



# ComAp

The heart of smart control

## Global Terms and Conditions

For Sales of Products and Provision of Services (GTC)

# GLOBAL TERMS AND CONDITIONS FOR SALE OF PRODUCTS AND PROVISION OF SERVICES (GTC)

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# GLOBAL TERMS AND CONDITIONS FOR SALE OF PRODUCTS AND PROVISION OF SERVICES (GTC)

**ComAp** provides smart electronic control products and solutions to our customers globally. These **GTC** will assist our global business partners to connect to **ComAp**, and to protect our customers' requirements in a simple global manner. **ComAp** also ensures in these **GTC** that the legal and business local needs of our global business partners are considered.

## GENERAL

These **GTC** constitute a legally binding agreement between **ComAp** and the **Customer** for sale of **Products** and **Services**.



Figure 1: **ComAp Group**

The rights and obligations of the **Contracting Parties** are governed by these **GTC** even if the **Customer's** order states otherwise. Any terms other than these **GTC** or **Agreement** shall be disregarded in compliance with these **GTC**. **ComAp** presumes that the **Customer** is familiar with these **GTC**, understands them and has expressed his consent with them. **ComAp** is entitled to modify these **GTC** at any time. A modification of these **GTC** will be announced by **ComAp** at least 30 working days before its effectiveness. Such an announcement will be undertaken via the **ComAp** website and/or by another suitable way. If the **Customer** would not agree with the proposed modification of these **GTC**, the version valid at the time of **Agreement** was executed, will remain effective. If the **Customer** agrees with the modification of these **GTC** or, in the 30-day time-period from the announcement will not express his will, it means that the **Customer** agrees with the proposed modification and such modification becomes binding for the **Customer**.

The **Customer** is not entitled to propose any amendment, or variation from the existing or proposed wording of these **GTC**. **ComAp** precludes any changes, amendments or variations from these **GTC** proposed by the **Customer** unless approved in writing by **ComAp**.

Corrections of grammatical or factual inaccuracies in typing, calculations or identifications of authorities, work positions, product names, **ComAp's** documentation, correction or completion of other parts of these **GTC**, which do not impair the position of the **Customer** are not considered a modification of these **GTC**.

In case of conflict among the **Agreement**, **GTC**, **License Agreement**, **Australia SC** and **USA SC**, the documents shall prevail in this order: 1. **Agreement**, 2. **Australia SC** and **USA SC**, as applicable, to the extent of the inconsistency with these **GTC** 3. **GTC**, 4. **License Agreement**, and 5. **INCOTERMS (2010)**. For the avoidance of any doubt, unless agreed otherwise in the **Specific Agreement**, the **INCOTERMS (2010)** rule determined in the **Agreement** shall not cause prevalence of **INCOTERMS (2010)** over the preceding documents listed in the previous sentence.

The valid and effective version of these **GTC** is available at [www.comap-control.com](http://www.comap-control.com).

## 1. DEFINITIONS

**Agreement** - means a bilateral legal relationship concluded between **ComAp** and the **Customer** which is expressed in **Order Confirmation** and/or **Specific Agreement** and set of all related documentation of each **ComAp**'s business cases connected to the sale and purchase of **Products** and/or the provision of **Services** including these **GTC**; a written form of **Agreement** (paper or electronic) is required;

**Australia SC** – means Australia special conditions for **Products** or **Services** supplied within the territory of Australia;

**ComAp** – means **ComAp a.s.**, U Uranie 1612/14a, 170 00 Prague, its subsidiaries and sales affiliates belonging to the **ComAp Group**;

**Contracting Parties** - means **ComAp** and the **Customer**;

**Customer** – means any person or company to whom **ComAp** sales **Products** or provides **Services**;

**Distributor** - means a person or a company cooperating with **ComAp** and selling **ComAp**'s **Products** and/or **Services** in accordance with a distribution agreement;

**Documentation** - means all licenses and consents, which the **Customer** shall obtain on its own responsibility and at its own expense, if necessary, before the performance of **ComAp** is initiated, or at any time during the performance and **ComAp** shall be entitled at any time to require the **Customer** to submit **Documentation**. **ComAp** or **ComAp** contractual carrier may also require the submission of all documents defined in the **Agreement** and require their submission as a condition precedent for the commencement of delivery;

**Guides** - means an integral part of **Products** which is available to each authorized **Customer** on the web [www.comap-control.com](http://www.comap-control.com). The **Guides** contain important instructions for **Product**'s operational status, configuration, testing and servicing. Some new features for **Products** may be available at the same web address as released and published by **ComAp** from time to time;

**Incoterms 2010** - means the international rules for the interpretation of trade terms prepared by the International Chamber of Commerce;

**Intellectual Property Rights** - means **Trademarks**, geographical indications, industrial design, patents, layout-design (topographies) of integrated circuits, which means particularly registered designs, applications for any of these rights, copyright, design right, know-how, confidential information, trade and business names, database rights, underlying algorithms, **Guides** and any other intellectual property rights and similar rights in any country;

**License Agreement** – means the written terms and conditions of use of **ComAp** control system software and documentation created, issued and published by **ComAp** related to the protection of the **Intellectual Property Rights** and other intangible property rights of **ComAp** called “*COMAP LICENSE AGREEMENT*”. **License Agreement** is an integral part of these **GTC**;

**Order Confirmation** - means **ComAp**'s written acknowledgement and acceptance of the **Customer**'s order to purchase **Products** and/or **Services**;

**Price** - means the sums to be paid by the **Customer** to **ComAp** for the purchase of **Products** and/or provision of **Services** as set out in the **Agreement**;

**Products/Goods** - means i) products that **ComAp** agrees to supply to the **Customer** under the **Agreement**, and/or ii) subject to the **License Agreement**;

**Registered Product(s)** - means **Products** equipped with the **ComAp** control system software and the **Technical Documents** after the authentication check and/or registration procedure described in the **License Agreement**;

**Specific Agreement** - means every written agreement that includes provision/s different to these **GTC**; other than **Order Confirmation**;

**Specification** - means **ComAp**'s specific documentation relating to **Products** and specific documentation relating to **Services** as defined in the document [ComAp Service Definition](#);

**Technical Documents** - means a set of documents necessary for the operation, maintenance and repair of **Products** in a written or electronic form, including but not limited to **Guides**, and **Specification**;

**Trademark(s)** - means any sign, or any combination of signs in particular words including personal or trade names in any form, letters, numerals, figurative elements and combinations of colors as well as any combination of such signs including graphical depiction (logo) used by **ComAp** for its **Products** and the business name **ComAp**;

**USA SC** – means USA special conditions for **Products** or **Services** supplied within the territory of USA.

## 2. CONCLUSION OF AGREEMENT

### Order requirements

Before sending an order to **ComAp**, **ComAp** and the **Customer** will agree on the essential terms of the order, i.e. **Price**, payment method, identification of **Products** and/or **Services**, quantity, estimated delivery date and INCOTERMS (2010) rule. Any other requirements may be agreed by **Contracting Parties** in accordance with these **GTC**. If the provisions that vary from these **GTC** are subject of negotiation, these derogations may be reflected in the **Order Confirmation** or in the **Specific Agreement**. These **GTC** are a mandatory part of all **Agreements**.

### Quote

After the essential terms of the order are preliminary agreed by the **Contracting Parties**, **ComAp** will send the quote to the **Customer**. The quote is valid for 30 days from its issuance, if the quote does not state another time-period. The **Customer** sends a written order to **ComAp** within the stated time-period. The order may be accepted by **ComAp** if the **Customer** confirms the quote by sending the written order to **ComAp**. The **Customer's** order with deviation(s) in essential terms shall be considered as a new order of the **Customer** and further action (acceptance or rejection) of **ComAp** is required.

### Order

The **Customer** may send the order to **ComAp** without a previous quote provided by **ComAp** only in case, this process has been previously agreed to by **ComAp**. The **Customer** agrees that sale of **Products** and/or provision of **Services** will be governed by these **GTC**. The **Customer's** order shall include all essential terms of the order.

### Order Confirmation

The order is accepted if **ComAp** sends **Order Confirmation** to the **Customer**, otherwise it is considered that the **Customer's** order was rejected. **ComAp** will initiate performance after it sent **Order Confirmation** to the **Customer**. The text of **Order Confirmation** shall deviate from these **GTC**, only to the extent permitted by these **GTC**.

## 3. DISPATCH AND DELIVERY

3.1. **ComAp** shall use its reasonable efforts to deliver **Products**. The delivery shall start in accordance with the **Agreement**

3.2. The **Customer** will collect **Products** in the place agreed in the **Agreement**. Place to collect **Products** by the **Customer**, shipping method, and selected contractual carrier will be agreed in the **Agreement**.

3.3. **ComAp** or **ComAp's** contractual carrier may condition the initiation of the transport by the delivery of **Documentation** that the **Customer** is obliged to submit. Failure to provide **Documentation** entitles **ComAp** to postpone the delivery of **Products** until **Documentation** is submitted. **ComAp** may obtain **Documentation** instead of the **Customer** at the **Customer's** expense, or may withdraw from the **Agreement**. Upon withdrawal from the **Agreement**, **ComAp** is entitled to reimbursement of all costs related to non-delivery of **Products**, i.e. payment of **Products Price** including all costs incurred for shipment of **Products**, whether the shipment has been initiated or not. Any damages resulting therefrom will be born in full by the **Customer**. Should **Products** be delivered outside the EU, the **Customer** shall deliver an export confirmation for non-EU countries to **ComAp**.

3.4. The **Customer** may request a change of the place and/or time of delivery of **Products** after the shipment was initiated. **ComAp** shall accept the change provided that i) the contractual carrier approves the change of place and/or time of delivery, ii) such a change will be possible, based on the selected mode of transport. The **Customer** shall pay all other costs related to the change of the place and/or time of delivery of **Products**.

3.5. **Products** can also be delivered at the expense of the **Customer** via their contractual carrier. In this case, for the purposes of these **GTC**, dispatch reference date shall be the collection of **Products** by the **Customer's** contractual carrier or by the **Customer** directly. The **Customer's** obligation to provide all necessary **Documentation** is retained.

3.6. **Products** may be delivered in partial shipments, unless the **Agreement** explicitly states otherwise. Should the delivery of any **Products** be cancelled, this will not affect the delivery of the remaining shipments of **Products**, unless agreed otherwise.

3.7. The **Customer** shall immediately notify **ComAp** if **Products** i) are not delivered to the place of delivery and/or on time, ii) are delivered in a different quantity, or iii) do not correspond to the type of **Products** stated in the **Agreement**. In such cases **ComAp** will replace the **Products**, unless the **Agreement** defines that the replacement of **Products** is precluded or is not possible for another reason.

3.8. If the packaging of **Products** appears to be visibly damaged at the time of delivery, the **Customer** shall inspect **Products** in the presence of a **ComAp**' contractual carrier or other person authorized by **ComAp**. Should **Products** be visibly damaged i) the **Customer** shall describe the damage in writing in the corresponding handover document of the contractual carrier, in writings, ii) immediately inform **ComAp** about the damage in writing, iii) provide **ComAp** with sufficiently documented evidence (including photographic evidence) and iv) immediately inform **ComAp** whether or not the **Customer** had taken over the damaged **Products**. If the information and evidence mentioned above is not sent to **ComAp** immediately, a warranty claim may be rejected and **ComAp** shall not be liable for any damage related thereto. The same procedure is applicable for the transfer of **Products** by the **Customer**'s contractual carrier.

3.9. The **Customer** exporting **Products** by himself or by his contractual carrier is obliged to declare **Products**. When **Products** are exported outside the EU, the **Customer** shall prove evidence that all respective custom proceedings have been undertaken. From the time when **Products** leave **ComAp**, the **Customer** shall submit the Written Custom Declaration in electronic format .xml (WCD) within 10 days. If the issuance of WCD requires a longer time-period, **ComAp** may grant reasonable extension in writing, however the overall time-period shall not exceed 60 days from the date when **Products** are exported from **ComAp**. If the **Customer** fails to submit the WCD within the above mentioned time-period, the **Customer** shall pay a fee in the amount of 25% of the **Price**. The **Customer** is obliged to pay all cost incurred in connection with the relevant tax and customs proceeding exceeding the fee defined in the previous sentence.

## 4. SERVICES

4.1. **ComAp** provides **Services** to its **Products**, that consist mainly of product support, additional services, project & complete solutions and customer training. All these types of **Services** are described in the document [ComAp Service Definition](#). **Services** also include warranty and post-warranty repairs.

4.2. Shall the **Customer** require **Services**, such **Services** shall be indicated in the **Agreement**, and the **Customer** will provide **ComAp** with all necessary information related to provision of **Services**, i.e. identification of **Products**, document/s proving legal acquisition of **Products** and the place where **Products** are located and/or **Services** should be provided.

4.3. The type of **Services** offered are i) **Services** provided together with **Products** and included in the **Price** of **Products** - product support as defined in **Specification**, and ii) other **Services** provided on the request of the **Customer**. The **Price** will be determined individually or based on the **Price** provided by **ComAp**. The minimum rate is € 1,200.00 per man-day, unless the **Agreement** provides otherwise.

4.4. The scope of other **Services**, their **Price**, place of performance and the dates of their provision must be included in the **Agreement**, otherwise the provision of **Services** may be rejected by **ComAp**.

## 5. PRICE AND PAYMENT CONDITIONS

### Price

5.1. **Price** for **Products** and/or **Services** is defined in the **Agreement**. If applicable, other costs may be added to the **Price**. Other costs include: i) value added tax, ii) costs related to the delivery of **Products** (including customs fees), if the delivery is provided by the **ComAp**'s contractual carrier, iii) costs related to the provision of **Services**, iv) or other costs related to requirements imposed by relevant authorities.

Any costs incurred by the **Customer** not required, caused or under the control of **ComAp**, shall be borne by the **Customer**.

5.2. If there are any additional requirements after the final **Price** was agreed, these requirements, including their impact on the **Price**, have to be agreed by both **Contracting Parties**.

5.3. Any increase in tax rates impacting the **Price** of **Products** and/or **Services**, if applicable, shall not require additional consent of **Contracting Parties**.

### Payment Conditions

5.4. **Price** for **Products** and/or **Services** shall be invoiced by **ComAp** and paid by the **Customer** via bank transfer before their delivery/provision pursuant to the invoiced date of payment, alternatively, based on terms defined in the **Agreement**. All details regarding **Price** will be defined in the **Agreement**. Any other costs connected to the selected type of payment (including all fees) shall be born by the **Customer**.

5.5. Unless the **Agreement** provides otherwise, the **Customer** shall pay to **ComAp** the total amount of each invoice (including electronic invoice issued in standard electronic form) within 14 days from the issuance of the invoice or on such due date as may be stated in the invoice. Further details of invoicing may be specified in the **Agreement**.

5.6. **ComAp** accepts the following currencies: USD, EUR, CHF, GBP, AUD, SGD, CZK, and other convertible currencies approved by **ComAp**. The currency will be specified in the **Agreement**.

5.7. **ComAp** reserves the right to use the following currency clause in the **Agreement**:

For the purposes of this exchange rate clause, the base currency to the chosen currency in the **Agreement** is EURO. The date of the valid exchange rate is the date when the **Agreement** was concluded based on the central exchange rate valid in the state of the **Customer's** registered seat. If after the conclusion of the **Agreement** either currency changes, the **Customer** shall pay the **Price** ensuring that the currency in the **Agreement** is deemed to have retained the same exchange rate value to EURO as of the date of the conclusion of the **Agreement**.

5.8. € 40.00 is the minimum amount to be invoiced by **ComAp** even if the **Price of Products** and/or **Services** is lower.

5.9. The **Customer** may not retain any payment of **ComAp** invoices, for whatever reason.

5.10. The **Customer** shall not set off any due or undue receivables against **ComAp's** and assign receivables against **ComAp** to any third party without the prior written consent of **ComAp**.

5.11. Payment is considered executed if it is credited to the **ComAp's** account.

5.12. **ComAp** does not accept advance payments, unless otherwise stated in the **Agreement**.

5.13. If the payment of the **Customer** becomes overdue or if there is any doubt that the payment would not be paid on time, **ComAp** has the right to suspend the delivery of **Products** or provision of **Services** to the moment the payment has been executed and/or the doubt has ceased to exist.

5.14. **ComAp** is entitled to provide the **Customer** with a credit limit. The amount and conditions are set individually. If the conditions for a credit limit are fulfilled, the **Customer** is entitled to repeatedly acquire **Products** and **Services** up to the amount of the credit limit provided. If the credit limit is exceeded, **ComAp** is entitled to suspend the delivery of **Products** and/or provision of **Services** and to require immediate payment of the amount exceeding the credit limit.

### Liquidated damages

5.15. If the **Customer** is in delay with the payment of **Price** for **Products** and/or **Services**, the **Customer** shall pay an amount of 3M PRIBOR + 10% p.a. from the overdue amount. Paying this charge does not exempt the **Customer** to pay the **Price** for **Products** and/or **Services**.

5.16. **ComAp** may require from the **Customer** to pay liquidated damages in the amount of 50% from the **Price** but not less than € 10.000,00 for each individual breach of these **GTC** and/or the **Agreement**, including but not limited to:

5.16.1. breach of **Intellectual Property Rights**;

5.16.2. breach of the prohibition to resale **Products** by the **Customer** (other than the **Distributor**);

5.16.3. damage to the reputation of **ComAp**;

5.16.4. breach of export/import rules in international trade;

5.16.5. breach of export/import rules by delivery to locations and/or to the person that are subjects to international sanctions;

5.16.6. breaches of environmental rules (e.g. failure to destruct **Products** ecologically);

5.16.7. failure to ensure the authorization to export outside the EU;

5.18. **ComAp** may require from the **Customer** to pay the liquidated damages in the amount of 10% from the **Price** but not less than € 1.000,00 for each individual breach of these **GTC** and/or the **Agreement**, including but not limited to:

5.18.1. failure to provide the required documents for the purposes of Delivery or Dispatch of the **Products**;

5.18.2. failure to inform **ComAp** about the damage of **Products** upon their delivery;

5.18.3. breach of any obligation by the **Customer** related to **Products** before the ownership title is transferred to the **Customer**.

5.19. The **Customer** acknowledges and agrees that there can be no adequate remedy under the law for any breach of its obligations defined by these **GTC**. Any such breach may cause irreparable harm to **ComAp**, and therefore, upon any such breach or any threat thereof, **ComAp** shall be entitled to an appropriate equitable relief in addition to whatever remedies it might have under the law, including injunctive relief.

5.19. Derogations from this article per regions:

### AUSTRALIA SC

## GST:

- a) GST has the meaning it does in section 195-1 of the GST Act;
- b) GST Act means *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any related or similar legislation;
- c) Supply has the same meaning it does in section 9-10 of the GST Act and excludes any “GST-free supplies” and “input taxed supplies” as those terms are defined in section 195-1 of the GST Act; and

## Gross Up for GST:

- d) Unless otherwise stated, the consideration payable by the **Customer** to **ComAp** for, or in connection with, a Supply under the **Agreement** does not include any **GST**.
- e) The **Customer** must pay to **ComAp** an additional amount on account of **GST** equal to the amount payable by **ComAp** for the relevant Supply or Supplies multiplied by the prevailing **GST** rate.
- f) The **Customer** is required to pay the additional amount to **ComAp** within seven (7) days of any request from the **ComAp**.
- g) If a payment is to be made by the **Customer** to **ComAp** under this clause, then **ComAp** will provide the **Customer** with a tax invoice which complies with the requirements of the GST Act.

## USA SC

5.4. **Products** and **Services** may be paid by check drawn on a U.S. bank in U.S. funds.

## 6. RISK AND TITLE

6.1. The risk of damage on **Products** shall pass to the **Customer** at the moment **Products** are made available to the **Customer** in accordance with the **Agreement** (even in the case of abandonment) or at the moment of delivery (hand over) to the **Customer**. **Products** may be delivered to the **Customer** either directly by **ComAp** or by any of **ComAp's** entities, the **Distributor** authorized by **ComAp** or by **ComAp's** contractual carrier.

6.2. The ownership of **Products** transfers to the **Customer** at the moment, when the total **Price** of **Products** including all additional payments arising from the **Agreement** are credited on **ComAp's** account, unless otherwise agreed in the **Agreement**.

6.3. If **Products** have been made available to the **Customer** and/or **Products** are delivered, but there is no acquisition of the ownership title, the **Customer** is obliged to:

- 6.3.1. hold **Products** on a fiduciary basis as bailee or trustee or as may be otherwise agreed on behalf of **ComAp**;
- 6.3.2. store **Products** (at no cost to **ComAp**) separately from its other merchandise and possessions or the merchandise or possessions of third parties, in such a way that they remain readily identifiable as **ComAp's** property;
- 6.3.3. not destroy, deface or obscure any identifying mark or packaging on or relating to **Products**; and
- 6.3.4. maintain **Products** in a satisfactory condition in accordance with any storage conditions advised by **ComAp** and keep them insured on **ComAp's** behalf for their full **Price** against all risks to the reasonable satisfaction of **ComAp**. On request the **Customer** shall produce the insurance policy to **ComAp**.

6.4. **ComAp's** rights under this article 6 shall be retained even after the effectiveness of the **Agreement** has expired.

6.5. If the **Customer** desires to dispose of **Products**, or to provide **Products** for use to any third party, a prior written consent of **ComAp** is required. The **Customer** is obliged to inform the third party about the rights and obligations arising from these **GTC**, **Agreement**, **License Agreement** and **Documentation** and to provide **GTC**, **Agreement**, **License Agreement** and **Documentation** to the third party together with **Products**.

6.6. If the **Customer** collects **Products** with reservation, **ComAp** is obliged to evaluate such a reservation. If the reservation is justified by **ComAp**, **ComAp** is obliged to provide an adequate remedy.

6.7. Derogations from this article per regions:

## AUSTRALIA SC

### PPSA AND SECURITY

6.8. Property in and legal and beneficial ownership of **Products** shall remain with **ComAp** until the **Customer** has made payment in full in cleared funds of the **Price** of those **Products** and any other money owing by the **Customer** to **ComAp**.

6.9. The **Customer** acknowledges and agrees that by assenting to the **Agreement**, which constitutes a security agreement for the purposes of the *Personal Property Securities Act 2009* (Cth):



- a) the **Customer** grants a security interest to **ComAp** in all **Products** now or in the future supplied by **ComAp** to the **Customer** (or to its account) during the continuance of the relationship between **ComAp** and the **Customer**, and the proceeds of those **Products**;
- b) any purchase it makes on credit terms or on a retention of title basis pursuant to the **Agreement**, will constitute a purchase money security interest (PMSI) for the purposes of the PPSA, and the PMSI will continue to apply to any **Goods** coming into existence, and the proceeds of the sale of **Goods** coming into existence, on or after the date of the **Agreement**;
- c) until title in **Products** passes to the **Customer**, it will keep all **Products** supplied by **ComAp** free, and will ensure all such **Products** are kept free, of any charge, lien or security interest and not otherwise deal with **Products** in a way that will or may prejudice any rights of **ComAp** under the **Agreement** or the PPSA; and
- d) in addition to any other rights under the **Agreement** or otherwise arising, **ComAp** may exercise any and all remedies afforded to it as a secured party under the PPSA, including, without limitation, entry into any building or premises owned, occupied or used by the **Customer**, to search for, seize, dispose of or retain those **Products** in respect to which the **Customer** has granted a security interest to **ComAp**.

6.10. The **Customer** will, whether before or after **Products** are supplied under this **Agreement**, do such acts and provide such information (which information the **Customer** warrants to be complete, accurate and up to date in all respects) as in the opinion of **ComAp** (acting in its absolute discretion) may be required or desirable to enable **ComAp** to perfect under the PPSA the security interest created by this **Agreement**.

6.11. To the extent permitted by law the **Customer** waives any right to receive a copy of a verification statement under section 157 (or otherwise) of the PPSA and agrees as to any contract between **ComAp** and the **Customer** for the supply of **Products** governed by this **Agreement**, to the extent permitted by law, to contract out of each and every provision permitted by section 115(1) of the PPSA, except section 115(1)(g), to the intent that **ComAp** will preserve its right to seize collateral, and the **Customer** agrees to waive its rights referred to in section 115(1).

6.12. The **Customer** undertakes to:

- a) not register or permit to be registered a Financing Change Statement (as defined under the PPSA) in any of the **Goods** in which **ComAp** has a security interest pursuant to this **Agreement**; and
- b) provide **ComAp** not less than 7 days' prior written notice of any proposed change in the **Customer's** name, address, contact numbers, business practice or such other change in the **Customer's** details which are registered on the Personal Property Securities Register, to enable **ComAp** to register a Financing Change Statement (as defined by the PPSA), if **ComAp** deems it necessary (in its sole discretion).

6.13. The **Customer** agrees to pay the costs, charges and expenses of and incidental to the need for, or desirability of registration of, a financing statement or financing change statement or any action taken by **ComAp** to comply with the PPSA or to protect its position under the PPSA. The **Customer** agrees to pay any costs incurred by **ComAp**, including, but not limited to, legal costs on a solicitor-own client basis, arising from any disputes or negotiations with third parties claiming an interest in any **Goods** supplied by **ComAp**.

## 7. PROPRIETARY RIGHTS AND ACTION AGAINST THIRD PARTIES

7.1. The **Intellectual Property Rights** of whatever nature, and wherever in the world to the **Product(s)** are, and shall remain **ComAp's** property as defined and pursuant to the terms and conditions of the **License Agreement**. The **Customer** may use the rights if i) the **Price** of the License is paid in accordance with the **Agreement** and the **License Agreement** or ii) the **Price** of the License is considered as a part of **Products** or iii) the License is provided free of charge.

7.2. Any reputation in **Trademarks** affixed to or applied to **Products** shall be for the sole benefit of **ComAp** or any other trademark owner.

7.3. **Products** may be equipped with the **ComAp** control system software. In this case **Products** must be registered according to the procedure described in the **License Agreement**. The **Customer** shall not remove any copyright notices, confidential or proprietary details, or identification from **Product(s)**.

7.4. The **Customer** shall notify **ComAp** immediately if it becomes aware of any illegal or unauthorized use of the whole or any part of **Products** or the **Intellectual Property Rights** in them, including any infringement of **Trademarks** or suspicion of the occurrence of counterfeit products, and will assist **ComAp** in taking all steps necessary to defend its rights to them at **ComAp's** expense. **ComAp** shall have the exclusive right to take steps to defend its rights and the **Customer** shall use best efforts assisting **ComAp** as requested by **ComAp**.

7.5. The **Customer** acknowledges that the software and/or **Documentation** and/or any other Intellectual Property are not bespoke materials and have not been prepared to meet the **Customer's** individual requirements. The **Customer** acknowledges that they are acquainted with the **Guides** and **Specifications of Products**.

7.6. The **Customer** acknowledges that only the software installed on the **Registered Product** and its **Documentation** is intended and applicable for use for the control and monitoring of **ComAp** control systems together with the **ComAp's Products** and for no other purpose.

7.7. The **Customer** acknowledges that the software and **Documentation** shall be used only by the person who is suitably

qualified and who has been properly trained and competent in their use.

## 8. TERMINATION

8.1. The **Agreement** may be terminated after its fulfillment, by agreement of the **Contracting Parties**, after the expiration of the period the **Agreement** was concluded for, or by notice of termination.

8.2. **ComAp** may terminate the **Agreement** i) by a written notice (notice is considered as delivered 5 days after posting via e-mail or 10 days after posting by regular mail) or ii) by other suitable way effective immediately to the **Customer** in the following circumstances:

8.2.1. any breach of the **Agreement** that the **Customer** does not remedy within 30 days from the day the **Customer** was notified in writing by **ComAp**;

8.2.2. when on the basis and for any reason of the competent jurisdiction:

- a) an insolvency proceeding (bankruptcy) has been initiated with respect to the **Customer**;
- b) the **Customer** is in liquidation;
- c) any person undertakes or sells the property, assets or liabilities of the **Customer**; or
- d) the **Customer** has been sentenced for committing a crime related to its business activities, whether committed such a crime by himself or by any person who has decision-making and/or managerial powers;
- e) the **Customer** is represented by any person, directly or indirectly, that is in the role of the administrator, trustee, holder of prior rights to claimed receivable or for any similar reason (e.g. in accordance with Article 14 of Schedule B1 to the UK Insolvency Act 1986 and so called "floating charge").

8.3. Termination consequences. If the **Agreement** is terminated earlier for any reason caused by:

- a) the **Customer**, all outstanding amounts arising out of the **Agreement** become immediately due and payable, including **Price** of all undelivered and/or not provided **Products**, **Services**, penalties and accessories. The right of **ComAp** to require compensation from the **Customer** for damage is not affected;
- b) **ComAp**, in the event the **Customer** has already paid for **Products** and/or **Services**, that were not delivered and/or provided due to the early termination of the **Agreement**, **ComAp** shall return to the **Customers'** account an amount in the same currency equivalent to the paid **Price**, after setting-off all sums owed by the **Customer** to **ComAp** including enforced sanctions and their accessories.

The above mentioned is not applicable in case of an early termination of the **Agreement** for reasons stated in these **GTC** or in the **Agreement**, where the obligation to pay the agreed **Price** has not arisen.

8.4. The rights and obligations arising from the **Agreement** shall be settled as of the effective date of the early termination of the **Agreement**.

## 9. WARRANTIES

9.1. **ComAp** provides warranties for its **Products**. The warranty period and the scope of the warranty may differ according to the place of delivery. The warranty is provided at the location of purchase of **Products** and/or **Services** (local warranty). The warranty provided from other locations is charged according to the **ComAp's** price-list and/or **Agreement** (global warranty).

9.2. If third party products are supplied together with **Products**, **ComAp** reserves the right to provide a warranty for them i) of the same scope as for its **Products** or ii) of the same duration and scope provided by manufacturers for these products or iii) of duration and/or scope under the discretion of **ComAp**.

9.3. The basic warranty period provided is 24 months for **Products** and starts upon the risk of damage on **Products** passing to the Customer. A different warranty period may be specified in the Agreement.

9.4. The **Customer** may claim warranty for **Products** defects provided that:

- a) the claim concerns **Products**;
- b) the warranty was claimed within the warranty period;
- c) the **Customer** provides evidence that **Products** have been obtained legally;
- d) the **Customer** delivers **Products** at their own expense to the location specified by **ComAp** or the **Distributor** before the expiration of the warranty period; and
- e) the **Customer** provides a sufficient description of the defect, so that it can be identified.

9.5. Reasons for rejecting defect warranty include without limitation:

- a) warranty was claimed after the expiration of the warranty period;
- b) the **Customer** does not have a valid license to the software installed in **Products**;
- c) the defect arises as a result of an installation incorrectly performed by the **Customer**, incorrect commissioning, incorrect use in contradiction with verbal or written instructions on the proper use of **Products**;
- d) using an outdated version of the software;
- e) any unauthorized mechanical or software intervention in **Products**;
- f) willful or negligent damage to **Products**, ordinary wear and tear, improper storage, or use in unsuitable conditions;
- g) further use of **Products** after the defect was detected;
- h) the defect is caused by failure of any equipment necessary for the correct functioning of **Products** including any failure caused by improper operation of such equipment, or incorrectly used electric power, frequency or voltage;
- i) the defect is caused by force majeure.

9.6. The defect claim shall be assessed by **ComAp** as soon as reasonably possible from receipt of **Products**.

9.7. If the defect claim is accepted, it will be resolved by **ComAp**. If it is not possible to resolve the defect or if the repairs were more expensive than the **Price of Product**, **ComAp** will provide the **Customer** with new or substitute **Products** with the same or better specifications than the original **Products**. Providing new or substitute **Products** does not give rise to any breach of these **GTC** or any liability of **ComAp** to the **Customer**, even if new or substitute **Products** are rejected by the **Customer**.

9.8. Should the defect claimed not be covered by the warranty, **ComAp** shall repair **Products** only at the **Customer's** express request and only if the repair is possible. **ComAp** and the **Customer** shall enter into an **Agreement** on such a repair. **Products**, whether repaired or un-repaired, shall be returned to the **Customer** at the **Customer's** expense. **ComAp** shall ensure an ecological destruction of **Products** only at the **Customer's** express request. In such a case, **Products** shall not be returned to the **Customer**.

9.11. **ComAp** reserves the right not to accept the defect claim, particularly if it has been caused by the **Customer's** failure to provide cooperation to **ComAp**, by incorrect or untrue information provided by the **Customer** or by force majeure.

9.12. Local warranty for **Products** is included in the **Price**, while global warranty may require extra charge.

9.13. **ComAp** reserves the right to bring back to sale **Products**, which are not new or which have been repaired, and which simultaneously meet all technological and safety requirements for the given type of **Products**. For such **Products** **ComAp** may specify a different duration of the warranty period.

9.14. If the claimed defect is recognized by **ComAp**, the duration of the warranty period will be interrupted throughout the whole period during which the defect is assessed and subsequently removed by **ComAp**. The warranty period is extended by the length of its interruption.

9.15. A longer warranty period or other **Services** that are outside the warranty scope may be provided by **ComAp** at an extra charge.

9.16. Full basic warranties are provided only for **Registered Products**.

9.17. Derogations from this article according to the region:

## AUSTRALIA SC

### WARRANTY AND LIMITATION OF LIABILITY

9.18. These articles apply only to the extent that any supply of **Goods** or **Services** is made to a '**Consumer**' as defined in the Australian Consumer Law.

9.19. Our **Goods** come with guarantees that cannot be excluded under the Australian Consumer Law. You are (a **Consumer**) entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage. You are (a **Consumer**) entitled to have the **Goods** repaired or replaced if the **Goods** fail to be of acceptable quality and the failure does not amount to a major failure.

9.20. Other than as outlined specifically in these **GTC**, to the extent permitted by law, where **ComAp** becomes liable to the **Customer** in any manner for any breach of any condition or warranty expressed or implied in relation to the supply of **Goods** or **Services** to the **Customer**, **ComAp's** liability will be limited, at **ComAp's** sole discretion to either:

a) In relation to the supply of **Goods**:

- (1) the replacement of the **Goods** or the supply of equivalent **Goods**;
- (2) the repair of the **Goods**;
- (3) the payment of the cost of replacing the **Goods** or of acquiring equivalent **Goods**; or
- (4) the payment of the cost of having the **Goods** repaired; and

b) In relation to the supply of **Services**:

- (5) the supplying of the **Services** again; or

(6) the payment of the cost of having the **Services** supplied again.

9.21. If any action is brought by the **Customer** against **ComAp**, pursuant to Part 5.4 Division 1 of the Australian Consumer Law, **ComAp's** liability will be as prescribed in Part 5.4 Division 1 of the Australian Consumer Law.

9.22. To the extent permitted by law, the **Customer** releases and indemnifies **ComAp** and its officers, employees, consultants and agents from and against all actions, claims, proceedings and demands (including those brought by third parties) which may be brought against it or them, whether on their own or jointly with the **Customer** and whether at common law, under tort (including negligence), in equity, pursuant to statute or otherwise, in respect of any loss, death, injury, illness, cost or damage arising out of or in relation to any breach by the **Customer** of any warranty provided by it under the first paragraph of these articles.

9.23. To the extent permitted by law, **ComAp** will have no liability to the **Customer** however arising, including, without limitation, under any cause of action or theory of liability, in respect of special, indirect or consequential damages, loss of profit (whether direct or indirect) or loss of business opportunity, arising out of or in connection with the **Agreement**.

## 10. LIABILITY

10.1. **ComAp** disclaims any liability for damage caused by **Products** and/or **Services**, unless these **GTC** or the **Agreement** state otherwise. Liability for damage can be claimed only upon proof and if it directly relates to **Products** and/or **Services**, unless otherwise specified in the **Agreement**.

10.2. Damages shall be limited to the amount of 20% of **Price** for each individual damage, in total to be limited to the amount of 100% of **Price**, for all damages under the **individual Agreement**. Different limits may be specified in the **Agreement**.

10.3. **Damages are not provided particularly** for economic losses, loss of profits, loss of contracts, loss of opportunity, loss of business, loss or depletion of goodwill, increased overheads or administration expenses, management time, loss of savings, loss of data, attorney or legal fees, or any type of special, indirect or consequential loss of any nature whatsoever (including without limitation loss or damage suffered by the **Customer** as a result of an action brought by any third party) even if such loss was reasonably foreseeable or **ComAp** had been advised of the possibility of the **Customer** incurring it or for any other similar reason.

10.4. Liability for damage caused by **Products** and/or **Services** is excluded for the reasons on which the claimed warranty may be refused and for all the reasons when the damage occurred as a result of unauthorized or improper act or omissions of the **Customer** or any third party different from **ComAp** or due to a breach of the **Agreement**.

10.5. Liability for damage caused during the provision of **Services** or as a result thereof is granted only if the damage occurred due to willful misconduct of **ComAp** or as a result of its gross negligence.

10.6. Liability for damage related to the products of third parties that are part of **ComAp's products** are limited to the amount of liability that such third parties provide on their products.

10.7. Any other provisions on damages other than those mentioned in these **GTC** or in the **Agreement**, shall be disregarded.

10.8. The **Customer** is obliged to inform **ComAp** about any defect and/or damage on the **Products** and/or caused by **ComAp's Products** and/or **Services** immediately and stop the use of **Products** and/or **Services** after the defect was detected and/or damage was incurred.

10.9. Liability of **ComAp** for damage caused by delay of delivery of **Products** resulting from administrative requirements of authorities (including customs) is excluded.

## 11. CUSTOMER ACKNOWLEDGEMENT

The **Customer** acknowledges, agrees, represents and warrants that:

- a) use of **Products** and/or **Services** is outside the control of **ComAp**, and the **Customer** is satisfied that **Products** and/or **Services** have (unless **Products** and/or **Services** are returned as permitted under an **Agreement**) the condition, characteristics, quality and attributes that will make them suitable or fit for any ordinary or special purpose required for those **Products** and/or **Services**, even if that purpose was made known to **ComAp**;
- b) the **Customer** has or will in a timely manner conduct all mandatory or prudent tests and apply all mandatory or prudent quality control checks and procedures to ensure **Products** and/or **Services** and any **Products** that is produced from them will be without defect and suitable or fit for any purpose required for them; and
- c) it has not relied upon any statement, representation, warranty, guarantee, condition, advice, recommendation, information, assistance or service provided or given by **ComAp** or anyone on its behalf, or apparently on its behalf, in respect of **Products** and/or **Services**, other than those that are expressly contained in the **Agreement**.

## 12. FORCE MAJEURE

12.1. **Contracting Parties** are obliged to take maximum precautions to prevent the negative impacts of force majeure on provided supplies and try to prevent them in the greatest possible extent.

12.2. A breach of an obligation does not occur provided that the breach was caused by an obstacle that is i) independent of the will of the **Contracting Parties** ii) the obstacle was not predictable at the time of concluding the **Agreement** and iii) it could not be averted or overcome by the will of the **Contracting Parties**. The liability is excluded for the duration of the obstacle, unless a complete cessation of the subject of the performance due to arising circumstances and/or a delay in performance of terminated (fixed) contracts and authorized party insists on the fulfillment of the agreed terms (or disagrees with alternative performance). In such a case the liability of the **Contracting Parties** is fully excluded.

12.3. Force majeure is considered, including but not limited to:

12.3.1. war, civil unrest and revolution, pirate attacks, political upheavals, natural disasters (floods, earthquakes, volcanic eruptions, tsunamis, hurricanes, fires, storms, etc.), boycotts, embargoes and other restrictions from the authorities, terrorist attacks, epidemics.

12.4. Denial of export or import permits necessary for the provision of performance is not considered as force majeure.

12.5. **Contracting Party** not fulfilling its contractual obligation due to force majeure is obliged to notify the other **Contracting Party** about this fact in writing and state what the implications on performance in relation to the other **Contracting Party** will be. If the other **Contracting Party** is not notified about the force majeure, the circumstances causing the force majeure will be disregarded, and the **Contracting Parties** are obliged to perform as if there is no force majeure.

12.6. Similar provisions apply in relation to carriers of **Products** and to any other third party involved in providing performance (manufacturer, the **Distributor**).

## 13. MISCELLANEOUS

13.1. No waiver by **ComAp** of any of the **Customer's** obligations under **Agreement** shall be deemed effective unless made by **ComAp** in writing, nor shall any waiver by **ComAp** in respect of any breach be deemed to constitute a waiver of or a consent to any subsequent breach by the **Customer** of its obligations.

13.2. The following provisions of **GTC** shall survive the termination (including expiry) of any **Agreement**:

- i) the rights and obligations occurring before an early termination of the **Agreement**, which by their nature will continue after the termination of the **Agreement**;
- ii) the rights and obligations arising from **Intellectual Property Rights**;
- iii) prohibition of withholding payment of any invoice issued by **ComAp**;
- iv) prohibition of offsetting of any **Customer's** claims against **ComAp**;
- v) **ComAp** prior written consent to the assignment of any claims against **ComAp**;
- vi) Intellectual property rights;
- vii) provisions on warranty;
- viii) provisions on liability; and
- ix) if it is stated in these **GTC** or in the **Agreement**.

13.3. Any notice or other communication pursuant to, or in connection with **Agreement** shall be in writing (paper or electronic) and delivered personally, or sent by first class pre-paid recorded delivery post (air mail if overseas), to the party due to receive such notice at its registered office or to such other address as may have been notified in writing to the other parties or by sending it by e-mail (subject to the original notice or communication being sent by post on the same day in the manner specified above). Notice is considered as delivered 5 days after posting via e-mail or 10 days after posting by regular mail.

13.4. **GTC** are drawn up in the English language. If these **GTC** are translated into another language, the English language text shall in any event prevail.

13.5. **Severability Clause**. Should any provision of these **GTC** in whole or in part be or become invalid, impracticable or unenforceable, the validity of the other provisions shall not be affected thereby. In such a case, the invalid, impracticable or unenforceable provision shall be deemed to be replaced by a provision which, to the extent admissible according to the applicable laws, comes closest to the purpose of the invalid, impracticable or unenforceable provision.

13.6. The provisions of the **Agreement** apply only to **Contracting Parties**.

13.7. In these **GTC**, unless otherwise specified:

13.7.1. references to **ComAp** and the **Customer** include their permitted successors and assignees;

13.7.2. headings to clauses are for convenience only and do not affect the interpretation of these **GTC**;

13.7.3. words indicating the singular include the plural;

13.7.4. references to persons shall include companies and other unincorporated associations or bodies and (in each case)

vice versa.

13.8. No provisions of consumer law by any jurisdiction will apply to these **GTC**. The **Customer** is not deemed for a consumer in according with acts designed to protect consumers.

13.9. **ComAp** may at its own discretion generate new access data to legally acquired software, whether used alone or together with **ComAp's Products**, provided that:

- a) The **Customer** has requested **ComAp** to provide the access data, demonstrating that the responsible person different from **ComAp**, that has right to the access data, has ceased to exist without legal succession, or demonstrably refuses to communicate with the **Customer** without any specific reason; or
- b) It is required by public interest. In these cases, generating and provision of the new access data shall not be considered as infringement of intellectual property rights and/or any other rights of third parties or the **Customer**.

13.10. The **Customer** confirms compliance with applicable EU and/or US sanctions and/or any other applicable export control policies, and that the **Customer** is not a subject to any sanctions.

13.11. The **Customer** declares that he is not directly or indirectly involved in the financing, commission or support of terrorist activities or in the development or production of nuclear, chemical, biological weapons or in missile technology programs and hardware, software, technology, or services may not be exported, re-exported, transferred or downloaded to any such entity.

13.12. The **Customer** is obliged to behave ethically in compliance with the UK Bribery Act (2010) and is therefore prohibited to offer, accept or demand any payment or asset of significant value that can be considered as bribe, commission or fee, especially when dealing with state administration.

13.13. The **Customer** is obliged to comply with local health and safety regulations while using and handling **ComAp's Products**.

13.14. The **Customer** shall keep confidentiality regarding information provided by **ComAp** which is not generally known to the public and is or should be reasonably understood to be confidential. If a non-disclosure agreement had been concluded between **ComAp** and the **Customer** before the execution of the **Agreement**, the **Customer** is obliged to follow the rules agreed therein.

## 14. REGISTER OF PRODUCTS

14.1. For purpose of this article 14:

**Products** - mean i) equipment, controller, HW that **ComAp** agrees to supply to the **Customer** under the **Agreement** and/or ii) any subject to the **License Agreement**. Condition for the proper use of **Products** are their registration.

14.2. The **Customer** is obliged to register all **Products**. Registration is provided in accordance with the **License Agreement**, with respect to other **Products** in accordance with this provision.

14.3. The **Customer** shall register **Products** on the website [www.comap-control.com](http://www.comap-control.com), where he provides information on i) **Products**, especially the type, date and place of their purchase, place of their operation, production or other identification number, and ii) the **Customer**, particularly the name, registered seat, ID no. and a person authorized to act on behalf of the **Customer**.

## 15. LAW AND JURISDICTION

The United Nations Convention on Contracts for the International Sale of **Goods** shall not apply to the **Agreement**.

### 15.1 EUROPE

15.1.1. These **GTC** shall be governed by and construed and interpreted by **English law** in all respects (including formation) without regard to principles of law that might make the law of some other jurisdiction applicable (conflict of laws).

15.1.2. In the event of any dispute or differences arising between the **Contracting Parties** hereto out of or in connection with these **GTC** or their validity or of any documents arising from it or made a part hereof or any amendments thereto, the **Contracting Parties** shall endeavor to reach an amicable agreement, but if such agreement is not reached within 30 days of first notification of the reason of the dispute then, all disputes arising in the connection with these **GTC** shall be resolved, to the exclusion of the ordinary courts, by a three-person Arbitral Tribunal appointed in accordance with the UNCITRAL.

15.1.3. Rules. Both **Contracting Parties** shall accept the award of the above mentioned arbitrators as final and binding, and such award may be entered in any juridical court having jurisdiction or application may be made to such court for juridical acceptance of the award and an order for enforcement, as the case may be. All costs and expenses incurred in

connection with any arbitral proceedings hereunder shall be borne by the losing party, except as otherwise provided in the arbitral award. The place of arbitration shall be in **Prague, Czech Republic**. The language to be used in the arbitral proceedings shall be English.

## 15.2. USA

15.2.1. These **GTC** shall be governed by and construed and interpreted by **Illinois law** in all respects (including formation) without regard to principles of law that might make the law of some other jurisdiction applicable (conflict of laws).

15.2.2. In the event of any dispute or differences arising between the **Contracting Parties** hereto out of or in connection with these **GTC** or their validity or any documents arising from it or made a part hereof or any amendments thereto, the **Contracting Parties** shall endeavor to reach an amicable agreement, but if such agreement is not reached within 30 days of first notification of the dispute, then all disputes arising in the connection with these **GTC** shall be resolved, with the exclusion of the ordinary courts, by a three-person Arbitral Tribunal appointed in accordance with the UNCITRAL Rules. **Contracting Parties** shall accept the award of the above mentioned arbitrators as final and binding, and such award may be entered in any juridical court having jurisdiction for acceptance of the award or enforcement, as the case may be. All costs and expenses incurred in connection with any arbitral proceedings hereunder shall be borne by the losing party, except as otherwise provided in the arbitral award, or agreed upon in writing. The place of arbitration shall be **Chicago**. The language to be used in the arbitral proceedings shall be English.

## 15.3. AUSTRALIA

15.3.1. These **GTC** shall be governed by the laws of the **State of South Australia** (excluding its conflict of laws provisions) and the **Customer** must submit to the non-exclusive jurisdiction of the courts of or exercising jurisdiction of that state and the **Customer** waives, without limitation, any claim or objection based on absence of jurisdiction or inconvenient forum.

## 15.4. ARAB LEAGUE

15.4.1. The **Agreement** shall be governed by and construed in accordance with the law of **England and Wales**.

15.4.2. Each of the **Contracting Parties** hereby irrevocably and unconditionally submits, for itself and its property, to the non-exclusive jurisdiction of the courts of the **Dubai International Financial Center** in any suit, action or proceeding arising out of or relating to the **Agreement** or for recognition and enforcement of any judgment in respect thereof, and each of the parties hereby irrevocably and unconditionally agrees, to the fullest extent permitted under applicable law, that all claims in respect of any such suit, action or proceeding may be heard and determined in the courts of the **Dubai International Financial Center**. Each of the **Contracting Parties** agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

15.4.3. Nothing in the **Agreement** shall limit or affect the right of **ComAp** to bring any suit, action or proceeding arising out of or relating to the **Agreement** against the **Customer** or its property in any other court having jurisdiction over the **Customer** or its property.

15.4.4 In the event of any dispute between the **Contracting Parties** arising out of or in connection with the **Agreement** or its validity or any documents arising from or made a part of the **Agreement** or any amendments thereto, the **Contracting Parties** shall endeavor to reach an amicable agreement for a period of 30 days from one party's first notification to the other party of the matter in dispute.

15.4.5 If the parties do not reach agreement as to a matter in dispute within 30 days of such first notification of the dispute, then either party may refer the matter to arbitration. The rules and administration of the arbitration shall be as follows:

- a) any arbitration hereunder shall be carried out under the procedures, rules and regulations of the DIFC-LCIA Arbitration Centre (the "**Arbitration Rules**") by a panel of three arbitrators to be appointed in accordance with the Arbitration Rules;
- b) the seat of the arbitration shall be the Dubai International Financial Centre (DIFC) and all arbitration hearings shall be held in Dubai, United Arab Emirates unless otherwise agreed by the **Contracting Parties**;
- c) the parties agree that the procedural law governing the conduct and procedure of the arbitration shall be the laws of the DIFC; and
- d) such arbitration shall be conducted in the English language and the award of any arbitrators, together with the reasons for the determination, shall be written in the English language.

15.4.6. The **Contracting Parties** agree that all interim or final decisions and/or awards of the arbitrators (1) shall be binding on the **Contracting Parties**, (2) shall be given effect and implemented forthwith by them, (3) shall not be subject to judicial appeal or review (all rights to which the **Contracting Parties** hereby waive) to the fullest extent permissible under applicable law, and (4) may be enforced in any court having jurisdiction.

15.4.7. All costs and expenses incurred in connection with any arbitral proceedings hereunder shall be borne by the losing party, except as otherwise provided in the arbitral award or agreed upon in writing.

## 15.5. ASIA PACIFIC REGION

15.5.1 These **GTC** shall be governed by and construed and interpreted by **English law** in all respects (including formation) without regard to principles of law that might make the law of some other jurisdiction applicable (conflict of laws).

15.5.2. In the event of any dispute or differences arising between the **Contracting Parties** hereto out of or in connection with these **GTC** or their validity or of any documents arising from it or made a part hereof or any amendments thereto, the **Contracting Parties** shall endeavor to reach an amicable agreement, but if such agreement is not reached within 30 days of first notification of the dispute, then, all disputes arising in the connection with these **GTC** including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration in **Singapore** in accordance with the Arbitration Rules of the Singapore International Arbitration Centre for the time being in force, which rules are deemed to be incorporated by reference in this clause. The tribunal shall consist of one arbitrator. The language of the arbitration shall be English.

Date and version **GTC**: 01.05.2018, version 2, Peter Sandin, ComAp CEO