

**ES-SYSTEM sp. z o.o. Commercial Terms and Conditions**  
**from 28.07.2020, 2<sup>nd</sup> Edition 28/07/2020**

**Chapter I**  
**Preliminary Provisions**

**§ 1.**  
**Definitions**

1. The Commercial Terms and Conditions specify the procedure for the conclusion of Contracts and form the contents of Contracts in the scope not contrary to the provisions of Contracts.

2. The capitalised terms (words and phrases, irrespective of their number and case) as used in these Commercial Terms and Conditions shall have the following meaning:

- 1) **“Business Day”** – any day other than Saturday or a public holiday;
- 2) **“Buyer”/ “Customer”** – an entrepreneur within the meaning of art. 43<sup>1</sup> of the Civil Code who intends to conclude a Contract, to whom ES-SYSTEM has extended an invitation to conclude a Contract, or an offer to conclude a Contract, or who has concluded a contract with ES-SYSTEM;
- 3) **“Carrier”** – an entrepreneur who professionally provides transport services and is authorised to conduct business activity in the field of road transport;
- 4) **“Civil Code”** – the Act of 23 April 1964 – the Civil Code (consolidated text: Journal of Laws of 2016, pos. 380 as amended);
- 5) **“Commercial Terms and Conditions” or “CTC”** – these Commercial Terms and Conditions of ES-SYSTEM sp. z o.o. together with the annexes that constitute an integral part thereof;
- 6) **“Contract”** – a contract involving, among other things, any obligation for ES-SYSTEM to transfer ownership of Goods to the Buyer or a person designated by the Buyer, or in particular, a contract for the sale or delivery of Goods concluded between ES-SYSTEM and the Buyer; unless the content of the Commercial Terms and Conditions clearly indicates otherwise, the term Contract shall also be understood as the Commercial Terms and Conditions that constitute an integral part thereof;
- 7) **“Delivery Date”** – the date specified in the Contract, by which ES-SYSTEM is to make a specific batch of Goods available to the Buyer, as agreed in the Contract;
- 8) **“Documentation”** – safety approvals, declarations of conformity (CE) for electric equipment and – if attached to the Goods by the manufacturer – assembly instructions and user manuals, guarantee documents, specifications and other materials of a similar nature;
- 9) **„ES-SYSTEM”** – ES-SYSTEM sp. z o.o. with its registered office in Krakow, Przemysłowa 2, 30-701 Krakow, Poland, entered in the Register of Entrepreneurs of the National Court Register maintained by the District Court for Krakow-Śródmieście in Krakow, 10<sup>th</sup> Commercial Division with the KRS (National Court Register) No. 0000848805, with a share capital of 14,145,050 PLN, paid in full, the tax identification no. (NIP) 679-25-51-640 and registry number of BDO 000005016;
- 10) **“ES-SYSTEM Warehouse”** – the ES-SYSTEM warehouse located in Krakow at Przemysłowa 2;
- 11) **“Ex-works”** – a rule under which a delivery is deemed to have been completed at the moment when the Goods are placed at the Buyer's disposal, depending on the Contract, in the ES-SYSTEM Warehouse or at a Subsidiary's Production Facility;
- 12) **“FCA”** – a rule under which a delivery is deemed to have been completed at the moment when the Goods handed over to the first carrier indicated by the Buyer at a designated location, i.e. in the ES-SYSTEM Warehouse or at a Subsidiary's Production Facility;
- 13) **“Force majeure”** - event or circumstance of an extraordinary nature beyond the control of either Party, the occurrence of which neither of the Parties, acting rationally, could prevent prior to the conclusion of the Contract, which, in the event of its occurrence, neither of the Parties, acting it could not reasonably avoid or overcome it, and which cannot be attributed to either party; in particular, a natural disaster (such as a flood, hurricane and earthquake), epidemic, pandemic, war or other armed conflict;
- 14) **“Goods”** - the goods included in the commercial product offer of ES-SYSTEM, as well as those ordered or created individually for a given Customer and in accordance with the specification provided by that Customer;
- 15) **“Guarantee Terms and Conditions”** – the document *“Quality guarantee terms and conditions for luminaires and other goods delivered/sold by ES-SYSTEM sp. z o.o. with its registered office in Krakow”*, which is Annex No. 1 to these Commercial Terms and Conditions, constituting an integral part thereof and containing provisions regarding the quality guarantee for the Goods;

- 16) **“Instructions for Preparing for the Commissioning of DALI Systems”** – a document that constitutes Annex No. 2 to these Commercial Terms and Conditions and an integral part thereof, containing the conditions for the preparation of lighting systems for commissioning;
  - 17) **“Major Defect”** – any inconsistency of the Goods with the Contract which makes impossible to use the Goods in accordance with their intended purpose;
  - 18) **“Minor Defect”** – any inconsistency of the Goods with the Contract which influences the possibility of their use in accordance with the Contract, other than a Major Defect;
  - 19) **“Parties”** – the parties to the Contract;
  - 20) **“Place of Delivery”** – the place indicated in the Contract, where the Carrier is obliged under the Contract to deliver the Goods and where they will be collected and/or loaded/unloaded (depending on the logistics organisation) by the Buyer;
  - 21) **“Place of Storage”** – the ES-SYSTEM Warehouse of the Production Facility of a Subsidiary where, in the event that the Buyer should fail to collect the Goods at the Place of Delivery, ES-SYSTEM will deposit them at the Buyer's expense and risk, and in case the Goods were to be collected by the Buyer from the ES-SYSTEM Warehouse or the Production Facility of a Subsidiary– ES-SYSTEM shall leave the Goods at the expense and risk of the Buyer;
  - 22) **“Price List”** – a list of rates for individual actions/activities performed by ES-SYSTEM that is an integral part of these Commercial Terms and Conditions and includes, among other things, costs of transport, loading and periodic guarantee inspections performed by ES-SYSTEM; the rates indicated in the Price List are net rates;
  - 23) **“Production Facility of a Subsidiary”** – the ES-SYSTEM NT Sp. z o.o. production facility located in Dobczyce at Jagiellońska 51 Street or the ES-SYSTEM Wilkasy Sp. z o.o. production facility in Wilkasy at Olsztyńska 2 Street.
  - 24) **“Receipt Protocol”** – the protocol for the receipt of the Goods, particularly the WZ document (in Polish: wydanie zewnętrzne, i.e. external release of goods);
  - 25) **“Sale Goods”** – products offered by ES-SYSTEM on special conditions as part of a sale campaign;
  - 26) **“Sanction List”** - a list of sanctioned entities maintained by the United States, the United Nations, the United Kingdom, the European Union or a member state of the European Economic Area;
  - 27) **“Subsidiaries”** – in particular ES-SYSTEM Wilkasy Sp. z o.o. with its registered office in Wilkasy, ES-SYSTEM NT Sp. z o.o. with its registered office in Krakow, , and any other entity in relation to which ES-SYSTEM is the parent company within the meaning of art. 4 § 1 item 4 of the Act of 15 September 2000, Code of Commercial Companies (consolidated text: Journal of Laws of 2016, pos. 1578 as amended);
  - 28) **“Trade Credit”** – a form of ES-SYSTEM’s consent to receive payment for the Goods after the Delivery Date or after the Goods have been delivered to the Place of Delivery;
  - 29) **“Trade Secrets”** – any and all of the enterprise’s technical, technological and organisational information, or other information of economic value which, as a whole or in a particular combination and set of its elements, is not generally known to persons usually dealing with this type of information or is not readily available to such persons, provided that the person authorised to use or dispose of that information has undertaken, with due diligence, to keep it confidential (art. 11 section 2 of the Act of 16 April 1993 on Combating Unfair Competition (Journal of Laws of 2003, No. 153 pos. 1503 as amended);
  - 30) **“Working Hours”** - from 9 AM until 5 PM on Business Days;
3. Any reference in the Commercial Terms and Conditions to a specific editorial unit of a legal act (article, section, item, letter or indent) without a more specific indication of the subject of reference shall mean a reference to the provisions of the Commercial Terms and Conditions.
4. The headings (titles) of the respective editorial units of the Contract and the Commercial Terms and Conditions are provided for the convenience of reference only and have no influence on the interpretation of their provisions and the contents of the legal relationship established between the Parties.
5. The Annexes to the Commercial Terms and Conditions that are listed in their contents constitute an integral part thereof.

## § 2.

### The applicability of the Commercial Terms and Conditions

1. The Commercial Terms and Conditions shall apply to all Contracts and shall also regulate activities aimed at concluding a Contract.
2. The Commercial Terms and Conditions shall not apply to contracts concluded with consumers within the meaning of the provisions of art. 22<sup>1</sup> of the Civil Code.

3. The Commercial Terms and Conditions are publicly available on the ES-SYSTEM website at the following address: [www.essystem.pl/en/download/documents](http://www.essystem.pl/en/download/documents), at the ES-SYSTEM headquarters and at every Branch of ES-SYSTEM.
4. ES-SYSTEM does not conclude Contracts by applying procedures other than those stipulated in the Commercial Terms and Conditions, except for contracts concluded in writing, under pain of nullity.
5. ES-SYSTEM does not allow the contents of Contracts to be drawn up in a manner inconsistent with the Commercial Terms and Conditions if such changes were to be introduced verbally or by means of distance communication. The provisions of this section shall not prejudice the provisions of section 6 of this paragraph.
6. The conclusion of Contracts using contract templates (general terms and conditions, etc.) used by the Buyer is excluded unless the Parties agree differently in writing, under pain of nullity. The lack of ES-SYSTEM's express consent to the use of a contract template used by the other party shall be understood as an objection to concluding the Contract using such a template. ES-SYSTEM's consent to conclude a Contract using a contract template used by the other party shall not be interpreted as consent for also concluding other contracts using such a contract template. The provisions of this section shall not prejudice the provisions contained in art. 385<sup>4</sup> of the Civil Code.
7. Any departure from the Commercial Terms and Conditions in relation to a given Contract shall not be understood as a departure applicable to any other Contracts, including with a given entity, unless the Parties agree differently in writing, under pain of nullity.

## **Chapter II Conclusion of Contracts**

### **§ 3.**

#### **Representation and form of legal transaction**

1. Persons authorised to represent ES-SYSTEM in accordance with the information disclosed in the National Court Register or persons possessing a written power of attorney are authorised to submit binding statements on behalf of ES-SYSTEM in the course of concluding the Contract.
2. ES-SYSTEM's statements associated with the conclusion of Contracts (particularly statements constituting an offer or statements regarding the acceptance of an offer) require written form to be valid (this includes documents sent via fax or e-mail). Statements made verbally or by means of distance communication shall not have legal effects (particularly those made over the telephone or via instant messengers).
3. The form in which the Contract was concluded – which does not exclude the possibility of using the written form – is reserved under pain of nullity in order to amend, supplement or terminate the Contract.
4. The provisions of the Commercial Terms and Conditions regarding the conclusion of Contracts shall be applied accordingly to amendments, supplements and the termination of the Contract.

### **§ 4.**

#### **Interpretation of ES-SYSTEM's statements**

1. No catalogues, price lists, data sheets, commercial or advertising information or similar materials from ES-SYSTEM (irrespective of whether they have been made public or addressed to individuals, even if they have been marked as an offer and specify particular goods including their prices) shall constitute an offer within the meaning of the Civil Code, even if accompanied by the Commercial Terms and Conditions. Such materials solely constitute an invitation to initiate the procedure of concluding a Contract, unless their content indicates that the use of the provisions in this section are excluded in respect to those materials.
2. If the materials referred to in the preceding section include the specification of certain Goods or if samples or prototypes of the Goods are presented along with them, such information is for illustration purposes only and always requires additional confirmation from ES-SYSTEM during the procedure of concluding a Contract.

### **§ 5.**

#### **Placing orders**

1. The Buyer shall place orders for Goods in writing, by fax (by sending a signed document using such a device) or by email, using data made available by ES-SYSTEM, including that available on the website at the following address: [www.essystem.pl](http://www.essystem.pl), and through the online sales system. The Buyer's order constitutes an offer within the meaning of the provisions of the Civil Code.
2. If ES-SYSTEM shall make forms for placing orders by a specific Customer available using specific means of communication on electrical devices, particularly via the online sales system, the orders shall be placed exclusively using such forms filled out in accordance with the instructions attached thereto.

3. The contents of an order include the Buyer's specification, type and quantity of ordered Goods. The Buyer may submit a request for Trade Credit in the contents of the order.
4. If the Goods are to be used in conditions that deviate from the standard ambient conditions specified in § 2 section 3 of the Guarantee Terms and Conditions, this information should be provided in the order. The failure to provide information about non-standard ambient conditions will result in the exclusion of the guarantee.
5. The Buyer shall be bound by the order for the period of 14 Business Days counted from the day of receipt thereof by ES-SYSTEM.
6. For logistical reasons, an order for Goods placed after 11 AM is considered to have been placed on the next business day. The binding deadline for the order referred to in section 5 is then counted from the next day (the first following Business Day) after the day the order was placed.
7. Placing an order shall be understood as the acknowledgment and acceptance of the Commercial Terms and Conditions.
8. When placing an order, the Buyer is obliged to specify all known circumstances that may indicate that said Buyer will not be able to properly carry out the provisions of the Contract, so as to give ES-SYSTEM the opportunity to potentially make the conclusion of the Contract conditional on establishing adequate performance guarantees to the benefit of ES-SYSTEM.
9. ES-SYSTEM reserves the right to charge the Buyer a net fee of 50 EUR (fifty euro) for handling an order, the net value of which is lower than 500 EUR (five hundred euro).
10. Buyers intending to purchase accessories for luminaires are required to indicate that fact in their order.

#### **§ 6.**

##### **Responding to orders**

1. The Contract is concluded when the Buyer's order is accepted by ES-SYSTEM, i.e. when the Buyer receives the confirmation of the order (a response to the order), or at the moment when ES-SYSTEM begins the process of completing the order.
2. ES-SYSTEM shall endeavour to respond to the order within the term when the Buyer is bound by the order referred to in § 5 section 5 of the CTC.
3. A reply to the Buyer's order shall be provided exclusively in one of the forms referred to in § 5 section 1 of the CTC.
4. A lack of reply by ES-SYSTEM to the Buyer's order (offer) shall be equivalent to a statement issued by ES-SYSTEM regarding the unwillingness to conclude a Contract, even if the order is from a Buyer with whom ES-SYSTEM remains in permanent economic relations (Article 68<sup>2</sup> of the Civil Code shall not be applied to offers submitted to ES-SYSTEM by Customers).
5. Section 3 above does not apply if ES-SYSTEM begins the process of completing the contract within the time limit referred to in § 5 section 5 of the CTC, which is equivalent to accepting the order.
6. If the Buyer submits an application for Trade Credit in the order, the Buyer is obliged to submit information on their financial situation for verification by ES-SYSTEM, particularly to provide ES-SYSTEM with documents confirming the Buyer's financial situation. When deciding about the possibility of granting Trade Credit to the Buyer, ES-SYSTEM shall specify the deferred payment date in the order confirmation, the amount of the Trade Credit, and the form of collateral for the Trade Credit. The type of granted collateral affects the Trade Credit amount and the deferred payment date. The Trade Credit may also be granted by ES-SYSTEM under the condition that the Buyer pays part of the price of the Goods prior to their placing at the Buyer's disposal or prior to their delivery.
7. The Delivery Date indicated in the order confirmation from ES-SYSTEM shall only apply in the event of the following:
  - 1) the total payment for the Goods being booked on the ES-SYSTEM bank account, or
  - 2) ES-SYSTEM granting the Buyer Trade Credit, the Buyer being in possession of that Trade Credit, which is sufficient in order to conclude the Contract and for the Buyer to perform the terms of the Trade Credit, i.e. to issue the advance payment on the price of the Goods and having it booked on the ES-SYSTEM bank account, or providing the collateral indicated by ES-SYSTEM (joint conditions).
8. After the order is confirmed by ES-SYSTEM, any changes to the Delivery Date indicated in the order confirmation are possible as long as ES-SYSTEM agrees thereto and no more than 5 Business Days have passed since the date of the receipt of the order confirmation. In such cases, the changed Delivery Date will be indicated by ES-SYSTEM and that date will be binding for the Buyer.

## **§ 7.**

### **The Conclusion of the Contract**

1. If ES-SYSTEM does not accept the order, but intends to conclude a Contract with the Customer, ES-SYSTEM shall respond to the Customer's order via an invitation to conclude a Contract within the meaning of Article 71 of the Civil Code on the terms stipulated in that response, or by submitting an offer to conclude a Contract to the Buyer. ES-SYSTEM's response shall not constitute an offer within the meaning of the provisions of the Civil Code, unless its content clearly indicates otherwise.
2. If ES-SYSTEM response constitutes an offer within the meaning of the provisions of the Civil Code and nothing else is indicated in its content, ES-SYSTEM shall be bound by this offer for the period of time indicated therein, and if such a period had not been indicated therein, then for 14 Business Days from the date of the receipt of the offer by the Buyer. An offer like this can only be accepted without reservation.
3. If the reply referred to in the preceding section does not constitute an offer within the meaning of the provisions of the Civil Code, the Buyer must submit an order again to conclude the Contract. In this case, the provisions of § 5 – § 6 of the CTC shall apply accordingly, and the period stipulated in § 5 section 5 of the CTC shall be 14 Business Days from the date of the receipt of the subsequent order by ES-SYSTEM.
4. Concluding a Contract by way of negotiations is excluded, unless the Parties agree differently in writing under pain of nullity.

## **§ 8.**

### **The ES-SYSTEM offer**

1. If ES-SYSTEM is submitting an offer to the Buyer for concluding a Contract, which was not preceded by the Buyer's placing an order, § 7 section 2 of the CTC shall be applied accordingly, which particularly means that such an offer may only be accepted without reservation. The Buyer's acceptance of the offer from ES-SYSTEM with reservations shall be deemed to be a submission of an order (offer) by the Buyer, to which the provisions of § 5 – § 6 of the CTC shall apply.
2. The luminaires included in the ES-SYSTEM offer do not include accessories, which are subject to a separate order from the Buyer.

## **Chapter III**

### **Releasing the Goods to the Buyer**

## **§ 9.**

### **General provisions**

1. The Delivery Date is reserved in favour of ES-SYSTEM.
2. ES-SYSTEM has the right to transfer the Goods to the Buyer (deliver them or deposit them at the Buyer's disposal) in batches, which means that the provisions of § 14 section 3 of the CTC shall be applied accordingly to partial deliveries. Where ES-SYSTEM has delivered a part of the Goods or placed a part thereof at the disposal of the Buyer, the Contract shall be deemed performed by ES-SYSTEM.
3. In the event of a separate, express agreement between the Parties, Documentation regarding the Goods may be provided. In such a situation, the Documentation is delivered according to ES-SYSTEM's choice – together with the Goods or via e-mail to an e-mail address indicated by the Customer, with the proviso that in the case of partial deliveries or releases, ES-SYSTEM shall deliver the Documentation once.
4. The Goods shall be new, unused and of quality that is consistent with the provisions of law in force in the Republic of Poland. In the event of the Buyer's purchase of Sale Goods, to the maximum extent permitted by law, all of ES-SYSTEM's liability regarding their functioning and quality shall be excluded, particularly irrespective of the exclusion of the warranty for defects, the provisions of the Guarantee Terms and Conditions shall not apply thereto.
5. The Contract shall be performed with consideration for environmental protection and occupational health and safety regulations.
6. shall not be liable for any loss of profits, transactions or any damage caused by failure to meet the Delivery Date or the deadline for depositing the Goods at the Place of Delivery.
7. ES-SYSTEM reserves the right to sell and deliver or deposit Goods at the Buyer's disposal in a lesser quantity than that specified in the Contract with an appropriate price reduction in the event of a decrease in the production volume for reasons other than ES-SYSTEM's intentional fault.

## **§ 10.**

### **Persons authorised to receive the Goods**

1. The Goods shall be issued only to persons authorised to represent the Buyer in accordance with the valid excerpt of the Buyer's entry in the National Court Register or other corresponding public register or to persons holding a relevant authorisation. ES-SYSTEM is authorised to verify the identity of such persons and their authorisation to act on behalf of the Buyer. ES-SYSTEM is authorised to require a copy of the authorisation referred to in the preceding sentence as well as a copy of a document confirming the identity of the person accepting the Goods.
2. In the event of any doubts on the part of ES-SYSTEM concerning the authorisation or identity of persons referred to in the preceding section, ES-SYSTEM is entitled to withhold the release of the Goods until the Buyer confirms their authorisation in the manner required by ES-SYSTEM and to establish their identity by means of an appropriate document confirming their identity. In the case referred to in the previous sentence, the provisions of § 17 shall apply accordingly.
3. In the event that the Goods are to be delivered to the Place of Delivery in accordance with the Contract, the person present at the Place of Delivery at the time of delivering the Goods to that place in accordance with the Contract or Commercial Terms and Conditions shall be considered entitled to the receipt of the Goods on behalf of the Buyer, even if the person is not an employee of the Buyer.

## **§ 11**

### **Receipt of Goods at ES-SYSTEM**

1. The Goods shall be delivered to the Buyer on Ex-works terms to the ES-SYSTEM Warehouse or to the Production Facility of a Subsidiary. In the absence of separate contractual provisions, it is assumed that the Goods will be placed at the disposal of the Buyer in the ES-SYSTEM Warehouse. The receipt and loading from the ES-SYSTEM Warehouse of the Production Facility of a Subsidiary shall take place on the Delivery Date during Working Hours, and on this day, ES-SYSTEM shall place the Goods at the Buyer's disposal. If ES-SYSTEM shall be ready to place the Goods at the Buyer's disposal at an earlier time than on the Delivery Date, they will notify the Buyer of that fact by indicating the new deadline, by which ES-SYSTEM shall make a specific batch of the Goods included in the Contract at the disposal of the Buyer, at least two days in advance (which may be done over the telephone, via fax or e-mail), and then the newly indicated deadline shall become binding for the Parties and shall replace the previously agreed Delivery Date, which does not constitute an amendment to the Contract. Both the originally agreed Delivery Date and the new one resulting from the notification from ES-SYSTEM includes only Working Hours. The Parties may include a different regulation in the Contract, including one stating the obligation for ES-SYSTEM to deliver the Goods to the Place of Delivery in accordance with the provisions of § 12 of the Commercial Terms and Conditions.
2. The Buyer is obliged to proceed to receive and load the Goods at a time that ensures that these activities shall be completed during Working Hours.
3. ES-SYSTEM shall be responsible for packing the Goods. The Goods shall be packed in a standard manner meant to prevent their damage or deterioration during road transportation using vehicles adjusted for the transportation of a given type of Goods. The Goods may be packed in a manner specified by the Buyer at a separate surcharge.
4. Upon acceptance of the Goods, the Buyer shall sign a Receipt Protocol, in which the Parties state the quantity and quality of the Goods as well as the condition of the packaging of the Goods. In case of the lack of express reference to these parameters in the Receipt Protocol, it shall be assumed that the quantity and quality of the Goods, as well as the condition of the packaging of the Goods were adequate.
5. In the event that it is not possible to examine the quality of Goods during their receipt by the Buyer due to their nature, the Buyer shall check their condition on the earliest possible date, however not later than within 2 days from the date of completion of the transport of the Goods from the place of their receipt from ES-SYSTEM to their first place of storage, or if the Goods are not intended to be stored – to the place where they are to be used, and at the same time, no later than within 5 days from the date of receipt of the Goods from ES-SYSTEM. In the event of discovering any inconsistencies of the Goods with the Contract, the Buyer shall notify ES-SYSTEM thereof in writing and by email within one day from the date referred to above, otherwise it shall be deemed that the Goods released to the Buyer were consistent with the Contract to the extent, to which their defects could be found in the course of the activities referred to in this section. The quantity of the Goods or the manner of their packaging which should be examined by the Buyer before signing the Receipt Protocol shall not be subject to the examination indicated in the content of this section.

## **§ 12.**

### **Delivery of the Goods to the Place of Delivery**

1. If the Goods are to be delivered to the Place of Delivery specified in this contract, then in accordance with the terms of the Contract, the Goods shall be delivered on FCA terms to the Place of Delivery. In such a situation, the Buyer is obliged to conclude a contract with a Carrier, unless the Parties decide otherwise by means of individual provisions in the Contract. Then the ES-SYSTEM shall conclude a contract with the Carrier for the transport of Goods via the Carrier, however, the risk of the accidental loss or destruction of the Goods shall pass to the Buyer upon the release of the Goods by ES-SYSTEM to the Carrier. ES-SYSTEM shall not be liable for the non-performance or improper performance of the transport service.
3. The deadline for the delivery of the Goods to the Place of Delivery is reserved in favour of ES-SYSTEM.
4. In the event of transport being carried out directly by ES-SYSTEM, ES-SYSTEM shall not be liable for any delays in the performance of its obligations under the Contract caused by this fact if it was necessary for ES-SYSTEM to obtain the used export or import licenses required by law in connection with the delivery of the Goods, and in addition, ES-SYSTEM has the right to suspend the performance of both ES-SYSTEM's and the Buyer's obligations arising from the given Contract until the appropriate licenses have been obtained.

## **§ 13.**

### **Transport and loading costs**

1. Unless the Parties agree otherwise, ES-SYSTEM is entitled to receive separate remuneration for loading and transport of the Goods, specified each time in a contract between the Parties. Unless otherwise agreed, the remuneration is set by the ES-SYSTEM Price List for transport costs applicable on the date of the conclusion of the Contract.
2. In the event that ES-SYSTEM concludes a contract with a Carrier, in the situation referred to in § 12 section 1 of the CTC, the Buyer shall be charged the cost of the transport performed by that Carrier.

## **§ 14.**

### **Conditions for the receipt and unloading of the Goods**

1. The Goods shall be received and unloaded immediately after their delivery to the Place of Delivery.
2. The obligation to receive unload and place the Goods in a place intended for their storage or use, also includes the obligation to provide the necessary technical means for that purpose, lies with the Buyer.
3. The Buyer shall remain ready to perform the activities referred to in this paragraph on the Delivery Date and on any other day, provided that they will be notified by ES-SYSTEM at least two days in advance about the planned delivery of the Goods (which may also be done over the telephone, via fax or e-mail) when the date indicated by ES-SYSTEM becomes binding for the Parties and replaces the previously agreed Delivery Date, which does not constitute an amendment to the Agreement. Both the originally agreed Delivery Date and the new one resulting from the notification from ES-SYSTEM includes only Working Hours.

## **§ 15.**

### **The Receipt of Goods delivered to the Buyer**

1. When the Goods are delivered to the Place of Delivery, prior to issuing the receipt confirmation, the Buyer shall thoroughly check the packaging, in which the Goods were delivered. In the event of discovering any damage to the packaging, the Buyer shall state this fact in the Receipt Protocol, which shall be drawn up in the presence of the person who delivered the Goods. If no representative of ES-SYSTEM is present at delivery, the Buyer shall submit one copy of the Protocol referred to in the preceding sentence to ES-SYSTEM no later than on the day following the delivery, under pain of acceptance that there was no damage to the Goods during transport.
2. A representative of ES-SYSTEM is entitled to be present during the receipt of the Goods.
3. If a representative of ES-SYSTEM is present during the receipt of the Goods, the Parties shall jointly determine the condition of the packaging, in which the Goods were delivered, and subsequently, still on the day of delivery, the Buyer shall unpack the Goods, check the condition and completeness thereof in the presence of the representative of ES-SYSTEM, and the Parties shall draw up a Protocol documenting these activities which shall specify any inconsistencies of the Goods with the Contract.
4. If no representative of ES-SYSTEM is present during the receipt of the Goods, the activities referred to in the preceding section shall be performed by the Buyer alone, immediately after receiving the Goods. The Buyer shall unilaterally draw up a Protocol which shall specify all discovered inconsistencies of the Goods with the Contract, which the Buyer shall send to ES-SYSTEM by registered mail and e-mail no later than on the day following the day of receiving the Goods by registered mail and by email to ES-SYSTEM.

5. If the Buyer breaches the provisions of section 3 or 4 of this paragraph, it shall be deemed that the Goods delivered to the Buyer were free of any inconsistencies with the Contract.

#### **§ 16.**

##### **Defects of the Goods**

1. The Buyer is entitled to refuse to accept the Goods which were found to have Major Defects as stated in the Protocol referred to in § 11 section 4 or in § 15 section 3.
2. In the event that the delivered Goods or the Goods that were placed at the Buyer's disposal have Major Defects, ES-SYSTEM shall notify the Buyer within 14 Business Days from the date of drawing up the Protocol about the time and manner in which the complaint shall be handled, or, if ES-SYSTEM so chooses, it shall provide the Buyer with the same type of Goods which are free of Major Defects. ES-SYSTEM reserves that if the Major Defects are found in elements produced by other manufacturers, processing the complaint shall be initiated only after the complaint is resolved by the manufacturer or distributor of the given element.
3. As regards the delivered Goods in the case of which Minor Defects have been discovered in the Protocol, the provisions of the Guarantee Terms and Conditions shall apply, whereas the determination of inconsistencies in the Protocol shall be treated as the notification of a defect.
4. The Buyer is not entitled to refuse the receipt of Goods that are free of Major Defects.
5. The Delivery shall be deemed as having been performed in accordance with the Contract once the risk of accidental damage or loss of the Goods specified in accordance with § 18 is transferred to the Buyer. If the risk of accidental damage or loss of only part of the Goods is transferred to the Buyer, the delivery shall be deemed complete with regard to solely this part of the Goods.
6. In the cases referred to in this paragraph, the Buyer is not entitled to claim the contractual penalties referred to in § 24 of the CTC from ES-SYSTEM.

#### **§ 17.**

##### **Failure to receive the Goods**

1. In the event that the Buyer should fail to fulfil the obligations referred to in § 11, 14 or 15, or particularly:
  - 1) in the event of failure to receive the Goods (especially as a result of failure to proceed with the receipt or refusal to sign the Receipt Protocol) at the Place of Delivery – the Carrier shall transport the Goods to the Place of Storage at the cost and risk of the Buyer,
  - 2) in the event of failure to receive the Goods (especially as a result of failure to proceed with the receipt or refusal to sign the Receipt Protocol) at the ES-SYSTEM Warehouse or at the Production Facility of a Subsidiary (depending on the terms on which the Goods were delivered in accordance with § 11 section 1 of the CTC) – ES-SYSTEM shall leave the Goods at the Place of Storage, where they will be stored at the cost and risk of the Buyer; the Buyer shall then be in default and shall collect the Goods with one day's notice by their own means and at their own cost from the Place of Storage after signing the Protocol. The Parties determine the cost of storage at the Place of Storage as the amount of 10 EUR for each started day of storage of each cubic meter of the stored Goods (this amount is subject to an increase due to VAT at a rate in accordance with current regulations).
2. If the Buyer should fail to collect the Goods within 30 days from the moment of placing them in storage in accordance with the provisions of the preceding section, ES-SYSTEM has the right to withdraw from completing the Contract in full or in part after submitting a request referred to in § 25 section 4. At the same, ES-SYSTEM is entitled to charge the Buyer for incurred costs, specifically including the costs of invoicing, shipping, reshipping (from the Place of Delivery to the Place of Storage), preparation and packing of the Goods and the costs of their storage specified in the preceding section. This does not deprive ES-SYSTEM of any other claims associated with the withdrawal from the Contract.

#### **§ 18.**

##### **Risk of loss of the Goods; Ownership of the Goods**

1. The risk of accidental damage to or loss of the Goods shall be transferred to the Buyer at the time of the occurrence of any of the following events (in the event that several of them should occur at the same time, at the time of the occurrence of the earliest of them):
  - 1) upon placing of the Goods at the Buyer's disposal at the Place of Delivery, even if the Goods were not collected by the Buyer for reasons for which ES-SYSTEM bears no responsibility; however, this does not apply to Goods with Major Defects,



- 2) upon entrusting the Goods to a Carrier by ES-SYSTEM – in the event when ES-SYSTEM uses a Carrier for the delivery,
- 3) upon starting loading the Goods – in the event that the Buyer is responsible for loading and transporting the Goods,
- 4) upon the expiry of Business Hours on the last day of the deadline for the completion of the subject of the Contract; however, this does not apply to Goods with Major Defects – if the Goods are not collected by the Buyer in accordance with § 17 of the CTC.

2. The Ownership of the Goods shall be transferred to the Buyer once ES-SYSTEM receives payment of the total price for all Goods included in the Contract. Until the ownership of Goods is transferred to the Buyer, the Buyer is obliged to immediately notify ES-SYSTEM of any circumstances that may result in the infringement of ES-SYSTEM's ownership right to the Goods, and particularly of submitting the Goods to an enforcement procedure. Moreover, the Buyer shall separate the Goods and mark them in a manner indicating that their owner is ES-SYSTEM. Until the ownership right is transferred to the Buyer, the Buyer has no right to establish a lien on the Goods, or any other collateral for their own obligations, nor do they have the right to the disposal of the Goods nor to the transfer of their ownership to third parties, not even in the deed of gift. The Buyer is obliged to immediately inform ES-SYSTEM about the deterioration of their financial situation if a change in the financial condition of the Buyer may affect the proper performance of the Contract.

3. If the Buyer delays with payment of the price or a part thereof or fails to provide collateral to the benefit of ES-SYSTEM in accordance with the Contract, ES-SYSTEM is entitled to withhold fulfilment of any obligations imposed on them pursuant to the Contract of any other contracts with the Buyer, until the Buyer pays all due amounts in full.

#### **Chapter IV Payment**

##### **§19. Price**

1. The price specified in the Contract shall be paid in Polish zloty (PLN), unless the Parties agree otherwise.
2. Prices presented in any ES-SYSTEM documents do not include taxes, fees or other amounts which are payable in relation to the Goods. If ES-SYSTEM is obliged to pay or collect the above-mentioned amounts due, they shall be added to the sale price, and the Buyer shall be obliged to pay them.

##### **§ 20. Payment deadline**

1. The price of the Goods is payable prior to their release or placing at disposal unless the Contract stipulates otherwise.
2. ES-SYSTEM has the right to change the terms of the Trade Credit granted to the Buyer at any time based on the course of mutual cooperation with the Buyer and the financial situation of the Buyer, particularly in the event of the performance of the Contract through partial deliveries.
3. If the Buyer exceeds the amount of the Trade Credit, all subsequent deliveries of Goods, including those carried out in instalments based on a given Contract, as well as those carried out based on a new Contract, shall be completed only on condition that the Buyer pays the price for subsequent deliveries of the Goods before they are placed at their disposal or before their delivery. The change in the payment deadline referred to in the previous sentence is not treated as an amendment to the Contract, and in the event of the Buyer's failure to comply with this provision, ES-SYSTEM shall be entitled to suspend the completion of subsequent deliveries without liability for the improper performance of the Contract.
4. In the event of a partial performance of the Contract, the Buyer is obliged to pay for that part of the Goods with regard to which the risk of their accidental damage or loss has been transferred to the Buyer.
5. If the performance of the Contract (placing Goods at the disposal of the Buyer or delivering them) occurs in instalments, ES-SYSTEM shall be entitled to issue partial invoices separately for each instalment of the Goods placed at the Buyer's disposal or separately for each completed partial delivery.

##### **§ 21. Bank account**

1. Any payments made by the Buyer to ES-SYSTEM based on or in relation to the Contract shall be transferred to the bank account indicated on the invoice documenting a given action or on ES-SYSTEM's statement regarding a specific liability of the Buyer. If a given receivable is due without a request, and the bank account was not

indicated on the invoice in accordance with the provisions of the previous sentence, the payment shall be made to the bank account at mBank S.A. with the account number 61 1140 1081 0000 3863 4100 1001, unless ES-SYSTEM indicates otherwise.

#### **§ 22.**

##### **Delay in payment**

1. In the event of the Buyer's delay in payment to ES-SYSTEM of any amounts due specified in the Contract or the Commercial Terms and Conditions (specifically including payment for Goods or payment of contractual penalties), interest for late payment shall be charged in relation to the amount not paid in time, in the amount of twice the statutory interest rate for late payment (maximum interest).
2. In the event of the Buyer's delay in payment of any amounts due under the Contract concluded between the Parties, all other amounts due to ES-SYSTEM under that Contract shall become immediately due and payable.

#### **§ 23.**

##### **Crediting payments**

If the Buyer has several debts of the same type towards ES-SYSTEM, the Buyer has no right to indicate which debt they intend to repay upon making the payment, and the payment shall be credited towards the oldest debt arising from the payment of the sales price of the Goods first, in such a way, that all incidental dues related thereto are paid first, and then for the remaining debts related to the sale (delivery) of the Goods, to which the earliest debt was due (costs of the storage of those goods, contractual penalties, etc.), payment shall be credited in the order starting with the earliest due debts, unless the payment is being made in response to ES-SYSTEM's request for payment – then it shall be credited towards the earliest due debt indicated in the request, or, immediately after the debt is paid, ES-SYSTEM shall indicate the debt to which they are crediting the payment, and this indication shall be binding for the Buyer.

### **Chapter V**

#### **The non-performance or improper performance of the obligation**

#### **§ 24.**

##### **Contractual penalties in the event of failure to release or receive the Goods**

1. In the event that ES-SYSTEM should delay the release of Goods for more than five Business Days, ES-SYSTEM shall pay the Buyer a contractual penalty of 0.01% of the net price of the Goods covered by the Contract for each day of the delay, however no more than 5% of the net price of the Goods covered by the Contract. In the event that ES-SYSTEM should delay the release of only part of the Goods, the basis for calculating the contractual penalty and the basis for determining the limit of its maximum amount is the value of the Goods, the release of which is being delayed by ES-SYSTEM.
2. In the event of the Goods being transported by the Carrier to the Storage Area or left at the Place of Storage by ES-SYSTEM (in accordance with § 17 section 1 of the CTC), as a result of the Buyer's failure to fulfil their obligations, the Buyer shall pay ES-SYSTEM a contractual penalty in the amount of 0.01% of the net price of the Goods covered by the Contract for each day since the date when the Carrier delivered the Goods to the Place of Storage or since the date when ES-SYSTEM left them at the Place of Storage, until the Buyer receives the Goods at the Place the Storage. The contractual penalty referred to in the previous sentence does not violate any other rights of ES-SYSTEM under the Contract.
3. All contractual penalties provided for in the Contract of the Commercial Terms and Conditions shall be payable without a separate request within 7 days of the obligation to pay them, unless the Contract or the Commercial Terms and Conditions stipulate otherwise.
4. Whenever contractual penalties are stipulated in the Contract, ES-SYSTEM is entitled to claim damages exceeding the amount of the contractual penalty from the Buyer on general principles.
5. The contractual penalties payable by the Buyer as provided for in the Contract are independent of each other, which means that entitlement to one of them does not exclude the possibility of seeking to claim others. In particular, the creation of a claim for the payment of a contractual penalty related to withdrawal from the Contract does not exclude the right to pursue earlier claims related to delays or deferment in the performance of the Contract.

## **§ 25.**

### **Withdrawal from the Contract**

1. Except for situations clearly provided for in the Contract, the Buyer shall be entitled to withdraw from the Contract only in cases provided for in the binding provisions of generally applicable law.
2. Each Party has the right to withdraw from the Contract if the circumstances for which contractual penalties from the other Party are stipulated occur for the period of time allowing to charge such penalties for at least 60 days. If performance is to be made in parts, and ES-SYSTEM is in delay with the fulfilment of only a part of the service, the Buyer is entitled to withdraw from the Contract only in the scope of the service, with which ES-SYSTEM is in delay.
3. ES-SYSTEM is additionally entitled to withdraw from the Contract pursuant to the provisions of § 17 section 2 and when the Buyer is in delay with any payment due to ES-SYSTEM under the Contract for a period of at least 10 days, and also in the case of the Buyer's failure to provide any collateral in accordance with the Contract.
4. The submission of a statement on the withdrawal from the Contract by any of the Parties shall be effective only if it was preceded by a request to ensure the state of affairs compliant with the Contract along with the specification of an additional period for that purpose, which is no shorter than 14 Business Days, and if that period has expired ineffectively.
5. The statement regarding withdrawal should include a justification.
6. If ES-SYSTEM withdraws from the Contract for reasons attributable to the Buyer, the Buyer shall pay ES-SYSTEM a contractual penalty amounting to 30% of the gross price of the Goods covered by the Contract.
7. If the performance of the Contract is not possible for a period of at least 30 days for reasons for which neither Party is responsible, each Party shall be entitled to withdraw from the Contract during such circumstances.
8. Withdrawal from the Contract by any of the Parties shall not result in the loss of the rights acquired pursuant to the Contract by the Parties in the part, in which the Contract has already been performed, nor in the loss of claims for damages (including claims for the payment of contractual penalties) related to the non-performance or improper performance of the Contract until the day of withdrawal, being effective only with respect to the part of the Contract that has not been performed.
9. If, after the conclusion of the Contract, the subject of which is the delivery or sale of Goods that are being implemented or manufactured as part of the Customer's individual, customised order, or taking into account standards set by the Customer, which differ from those applicable on the territory of the Republic of Poland, it turns out, that the production of such Goods is impossible or difficult for reasons beyond the control of ES-SYSTEM, or that their production is possible, but ES-SYSTEM evaluates that the adopted method of the construction or use of the Goods would likely cause defects or other problems or difficulties related to their use, then ES-SYSTEM shall notify the Buyer thereof and if, within 10 days from the date of receipt of the notification, the Buyer shall not state that they still request the Goods to be manufactured in accordance with the order at their risk, while renouncing their rights under the guarantee, ES-SYSTEM shall be entitled to withdraw from the Contract within the next 30 days. The reasons for withdrawing from the Contract referred to in this section shall be considered reasons, for which neither Party is responsible.

## **§ 26.**

### **Limitation of liability**

1. ES-SYSTEM shall be liable for damages incurred by the Buyer as a result of the non-performance or improper performance of the Contract by ES-SYSTEM, unless the damages exceed actual losses or the damage was caused otherwise than intentionally by ES-SYSTEM as a result of the following in particular:
  - 1) force majeure, including fires, floods, natural disasters, war, riots, revolution, etc.
  - 2) changes in administrative provisions and other regulations that may influence the possibility for ES-SYSTEM to fulfil their obligations under the Contract,
  - 3) production interruptions or disruptions, defects in the information provided by the Buyer to ES-SYSTEM.
2. Unless the Commercial Terms and Conditions provide otherwise, the liability of ES-SYSTEM due to the non-performance or improper performance of the Contract shall be limited to half of the net value of the Goods sold under the Contract.
3. ES-SYSTEM reserves the right to change prices or other terms of the Contract, such as the payment of the price or delivery terms, in unforeseen situations, in the event of sudden changes in the prices of materials, energy or elements delivered by ES-SYSTEM's subcontractors, which ES-SYSTEM has no influence on and for which they bear no responsibility.
4. The circumstance when ES-SYSTEM's act or omission, due to which the damage arose, constituted the non-performance or improper performance of the Contract shall exclude the Buyer's claims for compensation for damages in tort.

## **Chapter VI Other provisions**

### **§ 27.**

#### **The quality guarantee**

The Buyer's rights under the warranty for defects referred to in the Civil Code are excluded. In lieu of a warranty, ES-SYSTEM grants the Buyer a quality guarantee for the Goods under the conditions set out in the Guarantee Terms and Conditions, which constitute annex no. 1 to these Commercial Terms and Conditions.

### **§ 28.**

#### **Instructions for the commissioning of the DALI system**

If the subject of the Contract also includes ES-SYSTEM's service of commissioning the lighting control systems, the Buyer is obliged to perform preparations or ensure that their subcontractors perform preparations for the commissioning of the lighting control system in accordance with the Instructions for Preparing for the Commissioning of the DALI Systems, which constitutes annex no. 2 to these Commercial Terms and Conditions, under pain of ES-SYSTEM withholding the performance of the service of commissioning the lighting control systems until the Buyer ensures compliance with the Instructions for Preparing for the Commissioning of the DALI Systems.

### **§ 29.**

#### **Additional collateral**

1. If, after the conclusion of the Contract, ES-SYSTEM should become aware that the financial condition of the Buyer makes the performance of the Contract by the Buyer doubtful (in the event of the following in particular: instituting judicial or administrative enforcement against the Buyer, commencement of liquidation, the Buyer filing for bankruptcy or the initiation of restructuring proceedings against the Buyer, as well as the prerequisites for initiating any of these proceedings), also in the event of the reduction of the value of the collateral provided by the Buyer earlier in connection with a given collateral Contract, ES-SYSTEM is entitled to demand additional collateral from the Buyer (in particular in the form of a mortgage, registered pledge, bank or insurance guarantee), specifying a deadline no shorter than seven days and until the fulfilment of their request, ES-SYSTEM may withhold the fulfilment of any and all of its contractual obligations.
2. ES-SYSTEM is entitled to withdraw from the Contract without setting an additional deadline if the conditions for the commencement of liquidation or filing for bankruptcy, or the initiation of restructuring proceedings are met in relation to the Buyer. In such situations, all payments due to ES-SYSTEM under the Contract shall become due immediately.

### **§ 30.**

#### **Subcontractors**

When performing the Contract, ES-SYSTEM is entitled to use the services of freely chosen third parties, however, ES-SYSTEM shall be responsible for their activities as for their own activities, unless ES-SYSTEM is not at fault in making the choice, or if they have entrusted the activities to a person, enterprise or facility which, in the field of their professional activity, carry out such activities.

### **§ 31.**

#### **Information, marketing and promotional activities**

1. ES-SYSTEM is entitled to disclose information about the conclusion and performance of the Contract, its Parties and Goods delivered to the Buyer without restrictions as to time and territory, in a freely chosen manner, including through communication representing commercial information, in advertisements, also publicly, in a manner allowing everyone to become acquainted with the contents of information at a freely chosen place and time.
2. For the informational purposes referred to in the preceding section, ES-SYSTEM is entitled to use the business name and logo of the Buyer. The Buyer is obliged to immediately notify ES-SYSTEM of the commencement of liquidation, the initiation of restructuring or bankruptcy proceedings, as well as of the occurrence of prerequisites for initiating any of these proceedings.

### **§ 32.**

#### **Confidentiality**

1. Subject to the provisions of the preceding section, the Parties undertake to maintain confidentiality and not to disclose any information regarding the contents of the Contract to third persons, and not to disclose any data about the enterprise of the other Party, nor data regarding its contractors, nor any other data obtained in connection with the Contract specified by the Party disclosing it as confidential, particularly information regarding technical, production- and business-related, financial, operational, administrative, marketing and know-how-related issues.
2. The Parties undertake to respect the provisions of the Act of 16 April 1993 on Combating Unfair Competition (Journal of Laws of 2003, No. 153, pos. 1503, as amended) within the scope of maintaining confidential information, and in particular, to maintain the confidentiality of information constituting a Trade Secret that has been entrusted to them by the other Party or obtained in connection with the performance of the Contract. The Parties undertake to process the information solely for the purposes, for which it had been entrusted to them, to protect it against unauthorised access or loss, and not to forward or disclose such information to any third party without prior express written consent of the other Party.
3. The obligation referred to in section 1 above shall apply for the entire term of the Contract and shall expire 10 years after the date when the Contract loses its binding force for any reason whatsoever. However, this does not prejudice the protection of certain information arising from the provisions of generally applicable law, particularly the protection of the Trade Secret.

### **§ 33.**

#### **Personal data**

1. The Controllers of the Buyer's personal data are jointly ES-SYSTEM and the Subsidiaries, parties to the agreement on shared data control, hereinafter referred to as: the Joint Controllers. An excerpt from the above-mentioned agreement has been published on the Joint Controllers' websites, in particular on [www.essystem.pl](http://www.essystem.pl) and [www.wilkasy.essystem.pl](http://www.wilkasy.essystem.pl) (in the "Personal data" tab). The Joint Controllers determine the purposes and means of processing the Buyer's personal data.
2. The Buyer's personal data will be processed by the Joint Controllers for legitimate purposes, i.e. for conducting an analysis of the offer submitted by the Buyer and to ensure that the purchase of Goods is possible at the best available prices and with the best available quality, as well as for the possible conclusion and performance of a contract, or for the purpose of establishing, pursuing or defending claims arising from the business activity conducted by the Joint Controllers.
3. The recipients of the data the Buyer has provided are business partners of the Joint Controllers, including suppliers of goods and services necessary for the fulfilment of the above-mentioned purposes and entities which have been entrusted by the Joint Controllers with processing the Buyer's personal data, including IT service providers, entities affiliated with the Joint Controllers personally or through capital, as well as legal successors of the Joint Controllers, and entities authorised on the basis of legal provisions, including state authorities.
4. The Buyer's personal data will be stored until all factual and legal activities necessary for the performance of the Contract are completed and to the extent required by law (including tax law) or to secure any possible. After this time, the Buyer's data will be deleted.
5. The Buyer has the right to access the content of their personal data and to correct it, delete it or limit its processing, as well as to object to its processing. The Buyer also has the right to file a complaint to the supervisory authority – the President of the Office for Personal Data Protection.
6. The legal basis for the processing of the Buyer's personal data is art. 6 section 1 letter b) and letter f) of the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (the General Data Protection Regulation).
7. All necessary information clauses can be found on the ES-SYSTEM website, [www.essystem.pl](http://www.essystem.pl), in the "Personal Data" tab.

### **§34**

#### **The severability clause**

If any provision of the Contract is deemed invalid or otherwise legally ineffective, its remaining provisions shall remain in force and the invalid or otherwise legally ineffective provision shall be replaced with a relevant provision of generally applicable law, whereas the Parties shall immediately initiate discussions with the aim of replacing such an invalid or otherwise legally ineffective provision with a provision that is valid and effective, with possibly similar economic and legal effects.

### § 35.

#### Assignment

1. Without the written consent of ES-SYSTEM, the Buyer is not entitled to transfer any rights resulting from the Contract to any third party.
2. ES-SYSTEM has the right to transfer their rights and obligations resulting from the Contract to a third party at any time, to which the Buyer expresses their consent. In particular, the transfer of rights and obligations may be made to the benefit of a bank or company indirectly or directly dependent on ES-SYSTEM, or to an entity affiliated with ES-SYSTEM personally or through capital or to the entity with which ES-SYSTEM concluded a trade credit risk insurance agreement.

### § 36.

#### Communication between the Parties

1. Unless the Contract itself or the Commercial Terms and Conditions provide otherwise, all notices and statements of the Parties submitted in connection with the Contract or during its performance shall be made in writing under pain of nullity and sent by registered mail or courier, or delivered personally to the addresses indicated in the comparison of the Contract.
2. Each Party is obliged to inform the other Party of any changes to their correspondence address immediately, under pain of considering correspondence sent to the last indicated address as successfully delivered within 3 days from the date of its first notification. The changes referred to in the previous sentence do not constitute an amendment to the Contract.

### § 37.

#### Force majeure

1. If either Party determines that the Contract cannot be performed due to Force Majeure or the consequences of Force Majeure, it shall immediately notify the other Party in writing. In the event of the Force Majeure or its consequences definitively preventing the continuation of deliveries in accordance with the Contract, the ES-SYSTEM shall immediately suspend deliveries and the Buyer will be obliged to pay the ES-SYSTEM the remuneration due to the progress of deliveries.
2. ES-SYSTEM is not responsible for non-performance or improper performance of obligations under the Contract, if it is a consequence of Force Majeure.

### § 38

#### Responsible Business Partner Policy

The Responsible Business Partner Policy available on the ES-SYSTEM sp. z o.o. website at [https://www.essystem.pl/do-pobrania/dokumenty\\_\(hereinafter: the Policy\)](https://www.essystem.pl/do-pobrania/dokumenty_(hereinafter: the Policy)) is an integral part of this Contract. The Buyer declares that he has got acquainted with the Policy and in his activities he applies the principles set out in the Policy.

### § 39

#### Compliance with sanctions and export control laws and regulations

1. The Buyer confirms that it is not and has not been in violation of any laws, regulations or executive orders adopted, maintained or enforced by the United Nations, European Union, Poland, Norway, the United States of America or any other country with jurisdiction over any activities conducted pursuant to this Contract directed at prohibiting or restricting dealings with certain countries, territories, governments or specially designated individuals or entities ("**Sanction Laws**"), or with any export control, import, and anti-boycott laws, regulations, orders, directives, designations, licenses, or decisions imposed by the United States or any other country with jurisdiction over any activities conducted pursuant to this agreement ("**Export Control Laws**").
2. The Buyer acknowledges that the ES-SYSTEM is strictly prohibited from establishing business contacts and cooperating with any person or entity entered on the Sanctions List. The Buyer declares that the Buyer, any person or entity cooperating directly or indirectly with the Buyer, the Buyer's subsidiaries or affiliates, or any member of the Buyer's bodies or related entities, no director, employee, associate, agent or representative, are not and will not be included in the Sanctions List, subject to export control, and are not and will not be involved in any investigation, claim, action, suit or proceeding against them in relation to any Sanctions or Export Control Laws.

3. The Buyer and all its employees shall not commit any act that may expose the ES-SYSTEM or any affiliated company/person of the ES-SYSTEM to any Sanction Laws or Export Control Laws or prohibition imposed by any relevant authority.

4. Any breach of the obligations, undertakings or confirmations of the Buyer under this clause shall be regarded as a material breach of this Contract and upon such breach (i) the ES-SYSTEM shall, without prejudice to any of the ES-SYSTEM's other rights and remedies hereunder or at law, be entitled to terminate this Contract and/or any purchase order with immediate effect, and (ii) all outstanding deliveries under this Contract and/or any purchase order shall be forfeited.

5. Where, in the reasonable judgment of the ES-SYSTEM, this Contract, any purchase order or the acts of the Buyer may expose the ES-SYSTEM or any affiliated company/person of the ES-SYSTEM to any Sanction Laws or Export Control Laws or the impeding effects of such any Sanction Laws or Export Control Laws, whether or not any such Sanction Laws or Export Control Laws have been amended and implemented after the date of this agreement, then (i) the ES-SYSTEM shall, without prejudice to any of the ES-SYSTEM's other rights and remedies hereunder or at law, be entitled to terminate this Contract and/or any purchase order with immediate effect, and (ii) cease performance hereunder.

6. This Contract or fulfillment of this Contract is subject to the provisions that required export licenses have been granted by Polish authorities or any other country with jurisdiction over any activities conducted pursuant to this Contract, and/or that there are no other impediments arising from export laws and regulations.

#### **§ 40**

##### **Final Provisions**

1. The Contract (with the Commercial Terms and Conditions and the annexes thereto) covers all agreements between the Parties regarding its subject, replacing in this regard all agreements previously made (before its conclusion), irrespective of their form.

2. The annexes to the Contract constitute an integral part thereof.

3. Any changes in this Contract shall be made in writing under pain of nullity.

4. The deduction of the Buyer's claims they are entitled to from ES-SYSTEM from any debt payable to ES-SYSTEM under the Contract is excluded. None of the Buyer's claims against ES-SYSTEM shall constitute grounds for the Buyer to abstain from payment for the Goods.

5. The contract is subject to Polish law; at the same time, applying the United Nations Convention on Contracts for the International Sale of Goods signed in Vienna on 11 April 1980 to the Contract is excluded.

6. All disputes related to the Contract (particularly to the non-performance or improper performance and termination of its legal existence) will be settled by a common court competent for the ES-SYSTEM headquarters.

8. Reserving any other contractual penalties than those provided for in the CTC in favour of the Buyer is not allowed, nor is it allowed to reserve any penalties in a higher amount than those resulting from the CTC. The provisions of the preceding sentence also apply to the limitations and exclusions of ES-SYSTEM's liability, deadlines for individual activities, as well as in cases of ES-SYSTEM or the Buyer withdrawing from the Contract. It is also not allowed to deteriorate the legal situation of ES-SYSTEM in relation to that arising from the CTC or to improve the legal situation of the Buyer in relation to that arising from the CTC.

#### **§ 38.**

##### **Entry Into Force**

1. These Commercial Terms and Conditions shall enter into force on the day they are posted on the ES-SYSTEM website, i.e. **on 29.07.2020**, completely replacing the ES-SYSTEM Commercial Terms and Conditions, Revision 1/08/04/2014 (hereinafter referred to as: "the Previous Terms and Conditions").

2. These Commercial Terms and Conditions do not apply to Contracts concluded prior to their entry into force or to contracts concluded on the basis of an offer or order placed prior to their entry into force, as well as to Contracts concluded by way of negotiations which had started prior to that date – in those instances, the Previous Terms and Conditions apply.

**QUALITY GUARANTEE TERMS AND CONDITIONS  
FOR LUMINAIRES AND OTHER GOODS DELIVERED/SOLD  
BY ES-SYSTEM sp. z o.o. WITH ITS REGISTERED OFFICE IN KRAKOW  
1st Edition /28/07/2020**

**§ 1.**

**Definitions**

1. This document defines the terms and conditions of the quality guarantee for luminaires and other goods delivered/sold by ES-SYSTEM sp. z o.o.
2. The capitalised terms (words and phrases, irrespective of their number and case) as used in these Guarantee Terms and Conditions shall have the following meaning:
  - 1) **"The Documentation"** – all product data sheets, safety certificates, declarations of conformity (CE) for electrical equipment and – if attached to the Goods, or published, or made available by ES-SYSTEM – assembly instructions and user manuals, guarantee documents, specifications and other materials of a similar nature,
  - 2) **"ES-SYSTEM"/"the Guarantor"** – ES-SYSTEM sp. z o.o. with its registered office in Krakow, Przemysłowa 2, 30-701 Krakow, Poland, entered in the Register of Entrepreneurs of the National Court Register maintained by the District Court for Krakow-Śródmieście in Krakow, 10<sup>th</sup> Commercial Division with the KRS (National Court Register) No. 0000848805, with a share capital of 14,145,050 PLN, the tax identification no. (NIP) 679-25-51-640, registry number of BDO: 000005016;
  - 3) **"The Guarantee"** – the quality guarantee for the Goods;
  - 4) **"The Buyer"** – an entrepreneur within the meaning of art. 43<sup>1</sup> of the Civil Code who concluded a Contract with ES-SYSTEM;
  - 5) **"Software"** – a computer program that is delivered together with the Goods and is used in order to use the Goods,
  - 6) **"The Guarantee Report"** – a report on the provision of maintenance services at the place of use of the Goods in connection with reporting a defect in the Goods,
  - 7) **"The Subsidiaries"** – ES-SYSTEM Wilkasy Sp. z o.o. with its registered office in Wilkasy, ES-SYSTEM NT Sp. z o.o. with its registered office in Krakow, and any other entity in relation to which ES-SYSTEM is the parent company within the meaning of art. 4 § 1 item 4 of the Act of 15 September 2000, Code of Commercial Companies (consolidated text: Journal of Laws of 2016, pos. 1578 as amended),
  - 8) **"The Goods"** – the goods included in the commercial product offer of ES-SYSTEM, as well as those ordered or created individually for a given Buyer and in accordance with the specification provided by that Buyer, however only goods that have been manufactured as part of the business activity of ES-SYSTEM or the business activity of ES-SYSTEM's Subsidiaries;
  - 9) **"The Contract"** – a contract involving, among other things, any obligation for ES-SYSTEM to transfer ownership of Goods to the Buyer or a person designated by the Buyer, or in particular, a contract for the sale or delivery of Goods concluded between ES-SYSTEM and the Buyer; the term Contract shall also be understood as the ES-SYSTEM Commercial Terms and Conditions, Edition No. II/28/07/2020 from 28.07.2020, which constitute an integral part of the Contract.
  - 10) **"The Guarantee Terms and Conditions"** – these Guarantee Terms and Conditions for luminaires and other goods delivered/sold by ES-SYSTEM sp. z o.o. with its registered office in Krakow.

**§ 2.**

**The subject and scope of the guarantee**

1. ES-SYSTEM provides the Buyer with a non-transferable Guarantee for the Goods.
2. The Buyer's rights under the warranty for defects (warranty) which are referred to in the Civil Code (in particular in art. 556 et seq. of the Civil Code) are excluded by ES-SYSTEM in relation to all Goods sold or delivered (whenever this document refers to a sale, this shall also mean a delivery or other contract under which the ownership of goods is transferred).
3. The Guarantee provided by ES-SYSTEM does not include goods manufactured by other manufacturers than ES-SYSTEM or its Subsidiaries. If the goods or components from other manufacturers have a transferable quality guarantee that is provided to ES-SYSTEM by those manufacturers, the rights arising from such a guarantee shall



be transferred to the Buyer under the condition of timely payment for those goods. Under no circumstances shall such a guarantee from third parties be considered an ES-SYSTEM Guarantee, and ES-SYSTEM shall not bear any liability in connection with the possibility or inability of the Buyer to use it.

4. The Guarantee does not apply to consumable items such as batteries, conventional light sources, retrofit light sources, capacitors and other components subject to normal wear and tear during use (i.e. materials that can be replaced), including lamps (light sources), except for LED light sources.

5. Liability under the Guarantee covers only defects resulting from causes inherent in the Goods (i.e. manufacturing and material defects), with the proviso that differences in the parameters of the emitted light (the luminous flux, power and colour temperature of the luminaire) occurring in individual supply lots or production lots in accordance with the tolerances specified in each ES-SYSTEM catalogue shall not be considered a defect.

6. The Guarantee does not cover normal wear and tear of the Goods (i.e. loss of elasticity, discoloration, yellowing, matting), including wear and tear that is combined with changes in the parameters of the emitted light, such as the colour temperature, colour rendering index (Ra), luminous efficacy, luminance, luminous intensity, luminous flux and power of the luminaire, as well as wear and tear resulting from the conditions in which the Goods are used when these conditions deviate from those specified in this document, the specifications and instructions attached thereto, as well as from standard conditions of the use of equipment that is similar to the Goods.

7. The Guarantee does not cover defects in individual LEDs. In the case of LEDs that are permanently connected together in a lighting block, the malfunctioning of individual LEDs during the period covered by the Guarantee does not give rise to claims under the Guarantee.

8. The Guarantee does not cover Software, particularly errors and collisions of operating system software, libraries, etc. used by users with the Software, nor the impact of computer viruses and errors resulting from network loads.

9. All reservations and remarks made in the ES-SYSTEM catalogues or in the Documentation attached to the Goods apply to the properties of the Goods. ES-SYSTEM guarantees the quality of the Goods within the limits specified in the Documentation.

### **§ 3.**

#### **Terms of the Guarantee**

1. If the Goods were sold for the purpose of completing a specific investment project, the Guarantee is subject to the use of the Goods for this investment project and, irrespective of the other provisions of this document, it expires upon the transfer of the Goods to another location.

2. The rights under the Guarantee can be exercised under the condition that the Goods are stored and installed in accordance with their intended purpose, principles of technical knowledge, the recommendations and instructions delivered by ES-SYSTEM with the Goods, and in any case, they must be installed by appropriately qualified persons and used in the appropriate manner (in accordance with the Luminaire Maintenance Manual on the ES-SYSTEM website). The Buyer is required to duly document the fulfilment of the requirements referred to in the previous sentence (in particular, by drawing up reports regarding having performed the required activities and preparing as-built photographic documentation).

3. The Goods should only be used when standard ambient conditions can be ensured. Unless otherwise stated in the data sheet for the Goods, standard ambient conditions can be described as the following:

- 1) temperature between 5 and 25°C (except for outdoor luminaires),
- 2) atmospheric pressure of 960 to 1060 hPa,
- 3) humidity below 85%.

The Goods should not be used in ambient conditions that are hazardous for them, i.e. particularly in environments with inert chemical substances, vibrations, shocks, UV radiation, an electromagnetic field, winds and dust.

4. If the conditions in which the Goods will be used differ from the standard ambient conditions specified in section 3 above, ES-SYSTEM must confirm that they are suitable for use in such environments before rights arising from the Guarantee can be exercised. For this purpose, the Buyer must inform ES-SYSTEM about these conditions in advance, i.e. when placing the order for the Goods.

5. Notwithstanding the provisions of section 2 above, the Buyer also loses the rights arising from the Guarantee in relation to the Goods in the event of the following:

- 1) when the Goods are used in other condition that the standard ambient conditions determined in accordance with sections 3-4 above,
- 2) when the Goods have been repaired or modified by the Buyer or third persons without prior consent from ES-SYSTEM,

- 3) when the functions of the Goods have been modified by the Buyer or third persons without prior consent from ES-SYSTEM,
  - 4) when the Buyer has made arbitrary changes to the factory settings of the power supplies and ballasts in the Goods,
  - 5) when the serial numbers or other markings meant to ensure the Goods' traceability have been removed from them or are illegible,
  - 6) when the markings indicating who the manufacturer of the Goods is have been removed from them or are illegible,
  - 7) when the ambient conditions (for the use of the Goods) are inconsistent with the applicable standards, particularly those indicated in the Documentation,
  - 8) when the Goods were not used in accordance with the Documentation or contrary to their intended use, or there was mechanical damage to any of the components of the Goods,
  - 9) when the Goods were equipped with light sources or other accessories that do not comply with the Documentation,
  - 10) when the Goods were used in a way that exceeded the permitted values of the power supply parameters specified in accordance with the applicable standards in European Union countries, i.e. the power supply parameters were inconsistent with the parameters of the Goods,
  - 11) if the Buyer did not use appropriate overvoltage protection in the electrical network in which the Goods operate – particularly for LED luminaires, surge protectors with standard B + C surge protection are required (class I and II),
  - 12) when the damage of the Goods is the result of a surge, lighting or other similar phenomena arising from natural factors,
  - 13) when the Goods were not used or stored in accordance with the Documentation,
  - 14) when the Goods were not subjected to maintenance in accordance with the guidelines from ES-SYSTEM, particularly with the Documentation and Luminaire Maintenance Instructions,
  - 15) when the Goods were controlled using signals and protocols that do not comply with the lighting control standard indicated in the Documentation,
  - 16) when the total lighting time of the goods exceeded 4,300 hours in the calendar year, unless the data sheet or arrangements made with ES-SYSTEM and recorded in the Contract allow for a longer total lighting time,
  - 17) when consumables (particularly light sources and batteries) that were not compliant with the manufacturer's instructions were used in the Goods.
6. ES-SYSTEM may refuse to consider a complaint (i.e. meet its obligations under the Guarantee) or abstain from considering it if full and timely payment for the Goods has not yet been received or the Buyer has other payment arrears towards ES-SYSTEM. After the payment has been issued, ES-SYSTEM will consider the complaint with the proviso that the Guarantee period shall not be extended, i.e. shall expire on its original expiration date.
7. The Guarantee is valid in relations between ES-SYSTEM and the Buyer and excludes other sources of potential liability (if any exist) for ES-SYSTEM with respect to the Buyer due to defects in the delivered Goods.

#### **§ 4.**

##### **The validity period of the Guarantee**

1. The Guarantee has the following validity periods:
  - 1) for products indicated according to product codes in the "5-year guarantee" form on the ES-SYSTEM website at the following address: [www.essystem.pl/en/download/documents](http://www.essystem.pl/en/download/documents), under the condition that the products and the Buyer are registered in the manner indicated in that form – 5 years from the date of the sale of the Goods by ES-SYSTEM;
  - 2) for LED luminaires and components other than those indicated in item 1) – 3 years from the date of the sale of the Goods by ES-SYSTEM;
  - 3) for luminaires other than LED luminaires and other Goods than those indicated in item 1) – 12 months from the date of the sale of the Goods by ES-SYSTEM;
  - 4) for LED emergency luminaires other than those indicated in item 1) – 2 years from the date of the sale of the Goods by ES-SYSTEM, however no more than three years from the date of production of the Goods;
  - 5) for lighting control systems – 3 years from the date of the sale of the Goods by ES-SYSTEM.

The date of sale is understood as the date indicated on the invoice confirming the purchase.

2. The Guarantee validity periods shall not be extended nor do they restart as a result of the Buyer's exercising the rights arising from the Guarantee nor as a result of ES-SYSTEM taking actions for the purpose of performing

its obligations under the Guarantee, and this shall also apply in cases where the Goods have been exchanged for Goods that are free of defects.

3. Any change in the Guarantee validity period specified in section 1 above requires the conclusion of a separate written contract and may involve additional payment to ES-SYSTEM.

## **§ 5.**

### **The scope of rights arising from the Guarantee**

Under the Guarantee, ES-SYSTEM undertakes solely to remove the physical defect of the Goods in one of the ways specified in § 6 section 8 of the Guarantee Terms and Conditions and shall not be liable for any other damages (including damage to property), indirect damages, lost profits (benefits), damages due to business interruption and inability to use the defective Goods, actions taken by the Buyer or third persons to replace or repair the Goods (subject to § 6 section 12 of the Guarantee Terms and Conditions), additional costs, including particularly the costs of work associated with the assembly and disassembly of the Goods, its disposal, costs of travel and time spent traveling, hoists and scaffolding and other similar costs. Under no circumstances shall ES-SYSTEM's liability for the improper performance of its obligations exceed the amount constituting the value of the Goods.

## **§ 6.**

### **Exercising of the rights arising from the Guarantee**

1. Under pain of losing the rights arising from the Guarantee, any defects in the Goods should be reported (in the form of a complaint) via the "Service Request" form, the template of which can be found on the [www.essystem.pl](http://www.essystem.pl) website in the "Download – Documents" tab. The request should be sent in accordance with the instructions in the form referred to in the previous sentence – during the Guarantee validity period, immediately, no later than within 7 days from the date when the defect was discovered. Under pain of ineffectiveness, the notification regarding the defect should contain the name of the Goods and its product code, the number of the invoice issued by ES-SYSTEM, the date of the request, the Buyer's information (name, contact person, telephone number), the user's information (address, contact person, telephone number), the quantity of products included in the complaint, the quantity of installed products, the operating time until the damage occurred, the average operating time per day, a description of the problem, and the Buyer's signature.
2. If the Buyer fails to comply with the conditions for reporting defects referred to in the preceding section of this paragraph, the Guarantor shall not be liable for those defects.
3. After receiving the notification referred to in the first section of this paragraph, the Guarantor is entitled to ask the Buyer for additional information (also via telephone), as well as to remotely participate in performing activities or have activities performed by persons on the Guarantor's behalf for the purpose assessing the condition of the Goods and remotely solving problems associated with the use of the Goods.
4. Using the Guarantee is conditional upon the Buyer consenting to the Guarantor's preparation of photographic documentation of the location where the Goods are installed, including, if necessary, a statement regarding having obtained such consent from the owners of the facility where the Goods are installed.
5. The Guarantor shall inform the Buyer if the request is being considered as likely to be related to a defect that is covered by the Guarantee (acceptance of the request) within 14 days of receiving a correct request (provided that it is sent via the completed "Service Request" form referred to in section 1 above), with the proviso that this deadline may be extended if it is necessary for ES-SYSTEM or its suppliers to perform detailed tests, of which the Buyer will be notified in writing, via e-mail or telephone. If it is possible – in the opinion of the Guarantor – for the Buyer to perform the repair themselves at the location where the Goods are being used, then ES-SYSTEM will provide the Buyer with instructions on how the defect can be correctly diagnosed and removed (which is equivalent to the performance of the obligations arising from the guarantee) within the time limit specified in the preceding sentence. The Guarantor's failure to take a position within the specified time limit is tantamount to the refusal to recognise their liability for the defect.
6. The Guarantor may decide that it is necessary to perform a commission examination of the Goods at the location of their use. In this case, each time, the parties will agree on a date (at least five days in advance), on which they will examine the occurrence of the reported defect at the place of use, and they will draw up a Guarantee Report regarding this activity. The Guarantor will issue a statement in the Guarantee Report on whether they consider the defect to be covered by the Guarantee. The lack of a statement in the Guarantee Report regarding the recognition of the defect is tantamount to the refusal to recognise the defect.
7. The Guarantor has the right to consider the failure of the Buyer's representatives to attend the commission examination of the defect referred to in the above section or the Buyer preventing the Guarantor from examining

the Goods as tantamount to the withdrawal of the complaint as well as the waiver of all claims arising from the defect of the Goods specified in the request. The above shall be stated in the Guarantee Report (prepared with the participation of persons who will be present *[at the commission examination]*), a copy of which will be sent to the Buyer within 2 days from the date of its preparation, in writing or via e-mail at the choice of the Guarantor.

8. The defect shall be removed in accordance with the Guarantor's choice – through the replacement of the defective Goods with new products, or through the repair of the defective Goods, subject to section 10 below. The Guarantor may send a notification about choosing the way the defect will be removed in writing, via telephone or e-mail, as well as by acceding to perform a specific activity. The removal of the defect by the Guarantor in any of the ways indicated above exhausts the entirety of the Buyer's claims related to the occurrence of a given defect. Until the defect is removed in one of the ways indicated in the first sentence of this section, the Guarantor shall be entitled to change the way the defect will be removed once by submitting an appropriate statement to the Buyer, which may also be done via e-mail.

9. The replacement of the defective Goods with a new product is understood as the delivery of Goods or replacement parts by ES-SYSTEM. The Goods or replacement parts may include new or factory refurbished materials (which means used or refurbished parts). The replacement Goods may differ from the original Goods in terms of colour shades as well as light parameters within the limits offered in the catalogue (which the Buyer acknowledges), and they may also differ in terms of dimensions and design if the Buyer agrees to it.

10. If the Guarantor finds that it is impossible or economically unreasonable to replace the defective Goods with a new product or repair the Goods, then they have the right to choose to reduce the price of the Goods or refund the purchase price of the Goods. The settlement of the complaint in the manner referred to in the previous sentence exhausts the entirety of the Buyer's claims due to the defect of the Goods.

11. The Guarantor shall remove the defect within 21 days of receiving the defective Goods delivered to the ES-SYSTEM headquarters. In the event that it would be impossible to meet the deadline referred to in the previous sentence, ES-SYSTEM shall inform the Buyer about this fact and set an additional deadline.

12. In the event that the Guarantor should improperly fulfil the guarantee obligation, the Buyer is entitled, with the consent of the Guarantor, to have the defect removed to a third party at the expense of the Guarantor (the cost should be approved in writing by the Guarantor in advance), however at the risk of the Buyer. Otherwise, if the Buyer or a third party makes changes to the Goods or performs a repair without the written consent of ES-SYSTEM, the Guarantee shall expire immediately.

13. The costs of the disassembly and reassembly of the Goods shall be borne by the Buyer. In the event of a justified complaint, ES-SYSTEM will cover the costs of delivery of the Goods to its headquarters and their return to the Buyer, with the proviso that ES-SYSTEM will cover transport costs only within the European Union. In the case of transport from outside the European Union, the Buyer shall deliver the Goods to the ES-SYSTEM headquarters at the Buyer's expense, however, in the event of a justified complaint, the cost of returning the Goods to the Buyer will be borne by ES-SYSTEM.

14. In the event that it should turn out that the reported defect did not in fact occur or was not covered by the Guarantee, as well as in the event of the withdrawal of the complaint service request (withdrawal from the complaint), all costs incurred by the Guarantor and caused by the request shall be borne by the Buyer.

15. In the event that the Goods are not picked up after the Guarantor's notice (in the event of an unjustified complaint), the Buyer shall bear the cost incurred by the Guarantor for storing the product. If the period of storage of the Goods by the Guarantor should exceed 6 months, ES-SYSTEM may dispose of the Goods at the expense of the Buyer.

## **§ 7.**

### **The Buyer's cooperation**

Notwithstanding the other provisions of this document, the Buyer is required to cooperate with ES-SYSTEM in their performance of their obligations under the Guarantee, particularly by ensuring the proper documentation of the defect as well as the documentation of the installation in which the Goods are operating and the lighting control systems that cooperate with the Goods. In justified cases, the Guarantor may perform their own examinations and tests at the location of the use of the Goods for the purpose of detecting any problems with the Buyer's network.

## **§ 8.**

### **Other issues**

1. Representatives, distributors and Buyers are not authorised to make changes to the Guarantee Terms and Conditions or, in particular, to extend them on behalf of ES-SYSTEM. Any changes to the Guarantee Terms and Conditions are possible only in the form of a separate written agreement.

2. If the Guarantor starts to remove defects in the Goods without carrying out a complaint procedure, it will not be considered as acknowledging the existence of a defect, nor will it be considered as an implied or explicit change to Guarantee Terms and Conditions. Only the Guarantor's explicit admission that the defect exists and its cause lies with the Guarantor allows for the Guarantor to accept liability for it.
3. This document exhaustively sets out the rights arising from the Guarantee and also sets the maximum scope of the Guarantor's liability, replacing any and all of the Guarantor's previous assurances regarding the Goods and the parties' arrangements regarding guarantees. ES-SYSTEM does not authorise anyone to incur broader obligations on their behalf, nor to increase the scope of their liability.
4. The titles of the paragraphs in this document have been provided solely for convenience (to facilitate its use) and remain without prejudice to the interpretation of its provisions.
5. To the widest extent permitted by law, ES-SYSTEM's liability for defective goods sold by ES-SYSTEM is excluded, particularly including the liability for lost profits of the person using them (e.g. as a result of the impossibility of doing business) and damage to devices related to the Goods.
6. These Guarantee Terms and Conditions are subject to Polish law. In matters not regulated by Polish law, the provisions of the Civil Code shall apply in particular.
7. All disputes related to these Guarantee Terms and Conditions and the Guarantee shall be resolved by a common court having jurisdiction over the headquarters of ES-SYSTEM.
8. These Guarantee Terms and Conditions shall enter into force on the day they are posted on the ES-SYSTEM website, i.e. on 29.07.2020.

## DALI SYSTEM COMMISSIONING

### Glossary

#### 1. Design and requirements – design documentation

A detailed specification including a list of the lighting equipment, automation components, technical data cards, assembly instructions and installation guidelines, schemes and indications on how the all system components will be powered and connected to the lighting control installation; an addressing map of the devices and lighting control system elements, instructions and recommendations for the use of the system, a clear description of the scenes, luminaire grouping and lighting equipment operating modes, broken down into lighting control devices (e.g. the Vertex controllers), input devices (e.g. buttons, control panels), signal sources (e.g. light intensity sensors, presence and motion sensors, the BMS system), executive devices (e.g. the luminaires), and network elements (e.g. routers and PoE power supply units).

#### 2. SLS

A cloud-based service for remote access and monitoring for lighting systems using the VERTEX controller. The service allows for the remote control of the correct operation of the lighting system and makes it possible to provide remote technical/commissioning support in situations requiring it. The service is provided as a standard for every installation that includes the VERTEX master controller.

#### 3. Technical readiness

A stage of the installation work performed by the contractor laying out the electrical installation, consisting of the following:

- 3.1 Installing the luminaires and lighting control devices.
- 3.2 Laying down and connecting the power installation and the lighting control installation for the luminaires and lighting control devices.
- 3.3 Controlling the compliance of the system's physical state, the completed installation and the connected devices with the Design Documentation.
- 3.4 Acceptance of a technical commissioning stage by an internal contractor in accordance with the Checklist and removing all defects in the completed installation.
- 3.5 Authorizing the system in the SLS for lighting control systems based on the VERTEX master controller.
- 3.6 Submitting the system for the acceptance of a Technical Commissioning Stage by the ES-SYSTEM service technicians.

4. Functional readinessA stage of configuration and programming work carried out exclusively by the ES-SYSTEM Service team after the positive acceptance of the Technical Readiness Commissioning Stage. It consists of the following activities:

- 1) identification of the individual luminaires
- 2) luminaire grouping
- 3) preparing scenes
- 4) the configuration of operating modes and DALI input devices:
  - o sensors
  - o buttons
- preparing the user interface for the operating panels
- programming advanced operating modes for the system:
  - o adaptation lighting
  - o presence detection

- dynamic white light color changes
  - extended schedules for the display of light scenes
5. Detailed design documentation
 

This documentation provides more detailed information on the solutions included in the design documentation. It is used for the selection of the contractor for the work to be done, for performing the work, its quality control and the acceptance of the performed work.
  6. As-built documentation
 

Documentation of the electrical installation and the lighting control system installation that is prepared by the contractor performing the electrical work.
  7. Magistrala sterownicza DALI
 

An installation used to transfer commands in the DALI system, laid out particularly with cabling with a 2x1.5 mm<sup>2</sup> cross-section.
  8. Installation of structured LAN cabling (twisted pair or fiber optic)
 

An installation that makes it possible to connect a larger group of DALI master controllers to a LAN network, made up of UTP CAT5e or CAT6 twisted pair or fiber optic cables that allow for exchanging data and messages among the DALI master controllers that are connected to the LAN network. This makes it possible to unify the control system and run commissioning and programming work from one physical point by connecting to the LAN network and thus eliminating the need to approach each controller individually. Connecting all the controllers existing in the installation to the LAN network is necessary in order to register the lighting control system in the SLS service and is a prerequisite for remote acceptances and providing remote commissioning support.
  9. DALI master controller
 

A device that autonomously controls a single zone made up of up to 192 devices that are compliant with the DALI and DALI2 standards (ES-SYSTEM VERTEX, WAGO, LOYTEC, LUTRON, HELVAR). It is equipped with one or more DALI output buses. These controllers can be combined in larger systems via the LAN network (using twisted pair or fiber optic cabling).
  10. SLS Starter KIT – Access Modem
 

A GSM modem and an active SIM card that is paired with it and allows access to the basic SLS service package for 5 years from the moment of registration of the VERTEX devices. The SIM card needs to be transferred to the user via an assignment agreement, and in case of sales outside the area of the Republic of Poland, individual arrangements may be necessary.

## Preparation stage for the System's Technical Readiness

### Responsible entity – the Contractor

#### Scope

1. Luminaire installation in accordance with the Design Documentation; if changes were made to the original assumptions during the assembly stage, then those changes must also be entered in the documentation, especially on maps and plans; ES-SYSTEM must be notified of these revisions and changes as soon as possible
2. Implementation of the electrical installation
3. Implementation of the lighting control installation
4. Marking the elements of the installation and the circuits in accordance with the Design Documentation
5. Putting the serial numbers of all of the elements of the lighting control system, particularly the emergency lighting devices, sensors and input devices in the as-built documentation and onto the building plans

6. Connecting the luminaires to the electrical and lighting control installations
7. Installing the lighting automation devices in accordance with the Design Documentation
8. Connecting the lighting automation devices to power and the lighting control installation
9. Verifying the correctness of the 230 V electrical installation, eliminating errors and faults if necessary
10. Verifying the correctness of the DALI bus installation and the structured LAN network, including eliminating any errors and faults
11. Formatting the batteries in the emergency luminaires in accordance with their instructions
12. Checking whether the network has active surge protection in accordance with the ES-SYSTEM requirements specified in the warranty conditions: for LED luminaires, surge protection devices with standard B + C surge protection are required (protection class I and II).
13. Lighting automation commissioning consists of the following:
  - a. Initial configuration of the DALI master controllers:
    - i. Commissioning the devices
    - ii. Assigning IP addresses
    - iii. Configuring the IP network that contains the DALI master controllers
    - iv. When commissioning the SLS service – connecting the SLS Access Modem device to one of the selected VERTEX master controllers and authorizing the system in the SLS service
    - v. Scanning the DALI buses and detecting the devices and luminaires that are connected to them
      1. Verification consisting of controlling the number of DALI devices and luminaires detected by the master controllers and ensuring that it complies with the Design Documentation
      2. Verifying the correct operation of the DALI luminaires connected to the DALI master controllers by controlling the DALI port – after the identification function has been enabled, all detected DALI luminaires should flash synchronously
  - vi. The adopted modifications of the Design Documentation should be noted in the As-built Documentation:
  - vii. In the event of technical problems with devices or permanent faults or failures, a list containing the types of devices and a detailed description of the fault should be prepared and immediately sent to the sales consultant at ES-SYSTEM



## Contractor's checklist

### 1. Mechanical assembly

a. Were the luminaires installed in their final locations in accordance with the Design Documentation?

- YES
- NO

✓ Comments:

b. Were the sensors installed in their final locations in accordance with the Design ocumentation?

- YES
- NO

✓ Comments:

c. Were the lighting control devices, the buttons and operator panels installed in their final locations in accordance with the Design Documentation?

- YES
- NO

✓

Comments:

d. Were all of the control panels (tablets) installed in their final locations, in accordance with the Design Documentation?

- YES
- NO

2. Comments:

e. Were all of the network elements (especially switches, routers and PoE power supply units) installed in their final locations in accordance with the Design Documentation?

- YES
- NO

✓ Comments:

f. Were the DALI master controllers installed in the electrical switchboards in accordance with the Design Documentation?

- YES
- NO

✓ Comments:

g. Were the serial numbers of the emergency luminaires drawn onto the building plan in the As-built Documentation?

- YES
- NO

✓ Comments:

h. Were the serial numbers of the lighting control devices (sensors, buttons) drawn onto the building plan in the As-built Documentation?

- YES
- NO

- ✓ Comments:
2. Electrical installation – supplying power
- a. Are the luminaires connected and powered by 230 V AC voltage?
- YES
  - NO
- ✓ Comments:
- b. Was the effectiveness of the electrical shock protection measured?
- YES
  - NO
- ✓ Comments:
- c. Is there continuity between the first and last element of all power lines?
- YES
  - NO
- ✓ Comments:
- d. Have all DALI master controllers been supplied with 230 V power?
- YES
  - NO
- ✓ Comments:
- e. Have all the actuators of the lighting control system (sensors, buttons, tablets) been properly supplied with power in accordance with the Design Documentation?
- YES
  - NO
- ✓ Comments:
3. Electrical installation – the DALI control bus
- a. Have all of the elements of the system, such as the luminaires, sensors, buttons, controllers, network distribution devices (routers), operator panels and potential-free inputs been connected to the DALI control bus in accordance with the Design Documentation?
- YES
  - NO
- ✓ Comments:
- b. Have the appropriate cross-sections and types of cables and DALI control bus lengths been maintained in accordance with the Design Documentation?
- The technical requirements regarding the installation have been described in the following chapters:
    1. Structured LAN cabling installation testing
    2. DALI cabling installation testing
  - YES
  - NO
- ✓ Comments:
- c. Have all interruptions in the continuity of the DALI control buses been eliminated?
- YES

- NO

✓ Comments:

d. Have all short circuits been eliminated in the DALI control buses?

- YES
- NO

✓ Comments:

e. Have all loops been eliminated in the circuits of the DALI control buses?

- YES
- NO

✓ Comments:

f. Has it been confirmed that there is no 230 V AC voltage connected to the circuits of the DALI control buses?

- YES
- NO

✓ Comments:

g. Has it been confirmed that the maximum permissible number of addresses per bus has not been exceeded (64)?

- YES
- NO

✓ Comments:

h. Have all electrical overloads been eliminated (i.e. excessively high current consumption by devices connected to the circuits of the DALI control buses)?

- YES
- NO

✓ Comments:

i. Have the circuits of the DALI control buses been connected to the DALI master controllers?

- YES
- NO

✓ Comments:

j. Is the number of actually installed DALI devices corresponding to the number of DALI devices in the Design Documentation?

- YES
- NO

✓ Comments:

k. Have the voltage levels been checked on the most remote devices on the circuits of the DALI control buses?

- YES
- NO

✓ Comments:

4. Installation of the structured LAN cabling (hereinafter referred to as the LAN)

a. If there is more than one DALI master controller, then have they been connected via the LAN to the switch or switches?

- YES
- NO

✓ Comments:

b. Has the structured LAN cabling installation been carried out in accordance with the ISO 11801 or EN 50173 standards using Fluke Network DSX-5000, DTX-1800 or DTX-1200 meters or using an equivalent with the same parameters and functions? (See chapter “Lighting control installation parameters and testing”)

- YES
- NO

✓ Comments:

c. Is the LAN connected to the devices that require LAN connection (switches, controllers, operator panels) and communicating with them?

- YES
- NO

✓ Comments:

d. Is the number of devices that are actually connected to the LAN in accordance with the Design Documentation?

- YES
- NO

✓ Comments:

e. Are the devices that should be powered in PoE technology powered properly?

- YES
- NO

✓ Comments:

f. Have the DALI master controllers been marked with the IP addresses that had been assigned to them? Have the IP addresses been written down in the As-built Documentation and drawn onto the building plans?

- YES
- NO

✓ Comments:

g. Is the SLS GSM Modem connected to one of the VERTEX devices and is the SLS LED emitting continuous blue light on all VERTEX devices?

- YES
- NO

✓ Comments:

5. Test run

a. Have all DALI master controllers been assigned IP addresses?

- YES
- NO

✓ Comments:

b. Have all DALI master controllers been configured for operation in a work group?

- YES
- NO

✓ Comments:

c. Are all DALI master controllers visible in the DALI configuration application?

- YES
- NO

✓ Comments:

d. After scanning the system, are all DALI devices (luminaires, sensors, input devices) visible in the DALI configuration application?

- YES
- NO

✓ Comments:

e. Is the number of DALI devices visible in the system the same as in the Design Documentation? (General lighting luminaires, emergency luminaires, DALI power supply units, input devices, sensors, etc.)

- YES
- NO

✓ Comments:

f. Has the correctness of the operation of the DALI control buses been verified by using the identification of DALI master controller ports?

- YES
- NO

✓ Comments:

g. Have the names of the DALI master controllers been entered in the DALI configuration application in accordance with the Design Documentation?

- YES
- NO

✓ Comments:

## Structured LAN cabling installation testing

### Responsible entity – the Contractor

After the structured LAN cabling installation has been assembled, the contractor is required to perform the appropriate tests (for certification purposes) on all copper twisted pair and fiber optic cables to confirm that the LAN fulfills the requirements of the applicable standards.

The tests should be carried out in accordance with the limit values as defined in ISO 11801 or EN 50173. All tests must be passed with positive results.

The tests must be performed using a fully operational testing device with a valid certificate confirming it has been subjected to the process of calibration by its manufacturer, which is a confirmation of the correctness of its indications.

The as-built documentation should include the above-mentioned calibration certificate.

### LAN copper twisted pair cabling testing

All twisted pair connections in the LAN should be tested to ensure that they fulfill the requirements of class E / category 6 according to ISO 11801 or EN 50173:

1. Test results should contain clear indications of the start and end of the cable routes in accordance with the Design Documentation.

The report should contain the following:

- The test result for each LAN connection with a clearly marked start and end, marked in accordance with the documentation
  - A table with all of the test results for the connections in the LAN network in the following format:
    - <start marking, end marking> <result: positive>
      - o **A negative result is unacceptable – any faults must be eliminated before the installation is submitted for the acceptance of a Technical Readiness Stage**
2. The tests must be performed in a “Permanent Link” testing system (without patch cables).
  3. The tests must be performed using a meter with an accuracy level of at least “Level IV”. The following meter types are recommended: Fluke Networks DSX-5000, DTX-1800 or DTX-1200.
  4. Certification tests must be performed, during which the actual values of the connection’s parameters are measured and the meter subsequently automatically compares them to the limit values as defined in the current applicable cabling standards and determines the result of the comparison.
  5. The results of the certification tests for all of the connections must be correct.
  6. The tests must be performed in accordance with the requirements of the EN 50346 standard.
  7. The required scope of the tested parameters for each pair (combination of pairs) should include the following:
    - A connection map – correctness and continuity of the assembled connections
    - RL – Return Loss
    - IL – Insertion Loss
    - NEXT – Near End Crosstalk Loss
    - PSNEXT – Power Sum NEXT
    - ACR-N – Attenuation to Crosstalk Ratio at the Near end
    - PSACR-N – Power Sum ACR-N

- ACR-F – Attenuation to Crosstalk Ratio at the Far end
- PSACR-F – Power Sum ACR-F
- Loop resistance for direct current (DC current loop)
- Propagation delay
- Delay skew

### Fiber optic LAN cabling testing

All fiber optic cable connections in the system should be tested to ensure that they fulfill the requirements of the ISO 11801 or EN 50173 standards:

1. Test results should contain clear indications of the start and end of the cable routes in accordance with the Design Documentation.
  - o The report should contain the following:
    - The test result for each LAN connection with a clearly marked start and end, marked in accordance with the documentation
    - A table with all of the test results for the connections in the LAN network in the following format:
      - < start marking, end marking > <result: positive>
        - o **A negative result is unacceptable – any faults must be eliminated before the installation is submitted for the acceptance of a Technical Readiness Stage**
2. Two-way testing must be performed, in which the source of the reference light signal will be placed in the first step at one end of the connection, and at the other end of the connection in the next step.
3. Multimode connections (MM) should be tested in two transmission windows for the following wavelengths: 850 nm and 1300 nm.
4. Single mode connections (SM) should be tested in two transmission windows for the following wavelengths: 1310 nm and 1550 nm.
5. Certification tests must be performed, during which the actual values of the connection's parameters are measured and the meter subsequently automatically compares them to the limit values as defined in the current applicable cabling standards and determines the result of the comparison.
6. The test results for all of the connections must be positive.
7. The tests must be performed in accordance with the requirements of the EN 50346 standard.
8. The required scope of the tested parameters includes the following:
  - The continuity of the connection.
  - The length of the connection.
  - Fiber suppression for two wavelengths.

## DALI control bus testing

### Technical parameters of the DALI circuits

- Maximum number of physical DALI devices: 64
- Maximum number of DALI groups: 16
- Maximum number of DALI scenes: 16
- Correct voltage range on the DALI bus: 9.5 V – 22.5 V, typically: 16 V
- Maximum current on the DALI control bus:
  - Up to 180 mA for VERTEX controllers
  - Up to 250 mA for HELVAR DigiDim Router controllers
- Transmission speed: 1200 baud
- Maximum DALI control bus length:
  - Depends on the cross-section of the cable with the use of which it was installed. For cables with a cross-section of 1.5 mm<sup>2</sup>, where the maximum voltage drop does not exceed 2 V, the distance is 300 m between the master controller and the most distant point.

### Cabling verification

- Controlling the number of devices
  - The number of devices connected to the DALI bus should be the same as in the Design Documentation
- Controlling the cables used
  - An installation that is separated from the power lines
    - YDY 2 x 1.5 / YDYp 2 x 1.5 / YDYt 2 x 1.5 – two-core, single-wire, copper, unshielded cables with a 1.5 mm<sup>2</sup> cross-section
    - OMY 2 x 1.5 / OMYp 2 x 1.5 – two-core, multi-wire (flexible), copper, unshielded cables with a 1.5 mm<sup>2</sup> internal cross-section
    - Other, if compatible with the design
  - An installation that is combined with the power lines
    - YDY 4 x 1.5 / YDYp 4 x 1.5 / YDYt 4 x 1.5 – four-core, single-wire, copper, unshielded cables, with a 1.5 mm<sup>2</sup> cross-section – **for devices in protection class II**
    - OMY 4 x 1.5 / OMYp 4 x 1.5 – four-core, multi-wire (flexible), copper, unshielded cables, with a 1.5 mm<sup>2</sup> cross-section – **for devices in protection class II**
    - YDY 5 x 1.5 / YDYp 5 x 1.5 / YDYt 5 x 1.5 – five-core, single-wire, copper, unshielded cables, with a 1.5 mm<sup>2</sup> cross-section – **for devices in protection class I**
    - OMY 5 x 1.5 / OMYp 5 x 1.5 – five-core, multi-wire (flexible), copper, unshielded cables, with a 1.5 mm<sup>2</sup> cross-section – **for devices in protection class II**
    - Other, if compatible with the Design Documentation
- Verifying distance
  - The length of the circuit of the DALI control bus from the master controller to the most distant point (device) must not exceed:
    - 300 meters for cables described in the previous item without the use of so-called “repeaters”
    - 300 meters + the distance from the controller to the “repeater” – when using so-called “repeaters”
    - the distance defined in the design – when using non-standard cabling that are compatible with the design
- Verifying that there is no network voltage on the buses
  - **PRIOR TO BEGINNING ANY WORK, IT IS NECESSARY TO USE A MULTIMETER TO CHECK IF THERE IS POSSIBLY ANY 230 V VOLTAGE ON THE DALI CONNECTORS, WHICH IS PROHIBITED DUE TO THE RISK OF DAMAGING THE DALI DEVICES**
  - The measurements should be performed at the ends of the DALI control bus near the DALI master controller
  - Voltage should be measured between lines D1 and D2
    - Measurement result: within the range between 9.5-22.5 V
  - Voltage should be measured between lines D1 and L1, D1 and L2, D1 and L3



- Measurement result: ~0 V
  - Voltage should be measured between lines D2 and L1, D2 and L2, D2 and L3
    - Measurement result: ~0 V
  - Voltage should be measured between lines D1 and N
    - Measurement result: ~0 V
  - Voltage should be measured between lines D1 and PE
    - Measurement result: ~0 V
- Verifying short circuits
  - There should be no short circuit of line D1 (DA, DA+) from D2 (DA, DA-) anywhere on the DALI control bus
  - This should be checked by measuring the continuity of the circuit on the DALI control bus using a universal meter between lines D1 and D2. This measurement should show **a lack of continuity**.
- Verifying loops
  - There cannot be any loops at any of the DALI control bus's branching points
  - If there are loops in the DALI control bus circuits, the number of the DALI terminal devices detected by the master controllers will be different from the actual number of connected devices and the following events may occur:
    - The master controllers may show a changing, unstable number of devices
    - After any loops have been eliminated, the number of the detected devices will be stable and will no longer change.
- Verifying the voltage and current on the DALI control bus
  - Measurements should be made on a connected and powered DALI control bus
  - **Measurements are only reliable when there is no transmission** the DALI control bus. **Make sure that the measurement is made while there is silence** on the DALI control bus. **In the event of active communication, the measurement results will be clearly lower than measurements during "silence"** on the DALI control bus.
  - Measure the voltage on the DALI control bus at the master controller for each bus
    - Measurement result: within the range between 9.5-22.5V
  - Measure the voltage of the DALI control bus near the most distant device from the master controller
    - Measurement result: within the range between 9.5-22.5V
  - Short-circuit the bus circuit near the most distant device from the master controller
  - Measure the voltage of the short-circuited DALI bus near the master controller
    - Measurement result: within the range between 0-2 V
    - Voltage that is greater than 2 V indicates an exceedingly high bus resistance. In this situation, the DALI control bus length and the quality of the connections at the branching points should be verified.
  - Measure the short-circuit current of the DALI control bus
    - Measurement result: depending on the specification of the master controller / the power supply of the bus, it should be no higher than 180 mA for VERTEX controllers and 250 mA for HELVAR DigiDim Router controllers.

## Acceptance of a stage included in the scope of the System's Technical Readiness

### Responsible entity – the ES-SYSTEM Service Team

#### Conditions required for the acceptance

Persons required to conduct the acceptance:

- A representative of the contractor company
  - A representative or administrator of the client (user)
  - An ES-SYSTEM Automation Service Technician
1. A notification about the readiness for the acceptance of a stage included in the scope of Technical Readiness should be submitted no earlier than 15 working days before the Acceptance date. The notification should include the requirements for entering the construction site – passes, authorizations, OHS trainings, equipment, dispatch advice notes.
  2. In connection with the Acceptance, it is necessary to provide the user with access to all installation elements, devices and premises of the facility where the Acceptance should take place. The user of the facility is obliged to allow for bringing the necessary tools and equipment into the facility, so that all devices that are part of the lighting system can be accessed.
  3. Assistance should be ensured for the following persons:
    - a. Representatives of the contractor company assembling the installation (with knowledge regarding the assembled installation)
    - b. Representatives of the investor/user or administrator with knowledge about all lighting and lighting control installation details and the scope of the contractor company's work, authorized to grant permission to apply voltage to specific circuits in the installation
  4. Providing documentation that allows for carrying out the acceptance of a stage specified in the scope of Technical Readiness and applying for the stage of commissioning specified in the scope of Functional Readiness, particularly the following:
    - a. The Design Documentation
    - b. The As-built Documentation containing the following elements that are consistent with the factual state:
      - i. List of circuits
      - ii. Number of luminaires
      - iii. Number of sensors
      - iv. Number of buttons
      - v. Number of network devices / switches (active devices)
      - vi. The number of DALI master controllers
      - vii. The number of operator panels
      - viii. All protocols from the performed measurements of the 230 V power installation, the DALI control buses, and structured LAN cabling
  5. The documentation referred to in item 4b above must be provided at least 5 working days before the date of the acceptance of the part included in the scope of Technical Readiness.
  6. The ES-SYSTEM Service Team may refuse to perform the system commissioning service in the event of failure to meet the requirements set out in these guidelines. Beginning the system commissioning despite not meeting the above requirements does not by any means signify the confirmation of their fulfillment by default and does not release the contractor assembling the installation or the user from the obligation to assemble the installation in a manner that will allow for performing the commissioning of the lighting control system.

The ES-SYSTEM offer submitted for the commissioning of the system specified in it includes up to three interventions (including service visits and work done remotely) of the ES-SYSTEM Service Team with the purpose of performing the acceptance of the stage of Technical Readiness and the functional commissioning of the system.

Increasing the number of interventions (including service visits and work done remotely) for the purpose of performing the commissioning requires separate arrangements regarding the financial conditions. The arrangements must be made at least 2 weeks prior to the expected fourth service visit.

If the installation work was performed incorrectly, resulting in failure to obtain the acceptance of a stage specified in the scope of Technical Readiness, it will be regarded as the improper performance of the contract by the direct contractor of ES-SYSTEM and, as a consequence, subsequent visits of the ES-SYSTEM Service Team (including service visits and work done remotely) will take place at the expense of the user or the direct contractor of ES-SYSTEM at an additional charge.

If the Contractor is unable to eliminate all faults that prevent the acceptance of the Technical Readiness Stage by ES-SYSTEM in accordance with these guidelines, the ES-SYSTEM Service Team can eliminate the faults at the client or contractor's request for an additional charge, at an additional charge which will be determined individually.

## Preparation stage for the System's Functional Readiness

### Conditions required before beginning work

1. A positive ACCEPTANCE of a stage included in the scope of Technical Readiness
2. The Design Documentation or requirements agreed on with the client/user include a detailed and sufficient description of the requirements that makes it possible to begin work on the configuration of the lighting control system.
  - a. The description of the requirements or the Design Documentation must include the following:
    - i. A description of the required scenes
    - ii. A description of the required groups
    - iii. A description of the required behavior of the trigger devices – buttons
    - iv. A description of the required operating modes
    - v. A description of the required System operation scenarios
    - vi. Graphic and functional design of the UI user interface for the operator panels
    - vii. The scope of integration with BMS, particularly the type of protocol that is used, a detailed description of functions that are subject to integration, a description of the data and messages that are exchanged as part of integration with BMS
3. Agreeing upon the date of beginning work with the installation contractor and the client and/or administrator
4. Providing access to all elements of the installation and devices (keys, high ladders, lifts)
5. Ensuring assistance for the following persons:
  - a. Representatives of the contractor company assembling the installation (with knowledge regarding the assembled installation)
  - b. Representatives of the investor/user or administrator with knowledge about all lighting and lighting control installation details and the scope of the contractor company's work, authorized to grant permission to apply voltage to specific circuits in the installation.

### Responsible entity – the ES-SYSTEM Service Team or an Authorized Subcontractor of the ES-SYSTEM Service Team

#### Scope

1. Identification of DALI terminal devices (luminaires, sensors, buttons)
2. Grouping DALI luminaires in accordance with the Design Documentation
3. Configuring and programming lighting scenarios in accordance with the Design Documentation
  - a. Configuring buttons
  - b. Configuring sensors
  - c. Configuring lighting scenes
  - d. Configuring operating modes in accordance with the Design Documentation
    - i. Adaptive lighting
    - ii. Surveillance lighting
    - iii. Variable color temperature
    - iv. Circadian
    - v. And others included in the approved scope of the Design Documentation
4. Creating a UI user interface for the operator panels
5. Controlling the correctness of operation.

## Checklist

1. Are all devices and luminaires included in the Design Documentation detected by the system and do they work correctly and react to DALI commands?
    - YES
    - NO✓ Comments:
  
  2. Do the DALI trigger devices work properly?
    - a. Has the correctness of the triggering of scenes, scenarios or operating modes included in the Design Documentation been controlled?
      - YES
      - NO✓ Comments:
  
  - b. Do the luminaires react correctly
    - i. In accordance with the Design Documentation or approved requirements from the client?
      - YES
      - NO
- ✓ Comments:
- 
3. Do the motion / presence sensors work properly?
  - a. Is the efficiency and detection field compliant with the requirements included in the Design Documentation?
    - YES
    - NO✓ Comments:
- 
- b. Does the detection of motion or presence trigger lighting scenes and scenarios that are compliant with the Design Documentation or the approved requirements from the client?
  - YES
  - NO
- ✓ Comments:
- 
4. Do the light sensors work properly?
  - a. Was the light measurement calibrated properly?
    - i. Have measurements been performed correctly, including with a calibrated lux meter, and is there a plan in the report with **reference points** filled in, in which the measurements should be performed?
      - YES
      - NO✓ Comments:
- 
- b. Do the sensors react correctly to the changes in the background lighting?
  - YES
  - NO

✓ Comments:

c. Are the sensors correctly associated with lighting scenarios, scenes and modes in accordance with the Design Documentation or the approved requirements from the client?

- YES
- NO

✓ Comments:

5. Has the correct operation of the operating modes and scenarios included in the design been controlled?

- a. Adaptive lighting
- b. Variable color temperature
- c. Surveillance lighting
- d. Circadian
- e. Scene display calendar
- f. Astronomical calendar
- g. And others included in the Design Documentation

In this case, a separate checklist should be prepared for each functionality separately, in accordance with the design and requirements.

- YES
- NO

✓ Comments:

6. Have test groups been set up for the emergency luminaires?

- YES
- NO

✓ Comments:

7. Has an emergency lighting test schedule been programmed?

- YES
- NO

✓ Comments:

8. Has a functional test been completed with a positive report for the emergency luminaires?

- YES
- NO

✓ Comments:

9. Has the correctness of the operation of the functions associated with BMS building integration been verified?

- YES
- NO

✓ Comments:

## Acceptance of a stage included in the scope of the System's Functional Readiness – Total and final acceptance

Responsible entity – the ES-SYSTEM Service Team or an Authorized Subcontractor of the ES-SYSTEM Service Team

### Conditions required for the acceptance

Persons required to conduct the acceptance:

- A representative of the contractor company
  - A client's representative or administrator
  - An ES-SYSTEM Automation Service Technician
- 
1. A positive acceptance of the stage included in the scope of Technical Readiness
  2. A positive acceptance of the stage included in the scope of Functional Readiness
  3. A prepared, complete as-built documentation
  4. A technical acceptance protocol prepared for signing

### Scope

1. A tour of the facility and a random checks verifying of the compliance of the system's operation with the Design Documentation and approved customer requirements
2. Signing of the technical acceptance protocols