

Special Terms and Conditions for Global Managed Services of COMPAREX USA Inc.- (“COMPAREX”)

Version: 1.1

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I. Scope of Application

1. These Special Terms and Conditions for Global Managed Services (“**GMS Special Terms and Conditions**”) shall apply to any legal entities (the “**Customers**”) who have contracted for Global Managed Services.
2. As an integral part of the agreement, these GMS Special Terms and Conditions shall govern the terms and conditions according to which COMPAREX renders the services in the area of Global Managed Services (“**GMS Services**”) for the respective orders of the Customer, the offers made by COMPAREX, as well as order confirmations. GMS Services shall include in particular: monitoring, predictive analysis, productivity and optimization, stay secure, and hybrid cloud management in digital transformation or similar services.
3. The following documents shall rule – in descending order – the performance of the GMS Services covered by the agreement:
 - a. these GMS Special Terms and Conditions;
 - c. the respectively applicable service descriptions and service levels agreements for the relevant GMS Service;
 - d. offers and related orders and any individual agreements contained therein;
 - e. the General Terms and Conditions of COMPAREX;

Upon the Customer's request, COMPAREX shall make the contractual documents mentioned herein available in the respective current version.

4. Any deviating terms and conditions of the Customer or changes and amendments to these GMS Special Terms and Conditions shall only be valid if recognized by COMPAREX in writing.

II. Contractual Services

1. The GMS Services rendered by COMPAREX as part of a business relationship can include the following elements:
 - a. Technical and consulting services at and for the Customer (“**Services**”) – as described in the service description of the GMS Service referred to under the section “**Service Elements**”;
 - b. Provision of software applications by COMPAREX or other providers (“**Software Products**”) – as described in the service description of the GMS Services referred to under the section “**Service Features**”. Software Products can be provided by COMPAREX as follows:
 - i. In form of a software application that can be used via the internet or the Customer's intranet, including updates for the use by the Customer's users, in form of a temporary software license in an online environment accessible via the internet and operated by COMPAREX (“**Cloud Services**”); if the software is provided without separate compensation, COMPAREX shall render “**free Cloud Services**” in that respect.
 - ii. In form of a software application that can be installed and used on the Customer's own hardware for the use by the Customer's users, in form of a temporary software license including updates (“**Software as Subscription**”) or in form of a software license for an unlimited period of time (“**Software Purchase**”).
 - c. Provision of hardware by other providers (“**Hardware Products**”) in perpetuity (“**Hardware Purchase**”) or temporary (“**Hardware Leasing**”).
 - d. With regards to Hardware/Software Products: provision of “**Maintenance Services**” by repairing defects of the hardware/providing software updates (upgrades/updates/patches/fixes) for use by the Customer's users;
 - e. With regards to Hardware/Software Products: “**Support Services**” for the Customer's users.
2. COMPAREX shall render the GMS Services (with the exclusion of Hardware/Software Products but including Cloud Services) exclusively as services performance to the extent agreed in the applicable contract. No specific work result for the performed Services is guaranteed, unless an agreement has been expressly made between the Parties.
3. The provision of Software Products can be limited to the provision/licensing of individual modules of a software application. The specific scope is contained in the applicable offer.
4. Software applications provided by third party vendors can also Software Products. To the extent that, according to the applicable offer, the third party vendor becomes a contracting partner of the Customer, these GMS Special Terms and Conditions shall apply to the third party vendor. The scope of the Software Products and of the Support and Maintenance Services, if applicable, shall be deemed an addition to any license terms and terms and conditions for end users (e.g. “**EULA**”) of such third party vendor. Upon the Customer's request, COMPAREX shall make the relevant license terms and terms and conditions available in the respective current version.

III. Conclusion of the Agreement

1. A binding agreement has been concluded if the Customer accepts an offer by COMPAREX that has been expressly referred to as binding or if COMPAREX accepts an order by the Customer without reservation by confirming the order or by providing the service.
2. A concluded agreement shall constitute the complete agreement with respect to the service obligations of COMPAREX. Any deviating arrangements, amendments, and ancillary agreements, assurances, or the like, in particular changes and resolutions determined in project or performance discussions (and minutes), shall require confirmation by authorized COMPAREX representatives in writing to be effective and shall only apply to the order for which they were agreed upon.

IV. Service Performance

1. The scope of performance shall depend on the respective offer and on the applicable service descriptions and service levels agreement of the individual GMS Services. COMPAREX shall render the agreed upon services taking the current state of the technology into account.
2. Any advice by COMPAREX in the lead-up to the conclusion of an agreement shall be given to the best of its knowledge. At that stage, the Customer shall be required to proactively disclose any information pertaining to the Customer which may be of relevance for the quote.
3. COMPAREX assigns carefully selected employees having the respectively required qualifications to render Services and Support Services. When selecting which of its staff to deploy, COMPAREX will take the Customer's interests into due consideration. COMPAREX shall be entitled at any time to replace deployed staff or third parties with other with similar qualifications and experience. If the names of such employees have been communicated to the Customer, COMPAREX shall notify the Customer about the replacement. With respect to choosing the work site, scheduling work times, and structuring the work within the scope of the task assignment, COMPAREX shall be free and not bound by any instructions. The employees deployed shall be subject only to the instructions and the personnel responsibility of COMPAREX. This shall also be true if services are rendered on the Customer's premises. When working together with the Customer in order to meet deadlines and complete tasks, COMPAREX and Customer shall mutually arrange the work schedule.
4. COMPAREX shall be permitted to appoint affiliated companies and other third parties as subcontractors to carry out contractually stipulated Services and Support Services. The responsibility of COMPAREX for rendering the contractual services shall not be affected by this. COMPAREX shall be entitled to transfer rights and duties to a third party.
5. Service and delivery dates or other deadlines shall be binding only if they have been confirmed in writing by COMPAREX. Customer will report the need for any postponements promptly to enable COMPAREX to make any relevant arrangements. Fixed service dates shall be binding provided that COMPAREX will receive any deliveries and services by its respective upstream suppliers in due time and according to contract.
6. The specific Services being carried out are those services listed in the particular offer according to the terms and conditions specified therein. All additional services by COMPAREX shall be arranged separately and are to be separately remunerated by the Customer. In such an event, COMPAREX shall provide the Customer with an extended or adjusted offer generated on the basis of the prices in the original offer.
7. Either Party may suggest changes to service description and performance. To do so, the following procedure has been agreed:
 - a. COMPAREX shall review a change proposal by the Customer and notify it whether or not a comprehensive review of such change proposal will be necessary.
 - b. If a comprehensive review of the change proposal is necessary, COMPAREX shall notify the Customer within a reasonable period of time the expected period of time for delivery and compensation required for performing the comprehensive review. The Customer shall request or refuse the review within a reasonable period of time.
 - c. If a comprehensive review of the change proposal is not necessary, or if the requested review has been completed, COMPAREX shall either
 - (1) submit a written offer to the Customer for performance of the changes (change offer). Such change offer shall include the changes to the service description and their effects on the performance period, the scheduled date, testing means, and compensation; or
 - (2) notify the Customer that the change proposal cannot be carried out by COMPAREX within the scope of the stipulated services.
 - d. The Customer shall either refuse a change offer within the acceptance period specified therein (binding period) or shall accept it in writing or in another stipulated form. The Customer shall notify COMPAREX without delay in case of refusal.
 - e. COMPAREX and the Customer may agree that any services affected by a change proposal shall be suspended until completion of the review or – if a change offer is submitted – until the expiry of the binding period.
 - f. Subject to Section 7(e), above, until the change offer has been accepted, works shall be continued based on the previous contractual agreements. Performance periods shall be extended by the number of calendar days on which works have been suspended in connection with the change proposal or its review. COMPAREX may demand adequate compensation for the duration of such suspension, except to the extent that COMPAREX uses its employees affected by the suspension otherwise or fails to do so in bad faith.
 - g. Unless stipulated otherwise, upon request by COMPAREX, the change process shall be documented in writing or in text form on a form provided by COMPAREX. Any changes to the contractual agreement, in particular the service description, shall be stipulated in writing.
 - h. Sections 7.b to 7.g shall apply accordingly to any change proposals by COMPAREX.
8. Should COMPAREX provide Cloud Services or other additional services free of charge, such services are provided without any warranty or liability or any kind of representation and on an as-is basis.
9. Events that are unforeseeable, unavoidable, or outside the control of COMPAREX ("**Force Majeure**") shall release COMPAREX from its service obligations for their duration. Without limiting the foregoing, Force Majeure includes:
 - a. consequences of a labor disputes at COMPAREX or a third party and
 - b. cases in which Software and/or Hardware Products in scope of the GMS Services have to be delivered entirely or in part by a third party vendor and said third party vendor does not duly perform such services according to the agreement, but with no fault of COMPAREX, to the extent that such cases impact the deliveries and services of COMPAREX.Stipulated GMS Service deadlines shall be extended by the length of the disturbance, if need be, including a reasonable restarting phase; the Customer shall be adequately notified about the occurrence of the disturbance. Should the end of the disturbance be unforeseeable or if it lasts for more than 30 days, each Party shall have the right to terminate the Agreement. The above shall apply accordingly if said circumstances occur with a subcontractor of COMPAREX.

V. Delivery, Transfer of Risk, Ownership

1. All Hardware and Software Products shall be provided at the locations indicated in the offer. Preparation of operational readiness shall be required only if an explicit agreement is entered into between the parties for such services.
2. The date for compliance with any stated delivery dates and the transfer of risk, shall be the date on which COMPAREX or the manufacturer delivers the delivery item to the transport company for delivery to the Customer.
3. In case of Software Purchase / Software as Subscription, in the event of payment default by the Customer by more than fourteen (14) calendar days, COMPAREX shall be entitled to prohibit its use of the software with immediate effect (contractual right of prohibition).
4. COMPAREX reserves the right to ownership in case of Hardware and Software Purchases until any future claims against the Customer at the time of the service or in connection with the delivery of items have been resolved. With respect to current accounts, retained ownership shall be regarded as security for any offset balance or current account receivable of COMPAREX.
5. The Customer may only sell the hardware or software subject to the reserved right of ownership, with the consent by COMPAREX or as provided for by law. The Customer shall not have the right to pledge the items under reservation of ownership, to assign them by way of security, or to make other dispositions that jeopardize COMPAREX' ownership. The Customer shall also immediately assign to COMPAREX all accounts receivable arising from any such sale; COMPAREX shall accept this transfer as of the date of this Agreement. Until further notice, the Customer shall be authorized to collect the debts from the claims assigned to COMPAREX in its own name and to hold them in trust on COMPAREX's behalf. COMPAREX shall be entitled to revoke such authorization and the right to resell the retained products if the Customer is in default of its material contractual obligations. On request, the Customer shall provide the information necessary for the enforcement of the receivables, in particular names, addresses, phone numbers of the end customer and the items sold to the end customer.
6. In the case of seizure of the goods or other interferences by third parties with the reservation of title or the assigned claims to payment, the Customer shall be obligated to indicate the right to reserve propriety and the property of COMPAREX as well as the assignment of receivables and inform COMPAREX without delay. The Customer shall also be obligated to inform COMPAREX of the name of the third party (parties) who are seizing the items or attaching the claims or causing any other disruptions. The Customer shall bear the costs incurred in warding off such interferences.
7. Should the realizable value of the secured items exceed the aggregate of COMPAREX's claims which are to be secured by more than 20%, the Customer shall be entitled to demand a release to such extent.

VI. Rights of Usage

1. Scope and limitations of the licenses to Software Products granted to the Customer by COMPAREX are based on the EULA of the respective Software Product, which are attached to the GMS Services offer and shall take precedence. Upon the Customer's request, COMPAREX shall make available the EULA of the respective Software Product delivered by third party vendors in its respectively current version.
2. The following shall apply to all Software Products: The Customer shall neither use the software beyond the scope permitted under the respective EULA and these GMS Special Terms and Conditions, nor allow the use by third parties or grant third parties access to it. Without limited the generality of the prior sentence, Customer may not: rent, lease, sell, or license the software, make it accessible to be used by a third party, assign or transfer the software or copy it or permit the copying of the software, neither in part, nor in whole, except for exclusively permitted cases.
3. If the provision of Software Products is limited to individual modules of a Software Product, the Customer shall be granted the usage rights only for the respectively provided/delivered module. The Customer may only use further parts/modules of the software if it is essential for the intended use of the provided/delivered modules.
4. The software may only be used on a configuration approved by COMPAREX (configuration refers to the hardware & software environment on or in which the software is being used). The current, approved configuration can be found in the installation manual, product description, or on the release notes for the respective software.
5. For Software Purchases the following shall apply: Any transfer of rights of use to third parties shall be permitted only if all of the Customer's rights are completely abandoned. The Customer shall inform COMPAREX about the transfer in writing and shall pass on its duties and use restrictions to the third party. Upon request by COMPAREX, the Customer shall confirm in writing its abandonment of own use. The Customer shall not keep any copies of the software, including backup copies.
6. When carrying out the Services and Support Services covered by the agreement, COMPAREX does and will not pass on to the Customer any rights to the tools, software, programs, or methods used.
7. COMPAREX may take technical measures to protect the software and continuously implement them.
8. The Customer shall receive a limited, nontransferable right of use for all work results that COMPAREX produces in relation with the individual provision of Services and Support Services for the Customer, subject to payment for such service and support under any applicable agreement. COMPAREX shall have the right to freely use the know-how used or acquired during the rendering of the Services and Support Services covered by the Agreement at its own discretion, whether to further its own interests or those of third parties. Know-How refers to special knowledge from operational and technical experience. The Customer's data is not regarded part of this know-how. COMPAREX shall be entitled to utilize and apply this know-how even on behalf of third parties.

VII. Customer responsibilities

1. The Customer accepts its obligation to cooperate (under these terms and conditions and, if applicable, also mentioned in the offer) as a requirement of the provision of GMS Services by COMPAREX and thus as a contractual obligation.
2. Except for other regulations in the EULA of the respective Software Products, the following obligations to cooperate shall apply to all Software Products:

a. The provision of the software is bound to certain prerequisites with regards to the technical infrastructure utilized by the Customer. The Customer shall inform itself about the substantial features of the software and its technical requirements (e.g. regarding browser, client hardware, and network connection) and honor them. The Customer shall bear the risk of whether the software meets its wishes and circumstances.

b. The Customer shall protect the usage and access rights, and the identification and authentication securities granted to him to avoid access by third parties and disclosure towards unauthorized users. The Customer shall frequently change passwords.

c. The Customer shall obligate the authorized users to also conform with the regulations stipulated for the usage of the software.

d. The Customer shall secure its data present in the system until the day of the agreement termination, since it cannot be excluded that said data cannot be accessed by the Customer any longer after the agreement is terminated. COMPAREX is entitled to delete the Customer's data after the termination of the agreement.

3. The following special obligations to cooperate apply to Services and Support Services:

a. The Customer shall support COMPAREX as much as possible in regard to rendering the Services and Support Services. The Customer shall provide COMPAREX with the necessary access, in particular to systems, interfaces, databases, software, programs, and other data sources, free of charge, without limitation, and in a timely fashion, and, to the extent needed, grant the corresponding access licenses and provide free access to ready-to-use rooms and work stations, including telephone, Internet access, and the necessary development environment with the required number of terminals and other auxiliary means within the scope of customary working periods and the operational access policy.

b. The Customer shall provide COMPAREX with all the information it needs in a timely fashion so that COMPAREX can implement the accords of the agreement. This includes – to the extent necessary for rendering the ordered GMS Service – the granting of the (automated) access to use and load date, which are saved with a third party provider (cloud provider). The Customer shall inform COMPAREX without delay of all known events, circumstances, and changes that are capable of adversely affecting the rendering of the service.

4. The rendering of GMS Services can be related to an automated processing of personal data by the Customer; accordingly, the introduction of respective procedures at the Customer may require the consent of certain regulatory institutions or direct consent by employees. The Customer shall be responsible to obtain the respective permits and to conform with legal requirements within its scope of responsibility.

5. COMPAREX shall not be obligated to verify the quality or accuracy of the Customer's participation performance nor the correctness or completeness of the information provided by the Customer. On request, the Customer shall provide COMPAREX with written confirmation as to the correctness and completeness of the information and/or documents it has submitted.

6. If any delays and/or additional expenses arise due to default of acceptance and/or improper or tardy participation and/or provision by the Customer, COMPAREX shall not be responsible for any required changes to the schedule and may charge the necessary additional expenses to the Customer. Stipulated deadlines shall be adequately extended automatically, but in any event by the length of the delay. The prices of COMPAREX valid at the time of rendering the services shall be applicable for remunerating the additional expenses. Moreover, the statutory rights of COMPAREX shall remain unaffected.

VIII. Special regulations for the customer portal

1. The “**COMPAREX Dashboard**” is a Cloud Service by COMPAREX. It can be used via a “**Customer Portal**” by COMPAREX.

2. The provision of the COMPAREX Dashboard can be limited to individual software modules. Details are included in the offer.

3. The provision of individual modules may be free of charge. In this case, the regulations of these GMS Special Terms and Conditions shall apply additionally to free Cloud Services.

4. The Customer shall be obligated to conform with the application-specific obligations to cooperate for the COMPAREX Dashboard and the individual modules to work in accordance with the service description. Further information can be found in the SLA document of the respective GMS Service.

5. The Customer shall receive online access to the Customer Portal during the time period in which COMPAREX provides the Cloud Services under the agreement. Using the Customer Portal, the Customer can – depending on the ordered GMS Service – view the license balance generated by COMPAREX as well as additional key figures and information on software asset management. The Customer shall treat the access data confidentially that has been provided for this and not pass it on to third parties. The Customer shall adopt adequate technical precautions so that no malware (e.g. Trojans, viruses) infiltrates the Customer Portal. It is essential that users log out of the password-protected area after every use. Should the Customer become aware that third parties are abusing the access data, the Customer shall notify COMPAREX immediately.

6. COMPAREX shall not assume any liability if the Customer Portal is temporarily unable to be accessed. All fees paid to COMPAREX under this Agreement are non-refundable.

IX. Remuneration, Payment Terms

1. The remuneration amount will be indicated in the offer. If the contractual parties could not agree on a specific price, the price (i) shall be determined on the basis of the valid COMPAREX price list at the time of conclusion of the Agreement or (ii) the COMPAREX hourly or daily rates valid at the time of rendering the services.

2. Unless stipulated otherwise, any incurred packaging, transport, and transport insurance costs as well as incurred travel expenses shall be borne by the Customer.

3. The sales tax will be calculated at the respective statutory amount at the time the invoice is issued. Price increases due to sales tax increases shall be borne by the Customer. All COMPAREX invoices shall be immediately due and payable without a discount as of the invoice date, unless the offer by COMPAREX or the invoice indicates a term of payment. COMPAREX shall be entitled to issue the invoice in paper form or electronically. Customer hereby consents to electronic invoicing and agrees to receive invoices by electronic means including email.

4. Any objections that the Customer has to the billing of GMS Services rendered by COMPAREX are to be made in writing within 10 days of the invoice being received. After the aforementioned deadline, the billing shall be regarded as accepted by the Customer.
5. The Customer shall only be entitled to withhold payments or offset them to the extent that its claims are undisputed or legally established. The Customer may offset or retain payments only in so far as the Customer has actual, verifiable refund claims due to warranty breach or non-performance of the agreed services. The Customer shall not have any right of retention if its warranty claim has lapsed.
6. If the Customer fails to pay a due receivable by the contractual payment date as a whole or in part, COMPAREX may revoke stipulated payment terms for all receivables, which become immediately due. COMPAREX shall also be entitled to render further services only against advance payment or against security by way of a performance bond by a credit institution or credit insurer registered in the European Union or in the USA. Such advance payment shall cover the respective settlement period or – in case of one-off services – their compensation.
7. If the Customer is financially unable to perform its obligations vis-à-vis COMPAREX, COMPAREX may terminate existing exchange agreements with the Customer by way of withdrawal, and continuing obligations by canceling without notice, even if the Customer has filed for insolvency. The Customer shall notify COMPAREX in due time in writing about any imminent insolvency.

X. Warranty

1. Product warranties, if any, are provided by the relevant supplier of that product or any other relevant manufacturer. COMPAREX EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES, EITHER EXPRESS, IMPLIED, OR STATUTORY WITH RESPECT TO ANY PRODUCT, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WHATSOEVER OR HIGH-RISK USE, TITLE OR NON-INFRINGEMENT, AND ANY WARRANTIES THAT MAY ARISE FROM USAGE OF TRADE OR COURSE OF DEALING. COMPAREX DOES NOT WARRANT, GUARANTEE, OR MAKE ANY REPRESENTATIONS REGARDING THE USE OF OR THE RESULTS OF THE USE OF THE PRODUCTS IN TERMS OF CORRECTNESS, ACCURACY, RELIABILITY, THAT THE OPERATION OF THE PRODUCTS WILL BE UNINTERRUPTED OR ERROR FREE, OR OTHERWISE. ALL PRODUCTS AND INFORMATION ARE PROVIDED TO CUSTOMER "AS IS." To the extent authorized, COMPAREX will pass through to Customer any transferable Product warranties, indemnities, and remedies provided to COMPAREX by the relevant supplier, if any, including any warranties and indemnities for intellectual property infringement.
2. In case of defective Software Products, Customer's sole remedy is limited to COMPAREX reasonably (in its sole discretion) assisting Customer in its efforts to obtain that the Software vendors/manufacturers either: replace the Product; repair the Product; or refund Customer's purchase price for the Product. COMPAREX warrants value-added work performed by COMPAREX on Standard Software for 30 days from invoice date.
3. Services Warranty. COMPAREX represents and warrants that all Global Managed Services performed by it hereunder will be performed with qualified personnel, in a professional manner, employing reasonable commercial efforts ("Services Warranty"). Customer must notify COMPAREX of any breach of this Services Warranty within 90 days of the performance of the relevant Services. Unless otherwise agreed in the Services Description, offer, individual agreement, Partner's exclusive remedy for a breach of the Services Warranty shall be for COMPAREX to reperform the Services so that the breach is remedied.
4. The Customer's warranty claims (if any is warranty is transferred under the terms of Section X.1) shall lapse after twelve (12) months after delivery. This deadline shall not apply if the law provides for mandatory longer deadlines. Legally required notices of defect by the Customer must be done immediately and in writing, including an exact description of the problem.

XI. Term and Termination

1. COMPAREX shall render the services covered by the agreement for the term stipulated in the offer. If the Parties have not agreed upon a term in the offer, COMPAREX shall render the services according to the conditions stipulated in the offer for an indeterminate period of time. In such an event, both Parties may terminate on three (3) months notice which such notice applicable at the end of the next calendar quarter.
2. The right of extraordinary termination for good cause shall remain unaffected. In particular, there is good cause if
 - a. a party repeatedly violates its obligations, including with respect to these Terms and Conditions; in the case of the violation of service level agreements by COMPAREX this shall only be the case if COMPAREX has, as a result of its negligence or deliberate act, violated that agreement and if said violation lasts for a period of at least three (3) months; COMPAREX shall only be held responsible for the non-availability of a Cloud Service if it occurs outside of a regular or irregular service window (the service windows are described in the SLA document of the respective GMS Service);
 - b. the Customer refuses the fulfillment of its contractual obligations;
 - c. the payment of the fees owed or a considerable portion of them has not been made to COMPAREX by 14 days after a notice was sent to Customer;
 - d. there is a change in the Customer's identity, the company is sold, or the business circumstances change such that justified doubts arise as to the reliability and capacity of the Customer;
 - e. if an application is made to open bankruptcy proceedings for the Customer's assets, such an application was rejected due to a lack of assets, enforcements against the Customer were unsuccessful, or enforcement measures were implemented and not annulled within a month (e.g. annulment of the arrest).
3. A termination of the Cloud Services by the Customer due to the non-provision of the contractually agreed use shall only be permitted if COMPAREX has been given sufficient opportunity to rectify the defect and such attempt has failed. A failure of the rectification of defaults shall only be assumed if
 - a. it proves impossible, or
 - b. is refused or unreasonably delayed by COMPAREX.
4. Any termination notice must be in writing. A fax shall be sufficient for fulfilling the written form requirement. Emails shall not satisfy

the written form requirement.

XII. Liability

1. COMPAREX will have no liability for failure to allocate or reserve any Services for Customer or for failure to deliver Services within a specified time period. CUSTOMER AGREES THAT COMPAREX'S LIABILITY FOR DAMAGES ARISING UNDER THE TERMS OF THE RELEVANT GMS AGREEMENT, WHETHER IN CONTRACT, TORT, OR OTHERWISE, WILL BE LIMITED TO ACTUAL, PROVEN, DIRECT DAMAGES AND WILL NOT EXCEED THE LOWER OF 100,000.00 USD OR THE NET AMOUNT PAID TO COMPAREX BY CUSTOMER FOR THAT SERVICE WHICH IS THE SUBJECT OF THE CLAIM WITHIN THE IMMEDIATELY PRECEDING 12 MONTH PERIOD. EXCEPT FOR INDEMNITY OBLIGATIONS AND BREACHES OF CONFIDENTIALITY, IN NO EVENT WILL EITHER PARTY BE LIABLE FOR INDIRECT, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO LOSS OF GOOD WILL, LOSS OF ANTICIPATED PROFITS, LOSS OF DATA OR SECURITY BREACH OR OTHER ECONOMIC LOSS ARISING OUT OF OR IN CONNECTION WITH BREACH OF, OR FAILURE TO PERFORM IN ACCORDANCE WITH THE TERMS OF THE AGREEMENT, EVEN IF NOTIFICATION HAS BEEN GIVEN AS TO THE POSSIBILITY OF THOSE DAMAGES. THE PARTIES EXPRESSLY WAIVE ALL CLAIMS FOR THOSE DAMAGES.
2. COMPAREX shall not be liable for the loss of data except and only to the extent such losses could not have been avoided by adequate precautions of the Customer to avoid the loss of data (including, but not limited to, the creation of at least daily backup copies of all data). In any case where liability exists as permitted by the previous sentence, such liability for the loss of data shall be limited by the other provisions set out in this section.
3. The foregoing limitations on liability also apply to claims for damages which are claimed by a party against the employees or representatives of COMPAREX.
4. COMPAREX shall not assume any liability or guarantee for the accuracy of the results it has compiled or calculated to the extent that their inaccuracy is the consequence of incorrect/incomplete information provided by the Customer.

XIII. Statutory Limitation

1. The applicable statute of limitations shall apply to claims concerning willful or grossly negligent conduct by COMPAREX, a legal representative, or vicarious agents of COMPAREX, as well as to claims for damages arising from loss of life, physical injury, or detriment to health.
2. For all other contractual and legal claims against COMPAREX, the statute of limitations shall be one year. The same shall apply to any other warranty rights of the Customer.

XIV. Audit rights

COMPAREX shall be entitled to audit the compliance of the Customer with the requirements under this agreement on site, either itself or by a third person obligated to confidentiality, at any time after prior notification during regular business and in a manner that impacts the operational business of the Customer as little as possible. As part of such an audit COMPAREX may also check the Customer's documentation and reports. The Customer shall grant COMPAREX access to the relevant information, databases, log files, and the like, for this purpose and shall enable COMPAREX or the third person to monitor the compliance with this agreement. The Customer shall support COMPAREX or the third person to the best of its ability.

XV. Confidentiality and data protection

1. The Parties shall keep all confidential information of the other Party they receive as part of the cooperation confidential. The Parties shall only disclose Confidential Information employees or third person which they have obliged to the same form of confidentiality.
2. All information of a Party – irrespective of its form – which is marked as confidential in writing or the confidentiality of which is obvious due to the nature of the information, in particular operational and business secrets, shall be deemed confidential. Non-confidential is information of which the receiving Party can prove was
 - a. generally available,
 - b. already owned or known by the Party without an obligation to confidentiality,
 - c. developed independently and without using confidential information, or
 - d. legally acquired the information by a third party which was not obliged to confidentiality.
3. COMPAREX shall fulfill the agreed Customer's data protection and data security requirements. The Parties shall comply with the respective applicable data protection provisions, including without limitation as applicable in North Carolina and the USA, generally. In this regard, the Parties may enter into a separate agreement(s) regarding contract data processing upon Customer's reasonable request. Notwithstanding the foregoing, COMPAREX may transfer Customer data between COMPAREX affiliates in other jurisdictions.

XVI. Miscellaneous

1. A transfer of rights or an assignment of obligations arising from this agreement shall require prior approval by COMPAREX.
2. COMPAREX shall be entitled to transfer any agreements, including all rights and obligations, concluded based on these GMS Special Terms and Conditions to a company affiliated with COMPAREX.
3. The Customer shall have the sole responsibility to comply with any import and export regulations, including in the USA and the European Union, applicable to the services. In case of cross-border deliveries or services, the Customer shall bear any incurred taxes, interest, fee, or other charges. The Customer shall have the sole responsibility to process any statutory or regulatory procedures related to

cross-border deliveries or services, unless explicitly stipulated otherwise.

4. Subsidiary agreements, assurances, and other agreements, including changes and amendments, must be in written form to be effective. All changes and amendments to this written agreement, in particular verbally arranged changes and decisions, must be in written form to be effective. Written confirmation of changes or amendments may only be carried out by authorized representatives of COMPAREX. The written offer, including the Special Terms and Conditions, shall constitute the complete agreement with respect to the service obligations of COMPAREX.

5. The laws of the North Carolina shall apply, excluding international private law and conflict of laws rules. The United Nations Convention on Contracts for the International Sale of Goods shall not apply.

6. The exclusive place of jurisdiction for all disputes between the party in connection with the present GMS Special Terms and Conditions or a purchase order / generated order shall be the court in Raleigh, North Carolina, USA . Nevertheless, COMPAREX shall be entitled to sue the Customer at its applicable place of jurisdiction, where the Customer has its registered office.

7. Should individual provisions of these GMS Special Terms and Conditions either be or become ineffective this shall not affect the validity of the remaining provisions
