A. Applicability

1. These General Business Terms and Conditions shall apply exclusively. HALO electronic GmbH (hereafter referred to as "HALO") does not accept the Buyer's terms or conditions if these contradict or deviate from HALO's General Business Terms and Conditions, unless HALO has expressly agreed in writing that the former should apply.
2. These General Business Terms and Conditions apply to all future contracts and transactions between HALO and its business partners, even in cases where HALO supplies goods in the knowledge of deviating or contradictory terms on the part of the business partner.
3. HALO's business is the supply of hardware and software. Unless stated otherwise, the clauses of these General Business Terms and Conditions apply to both the supply of hardware and software.

B. Scope of terms and conditions

1. These General Business Terms and Conditions cover the software and/or hardware products (hereafter referred to as "Goods") as specified in the order confirmation.
2. The Goods shall have the properties and characteristics specified in the order confirmation. The software products are custom-engineered to meet the requirements of the Buyer as specified in the order confirmation.
3. For proper delivery and commissioning of the Goods, the Buyer must ensure that all requirements specified by HALO in the supplied installation instructions and IT specifications are met at the time of delivery and installation.

C. Pricing, payment

1. All prices (for hardware and licences) are subject to the VAT at the applicable rate and do not include packaging, unless explicitly agreed otherwise.
2. The purchase price is payable in full within the period specified in the order confirmation. If no such period is specified in the order confirmation, payment must be made in full within 30 days from the date of the invoice. In the event of default, the Buyer shall be liable for interest on arrears according to § 352 Austrian Commercial Code (UGB).
3. In the event of default, the Buyer shall also be liable for any reasonable expenses incurred by HALO as a consequence of non-payment, including, in particular, all expenses for reminders and debt collection involving a collection agent or lawyer.
4. Incoming payments shall, first of all, be set off against the cost of debt collection and against the interest on arrears.

D. Licensing (software)

1. By purchasing the software, the Buyer acquires the non-exclusive right to install on 1 (one) server and on an unlimited number of clients (workstations) at the location specified in the order confirmation and to use the software for the purposes of his business. The Buyer shall be entitled to make copies of the software product in order to install and run it on the workstations, whereby the simultaneous use of the software within the network is limited to the number of instances specified in the order confirmation.
2. The Buyer is not entitled to the reverse-engineering of the software, to the conversion of the object code to machine code or to the decompiling of the software, unless this is required in order to ensure interoperability or proper maintenance.
3. The Buyer's rights of use with regard to the software shall be limited in time until full payment of the purchase price is received, after which the right of use is no longer limited in time. In the event of non-compliance with the payment terms, HALO shall be entitled to revoke the licence without compensation.
4. The Buyer shall not be entitled to sublicense the software, unless the sublicensees are subsidiaries of the Buyer in which he holds a majority share. The Buyer shall be entitled to sell the Goods (hardware and software) to a third party, provided that the software is no longer being used by the Buyer and provided further that the third party shall accept the licence terms granted to the Buyer, and unless HALO does not object in writing by registered post within 14 days after disclosure of the name of the third party (and before transfer of ownership), stating the grounds for objection. An objection shall only be deemed reasonable if significant business interests of HALO would be affected by the transfer of ownership of the Goods to the third party.

E. Set-off, retention of payments

1. The Buyer is only entitled to set-off if his counterclaim is undisputed or ascertained as legally binding. The Buyer is only entitled to set off monies due to HALO to settle a valid counterclaim arising from the same contract.

F. Delivery

1. Delivery is subject to the timely and proper performance of the duties of the Buyer.
2. Unless agreed otherwise in writing, all deliveries are made ex works (Incoterms).
3. In the event of delayed acceptance or any other failure to cooperate (in particular as regards the duties arising from the installation instructions) on the part of the Buyer, HALO shall be entitled to demand compensation for damages, including any additional costs that have arisen from the non-cooperation. HALO reserves its right to demand additional compensation for damages.
4. The risk of accidental destruction or accidental deterioration of the Goods shall be passed to the Buyer upon notification that the Goods are ready for shipment, unless another time of transfer of risk has been agreed in writing. In all cases, the risk will be transferred to the Buyer at the time of the delayed acceptance or any other breach of the Buyer's duty to cooperation.
5. Times of delivery for a particular consignment shall only be binding if agreed between the Buyer and HALO in writing and specified as binding. Otherwise, they are not binding.

G. Retention of title (hardware)

1. The Goods shall remain the property of HALO until payment is received in full. The Buyer must label the Goods subject to retention of title accordingly and take this claim of HALO into account in its accounting records. In the event of a breach of contract on the part of the Buyer, including default of payment, HALO shall be entitled to request the return of the Goods.
2. The Buyer must handle all Goods that are subject to retention of title with the necessary care, to arrange for adequate insurance coverage, and to service them as required.
3. If the purchase price is not paid in full and the Goods become the subject of a claim by a third party or are otherwise exposed to interference by a third party, the Buyer must notify HALO without delay and in writing.
4. The Buyer is entitled to re-sell the Goods subject to retention of title as part of his ordinary business. In this case, he shall assign to HALO all receivables due to him from the resale. Notwithstanding the right of HALO to collect all receivables due to it, the Buyer shall be entitled to collect outstanding payments from his customers after assignment to HALO. HALO undertakes not to collect receivables due to it from customers of the Buyer, provided that the Buyer meets his payment obligations, and provided further that no application for insolvency, restructuring or similar proceedings against the Buyer has been made.

H. Liability, warranty

1. Claims under warranty made by the Buyer shall only be deemed valid if the Buyer has met inspection and notification duties according to §§ 377 f of the Austrian Commercial Code (UGB). Defects exclude faults and errors that cannot be reproduced or that are due to an operating error on the part of the Buyer.
2. If the Goods are defective, HALO is obliged and entitled to remedy such defects by supply of the missing part(s), by replacement and/or by reworking within a reasonable period of time. If HALO fails to eliminate the defect in 3 (three) attempts, the Buyer is entitled to withdraw from the contract or to demand a price reduction.
3. (Software) In the event of a defect in the software, the Buyer is obliged to accept remedy by installation of a new or improved version of the software. Unauthorised modifications to the software on the part of the Buyer shall invalidate all warranty.
4. (Software) HALO guarantees that the supplied software components are free of any intellectual property rights of third parties that would restrict or impede the use of the software components as specified in the contract. The parties undertake to notify each other in writing without delay, should they become aware of any claims by third parties as regards infringement of intellectual property rights. HALO shall indemnify the Buyer for a period of 3 (three) years from the date of delivery against any claims by third parties in relation to infringement of intellectual property rights. In such cases, HALO reserves the right to take legal recourse and/or enter settlement negotiations (for instance in order to obtain a retrospective licence) in order to remedy the situation. This clause shall not be applicable in cases where the intellectual property rights of a third party have been breached by the use of the software by the Buyer outside the scope of its contractual use rights, or by unauthorised changes to the software components by the Buyer or any of its subcontractors.
5. Only properties and features of the Goods or parts thereof that have been explicitly agreed in writing prior to the signing of the contract shall be covered by warranty.
6. If the parties have agreed specific test criteria for the acceptance of the Goods, the Goods are deemed free of defects upon successful testing.
7. The replacement of components, or modifications to components or the Goods by the Buyer shall invalidate all liability and warranty.

I. Duties of the Buyer

1. The project manager appointed by the Buyer and named in the order confirmation shall be available to HALO for queries relating to the contract and information provided by the project manager is deemed binding. The project manager shall make the relevant decisions with regard to the performance of the contract in due course.
2. The Buyer must ensure that all requirements specified in the supplied installation instructions and IT specifications are met in due course.

J. Liability

1. HALO shall only be liable for direct damage caused with intent or through gross negligence. HALO shall not be liable for unforeseeable or atypical damage, loss of earnings or loss of data. The total compensation for damages arising from a contract shall be limited to the total order value.
2. HALO's liability for culpable damage to life, body or health as well as the liability under the Product Liability Act shall remain unaffected.

J. Final clauses, applicable law, jurisdiction

1. These General Business Terms and Conditions are the only binding agreement between the parties. There are no verbal agreements. The General Business Terms and Conditions of the Buyer shall not apply.
2. These General Business Terms and Conditions and all contracts based on them are subject to Austrian law. The United Nations Convention on Contracts for the International Sale of Goods is only applicable secondary to the Austrian Code of Civil Law (ABGB) and the Austrian Commercial Code (UGB) and their supplementary laws.
3. Amendments to this contract must be made in writing. This also applies to the provision stipulating that amendments must be made in writing.
4. All disputes arising from this agreement, including disputes relating to its conclusion, validity, termination or voiding, shall be settled before a competent court responsible for 6890 Lustenau, Austria.
5. The decision or declaration that one or more of the clauses of this contract are null and void shall have no effect on the remaining clauses. The parties undertake to replace any invalid clause by a valid clause that best reflects the commercial purpose of the original clause. Clauses added to close gaps must be formulated in the way they would have been drawn up upon closing of the contract, if the parties had at that time identified the omission.
6. In the event that these General Business Terms and Conditions are presented in a version other than German, only the original German version shall be referred to in questions of interpretation.