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, provision of Services and for Complete Solutions.

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 does 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 or 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 documents in accordance to the Agreement, the documents shall prevail in this order: 1. Specific Agreement, 2. Order Confirmation, 3. GTC, 4. INCOTERMS (2010), and 5. other documentation related to the particular business case. In case of conflict among the provisions in this GTC, the provisions shall prevail in this order: 1. Australia SC and USA SC, as applicable, to the extent of the inconsistency with these GTC, and 2. License Agreement. For the avoidance of any doubt, unless agreed otherwise in the Specific Agreement, the INCOTERMS (2010) rules as determined in the Agreement shall not cause prevalence over the preceding documents listed in the previous sentence.
The valid and effective version of these GTC is available at www.comap-control.com.

1. DEFINITIONS

Additional Services – refer to the installation, cabling, commissioning, consultations, training and other services not included in the scope of the Contract for Work, provided by ComAp on the basis of a separate order under Article 4 of these GTC;

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., Uuranie 1612/14a, 170 00 Prague or, if so specified in these GTC or in the Agreement its subsidiaries and sales affiliates belonging to the ComAp Group;

Complete Solutions – refers to an activity aimed to completing the Work;

Contracting Parties – means ComAp and the Customer;

Contract for Work – the Specific Agreement entered into between ComAp and the Customer, on provision of Work within a Complete Solution, which includes these GTC as its integral part, with a list of documents that are part of the contract documentation for the business case, on the part of ComAp. Unless expressly agreed, the delivery is not "turnkey";

Customer – means any person or company to whom ComAp sells 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’s contractual carrier may also require the submission of all documents defined in the Agreement and require their submission as a condition of precedent for the commencement of delivery, further, in relation to the Complete Solutions, the Documentation refers to the work design documentation and Guides. The Documentation contains important instructions concerning the setting, configuration, testing, servicing and publication of new and updated functionalities and parameters of the individual Products;

Guides – means an integral part of Products which is available to each authorized Customer on the web www.comap-control.com (at the respective Product page). 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;

Handover Protocol – refers to a written document signed by a representative of ComAp and a representative of the Customer after completion and commissioning of the Work or its part and its handover to the Customer or after performance of Additional Services in accordance with Article 4 of these GTC;

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

Installation Site – refers to premises identified by the Customer for the performance of the Work or Additional Services, as described in the Contract for Work;

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 a.s., called “COMAP LICENSE AGREEMENT”. License Agreement is an integral part of these GTC and cannot be derogated without ComAp a.s. written consent. The License Agreement may have different variants taking into account the type of Products or provided Services;

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, Additional Services and/or performing the Work as set out in the Agreement;
**Price List**

**The text of**

**Order Confirmation**

accept any orders sent by the

ComAp

For the avoidance of doubt,

provision of

previously agreed to by

The

period. The order may be accepted by

Order

Customer

Quote

reflected in the

If

of Commerce), if applicable

Date

number),

Customer

2.

Work

USA SC

graphical depiction (logo) used by

form,

Technical Documents

Specification

to these

Specific Agreement

performance or installation of the

Shipment

Work

to the extend agreed in the

Products/Goods

ComAp

– means Products that ComAp agrees to supply to the Customer i) under the Agreement, and/or ii) subject to the License Agreement; in relation to the Complete Solutions the Products become part of the Work;

**Services** – has the meaning provided in the document ComAp Service Definition and for the Complete Solutions refers to ComAp services aimed at assembly of the Work, and possibly also Additional Services if required under Article 4 of these GTC and, if applicable, also other services which ComAp undertakes to provide to the Customer in the Contract for Work;

**Shipment Date** – refers to the estimated date on which the Products and sub-deliveries will be shipped to the place of performance or installation of the Work;

**Specific Agreement** – means every written agreement between the Contracting Parties that includes provision/s different to these GTC; other than Order Confirmation and in the relations to the Complete Solutions the Contract for Work is considered as Specific Agreement;

**Specification** - means ComAp’s specific documentation relating to Products, Services, and Complete Solutions;

**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;

**Work** – refers to Products and Services to the extend agreed in the Contract for Work.

### 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. the Customer name, Invoice address (contact person, contact phone number), delivery address (contact person, contact phone number), Price, payment method, VAT number, identification of Products and/or Services, quantity, estimated Shipment Date and the applicable INCOTERMS 2010 rule, order number and specific requirements (e.g. Certificate of origin, Chamber of Commerce), if applicable. Any other requirements may be agreed by Contracting Parties in accordance with these GTC. If the provisions that vary from these GTC are subject to negotiation, these derogations (note: written form required) 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 preliminarily 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.

**Order**

The Customer sends a written order to ComAp within 30 days from the date the quote is issued or otherwise the stated time-period. The order may be accepted by ComAp in writing if the Customer confirms the quote by sending the written order to ComAp.

The Customer may only send an order to ComAp without a previous quote provided by ComAp if this process has been previously agreed to by ComAp. By sending such an order to 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. For the avoidance of doubt, if the Customer sends an order to ComAp, it shall only be deemed to have been accepted by ComAp if ComAp sends an Order Confirmation in accordance with this Agreement. ComAp is under no obligation to accept any orders sent by the Customer.

**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 of the Agreement after it has sent Order Confirmation to the Customer.

The text of Order Confirmation shall deviate from these GTC, only to the extent permitted by these GTC.

**Price List**
If the **Products** or **Services** are ordered on the basis of a price list (or previous buy price), then the **Customer** acknowledges that these GTCs are followed.

**Customer’s purchase order or contract for work order**

The **Customer** may, as a matter of administrative convenience only, use its purchase order document or **Contract for Work** document when ordering **Products** or **Works** from ComAp. However, notwithstanding the foregoing sentence, except as to the quantity and type of **Products** or **Works** ordered and the location to which the **Customer** requests shipment, any terms, including without limitation any pre-printed terms, contained in the **Customer**’s purchase order or **Contract for Work** order shall have no effect, and ComAp hereby expressly rejects any such **Customer** purchase order terms or **Contract for Work** order terms.

3. **DISPATCH AND DELIVERY**

3.1. ComAp shall use its reasonable efforts to deliver **Products**. The delivery shall be made in accordance with the **Agreement**. Time shall not be of the essence for the purposes of delivery under this **Agreement**. ComAp has the right to suspend deliveries in case of registration of any Customer’s overdue invoice(s).

3.2. The **Customer** will collect **Products** in the place agreed in the **Agreement**. The 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 terminate the **Agreement**. Upon termination of 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 and return of **Products**, whether the shipment has been initiated or not. Any damages resulting therefrom will be borne 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 have absolute discretion as to whether to accept such a change. Where ComAp accepts a change to the place and/or time of delivery of the **Products**, the **Customer** shall pay all additional costs incurred by ComAp related to said change.

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. This also applies to deliveries based on the price list.

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, 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 provide evidence that all respective customs proceedings have been undertaken. From the time when **Products** leave ComAp, the **Customer** shall submit to ComAp the required 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 in relation to Products (Different Services are provided for hardware and for software) and for the Complete Solutions, which consist mainly of product support, additional product-related services, project and complete solutions, and Customer training. Under these GTC, the term Services also includes warranty and post-warranty repairs.

4.2. Should 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 and 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.

4.5. The Customer acknowledges that an autonomous system (so-called artificial intelligence) may be used to provide technical support. More details are available Terms of use of autonomous system.

4.6. The Customer may order Additional Services from ComAp in relation to Complete Solutions.

4.7. If the Customer orders Additional Services from ComAp, it is obliged to provide ComAp with details of such a requirement, as requested by ComAp to an extent appropriate to the nature of things, including details of which Additional Services are required and where they shall be provided.

4.8. ComAp may, at its full discretion, approve or refuse the provision of an Additional Service. ComAp is not obliged to provide Additional Service, if their technical parameters, scope, dates and Price are not agreed between ComAp and the Customer in writing.

4.9. ComAp shall take reasonable efforts to comply with the agreed dates of performance of Services and Additional Services. ComAp shall notify the Customer of the effect of performance of the Additional Services on the milestones in the Timetable of the Contract for Work. ComAp is not obliged to commence performing the Additional Services until they are approved by the Customer.

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, including: i) value added tax, ii) costs related to the delivery of Products (including customs fees), if the delivery is provided by ComAp's contractual carrier, iii) costs related to the provision of Services, and/or iv) other costs related to requirements imposed by relevant authorities.

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

5.3. If there are any additional requirements after the final Price was agreed, these requirements, including their impact on the Price, must be agreed between the Contracting Parties.

5.4. Any increase in tax rates impacting the Price of Products and/or Services, if applicable, shall not require additional consent of Contracting Parties to be reflected in the Price of Products and/or Services. If any withholding tax or similar tax is to be applied to the licenses, then ComAp will receive from the Customer the full invoiced amount, which will not be reduced by any such tax.

5.5. The Customer must take into account, that in case of cancellation of confirmed Agreement (Order Confirmation) by ComAp, the Customer will be obliged to pay the actual costs of ComAp associated with the cancelled Agreement (i.e. including but not limited to administrative costs, customs and tax costs, costs associated with manufacture of ordered Products, preparation of the Services, shipment, storage, packaging, etc.). More detailed conditions can be adjusted in the ComAp cancellation policy.

Payment Conditions

5.6. Price for Products and/or Services shall be invoiced by ComAp and delivery/provision of the Products/Services shall not be made until the Price is paid in full by the Customer via bank transfer to ComAp, unless otherwise agreed between the Contracting Parties under 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 borne by the Customer.

5.7. 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. If a payment gateway is available, the terms of use will be stated before the payment is made.

5.8. 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.

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

5.10. 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.

5.11. The Customer acknowledges that if the payment is made in a currency other than the currency indicated on the invoice, the exchange rate is determined by ComAp. If an arrears arise during the exchange rate transfer, ComAp has the right to demand payment from the Customer. If there is an overpayment during the exchange rate transfer, ComAp will return it to the Customer’s account, in the amount after deducting the costs associated with its return.

5.12. €40.00 is the minimum amount invoiced by ComAp, even if the Price of Products and/or Services is lower.

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

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

5.15. Payment is considered executed if it is credited to ComAp’s account, as specified by ComAp from time to time.

5.16. ComAp may require advance payments.

5.17. If the payment of the Customer becomes overdue or if there is any doubt that the payment would not be paid on time as determined by ComAp at its absolute discretion, ComAp has the right to suspend the delivery of Products or provision of Services until such payment has been executed and/or the doubt has ceased to exist, as determined by ComAp in its absolute discretion.

5.18. ComAp is entitled to provide the Customer with a credit limit. The amount and conditions shall be determined solely by ComAp. If the conditions for a credit limit are fulfilled, the Customer is entitled to 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

5.19. If the Customer is in delay with the payment of Price for Products and/or Services, the Customer shall pay an amount of 15% p.a. from the overdue amount. Paying this charge does not exempt the Customer to pay the Price for Products and/or Services.

5.20. 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:

5.20.1. breach of Intellectual Property Rights;
5.20.2. breach of the prohibition to resell Products by the Customer (other than the Distributor);
5.20.3. damage to the reputation of ComAp;
5.20.4. breach of export/import rules in international trade;
5.20.5. breach of export/import rules by delivery to locations and/or to the person that are subjects to international sanctions;
5.20.6. breaches of environmental rules (e.g. failure to destruct Products in an environmentally responsible manner);
5.20.7. failure to ensure the authorization to export outside the EU;

The Customer hereby agrees that such liquidated damages sum amounts to a genuine pre-estimate of the loss incurred by ComAp.

5.21. 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:

5.21.1. failure to provide the required documents for the purposes of Delivery or Dispatch of the Products.
5.21.2. failure to inform ComAp about the damage of Products upon their delivery;
5.21.3. breach of any obligation by the Customer related to Products before the ownership title is transferred to the Customer.

5.22. The Customer acknowledges and agrees that damages alone would not be an adequate remedy for any actual or threatened 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, including injunctions and specific performance, in addition to whatever remedies it might otherwise have.

5.23. 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

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

5.24. 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 on Products shall pass to the Customer at the moment Products are made available to the Customer in accordance with the Agreement or at the moment of delivery 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, by ComAp’s or the Customer’s contractual carrier, if agreed by the Contracting Parties under this Agreement.

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 to ComAp’s account, unless otherwise agreed in the Agreement (retention of title).

6.3. If Products have been made available to the Customer and/or Products are delivered, but ownership of the Products has not yet transferred from ComAp to the Customer, 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. ensure the fulfillment of any requirement foreseen by local law for the enforceability of the above retention of title clause towards the Customer and towards third parties
6.3.5. maintain Products in a satisfactory condition in accordance with any storage conditions advised by ComAp and keep them insured at the Customer’s expense 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. If Products or Services are not paid on time according to the Agreement or according to the issued invoice, ComAp is entitled to suspend to provide Products and/or all Services to the Customer who is in delay. ComAp reserves the right to request the Customer to return the Products. In these cases, ComAp is not liable for any damages that may occur to the Customer or any third party in this respect.

6.5. ComAp’s rights under this article 6 shall be retained even after the Agreement has been terminated.
6.6. 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 (including retention of title) 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. If the Customer collects Products but notifies ComAp in writing that the Products are defective or damaged, ComAp shall determine the veracity of such claims. If ComAp determines that the Products supplied were defective or damaged, ComAp shall, as chosen by ComAp, either replace or repair the Products in question.

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 at 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. Intellectual Property Rights of whatever nature, and wherever in the world which relate to the Product(s) are and shall remain property of ComAp a.s. as defined and pursuant to the terms and conditions of the relevant 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 by ComAp free of charge, or iv) the License is provided by ComAp for the duration of the Service.
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. The Customer shall not remove any copyright notices, confidential or proprietary details, or identification from the 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 to assist 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 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 a person who is suitably qualified and who has been properly trained and is competent in their use.

7.8. If the Customer requires labeling of the Product with a logo, name, trademark or any other information, the Customer gives his/her consent to ComAp for such labeling. At the same time, the Customer declares that he/she is entitled to do so without any restrictions.

8. TERMINATION

8.1. The Agreement may be terminated after its fulfillment, unilaterally by ComAp by giving 30 days’ written notice to the Customer, after the expiration of the period the Agreement was concluded for, or by the notices of termination outlined in this article 8.

8.2. ComAp may terminate the Agreement with immediate effect by giving a written notice 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. if:

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;
d) the Customer or any of its employees, contractors or agents have been sentenced for committing a crime related to its business activities; or
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. 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 Customer the amount in the same currency equivalent to the paid Price, after setting-off all sums owed by the Customer to ComAp including any outstanding claims ComAp has against the Customer.

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 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. Third party products are products that ComAp expressly designates as such products in the Agreement or offer, and a different length of warranty, if applicable, is stated therein.

9.3. The basic warranty period provided is 24 months for Products and starts upon the risk in Products passing to the Customer. A different warranty period may be specified in the Agreement. The warranty period for Services is provided in the Specific Agreement, otherwise it does not exceed 3 months. This does not apply if the Service provided is support, such support is provided without any warranty or liability and “as is”, unless otherwise is stated by applicable jurisdiction. The full warranty applies only to the originally sold Product. If this Product is replaced for another Product under the warranty, the remaining warranty period of the originally sold Product will apply to it. The terms of the software warranty are set forth in the License 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;
   e) the Customer provides a sufficient description of the defect, so that it can be identified; and

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) ComAp may reject the warranty if the Customer refuses to upgrade software upon ComAp’s request;
   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. Cost connected to shipment of the claimed Product to ComAp or including but not limited to other costs of assessing the claim shall be paid by the Customer. 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. ComAp does not reimburse any other direct or indirect costs associated with the replacement or repair of the Product as part of any warranty claim or if preventive replacement or repair the Product was agreed, including but not limited to costs associated with travel, travel allowance or any costs incurred by third parties or by the Customer in connection with the elimination or prevention of the claimed defect and its consequences, whether at the location where the Product is placed or performed remotely.

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 disposed of in an environmentally sound manner, unless the Customer explicitly requires the return of the Product. In such case, the Product will be returned to the Customer at the Customer’s expenses. In case of any costs associated with the post-warranty repair or with the repair where the warranty is rejected, the invoice will be issued to the Customer. The invoice must be paid in accordance with the payment terms determined by ComAp.

9.9. 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.

9.10. Local warranty for Products specific to the jurisdiction they were delivered to is included in the Price, while global warranty may require an extra charge.

9.11. ComAp reserves the right to sell Products which are not new or which have been repaired that 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.

9.12. 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.
9.13. A longer warranty period or other Services that are outside the warranty scope may be provided by ComAp at an extra charge.

9.14. Derogations from this article according to the region:

AUSTRALIA SC

WARRANTY AND LIMITATION OF LIABILITY

9.15. 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.

9.16. 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.

9.17. 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:
(1) the supplying of the Services again; or
(2) the payment of the cost of having the Services supplied again.

9.18. 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.

9.19. 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 this article.

9.20. 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 and only where such disclaimation is permitted under applicable laws. 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. To the full extent permitted under applicable laws, damages shall be limited to the amount of 20% of Price of the respective Product or Service for each individual damage, in total to be limited to the amount of 100% of Price of the respective Product or Service, for all damages. Different limits may be specified in the Agreement.

10.3. Where permitted under applicable laws, ComAp has no liability to the Customer 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. ComAp’s liability to the Customer for damage caused by Products and/or Services is excluded for the reasons on which any claimed warranty may be refused, including (among others) where 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 by the Customer.

10.5. Liability for damage related to the products of third parties that are part of ComAp’s Products are governed by the relevant terms and conditions of these third parties and are limited to the amount of liability that such third parties provide on
their products. Liability for damage and warranties of ComAp are excluded.

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

10.7. 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.

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

10.9. ComAp shall not be liable for damage caused by the Customer's use of unsupported software.

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. If the force majeure continues for more than 30 business days, the Contracting Party which was not directly impacted by the force majeure may terminate the Agreement by notice with immediate effect. 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, pandemics.

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. Where possible under applicable laws, the above 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 the 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:

13.2.1. the rights and obligations occurring before an early termination of the Agreement, which by their nature will continue after the termination of the Agreement;

13.2.2. Intellectual Property Rights and the rights and obligations arising therein;
13.2.3. prohibition of withholding payment of any invoice issued by ComAp;
13.2.4. prohibition of offsetting of any Customer’s claims against ComAp;
13.2.5. ComAp prior written consent to the assignment of any claims against ComAp;
13.2.6. provisions on warranties;
13.2.7. provisions on liability; and
13.2.8. all other provisions 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 recorded delivery post (air mail if overseas), to the Contracting 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 Contracting Party 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 on the same day if sent by email and 5 business days after posting if sent only 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. Unless not agreed otherwise in this GTC, no provisions of consumer law under any jurisdiction will apply to these GTC. The Customer agrees that it is not deemed a consumer under any such consumer laws.

13.9. ComAp may at its own discretion generate new access data in relation to legally acquired software, whether used alone or together with ComAp’s Products, provided that:
13.9.1. The Customer has requested ComAp provide the access data and has demonstrated that the person that has the 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
13.9.2. It is required by public interest. In these cases, such new access data shall only be generated and provided if such generating and provision of the new access data is not considered as infringement of intellectual property rights and/or any other rights of third parties or the Customer.

13.10. The Customer acknowledges that he/she is obliged to provide access passwords to the new authorized owner of the Product.

13.11. The Customer confirms that it is currently and shall continue to be in compliance with applicable EU and/or US sanctions and/or any other applicable export control policies, and that the Customer is not subject to any sanctions.

13.12. 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.

13.13. The Customer and its employees, subcontractors and/or agents shall behave ethically in compliance with all anti-bribery and anti-corruption laws, statutes and regulations including 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. The Customer shall not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK and shall promptly report to ComAp any request or demand for any undue financial or other advantage of any kind received by the Customer in connection with the performance of the Agreement.


13.15. The Customer shall comply with local health and safety regulations while using and handling ComAp’s Products.

13.16. 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 separate non-disclosure agreement has been
concluded between ComAp and the Customer before the execution of the Agreement, the Customer is obliged to follow the rules agreed therein.

13.17. The Customer is obliged to follow the applicable legislation, technical standards, manuals and all other documentation relating to the use of the Product in a real environment.

13.18. The Customer takes into account that ComAp needs to gain accessing to data from the Products due to of their settings, commissioning and operating.

13.19. Regardless of how the data was acquired, if it was originated by the Customer the data is owned by the Customer. ComAp processes the data based on the law or for the fulfilment of its contractual obligations. The Customer grants to ComAp the perpetual right to use such data for further processing for any purpose including but not limited to the purpose of providing additional Services, settings, commissioning Products, monitoring (if applicable), operation, improvements, enhancements etc. Further details may be described in the other documents (License Agreement, order, quote, Guideline, Technical Specification etc.). The Customer is not entitled to any compensation for collection and/or usage of data by ComAp. The Customer may not request ComAp to delete, provide or return such data (or part of it) obtained pursuant to this provision, unless required otherwise by specific legislation.

13.20. ComAp’s Products shall comply with current version of i) EU Directive of the restriction of the use of certain hazardous substances in electrical and electronic equipment, as amended (RoHS) and laws related to the sourcing and use of conflict minerals and ii) EU Regulation concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) the Customer may contact ComAp in relation to the RoHS’s and REACH’s Product compliance questions through her/his Sales Channel.

14. COMAP COMPLETE SOLUTIONS

14.1. This GTC are an integral part of the Contract for Work govern the commercial relationships between ComAp and the Customer for the ComAp Complete Solutions.

14.2. All other business and technical conditions necessary for the provision of performance to the Customer within the Complete Solutions are listed in the Contract for Work.

14.3. This Article further sets forth the provisions that apply to Complete Solutions and supplements the provisions of the GTC. The provisions pursuant to this Article 15 take precedence over in case of conflict.

Change management

14.4. If a party suggests changing the content of the performance, it shall submit the details of the change in writing to the other party.

14.5. Within a reasonable period of time, ComAp shall prepare a written proposal for the Customer:

14.5.1. of the time probably necessary for implementing the change;
14.5.2. of Price adjustment due to the change;
14.5.3. of impacts of the change on the Technical Specification, and
14.5.4. of other impacts of the change on the conditions of the Contract for Work.

14.6. If the Customer wishes ComAp to carry out a change, ComAp is not obliged to do so until the Contracting Parties agree in writing on the necessary adjustment of the Price, the Technical Specification, the Shipment Date and, if applicable, a change of the applicable conditions of the Contract for Work. Such an agreement shall have the form of an amendment to the Contract for Work.

14.7. ComAp may change the scope or performance of the Services without the Customer’s consent only if necessary because the Customer has not provided accurate or complete information or assistance or due to additional information or requirements not communicated to ComAp prior to the execution of this Contract for Work and such a new solution is beneficial to the Customer.

14.8. For the purposes of this clause for Complete Solutions, any reference to written form shall also include e-mail communication, with the exception of an amendment to the Contract for Work.

Risk and Title

14.9. The risk and liability for the Products and sub-deliveries shall pass to the Customer at the time of their delivery to the site of performance or upon takeover in accordance with the Contract for Work.

14.10. The title to the Work or its part shall pass to the Customer to the extent paid under the invoice of ComAp.

14.11. Until the title to the Products, sub-deliveries, Work or its completed part passes to the Customer, the Customer:
14.11.1. shall keep the Products and sub-deliveries in custody as a custodian for ComAp;
14.11.2. shall maintain the Products and sub-deliveries in a proper condition in accordance with the storage conditions for similar types of goods and recommendations of ComAp, arrange an all-risk insurance and maintain such insurance to the benefit of ComAp at their full price. Upon request, the Customer shall submit to ComAp the properly executed insurance policy.

14.12. The Customer's right to keep the Products in custody under the Article Risk and Title shall cease to exist immediately as soon as:

14.12.1. the Customer and its property become subject to execution, the Customer breaches or fails its obligations hereunder or another agreement between the Customer and ComAp, is unable to pay its debts, ceases to do business or a petition in insolvency or another similar or analogous petition is filed against it in any jurisdiction; or
14.12.2. the Customer tries to encumber the Products and sub-deliveries in any way or pledges the Products or sub-deliveries to the benefit of another party.

14.13. ComAp is entitled to require and receive payment for the Products and sub-deliveries regardless of whether it possesses the title to any Products or sub-deliveries.


Warranties

14.15. The Work has defects if its performance does not correspond with the outcome agreed in the Contract for Work and, therefore, it cannot be used for the agreed purpose. ComAp shall also be responsible for hidden defects which prevent the use of the Work and which will be identified within 24 months of the date of handover to the Customer.

14.16. As soon as the Customer identifies a defect subject to warrantee, it is obliged to:

14.16.1. report this fact to ComAp in writing immediately, no later than within 5 days of identification of the defect;
14.16.2. allow ComAp to verify the Work at the Installation Site and:
14.16.3. if ComAp is of the opinion that its presence at the Installation Site is not necessary, the Customer is obliged to provide the necessary assistance and to take the necessary efforts for a more detailed identification or diagnostics or to proceed in accordance with ComAp's instructions to repair the defect.

14.17. ComAp shall not be responsible for defects subject to warrantee if the Customer fails to meet its obligations specified in previous clause of this Article.

14.18. ComAp shall not be responsible for defects if:

14.18.1. the Customer continues using the damaged part of the Work in spite of ComAp's prohibition; or
14.18.2. the defect results from the Customer's failure to meet the conditions stipulated in the Contract for Work, in the Documentation, ComAp's written or oral instructions concerning storage, installation, commissioning, handling, use or maintenance of the Work or its parts;

14.19. When demonstrating that the Work has defects, ComAp shall decide without any delay:

14.19.1. to remove the defect within a reasonable period of time if the defects do not prevent to use the Work for the agreed purpose;
14.19.2. to provide new deliverables to the extent of the defective part of the Work without undue delay, no later than within 30 days of the date of delivery of the defect notice to ComAp, unless the Contractual Parties agree on a longer period of time in each specific case.

14.20. The means and procedures for removing a defect specified in previous clause of this Article are the only remedies available to ComAp. The warrantee period for the respective part of the Work shall not run during the time of settlement of the right arising from liability for defects. If it turns out that, in light of clauses 15.18 and 15.19 of this Article, the Customer did not have the right arising from liability for defects, ComAp shall provide support and Services to the Customer under the conditions stipulated in Article 4 of these GTC.

Liability and Compensation of Damage

14.21. This Article stipulates full liability of ComAp toward the Customer in connection with:

14.21.1. the Work, Products, sub-deliveries, Services and Additional Services;
14.21.2. breach of ComAp's contractual obligations arising from the Contract for Work;
14.21.3. a statement, notice (except for a deliberate and proven misrepresentation) or illegal conduct or omission, including negligence or breach of obligations, arising from the law or from this Contract for Work or associated with it.
14.22. Within the framework of ComAp's liability hereunder, ComAp shall be liable for damage caused by breach of its obligations, always to the extent and up to the amount of the value of the deliverable which falls under the scope of the Contract for Work.

14.23. ComAp shall not be liable to the Customer for any loss, damage or other costs or expenses (due to failure to perform the Contract, breach of a law or a statutory obligation, offence under the private law, including negligence and others) due to:

14.23.1. use of the Work by the Customer after its handover default, including normal wear and tear;
14.23.2. deliberate damage to the Work;
14.23.3. negligence or breach of the Contract for Work by the Customer, its representatives or employees;
14.23.4. provision of incorrect, inaccurate or incomplete information to ComAp by the Customer;
14.23.5. failure to meet ComAp's instructions concerning the installation of the Products and the use of the Work or failure to comply with the procedures under the Documentation;
14.23.6. deviating conditions inconsistent with the technical or other conditions envisaged in the Contract for Work;
14.23.7. lightning strike or due to power supply of the Work or its part with electric current at an incorrect voltage and quality;
14.23.8. delay or default on the part of ComAp;
14.23.9. modifications, changes or repairs of the Work performed by a party other than ComAp or a person authorized by ComAp;
14.23.10. the fact that the Customer operates the Work or its part prior to the signing of the Handover Protocol and prior to takeover.

14.24. Notwithstanding the other provisions hereof, ComAp shall not seek to limit or exclude its liability to the Customer;

14.25. The Customer acknowledges that exemptions and limitations of liability are fully reflected in the Price of the Work, Products and Services and that ComAp could offer the Work, Products and Services at higher prices under conditions where the liability of ComAp to the Customer would be limited to a lower extent.

15. LAW AND JURISDICTION

The United Nations Convention on Contracts for the International Sale of Goods shall not apply to the Agreement. In the case of any dispute, the Contracting Parties shall endeavor to reach an amicable agreement first.

EUROPE

15.1. These GTC and any dispute or claim (including non-contractual disputes or claims) shall be governed by and construed and interpreted in accordance with the law of England and Wales 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. 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, controversy or claim arising out of or relating to these GTC, or the breach, termination or invalidity thereof, shall be settled and resolved, to the exclusion of the ordinary courts, by arbitration in accordance with the UNCITRAL Arbitration Rules. The number of arbitrators shall be three.

15.3. The Contracting Parties shall accept the award of the above-mentioned arbitrators as final and binding. The Contracting Parties hereby waive their right to any form of recourse against an award to any court or other competent authority, insofar as such waiver can validly be made under the applicable law.

15.4. 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.

USA

15.5. 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).

15.6. 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 endeavour to reach an amicable agreement, but if such agreement is not reached within 30 days of first notification of the dispute then, all disputes, controversy or claim arising out of or relating to these GTC, or the breach, termination or invalidity thereof, shall be settled and resolved, to the exclusion of the ordinary courts, by arbitration in accordance with the UNCITRAL Arbitration Rules. The number of arbitrators shall be three.

15.7. The Contracting Parties shall accept the award of the above mentioned arbitrators as final and binding. The
**Contracting Parties** hereby waive their right to any form of recourse against an award to any court or other competent authority, insofar as such waiver can validly be made under the applicable law. 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, USA. The language to be used in the arbitral proceedings shall be English.

**AUSTRALIA**

15.8. 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.

**ARAB LEAGUE**

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

15.10. 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.

15.11. 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.

15.12. 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 endeavour 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.

15.13. 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.

15.14. 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.

15.15. 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.

**ASIA PACIFIC REGION**

15.16. 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).

15.17. 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 endeavour 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 administered by the Singapore International Arbitration Centre 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 three arbitrator(s). The language of the arbitration shall be English. The seat of the arbitration shall be Singapore.
LATIN AMERICA

15.18. These GTC shall be governed by and construed and interpreted by Brazilian 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).

15.19. In the event of any dispute or differences arising between the Contracting Parties hereof 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 endeavour to reach an amicable agreement, but if such agreement is not reached within 30 days of first notification of the dispute then, all disputes, controversy or claim arising out of or relating to these GTC, or the breach, termination or invalidity thereof, shall be settled and resolved, to the exclusion of the ordinary courts, by arbitration in accordance with the UNCITRAL Arbitration Rules. The number of arbitrators shall be three.

15.20. The Contracting Parties shall accept the award of the above mentioned arbitrators as final and binding. The Contracting Parties hereby waive their right to any form of recourse against an award to any court or other competent authority, insofar as such waiver can validly be made under the applicable law. 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 Rio de Janeiro, Brazil. The language to be used in the arbitral proceedings shall be English.

Date and version GTC: 13.08.2020, version 3, Peter Sandin, ComAp CEO