contract does not include maintenance and support of customer solutions.

9 Installation of Major Releases, Minor Releases and Patch Releases

- 9.1 Delivery or provision of major releases, minor releases and patch releases, released during the term of the software maintenance contract, does not include installation of such releases by HiCo-ICS at the CP.
- 9.2 Installation of major releases, minor releases and patch releases may be accomplished by HiCo-ICS within the scope of maintenance & support of a customer solution in the event that the CP has purchased appropriate contingents.

10 Subsequent conclusion or interruption of a software maintenance contract

- 10.1 If the CP does not conclude a software maintenance contract together with purchase of the software license from HiCo-ICS, and thereafter continuously extends and desires to use the services from a software maintenance contract at a later time, the CP must pay
- the applicable fees in each case for the software maintenance as well as
 - the applicable fees in each case for the software maintenance for which it did not use a software maintenance contract, as well as
 - all measures and services, required to establish the current version status of the third-party products, HiCo standard products and standard configuration(s).

11 Data Transfer or Data Migration

- 11.1 If transformation or editing of existing data is required for installation or start-up of a major release, minor release or patch release, such transformation or editing shall be accomplished by the CP itself or, when the CP places a separate order with HiCo-ICS, by HiCo-ICS.

12 Delimitation to Support Questions

- 12.1 As a matter of principle support questions will not be answered within the scope of the software maintenance contract. Support questions will be answered by HiCo-ICS within the scope of the In-Service Support System (iSS system), which can be used only on the basis of a separately concluded support contract (MSP Support or Standard Support Package).
- 12.2 If a "Maintenance" contract is concluded by the CP with HiCo-ICS for third-party products from SDL Tridion (Tridion R5 and other Tridion products) or the Arbortext product portfolio or other defined software (e.g. Relex, Windchill) from PTC Parametric Technology Corporation, MSP support on the basis of the iSS system from HiCo-ICS is included for the defined contract period without any increase in the fee.

13 Warranty

- 13.1 If the CP has concluded a support contract (MSP Support or Standard Support Package), errors in the software included in the software maintenance contract may be reported by the CP using HiCo-ICS's In-Service Support System (iSS system).
- 13.2 If the CP has not concluded a support contract (MSP Support or Standard Support Package), errors in the software included in the software maintenance contract may be reported using the email addresses given to the CP by HiCo-ICS for this purpose or by telephone using the telephone numbers given to the CP by HiCo-ICS for this purpose. Messages to email addresses or telephone numbers not given to the CP for this purpose will not be handled by HiCo-ICS. The CP will receive a reply from HiCo-ICS within 4 (four) weeks, indicating whether a reported error in the software covered by the software maintenance contract is recognised as a fault.
- 13.3 Treatment of faults depends on the licence conditions, under which the CP purchased the software from HiCo-ICS.
- 13.4 Delivery of major releases, minor releases and patch releases does not initiate a new guarantee.
- 13.5 The CP shall not be entitled to demand elimination of errors, which are not recognised as faults. If and to what extent reported errors have been eliminated in the delivered major releases, minor releases or patch releases, is specified in the applicable release notes.

14 Downward Compatibility

- 14.1 Minor releases and patch releases of HiCo standard products are downward compatible within the same major version with the last minor version in each case.
- 14.2 The CP is obligated to productively install major releases within 6 (six) months of release, minor releases within 3 (three) months of release and patch releases within 1 (one) month of release. If error remedies (bug fixes) are required to maintain productive operation, they are to be installed immediately.
- 14.3 In the event of basic changes to the DTDs/schemas, HiCo-ICS retains the right to refrain from implementing or updating the affected software. A basic change is defined as a change leading to reprogramming of significant parts of the affected software.

15 Software Maintenance Contract and Acceptance of Software

- 15.1 Use of the services from this software maintenance contract assumes acceptance of the software affected by the software maintenance contract.

16 Supplementary Conditions for Third-party Products

- 16.1 In the case of third-party products, the maintenance provisions of the third party apply. The CP agrees to recognise these conditions and to observe them 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.

17 Delivery

- 17.1 Unless otherwise expressly agreed in writing, the place of order fulfilment is the headquarters of HiCo-ICS in 7000 Eisenstadt. In the case of shipping, the risk passes to the CP upon handover to the shipping agent.
- 17.2 HiCo-ICS is entitled to make partial deliveries.
- 17.3 Announced dates for delivery and supply of services are estimated approximately, and are not binding when fixed dates have not been agreed.
- 17.4 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.
- 17.5 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.

18 Data Backup

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

19 Liability

- 19.1 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.
- 19.2 HiCo-ICS is not liable for loss of data or for direct, indirect or subsequent damages, and particularly not for loss of profits.
- 19.3 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.
- 19.4 The burden of proof for the presence of damage and the guilt of HiCo-ICS is borne by the CP.

20 Reservation of Proprietary Rights

- 20.1 Data storage devices, manuals and other documentary material handed over remain the unlimited property of HiCo-ICS until payment has been received in full.
- 20.2 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.
- 20.3 Assertion of property rights by HiCo-ICS does not represent withdrawal from the contract by HiCo-ICS - unless otherwise expressly declared.

21 Offsetting

- 21.1 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).

22 Assignment

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

23 Non-disclosure

- 23.1 The parties to this contract mutually agree to treat all information obtained from or in context with this contract confidentially.
- 23.2 This non-disclosure obligation will continue in effect even after termination of this contract.
- 23.3 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.
- 23.4 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.

24 Loyalty

- 24.1 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 (twenty-four) 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.

25 **Product Liability**

- 25.1 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.

26 **Language**

- 26.1 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.
- 26.2 For third-party products, the documents will be provided in printed or electronic form in the language designated by the third-party supplier.

27 **Jurisdiction and Applicable Law**

- 27.1 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.
- 27.2 Austrian substantive law applies. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods shall not apply.

28 **Final Conditions**

- 28.1 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.
- 28.2 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.
- 28.3 The VP and HiCo-ICS hereby contractually agree that the CP shall notify all users of the software maintenance conditions, 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).

29 **Special Obligations of the Contract Partner ("CP")**

- 29.1 These terms of software maintenance are accepted without any changes or supplements by the contract partner ("CP").