

General Sales Conditions of Ekspla UAB

1. DEFINITIONS AND PRINCIPLES OF INTERPRETATION

- 1.1. Whenever used in these General Sales Conditions of Ekspla, unless there is something in the subject matter or context of their use inconsistent therewith, the following words and terms shall have the respective meanings ascribed to them as follows:

General Sales Conditions or **GSC** – shall mean these General Sales Conditions of Products and all instruments and Services supplemental thereto; “hereof”, “hereto” and “hereunder” and similar expressions shall mean and refer to General Sales Conditions and not to any particular article or section; “Article” or “Section” means and refers to the specified article or section of these General Sales Conditions;

Ekspla or **Seller** shall mean UAB Ekspla, a company organised and existing under the laws of the Republic of Lithuania company code 121706497, having its registered address at Savanoriu ave. 237, LT-02300 Vilnius, Lithuania,

Customer or **Buyer** shall mean the party to whom Ekspla has made an Offer for sale of its Products and/or Services by sending it a Quotation as referred to herein or with whom Ekspla has otherwise entered into an Agreement wherein Ekspla is a supplier of Products and/or Services.

Product(s) shall mean hardware, software, documentation and all other goods and works that have been or will be supplied from Ekspla to the Customer according to the quantity, quality and any other specifications described in the particular Quotation as may be sent by Ekspla to the Customer from time to time.

Services shall mean the services as provided by Ekspla or third parties engaged at the discretion of Ekspla to the Customer as is specified in the Contract, such as consulting, installation, maintenance and training or other Services as may be specified at the discretion of Ekspla.

Quotation or **Offer** shall mean an offer made by Ekspla to the Customer that has to be made in written form and signed (sent) by a person authorised to do so by virtue of applicable laws or a power of attorney issued to that effect by Ekspla, including all and any annexes, drawings, specifications or any other descriptions of the Products to be sold and (as the case may be) Services to be provided to the Customer by Ekspla. All and any Quotations as presented by Ekspla to its Customers are always automatically governed by these General Sales Conditions and all of its provisions notwithstanding the fact whether this circumstance is mentioned in the Quotation itself or not. Ekspla is free to waive the application of these General Sales Conditions to any Quotation at its discretion at any time. Quotations made not in writing and/or not signed (sent) by a person authorised to do so do not create any binding obligations for Ekspla.

Acceptance and Confirmation of the Quotation – shall mean the actions performed in order to accept and confirm the Quotation as defined in the Article 4.1 hereof.

Contract shall mean a contract concluded between the Customer and Ekspla, either by way of acceptance of the Quotation by the Customer and acknowledgement of the Customer Order by Ekspla following the terms and procedure stipulated in the Quotation and in these GSC, or by way of signing a separate written Contract in two or more counterparts between the Customer and Ekspla. Until the Contract has been concluded between the Parties, the word “Contract” used in these GSC shall *mutatis mutandis* mean the Quotation and confirmation.

Acceptance Test shall mean the test(s), to be carried out in accordance with Section 7, Acceptance that verifies the compliance of the Products with Specifications.

Date of Acceptance shall mean the date when the Products or a part of the Products are actually delivered to the Customer according to Clause 7.1 or deemed to be accepted by the Customer in accordance with Clauses 7.6, 7.7 and 7.8 of Section 7, Acceptance hereof.

Specifications shall mean the technical and/or functional descriptions, drawings and/or any other specifications of the Products and/or Services as specified in the Quotation, Contract or in the standard documentation of Ekspla.

EUR – shall mean the Euro currency.

- 1.2. Interpretation – Whenever the context requires, all words used in the singular number shall be deemed to include the plural and vice versa, and each gender shall include any other gender. The use herein of the word “including”, when following any general statement, term or matter, shall not be construed to limit such statement, term or matter to the specific terms or matters set forth immediately following such word or to similar items or matters, whether or not non-limiting language (such as “without limitation”, or “but not limited to”, or words of similar import) is used with reference thereto, but rather shall be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of such general statement, term or matter. The use of the word “approval” or “consent” shall mean the prior written approval or consent.
- 1.3. Annexes – the following are the Annexes to GSC, which can be adopted or amended by Ekspla from time to time and which are deemed to be an integral part of these GSC:
- Instructions on Maintenance, Care and Exploitation of the Products;
 - Instructions on Installation of Products;
 - Technical Manual for Operation of the Products;
 - Standard form of the Act of Transfer - Acceptance of the Products.
- 1.4. Currency – Unless otherwise clearly indicated in writing, all amounts referred to in these GSC are indicated in Euro (EUR) currency.

2. AGREEMENT TO SELL AND PURCHASE

- 2.1. By express or clearly implied acceptance of the Quotation, the Customer agrees to buy from Ekspla and Ekspla agrees to sell to the Customer the Products according to the quantity, quality and other specifications described in the particular Quotation, as sent by Ekspla including all and any drawings, and Specifications (if any). The Contract shall be deemed to be concluded from the moment of acknowledgement of the Customer Order by Ekspla following the terms and procedure stipulated in the Quotation and in these GSC or by way of signing a separate written Contract in two or more counterparts between the Customer and Ekspla. For the avoidance of doubt, transfer of an advance payment to Ekspla following the Quotation shall always be deemed to be an acceptance of the Quotation and conclusion of a contract.
- 2.2. These General Sales Conditions (GSC) of Ekspla are an integral part of each and every Quotation as may be sent or presented by Ekspla and shall be deemed to be irrevocably accepted by the customer upon acceptance of the Quotation. All Contracts between Ekspla and the Customer are therefore subject to these GSC, notwithstanding any contrary stipulation that might be included by the Customer. Contradictory or conflicting conditions of the customer shall not be acknowledged unless Ekspla expressly consents to their validity.

3. QUOTATIONS

- 3.1. General or other information on prices, quality, quantity or Specification of Products as may be provided by Ekspla to the Customer are non binding and are for information purposes only. Quotations/offers of Ekspla that are clearly marked as such and correspond to the formal and material requirements of a Quotation as described in these GSC are binding following the terms established therein.
- 3.2. Unless otherwise mentioned in the Quotation, the Quotation shall be valid for a period of 60 (sixty) calendar days. If an Acceptance and Confirmation of the Quotation has not been received by Ekspla within this time limit, the Quotation shall

not be deemed valid any more and Ekspla shall not be under any obligation to honour and perform it.

4. CONTRACT

- 4.1. The Parties agree that Acceptance of the Quotation by the Customer shall be deemed to have occurred upon: (a) by issue purchase order for the Products and/or Services and (b) payment by the Customer of a part of the Purchase Price (advance payment), if such condition is indicated in the Quotation. The Customer notifies Ekspla of his acceptance of the Quotation by both: (a) sending the signed version of purchase order to the office of Ekspla by the fax number/ registered post/e-mail indicated in the Quotation and (b) by paying the part of the Purchase Price (advance payment) indicated in the Quotation to the bank account of Ekspla indicated in the Quotation or in these GSC.
- 4.2. The Orders from Customers shall be confirmed by Ekspla. The acknowledgement of the Customer Order by Ekspla validates the Contract.
- 4.3. Ekspla reserves itself the right to reject conclusion of the Contract within a reasonable term (that can not be longer than 14 (fourteen) business days) after receipt of the accepted Quotation. Upon rejection of conclusion of the Contract, Ekspla shall in due course return the advance payment received under that particular rejected Quotation less any transaction charges and/or other payments due to Ekspla from the Customer.
- 4.4. After the Quotation has been accepted by the Customer, the Products and/or Services may not be changed, modified or cancelled by the Customer except upon the prior written agreement of Ekspla. The agreed changes to the Products shall be subject to the provisions of these GSC whether or not the written agreement of modification so states. In case any changes to the Products are made after the Offer acceptance and confirmation by the Customer, the manufacturing and delivery term of the Products specified in the Quotation will be changed accordingly by Ekspla and will be prolonged. The new term for delivery of the Products will be set unilaterally by Ekspla.
- 4.5. Contract(s) are firm and definitive and may not be cancelled following their final acceptance by Ekspla, without agreement of the Parties to the same.
- 4.6. If the Contract refers to Products and/or Services which are subject to further technical development, Ekspla reserves itself the right to supply the Customer with the newest Product, which may inter alia entail changes in the technical Specification of the Product that may be unilaterally performed by Ekspla (e.g. change of some component parts due to non availability of the originally intended parts resulted in by technical progress or similar circumstances). The Customer shall in any case have to clearly indicate to Ekspla that Ekspla has no right to supply anything other than the Specification of the Product indicated in the Quotation.
- 4.7. Any Contract for delivery of a standard Product that is terminated by the Customer more than 30 (thirty) calendar days prior to shipment of the Product, shall be subject to a termination charge of no less than ten percent (10%) of the whole order value presented in the Quotation to cover the costs of processing and order handlings. Termination of such a Contract by the Customer within thirty (30) days before shipment shall be subject to a written consent by Ekspla and a termination charge of no less than twenty-five percent (25%) of the order value presented in the Quotation, thereafter no such order may be terminated except by mutual agreement of the Parties in writing.
- 4.8. No order for a non-standard Product may be terminated by the Customer except by mutual agreement of the Parties in writing.
- 4.9. Terminations by mutual agreement are subject to the following conditions:
- 4.9.1. Customer will pay, at applicable contract prices, for all Products which are completely manufactured and allocable to Customer at the time of Ekspla's receipt of notice of termination;

4.9.2. Customer will pay all costs, direct and indirect, which have been incurred by Ekspla with regard to Products which have not been completely manufactured at the time of Ekspla's receipt of notice of termination, plus a pro rata portion of the normal profit on the Contract that would have been received by Ekspla, if the Contract would have been duly performed. To reduce termination charges, Ekspla will divert completed parts, material or work-in-progress from terminated Contracts to other Customers whenever, in Ekspla's sole discretion, it is practicable to do so. In the event of a termination, Customer will have no rights to partially completed goods.

5. PURCHASE PRICE AND PAYMENT

- 5.1. The Purchase price payable by the Customer for the scope, quality and quantity of the Products sold to the Customer, and Services to be provided to the Customer as set out in a particular Quotation, will be determined in this particular Quotation on conditions of delivery EXW, Ekspla, Vilnius, Lithuania (in accordance with ICC Incoterms 2000). The Price shall be exclusive of any Value Added Tax and of any duties and/or import taxes or other taxes, unless otherwise expressly mentioned in the Quotation or the Contract. The Purchase price is fixed and can be decreased only upon express written consent of Ekspla presented in a form of a new Quotation. No costs of transportation, money transfer or quality and quantity checks are included in the Purchase Price and these expenses are borne by the Customer. If the Customer requests to modify the Quotation (or Contract), and Ekspla consents, the Purchase price may be unilaterally amended by Ekspla accordingly.
- 5.2. Prices are quoted and payments shall be made in Euro unless stated otherwise in the Quotation or in the Contract.
- 5.3. All Purchase Price and other payments to Ekspla are to be made to the account indicated by Ekspla.
- 5.4. The Customer shall be solely responsible for and shall pay, or reimburse Ekspla for, all taxes, duties, import deposits, assessments and other governmental charges, however designated, which are now or hereafter imposed under or by any governmental authority or agency, that are: associated with the performance by the Customer of its obligations hereunder; related to the payment of any amount by the Customer to Ekspla pursuant to a particular Quotation and these GSC; based on the Products/Services or their uses, or relate to the import of the Products into the country of the Customer or any other country designated by the Customer in accordance with then prevailing law or regulations.
- 5.5. All invoices of Ekspla are issued on the shipment date and are payable in due terms, net and without deduction.
- 5.6. All the payments shall be made by Customer to Ekspla in accordance with the payment terms mentioned in the Contract. In the absence of the payment terms in the Contract, invoicing and payment of the Products shall take place in advance before delivery thereof and invoicing and payment of the Services shall take place in advance before performance thereof.
- 5.7. Ekspla reserves itself the right to request partial or full advance payment for any new Customer or a Customer who did not respect these General Sale Conditions at the time of previous sale. In any event Ekspla is entitled at its own discretion not to start or suspend performance of any Contract or Quotation before the advance payment so requested is received. In case of termination of the Contract due to the Customer's fault, the conditions of return of the advance payment shall be agreed by both Parties by a separate agreement. Otherwise, the advanced payment will be kept by Ekspla as a penalty for breach of the Contract by the Customer.
- 5.8. Full or partial failure to pay the invoice on its due date will automatically give rise, after we set reasonable subsequent period for payment, to a penalty equal to the interest added to unpaid amount and corresponding to 1.5 times the one-month LIBOR EUR interest rate for each day of delay within the first 15 (fifteen) days of default. If the default of the Customer continues for more than 15 (fifteen) calendar days, calculation of the default interest continues the default interest is increased to 4 (four) times the one-month LIBOR EUR for each day of delay and the Parties agree that this circumstance shall be deemed to be material breach of the Contract by the Customer,

as a result of which Ekspla is entitled to unilaterally terminate the Contract and demand from the Customer payment of a penalty in amount of the double Purchase Price and repayment of all the interest accrued until the moment of termination of the Contract. Upon termination hereof, Ekspla is also entitled to demand from the Customer compensation of losses incurred by Ekspla as much as they are not covered by the penalty received.

5.9. Failure to pay one of invoices of Ekspla also renders other invoices due for immediate payment. In this case Ekspla also reserves itself the right to suspend the execution of any other current Contract with that particular Customer or a member of a group of Companies of that particular Customer.

6. TRANSPORTATION AND RISK OF LOSS

- 6.1. Unless otherwise expressly agreed to it by Ekspla in writing, all and any transportation of the Products to their destination shall be organised by the Customer and transportation costs shall be borne at the expense of the Customer as the Products are always delivered EXW, Ekspla, Vilnius, Lithuania (in accordance with ICC Incoterms 2000).
- 6.2. If Ekspla finds that it will not be able to deliver the Products within the terms stipulated in the Contract (Quotation) or if delay on its part seems likely, Ekspla shall no later than 7 (seven) working days before the relevant delivery date notify the Customer thereof, stating the reason for the delay and if possible the time when delivery can be expected. The Parties agree that the Delay does not occur if after Acceptance and Confirmation of the Offer by the Customer, any changes to the Products are made by request of the Customer.
- 6.3. If delay in delivery is caused by a circumstance which under Section 16 shall be considered a case of Force Majeure, the time for delivery shall be extended by a period which is reasonable having regard to the circumstances in the case.
- 6.4. Unless Ekspla's failure to deliver the Products on time is due to any such circumstance as mentioned in Section 16 (Force Majeure) hereof, the Customer may by notice in writing require Ekspla to deliver the Products within a reasonable period, which may not be shorter than 30 (thirty) calendar days. If, for any reason for which the Customer is not responsible for, Ekspla fails to deliver within such period, the Customer may by notice in writing refuse from that part of the Products which have not been delivered.
- 6.5. If the Customer finds that he will be unable to accept delivery of the Products on the agreed date or if delay on his part seems likely, he shall forthwith notify Ekspla thereof in writing stating the reason for the delay and if possible the time when he will be able to accept delivery. If the Customer fails to accept delivery on the agreed date he shall nevertheless make any payment which is dependent on delivery as if the Products in question had been delivered. Ekspla shall arrange storage of the Products at the Customer's risk and expense. Ekspla shall also, if the Customer so requires, insure the Products at the Customer's expense.
- 6.6. Unless the Customer's failure to accept delivery is due to any such circumstance as mentioned in Section 16 (Force Majeure), Ekspla may by notice in writing require the Customer to accept delivery within a reasonable period.
- 6.7. If, for any reason for which Ekspla is not responsible, the Customer fails to accept delivery within such period, Ekspla may by notice in writing terminate the Contract for that part of the Products which is ready for delivery but has not been delivered due to the Customer's default. Ekspla shall then be entitled to compensation for the loss it has suffered by reason of the Customer's default. The compensation shall not exceed that part of the Purchase Price which is attributable to the part of the Products in respect of which the Contract was terminated plus any expenses of Ekspla incurred as a result thereof.
- 6.8. Upon a separate request of the Customer to Ekspla concerning delivery of the Products on other terms than EXW and Ekspla's consent thereto, Ekspla is reserving itself the right to select the means of transportation and routing of Products, as well as issues of freight collection and other issues in connection to transportation of the Products (unless expressly otherwise agreed between the parties). Unless otherwise expressly

agreed, Ekspla may (but has no obligation to) insure the Products to their full value or declare full value of the Products to the transportation company at the time of delivery and all such freight and insurance costs shall be borne by the Customer. Risk of loss or damage shall pass to the Customer upon delivery of the Products to the transportation company at Ekspla's premises, notwithstanding the fact whether or not installation of the Products is provided by Ekspla.

6.9. Confiscation or destruction of, or damage to the Products shall not release, reduce or in any way affect the liability of the Customer towards Ekspla for due payment of the Purchase price for the Products and other payments. Notwithstanding any defect or nonconformity, or any other matter, such risk of loss shall remain with the Customer until the Products are returned at the Customer's expense to such places as Ekspla may designate in writing. The Customer shall at its expense, fully insure the Products against all loss or damage until Ekspla has been paid in full for them, or the Products have been returned, for whatever reason, to Ekspla.

6.10. In cases of delivery other than EXW as provided for in Clause 6.8 above, Ekspla will attempt to meet the shipment schedules. However, any shipment quotation or forecast is an estimate only and is given by Ekspla in good faith for informational purposes only. Unless expressly stipulated in writing to the contrary, late delivery is not justification for cancellation of the Contract or any indemnification. Ekspla's liability will not be claimed, sought after or engaged due to any detriment resulting from such late delivery.

7. DELIVERY AND ACCEPTANCE

- 7.1. Upon any delivery of the Products the quality and quantity check must be performed by the Customer upon receipt of the Products EXW from Ekspla in factory Savanoriu ave. 237, LT-02300 Vilnius, Lithuania. Transfer of the Products to the Customer is evidenced by an Act of Transfer Acceptance and/or CMR International Waybill or other document of transportation, which by agreement of the Parties may be signed by the representative of the carrier carrying the Products. From the moment of transfer of the Products from Ekspla in Vilnius as described above all risk of loss or damage to or delay of the Products shall pass to the Customer. Title to the Products or any part of the Products shall pass to the Customer only upon due and full payment of the Purchase price to Ekspla.
- 7.2. The Customer is deemed to have received the Products sold in good condition with all the necessary accessories and user manuals and in compliance with the terms of the Contract. Any claims as to the defects or nonconformities of the Products must be sent to Ekspla in writing within 5 (five) calendar days of the receipt of the Products or Acceptance Tests- if and insofar applicable.
- 7.3. If Contract excludes installation of Products by personnel of Ekspla or by its authorised representative, the failure of the Customer to inspect the Products and give written notice to Ekspla of any alleged defects or nonconformities within the term given in Clause 7.2 after receipt of the Products shall constitute an irrevocable acceptance by Customer of the Products delivered to him.
- 7.4. In cases of a dispute between Ekspla and the Customer concerning the quality, quantity, completeness or defects of the Products and who should be held liable for such discrepancies and/or rectify them, the Customer must request to perform an expertise of the Products by experts of Ekspla, who would decide on the matter. Expertise should be requested not later than 3 (three) business days after filing of a complaint to Ekspla. All travel and work expenses in connection to the expertise are borne by the Customer.
- 7.5. If the Customer disagrees with conclusions of the expertise, he is entitled to request performance of a repeated expertise on quality, quantity, completeness or defects of the Products, which should be performed by internationally well known, reputable and competent experts such as Bureau Veritas or SGS (Societe Generale du Surveillance). Upon written agreement of Ekspla such repeated expertise may also be performed by other internationally well known, reputable and competent experts. The repeated expertise must be completed not later

than within 4 (four) weeks after delivery of the Products to the Customer. All and any expenses in connection to the repeated expertise are borne by the Customer.

- 7.6. If by an express written agreement of Ekspla the Products are to be installed by personnel of Ekspla or by its authorised representative, the Products shall be deemed accepted by the Customer upon completion by Ekspla of applicable Acceptance Tests of the Products or execution of Ekspla's acceptance form by the Customer.
- 7.7. Acceptance Tests, if performed and insofar applicable, shall be carried out by personnel of Ekspla or by its authorised representative in respect of the Products during and directly after installation of the Products. The Acceptance Tests are designed to verify that the Products will operate and perform in accordance with the Specifications.
- 7.8. Results of the Acceptance Test shall be accounted for in a jointly signed protocol between Ekspla and the Customer designed to clearly verify whether the Acceptance Test requirements are met or not met. In case the Customer does not attend the Acceptance Tests, Ekspla shall have the right to carry out and complete the test and shall forthwith forward the protocol to the Customer. When the Acceptance Test requirements are met, the Products or part of the Products shall be deemed to be accepted by the Customer.
- 7.9. If the Products or a part of the Products are not accepted by the Customer due to the fact that the Acceptance Test results verify that the Products or a part of the Products do not fulfil the Specifications, the above mentioned jointly signed protocol shall specify particulars of the alleged deviation from the Specifications and where the same is alleged to exist or to have occurred. Ekspla shall without undue delay and at its own expense remedy reproducible deviations from Specifications.
- 7.10. Acceptance of the Products or part of the Products shall not be refused by the Customer because of minor deviations as may be indicated by the Acceptance Test which do not prevent the Products or part of the Products to be put into operation. However, this will not relieve Ekspla from its obligations to remedy said deviations without undue delay.
- 7.11. If the Customer should put the Products or a part of the Products into operational use, prior to or without performance of the above mentioned Acceptance Test, such use shall be deemed to be an irrevocable acceptance of the Products or part of the Products by the Customer.

8. RETENTION OF TITLE

- 8.1. Ekspla maintains the ownership of and legal title to the Products sold to the Customer until the moment of receipt and unconditional crediting to Ekspla's bank account of the effective and full payment of the principal Purchase Price and any other charges as may be indicated in the Quotation, Contract or additionally specified by Ekspla. Failure of payment by the Customer by any due dates and failure to remedy the breach by the Customer within 20 (twenty) calendar days after a written notification to that effect by Ekspla, shall lead to the unconditional right of Ekspla to reclaim and repossess all the Products delivered under that particular Contract and termination of the Contract due to the fault of the Customer.
- 8.2. The Customer hereby irrevocably authorises Ekspla to reclaim and repossess all the Products without prior notification, as well as to allow Ekspla or representatives of Ekspla entry to the Customer's premises for the purposes of reclaiming the Products as well as bear any costs in connection to repossession of the Products by Ekspla.

9. RETURN OF PRODUCTS

- 9.1. The Products may not be returned to Ekspla without first obtaining Ekspla's consent. The request for return of Products and credit must be filed with Ekspla and shall include Contract number, approximate date of shipment and all other identifying numbers (such as the invoice number, date of the invoice, P.O. numbers, etc.). Each request for return of Products and for credit should state the type and quantity of goods, the part numbers and the reasons for the return. If return authorization is granted, Products shall be returned in a clean, well packaged

condition. All return costs are borne by the customer. No credit allowance on allegedly defective Products will be made and no replacement for allegedly defective Products will be shipped in any event, unless the alleged defects are, established and verified to Ekspla's satisfaction after suitable testing and inspection of the Products by Ekspla.

10. LIMITED WARRANTY

- 10.1. Except as otherwise specified herein, Ekspla warrants the Products:
- 10.1.1. to be free from defects in material and workmanship for a period of time and under such conditions as specified in Ekspla's warranty for the individual Product, or for twelve (12) months from shipment if a warranty for an individual Product is not specified;
- 10.1.2. to perform in the manner and under the conditions as specified in Ekspla's warranty for the individual Product or for twelve (12) months from shipment if a warranty for an individual product is not specified;
- 10.2. This warranty is the only warranty made by Ekspla with respect to the Products and no representative or person is authorized to bind Ekspla for any obligations or liabilities beyond the warranty in connection with the sale of Ekspla's Products. This warranty is made to the original purchaser only at the original location and is non-transferable, and may only be modified or amended by a written instrument signed by a duly authorized officer of Ekspla.
- 10.3. Major sub-systems manufactured by other firms but integrated into Ekspla's system are covered by the original manufacturer's warranty and Ekspla makes no warranty, express or implied regarding such sub-systems.
- 10.4. Software integrated into the Products sold is the property of the manufacturer of the specific Product or major sub-system and the Customer only benefits from users rights in conformity with the usage licence of the publisher.
- 10.5. Products or their parts which are replaced or repaired under this warranty are warranted only for the remaining unexpired portion of the original warranty period applicable to the specific product.
- 10.6. Any warranty shall apply only if:
- 10.6.3. the Products are used and maintained under normal conditions and in accordance with the User's manual, information and advice furnished by Ekspla, especially including the Instructions on Maintenance, Care and Exploitation of the Products, Instructions on Installation of Products and Technical Manual for Operation of the Products;
- 10.6.4. the Products are not modified or changed without the written approval of Ekspla;
- 10.6.5. the Customer, without undue delay, has given Ekspla a notice about such defects, non-conformities or deviations before expiration of the applicable warranty period;
- 10.6.6. such defect, non-conformity or deviation was not caused by interworking or interoperable equipment or other products not supplied under the Contract;
- 10.6.7. such defect, non-conformity or deviation was not caused by abuse, misapplication or external influences;
- 10.6.8. the Customer has given Ekspla every opportunity to inspect and remedy such defect, non-conformity or deviation.
- 10.7. Any malfunctions arising from normal wear and tear of equipment are excluded from the scope of this warranty. The warranty also does not apply to spare parts or consumables.
- 10.8. In no case will Ekspla guarantee that the Product sold is suitable for solving of particular problem of a Customer's. The Customer being aware of the technical characteristics of the Product has under his own responsibility and in accordance with his requirements made his choice of the items subject to the Contract. Ekspla does not guarantee the suitability or the fitness of the Product for the Customer's needs and/or a specific use to which the Customer may later put it.
- 10.9. The Parties agree that Ekspla cannot be held liable for defects arising out of improper installation effected in respect of the Products. If the Customer is not certain as to the requirements

applicable to installation, the Customer must apply directly to Ekspla. Installation of the Products must be carried out following the Instructions in the User's Manual and Instructions on Installation of Products as may be prepared by Ekspla.

- 10.10. Under this warranty, Ekspla shall, at its option, repair or replace, without expense to the Customer, any part of the Product, not in conformity with the Specifications by reason of defective material, design or workmanship. This does not include on-site support. To benefit from the warranty, the Customer must send the Product to Ekspla at his own cost. Ekspla will bear the costs of returning the Product to the Customer.
- 10.11. If a Product of Ekspla cannot be returned to the facility of Ekspla for repair, and if Ekspla determines that the problem could be warranty-related, then the following policy applies:
- 10.11.9. Ekspla will provide an on-site Service engineer in a reasonable amount of time, provided that the Customer issues a valid purchase order to Ekspla covering all transportation and subsistence costs of the Service engineer to the site and back as well as covering his subsistence costs on site for the whole period of stay.
- 10.11.10. For warranty on-site repairs, the Customer will not be charged for the cost of labor and parts. If Service is rendered at times other than normal work periods, then special rates may apply at the discretion of Ekspla.
- 10.12. All Products which the Customer considers to be defective shall be returned to Ekspla's office as designated in the Contract and these GSC transportation costs prepaid and borne by the Customer (unless otherwise agreed between the Parties). The risk of loss of the goods shipped or delivered to Ekspla's facility for repair or replacement will be borne by the Customer.
- 10.13. No Product may be returned, whether in warranty or out of warranty, without first obtaining an approval from Ekspla. No repairs will be made for Products returned without such an approval. Any returned Product(s) without a valid Return Merchandise Authorisation number (RMA) will be rejected. The RMA number may be obtained by contacting the Ekspla service department (service@ekspla.com).
- 10.14. The warranties given above constitute the only warranties made by Ekspla with respect to the Products and are in lieu of all other warranties, express or implied, including, but not limited to, implied warranties of merchantability or fitness for a particular purpose.
- 10.15. Defective parts of the Products which are replaced shall be placed at Ekspla's disposal and shall become its property.

11. EKSPLA'S RIGHTS TO SUBCONTRACT

- 11.1. Ekspla may subcontract any portion of the work on any item subject to this GSC, but Ekspla's obligations and rights hereunder shall not thereby be limited or affected.
- 11.2. Neither the Contract nor any rights or obligations thereunder may be assigned by the Customer without a prior written consent of Ekspla.

12. PROPRIETARY RIGHTS

- 12.1. The sale of the Products hereunder to the Customer shall in no way be deemed to confer upon the Customer any right, interest or license in any patents or patent applications or design copyrights Ekspla may have covering the Products. Ekspla retains for itself all proprietary rights in and to all designs, engineering details, and other data and materials pertaining to any Products supplied by Ekspla and to all discoveries, inventions, patents and other proprietary rights arising out of the work done by Ekspla in connection with the Products or with any and all Products developed by Ekspla as a result thereof, including the sole right to manufacture any and all such Products. The Customer warrants that it will not divulge, disclose, or in any way distribute or make use of such information, and that it will not manufacture or engage to have manufactured such Products.
- 12.2. All drawings and other technical documents regarding the Products or their manufacture submitted by Ekspla to the Customer, prior or subsequent to the Acceptance and Confirmation of the Quotation, shall remain the property of Ekspla. Drawings, technical documents or other technical

information received by the Customer shall not, without the prior written consent of Ekspla, be used for any other purpose than that for which they were submitted. They may not without the prior consent of Ekspla be copied, reproduced, transmitted or otherwise communicated to any third persons or parties.

13. LIMITATION OF LIABILITY

13.1. Ekspla will not be liable for any loss, damages or penalty resulting from delay in delivery of the Products when such delay is due to causes beyond the reasonable control of Ekspla, including without limitation, supplier delay, force majeure, acts of God, labor unrest, fire, explosion or earthquake. In any such event, the delivery date will be deemed extended for a period equal to the delay.

13.2. EKSPLA'S LIABILITY UNDER, FOR BREACH OF, OR ARISING OUT OF THE CONTRACT AND/OR SALE WILL BE LIMITED TO REPAIR OR REPLACEMENT OF ANY DEFECTIVE PRODUCTS OR A REFUND OF THE PURCHASE PRICE OF THE PRODUCTS, AT EKSPLA'S SOLE OPTION, AS SET FORTH IN PARAGRAPH 10 ABOVE. IN NO EVENT WILL EKSPLA BE LIABLE FOR COSTS OF PROCUREMENT OF SUBSTITUTED PRODUCTS BY THE CUSTOMER, NOR WILL EKSPLA BE LIABLE FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL OR OTHER DAMAGES INCLUDING WITHOUT LIMITATION LOSS OF PROFIT WHETHER OR NOT EKSPLA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS HOWEVER CAUSED, WHETHER FOR BREACH OR REPUDIATION OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE OR OTHERWISE. THIS EXCLUSION INCLUDES ANY LIABILITY THAT MAY ARISE OUT OF THIRD PARTY CLAIMS AGAINST THE CUSTOMER. THE ESSENTIAL PURPOSE OF THIS PROVISION IS TO LIMIT THE POTENTIAL LIABILITY OF EKSPLA ARISING OUT OF THESE GENERAL SALE CONDITIONS AND/OR CONTRACT.

14. CONTRACT MODIFICATIONS

14.1. Ekspla will have the right to unilaterally make substitutions and modifications of the Specifications of Products sold by Ekspla, provided that such substitutions or modifications will not materially affect the overall Product performance.

15. CONFIDENTIALITY

15.1. The Parties shall not, either during or after the expiration of the Contract, whether directly or indirectly, use or communicate to third parties any trade secrets or confidential information of each other which the Parties have come to know in any way or manner in connection herewith. Such secrets or information shall only be made available to such employees or agents of the Parties who need it for the reasonable execution of their assignments within the scope hereof, and on the condition that they are subject to a secrecy obligation corresponding to the obligation of the Parties, either by law or by contract. Should any of the employees or agents of the Parties be in breach of its secrecy obligation, the Parties shall be fully responsible therefore to each other.

15.2. The confidentiality obligation set out above shall continue until the secrets and information covered by such obligation becomes generally known to the public. However, the secrecy obligation shall not cover information which, on the basis of reliable proof:

- a) at the time of the disclosure is or was generally available to the public of hereafter become generally available to the public through no fault of the Parties;
- b) was not acquired directly or indirectly from one of the Parties and which the Parties can show by written records was in its possession prior to the time of the disclosure by the Parties, or
- c) was independently made available as a matter of lawful right to one of the Party by a third Party.

16. FORCE MAJEURE

16.1. Either party shall be excused from the performance of any of its obligations under the Contract and such obligations shall be extended by the period reasonable under circumstances if the performance is prevented or delayed by any cause beyond the affected Party's reasonable control which, without in any way limiting the generality of the foregoing, shall include acts of God, riots, wars, accidents, embargo or requisition (acts or government), including non-availability of an export licence for the Products or any part thereof or visa and permits for Ekspla's personnel, or delays in the performance of its subcontractors caused by any such circumstances as referred to in this Section.

16.2. In case of force majeure, the affected Party shall promptly notify the other Party in writing and furnish all relevant information and evidence thereto. Such evidence may consist of a statement or certificate of an appropriate chamber of commerce or governmental department or agency where available, or a statement describing in detail the facts claimed to constitute Force Majeure.

16.3. During the period that the performance by one of the Parties of its obligations under the Contract has been suspended by reason of an event of Force Majeure, the other Party may likewise suspend the performance of all or part of its obligations hereunder to the extent that such suspension is commercially reasonable.

16.4. Should the cause of force majeure continue for more than three (3) months, either Party shall then have right to terminate the Contract, without liability to the other Party, except for payments due to such date, upon giving written notice to the other Party.

17. BANKRUPTCY OR INSOLVENCY OF CUSTOMER

17.1. If the financial conditions of the Customer at any time is such as to give Ekspla, in its judgment, reasonable grounds for insecurity concerning Customer's ability to perform its obligations under the Contract, Ekspla may:

17.1.1. by notice in writing to Customer, cancel the Contract, without judicial intervention or declaration of default of Customer and without prejudice to any right or remedy which may have accrued or may accrue thereafter to Ekspla;

17.1.2. require full or partial payment in advance and suspend any further deliveries for continuance of the work to be performed by Ekspla until such payment has been received;

17.1.3. make shipments C.O.D (Collect On Delivery).

18. FINAL DESTINATION OF THE PRODUCTS SOLD

18.1. Certain Products sold by Ekspla might be subject to the final destination control. In the event of export of the Products sold by Ekspla outside EU, the Customer must inform Ekspla of their final destination and undertake to obtain all the permissions of competent authorities necessary for performance of such sale.

19. APPLICABLE LAW, JURISDICTION AND VENUE

19.1. The Contract and all other rights and obligations between Customer and Ekspla shall be governed by and construed in accordance with the laws of the Republic of Lithuania.

19.2. Any dispute, controversy or claim arising out of or relating to the Contract, these GSC or the Quotation, their breach, termination or validity shall be settled by arbitration in accordance with the Arbitration Rules of the Vilnius Court of Commercial Arbitration. The number of arbitrators shall be three appointed in accordance with the above Rules. The venue

of arbitration shall be Vilnius, the Republic of Lithuania. The language of arbitration shall be the English language.

20. MISCELLANEOUS

20.1. Any information and notices relating to the performance hereof shall be sent to the addresses specified in the Contract or Quotation and in other official documents issued by EKPSLA. Should the address, bank account and/or any other data of any Party change, such Party must notify the other Party thereof no later than within 5 (five) calendar days from the change of a certain detail. Upon failing to meet these requirements, the Party may not lodge any claims or rebuttals against the actions of the other Party performed with regard to the known particulars on the grounds that these actions are non-conforming or because of the failure to receive notices sent according to these particulars.

20.2. Except as otherwise agreed by the Parties, all notices hereunder shall be made in writing and sent by fax, e-mail, registered delivery mail, through a special courier or delivered personally to the addressee (with written acknowledgement of receipt by the representative of the addressee), to the address specified in this Section below or to the new address communicated in accordance with the procedure set forth in this Section of GSC. The following requirements shall be observed:

a) When a notice is sent by fax or e-mail, it shall be deemed to have been received on the day when it has been sent provided the sender gets confirmation of delivery thereof to the addressee.

b) The notice sent by registered delivery mail or through a special courier shall be deemed to have been received in 10 days after the dispatch thereof (in the absence of acknowledgement of earlier receipt), starting to count the period with the date specified in the document that proves the posting of the notice or its handing over to the courier for the purpose of further delivery.

c) The notice delivered personally to the addressee shall be deemed to have been received on the day of its delivery.

20.3. Except as specifically set forth or referred to herein, nothing herein expressed or implied is intended or shall be construed to confer upon or give to any Person, other than the Parties and their respective successors and assigns, any rights or remedies under or by reason of these GSC.

20.4. If in any jurisdiction, any provision of the Contract or these GSC or their application to any Party or circumstance is restricted, prohibited or unenforceable, such provisions shall, as to such jurisdiction, be ineffective only to the extent of such restriction, prohibition or unenforceability without invalidating the remaining provisions hereof and without affecting the validity or enforceability of such provision in any other jurisdiction or its application to other parties or circumstances.

20.5. If not expressly provided otherwise, no failure or delay on the part of any Party in exercising any power or right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power preclude any further or other exercise thereof or the exercise of any other right or power hereunder. No modification or waiver of any provision of GSC nor consent to any departure by any Party therefrom shall in any event be effective until the same shall be in writing and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given, it being recognised, however, that any provision of GSC may be modified or waived by the written agreement of all parties hereto. No notice to or demand on any Party in any case shall entitle such Party to any other or further notice or demand in similar or other circumstances except as specifically provided herein.