

General Terms of Purchase ES-SYSTEM Capital Group

Chapter I Preliminary provisions

Article 1 Definitions

1. The General Terms of Purchase specify the procedure of conclusion of Contracts and form the contents of Contracts in the scope not contrary to the provisions of Contracts.
2. Capitalized terms (words and phrases, irrespective of their number and case) as used in these General Terms of Purchase shall have the following meaning:
 - 1) "**Price**" – lump-sum of the Company pecuniary performance, due to the Seller as an equivalent of all the performance to be met for the benefit of the Company under the Contract; whenever it is referred to the Price, it means remuneration as well;
 - 2) "**Documentation**" – full technical documentation regarding the Goods and certificates required for the use of the Goods on the territory of the Republic of Poland and other documentation, which is customarily delivered along with goods such as Goods, as well as documentation required by the Contract in particular safety approvals, declarations of conformity (CE) for electric equipment, assembly instructions, user manuals, catalog cards, technical movement documents, guarantee documents and similar materials;
 - 3) "**Output Documentation**" - the requirements specified in the Contract as to the Goods or the manner or the conditions of their production, including the documentation provided in connection with the Contract by the Company, according to which the Goods are to be made;
 - 4) "**Business Day**" – any day other than Saturday or official days off;
 - 5) "**Company**" – one of the companies being part of ES-SYSTEM Capital Group, which makes purchase from the Seller; the ES-SYSTEM Capital Group consists of:
 - a) ES-SYSTEM S.A. with its registered office in Kraków, ul. Przemysłowa 2, 30-701 Kraków, entered in the register of entrepreneurs of the National Court Register kept by the District Court for Krakow-Śródmieście, 11th Commercial Division of the National Court Register under the number KRS 000113760, share capital (fully paid up) of 14145000.21 PLN, NIP (Tax Identification Number): 679-25-51-640, BDO registry number: 000005016;
 - b) ES-SYSTEM Projekty sp. z o.o. with its registered office in Kraków, ul. Przemysłowa 2, 30-701 Kraków, entered in the register of entrepreneurs of the National Court Register kept by the District Court for Krakow-Śródmieście, 11th Commercial Division of the National Court Register under the number KRS 0000695931, NIP (Tax Identification Number): 6793156319, REGON 368316761, share capital of 300.000 PLN;
 - c) ES-SYSTEM NT sp. z o.o. with its registered office in Kraków, ul. Przemysłowa 2, 30-701 Kraków, entered in the register of entrepreneurs of the National Court Register kept by the District Court for Krakow-Śródmieście, 11th Commercial Division of the National Court Register under the number KRS 0000333960, NIP (Tax Identification Number): 6793012017, REGON 12095734, share capital of 24.050.000 PLN, BDO registry number: 000013344;
 - d) ES-SYSTEM Wilkasy sp. z o.o. with its registered office in Wilkasach, ul. Olsztyńska 2, 11-500 Giżycko, entered in the register of entrepreneurs of the National Court Register kept by the District Court in Olsztyn, 8th Commercial Division of the National Court Register under the number KRS 0000015579,

NIP (Tax Identification Number): 8451715188, REGON 51089868, share capital of 63.741.500 PLN, BDO registry number: 000018101;

- 6) "**Working hours**" – hours from 9:00 a.m. to 5:00 p.m. on Business Days, unless other hours have been specified in the Contract;
 - 7) "**Incoterms**" – the commercial terms published by the International Chamber of Commerce in Paris as Incoterms 2010 with effect from 1st January 2011; if the Contract or the General Terms of Purchase refer to Incoterms, they shape the content of the Parties' legal relationship to the extent that they are not inconsistent with the Contract and General Terms of Purchase;
 - 8) "**Civil Code**" – the Act of 23rd April 1964 – the Civil Code (consolidated text: Journal of Laws of 2017 item 459, as amended);
 - 9) "**Copyright Materials**" – works in the sense of copyright law and other objects of intellectual property rights, copies of which are Goods, that are part of the Goods or otherwise transferred to the Company by the Seller in connection with the Contract;
 - 10) "**Place of Delivery**" – a place indicated in the Contract, where Seller is obliged to deliver Goods pursuant to the Contract and where they will be received and/or loaded/unloaded (depending of logistics organisation) by the Seller; if the Contract does not indicate the place of delivery, the indication of this place belongs to the Company;
 - 11) "**Company Offer**" - offer to conclude the Contract originating from the Company;
 - 12) "**Seller's Offer**"- offer to conclude the Contract originating from the Seller;
 - 13) "**Software**" – computer system serving to use the Goods to be delivered under the Contract (also if it is an integral part of the Goods);
 - 14) "**General Terms of Purchase**" - these General Terms of Purchase of the Company with attachments constituting an integral part hereto;
 - 15) "**Force Majeure**" – any events independent of any of the Parties, which could not have been foreseen at the time the Contract was concluded, including in particular natural disasters (such as flood, hurricane and earthquake) or war or other armed conflict, but excluding events such as strikes, employee lockouts and other industrial disputes, unavailability of materials or equipment necessary for the Seller, change in the market situation or changes in the law;
 - 16) "**Seller**" – an entrepreneur within the meaning of Article 431 of the Civil Code intending to conclude or who concluded the Contract;
 - 17) "**Parties**" – parties to the Contract;
 - 18) "**Delivery Time**" – a deadline specified in the Contract by which the Seller is obliged to make available for the Company all of the Goods covered by the Contract or a specific batch of Goods defined by the Contract;
 - 19) "**Goods**" – items or rights purchased by the Company from the Seller under the Contract, including services directly related to their performance or delivery, provided that these services are the subject of the Contract;
 - 20) "**Contract**"- a sale or delivery contract, a project contract or a contract of a similar nature, the subject of which, regardless of its other provisions, is the transfer of ownership of items or rights to the Company by the Seller; if the provisions of the General Terms of Purchase do not clearly stipulate to the contrary, under the term Contract should be also understood the General Terms of Purchase constituting its integral part;
 - 21) "**Defect**" - any inconsistency of the Goods with the Contract affecting the possibility of using them in accordance with the Contract; Defect is also understood as a lack of complete and current Documentation accompanying the Goods in the Delivery Time;
 - 22) "**Attachment**" - every attachment to the General Terms of Purchase constituting an integral part thereof.
3. Any reference herein to a specific editorial unit of the legal act (article, section, point, letter or indent) without more specific indication of the subject of reference shall mean reference to the provisions of the General Terms of Purchase.

4. Headings (titles) of respective editorial units of the General Terms of Purchase are provided for convenience of reference only without having any influence on interpretation of their provisions and the contents of legal relationship established between the Parties.

Article 2

Applicability of the General Terms of Purchase

1. The General Terms of Purchase shall apply to all Contracts and its conclusion procedures by each the Company.
2. The General Terms of Purchase shall not apply to contracts concluded with consumers within the meaning of the provisions of Article 22¹ of the Civil Code.
3. The General Terms of Purchase of ES-SYSTEM Capital Group are publicly available at the website under the address www.essystem.pl, at the headquarters of each the Company and in every branch of ES-SYSTEM S.A.
4. The Company does not conclude Contracts with application of a procedure other than stipulated in the General Terms of Purchase except for contracts concluded in a written form, otherwise null and void, with the use of electronic mail (only and exclusively on the terms set out in General Terms of Purchase) and a secure platform for electronic communication (EDI) in the supply chain or other electronic purchasing platform, if the Company uses it.
5. The Company does not allow for development of the contents of Contracts in a manner inconsistent with the General Terms of Purchase if such changes were to be introduced in oral form or with the use of the means of direct communication at a distance. The provisions of this section shall not prejudice the provisions of section 6 of this Article.
6. Conclusion of Contracts with the use of contract templates (general terms and conditions of contracts etc.) used by the Seller is excluded, unless the Parties agree otherwise in a written form, otherwise null and void. Lack of express consent of the Company for the use of a contract template used by the other Party shall be understood as objection to conclusion of the Contract with the use of such template (in particular, the lack of reference by the Company to the contract template used by the other Party, even if it was attached to the offer or statement on the acceptance of the offer, is equivalent to the statement by the Company about the lack of consent to apply such a pattern in any respect). Consent of the Company for conclusion of a Contract with the use of a contract template used by the other party shall not be interpreted as a consent for conclusion of also other contracts with the use of such contract template.
7. Derogation from the General Terms of Purchase in respect of a given Contract shall not be understood as such derogation in respect of any other Contracts, including with a given entity, unless the Parties agreed otherwise in writing, otherwise null and void.
8. It is understood that the General Terms of Purchase presented (made available), by the Company to the Seller when concluding one Contract, apply to any further Contracts concluded between the Seller and the Company, without the need to re-present them, unless the Parties decide otherwise in writing, or in connection with subsequent Contracts, the General Terms of Purchase will be presented again.

Chapter II

Conclusion of Contracts and representation

Article 3

Contract form

1. Placing an offer to conclude a Contract and submitting a declaration of accepting such an offer may only take place, under pain of nullity, in writing, by fax (by sending a signed document by means of such a device), via electronic mail (by the Company in accordance with section 3 below) or an appropriate electronic purchasing platform, provided that the Company uses it. In particular, the possibility of submitting an offer verbally is excluded.

2. The possibility of concluding the Contract by negotiations is excluded, unless the Parties have agreed otherwise in writing otherwise null and void.
3. In the case of contracts concluded using electronic mail, only those that have been submitted using e-mail addresses created in the essystem.pl domain can be treated as statements originating from the Company. The submission of statements by the Company in the form of orders using electronic mail is possible only with the use of the the Company IT system that generates numbered orders, which system makes their automated shipment to the recipient.
4. Persons empowered to submit binding declarations of will on behalf of the Company in the course of conclusion of the Contract shall be persons authorized to represent it in accordance with information disclosed in the National Court Register, persons holding a written power of attorney and authorized persons who use the e-mail address in the domain essystem.pl, in particular in the manner specified in section 3 sentence 2 above. Entitled are also persons operating an appropriate electronic purchasing platform in the name of the Company, provided that the Company uses it. Statements made by persons other than those authorized in accordance with the preceding sentences do not lead to making a binding statement on behalf of the Company.
5. If in connection with the Contract, the Seller has provided the Company with contact details, personal data or disclosed such data in connection with its activities (eg e-mail address with which the offer was sent, addresses and telephone numbers indicated in the offer or on the Seller's website, an indication on persons dealing with a given type of business relationship within the Seller's business) persons using these addresses, as well as persons designated by the Seller, are considered to be authorized by the Seller to represent him in all matters related to the Contract. The Seller is entitled at any time to submit a negative statement in writing, indicating at the same time the persons authorized to represent him or the contact details that they use.
6. A person possessing the Goods shall be deemed authorized by the Seller to perform all activities related to the Goods (including activities related to the determination of the Goods' compliance with the Contract and its acceptance). Persons who have submitted to acceptance activities and persons who have appeared in connection with the determination by the Company that the Goods are in conformity with the Contract (including to provide information or clarifications regarding the Goods, determine the occurrence of Defects) are deemed authorized by the Seller to carry out all activities related to the Goods (including carrying out activities related to the determination of the Goods compliance with the Contract and its receipt, as well as determining the occurrence of Defects and bearing the responsibility for them by the Seller).

Article 4 Placing Orders

1. In case of doubt, all statements of the Seller sent to the Company before the Company orders for the Goods shall be treated not as a the Seller's Offer but as an invitation to the Company to submit an offer to the Seller to conclude the Contract.
2. Any catalogues, price lists, handouts, commercial, advertising and similar materials originating from the Seller and relating to Goods (including Goods specifications and their samples or standards), no matter if made public or addressed individually to the Company, are the basis for determining the parameters (quality) required by the Contract to the extent that it does not lead to deterioration of these parameters (reduction of the required quality) in relation to establishing it using the provisions of the Contract, including the remaining provisions of the General Terms of Purchase.
3. Placing an offer to conclude an Contract by the Seller to the Company is tantamount to reading General Terms of Purchase and accepting them. If the Seller's Offer contains a reference to its own contract terms, this reference is considered non-existent.
4. When placing an order to the Company the Seller shall specify all circumstances known to the Seller that may indicate that the Seller will not be able to properly perform the Contract in order to enable the Company to take decision about potential conditioning the Contract

conclusion on provision on establishing adequate performance collaterals to the benefit of the Company.

5. The content of the order from the Company includes at least an indication of the Seller and the type and quantity of ordered Goods. The the Company order constitutes an offer within the meaning of the provisions of the Civil Code, if indicated in its content.
6. After the offer has been submitted by the Company, the Seller is obliged to respond to the the Company Offer within 2 Business Days from its receipt. The Seller's lack of response to the the Company Offer specified in the preceding sentence is equivalent to its adoption.

Article 5

Reply to the order

The Company will endeavor to respond to the Seller's Offer within 14 days of its receipt. Lack of reply by the Company to the Seller's order shall be understood as statement by the Company on unwillingness to conclude the Contract. Article 68² of the Civil Code shall not be applied to the Seller's Offers.

Article 6

Additional Orders

If during the period of 30 (thirty) days from the conclusion of the Contract, the Company expresses a will to purchase further Goods from the Seller, such as Goods covered by the Contract, the Seller is obliged to offer such Goods on terms not worse (in particular for a higher Price) than determined by the Contract.

Chapter III

Organizational Activities

Article 7

Production Process

1. If the Goods are manufactured by or on behalf of the Seller, the Company shall be entitled to participate in quality and quantity as well as intermediate acceptances, and is also entitled to obtain copies of the technical and production documentation of the manufacturer confirming the quality of the Goods. In this respect, the Company undertakes to keep confidentiality.
2. At the demand of the Company, a protocol shall be made out of the activities referred to in the preceding section.
3. If the Goods are manufactured from materials provided by the Company, these materials remain the property of the Company and the Seller is obliged to account for them, and is responsible for their accidental loss or deterioration on a risk rule, from the moment of taking possession of them (dependent holding) up to the Company return protocol time.

Chapter IV

Release of Goods to the Company

Article 8

Condition of Goods

1. The Goods will be new, unused and of the quality corresponding to the legal provisions in force in the Republic of Poland, unless the Contract gives them higher requirements.
2. The performance of the Contract will take into account the provisions regarding environmental protection and occupational health and safety.

Article 9

Delivery and unloading of the Goods

1. The Goods are delivered to the Company on terms specifying the Place of Delivery according to Incoterms, specified each time in the Contract.
2. The obligation to deliver the Goods rests with the Seller.
3. The Seller is obliged to make possible unloading of the Goods at Working hours.
4. Documents relating to them, shall be provided with the Goods.

Article 10

Delivery of the Goods for the Company

1. The Delivery Time is reserved to the benefit of both Parties.
2. If the Contract, reserves the Delivery Time on the benefit of the Seller or allows delivery within a specified time, with a specific date of delivery of the Goods, the Seller is obliged to notify the Company at least two days in advance in relation to the commencement of the route of the Good to the Place of Delivery.
3. The Company is entitled to refuse to accept an unforeseen delivery in accordance with the provisions of the preceding section, as well as implemented prior to the Delivery Time reserved for the benefit of both Parties.
4. The Company is entitled to send back to the Seller, at the Seller's own expense and risk, the Goods delivered before the Delivery Time resulting from the Contract, or store them at the cost and risk of the Seller until the Delivery Time.
5. If the Contract does not directly provide otherwise, the Seller is not entitled to deliver the Goods in batches. In the event of a breach of the provisions of the previous sentence, the provisions of the two preceding sections shall apply accordingly.
6. If the Seller is unable to deliver all the Goods in accordance with the Contract in the Delivery Time, he is obliged to notify the Company immediately, indicating which part of the Goods he is able to provide. In such a case, the Company shall be entitled to demand delivery of the Goods in part, in accordance with the Seller's options, which however does not constitute an amendment to the Contract, nor does it exclude or limit the Seller's liability for late performance of the Contract.
7. If the Seller provides the Company with a larger quantity of the Good than the one covered by the Contract, and it is not possible or it is significantly difficult to isolate the appropriate quantity of the Goods, the Company is entitled to refuse to accept the delivery. In the case of accepting such delivery, in relation to the excess of the Goods, the provisions of section 4 of this Article shall apply accordingly.

Article 11

Conditions for the receipt and unloading of Goods

1. Receipt of the Goods shall take place immediately, taking into account the queue of unloading cars after delivering the Goods to the Place of Delivery (if the Goods will be delivered during Working hours), however, within the agreed remuneration, the Seller is obliged to wait at least 4 (four) hours (counting from the end of the period of the notification of delivery, or in the absence of notification, from the end of the period reserved for the benefit of both Parties) on the possibility of commencing unloading (taking over the Good).
2. The obligations of the Seller related to unloading shall also include the obligation to provide the technical means necessary for this purpose, in particular at the request of the Company, the Seller shall provide a delivery car with an elevator.
3. If the Contract does not provide otherwise, the pallets on which the Goods were delivered are not refundable and are included in the Price.
4. In the event that the storage, loading and unloading of the Goods causes on the Company's side additional costs not provided for in the Contract and General Terms of Purchase, the Company reserves the right to charge additional remuneration appropriate for such activities.

Article 12

Acceptance of Goods delivered the Company

1. When the Goods are delivered to the Place of Delivery, the Company does not examine their quality or quantity (excluding the number of pallets or other collective units and visible damage to the packaging, which should take place in the presence of the person delivering the Goods). The mere confirmation of the delivery of the Company Goods is not a confirmation by the Company of fulfilling for its benefit a performance consistent with the Contract. If a representative of the Seller is present at the delivery of the Goods, the Parties shall draw up a written protocol from this operation.
2. The Company will verify the condition and quantity of the Goods delivered to it within 7 (seven) Business Days from the date of delivery and at that time will notify the Seller about the found quantitative or qualitative shortcomings. The examination referred to in the preceding sentence may be limited to determining the amount of collective packaging of the Goods and a visual assessment of the sample of the Goods.
3. At the request of the Seller, he has the right to participate in the activities referred to in the preceding section, in which case a protocol is drawn up.
4. The Seller is obliged (in the period indicated in section 2) to discuss with the Company any reservations, comments and inquiries relating to the Goods, in particular in writing or via e-mail or by telephone. The provisions of the last two sentences of section 5 of this Article shall apply accordingly.
5. If it is necessary due to the properties of the Goods or the Seller has not referred to any eventual reservations, comments and inquiries relating to the Goods in the manner and time specified in section 4 of this Article, the Seller using persons with appropriate competences is obliged to meet the Company representatives at each of their request, at the time and place indicated by the Company two days in advance to discuss reservations, comments and inquiries relating to the Goods. If the Seller will not be able to answer during a direct meeting, he will prepare the answer to such questions within two days from the date of their submission, and send it by e-mail and registered mail. The deadline for verification referred to in section 2 of this Article shall be extended by the time from the date the Company submits the question to the date of reply and it cannot pass earlier than two Business Days after the date of the Company's response.
6. Not issuing by the Company the notification referred to in section 2 of this Article or, respectively, preparation of the protocol referred to in section 3 of this Article confirming the compliance of the Goods with the Contract, shall be considered as fulfillment of the contractual benefit (it takes place at the time specified in the protocol or when the deadline for sending the notification expires ineffectively).
7. In the case of quantitative or qualitative shortages of the Goods, the Contract shall be deemed not completed, until the Seller fixes them. Any shortcomings in the Documentation are treated equally with quantitative and qualitative shortages. If fixing shortages, will consist in delivering new Goods, the provisions of this Article and the three preceding Articles shall apply accordingly, except that the Seller shall notify the Company of the date of delivery of the Goods at least one day in advance.
8. The Company's desist to investigate the Goods or the lack of detecting Defects during the examination of the Goods, as well as the lack of objections to the delivered Goods may not be considered for accepting the Goods as compliant with the Contract or limiting or excluding the Seller's liability for Defects in Goods.
9. If the Goods are items marked as to identity (in particular, carried out on the basis of project contracts), then after their protocol transfer of the Company, it will be 20 Business Days for their verification and approval by the Company, of which activities the Parties draw up the protocol of transfer and receipt. The place and time of preparation of the protocol of transfer and receipt will be determined by the Company at least two days in advance. The protocol of transfer and receipt referred to in the preceding sentence, which does not state Defects, is the basis for issuing a VAT invoice by the Seller. The Seller's performance is deemed to be fulfilled in the moment of preparing this protocol. In the remaining scope, the provisions of the sections preceding this Article and the three preceding Articles shall apply accordingly.

Article 13
Goods Defects

1. The Company is entitled to refuse to accept Goods, in respect of which, in accordance with the provisions of the preceding Articles, Defects have been found. If the Defects were found in the circumstances referred to in Article 12 section 2, the Seller is obliged to immediately collect the defective Goods and deliver Goods free of Defects in their place. Seller shall immediately remove Defects identified in the Goods marked as to the identity, upon the Company request by receiving defective Goods from the Company. Provisions of Article 10 section 4 shall apply accordingly.
2. Until the Seller receives the defective Goods, the Company is entitled to submit them for storage at a third party at the cost and risk of the Seller. If such Goods are stored by the Company, remuneration corresponding to the storage service of the Goods will be charged.
3. If the Goods referred to in the previous section are not picked up by the Seller despite sending an additional call to him with setting a deadline of not less than 14 days for this purpose, the Company is entitled to destroy or sell the goods at the cost and risk of the Seller. In this second case, the amount of the price obtained after the set off of the Company's receivables will be transferred to the Seller within 7 days.

Article 14
Risk of losing Goods; Ownership of the Goods

1. The Risk of accidental damage or loss of the Goods shall pass to the Company upon completion of unloading the Goods at the Place of Delivery. The risk of accidental damage or loss of the Goods in respect of which the notification referred to in Article 12 section 2 has been done, stored in accordance with the provisions of Article 10 section 4 (or the provisions of the Contract referring to this provision) or Article 13 section 2, Goods returned in accordance with the provisions of Article 10 section 4 (or the provisions of the Contract referring to this provision) or Article 13 section 1, as well as the Goods, in relation to which the Contract has been withdrawn, shall be transferred back to the Seller.
2. The ownership of the Goods shall pass to the Company no later than upon the moment of releasing them to the Company.
3. It is not acceptable for the Seller to reserve the ownership of the Goods until the payment of the price or settle of any other liabilities.

Article 15
Actions after the delivery

The Seller within a period of two years from the date of delivery of the Goods is obliged to provide the Company in writing with all information on the Goods, in particular regarding their compliance with current standards and suitability of use in the intentions indicated by the Company, as well as meeting the requirements provided for them in the plan in which the Goods were used, provided that the Seller was informed about these requirements.

Chapter IV
Payment

Article 16
Price

1. The Price specified in the Contract shall be paid in Polish zlotys (PLN), unless the Parties agree otherwise.
2. Prices presented in any documents of the Company includes all benefits covered by the Contract, and will be increased only by the value added tax (VAT), as long as its calculation is provided in appropriate provisions.

3. The Price specified by the Contract is immutable, which also applies if the extraordinary relationship change would result in excessive difficulties or threaten one of the Parties with a gross loss, which the Parties did not envisage at the conclusion of the Contract. The same applies to the other obligations of the Parties under the Contract. Provisions of Article 357¹ and Article 632 § 2 of the Civil Code shall not apply.

Article 17

Payment deadline

1. The basis for the Price payment shall be a VAT invoice delivered by the Seller to the Company.
2. If the Contract provides for the preparation of a protocol for the receipt of Goods stating the proper fulfillment of the performance, the VAT invoice may not be issued prior to the preparation of such a protocol. If the Contract provides the Company time for verification of the provided performance correctness, a VAT invoice may not be issued before the deadline for such verification expires ineffectively. The previous sentences do not apply when the Company agrees in writing or electronically to issue an invoice despite the lack of a written protocol or lack of ineffective deadline for verification.
3. Unless the Parties agree otherwise, a VAT invoice may not be issued until the benefits of the Seller covered by the Contract are fulfilled in full (partial invoices are not allowed).
4. The Payment of the Price, shall take place on the date set in the Contract. The event that begins the payment deadline of the Price is the day of delivery of the VAT invoice to the Company (invoice including the order number assigned by the Company in the event of acting in the manner specified in Article 3 section 3) referred to in section 1 of this Article.
5. The moment of payment of the Price is considered the moment of debiting the the Company bank account.
6. Price payment shall be made on the bank account indicated by the Seller, unless the Parties decide otherwise or another method of payment of the Price results from the properties of the actions covered by the Contract.
7. It is not permissible to reserve for the Seller benefit higher interest than due on the basis of generally applicable law.
8. Incorrectly issued VAT invoice (which means not in accordance with the conditions set out in the Contract and General Terms of Purchase), causes the need for the VAT invoice to be issued again by the Seller. The effect of delivery of a VAT invoice takes place in this case only when correctly issued VAT invoice is delivered to the Company.

Article 18

Payment recognize

If the Company has several debts of the same kind towards the Seller, and when rendering the performance the Company indicates which debt he wants to satisfy, payment is firstly of all recognized for that debt in such a way that the main performance is first satisfied, and only later its accessory benefits connected with that debt.

Chapter VI

Intellectual Property Rights

Article 19

Copyrights

1. The Seller declares and assures that:
 - 1) Copyright Materials were made in the scope of his business activity and they are free from any legal defects, in particular they as well use of them do not violate neither property nor personal copyright of third parties,
 - 2) he is having exclusively copyrights to Copyright Materials, which means in particular, that nobody else is entitled to dispose of or use them;
 - 3) there are no limitations in the disposal by him of proprietary copyrights to the

Copyright Materials;

- 4) concluding the Contract does not violate any third person rights;
 - 5) he did not grant or give any power of attorneys to dispose of or undertake to dispose of copyright to the Copyright Materials;
 - 6) transfer of proprietary copyrights to the Copyright Materials to the Company, does not require the consent or confirmation of any authority or third party;
 - 7) guarantees that Copyright Materials, have been developed with the utmost care, assessed according to the professional nature of the activities conducted by the Seller, taking into account the Company's interests, as well as current knowledge and principles of effective operation and are fully compliant with the Output Documentation.
2. Once the Company is handed over even incomplete Copyright Materials (carriers on which they have been recorded), the Company becomes the sole subject of all proprietary copyrights to the submitted Copyrights Materials. Any transfer of the Copyright Materials or any part thereof by the Seller to the Company is equivalent to the repetition of the statements referred to in the preceding section.
 3. Following the event referred to in the preceding section, the Company shall be entitled to use the Copyright Materials or any part thereof, on all currently known fields of exploitation, in particular in the following:
 - 1) entering into computer memory,
 - 2) tenancy,
 - 3) granting of licenses to use them,
 - 4) broadcasting them via vision or sound wired or wireless or by a ground station,
 - 5) broadcasting them via satellite,
 - 6) distribution in any other way and using any techniques,
 - 7) permanent or temporary fixation and reproduction of the Copyright Materials in whole or in any part thereof, including production of the Copyright Material copies with the use of any technique, in particular by printing, reprography, magnetic recording or digitally,
 - 8) trade in the original and copies on which the Copyright Materials have been fixed, including the placing on the market, lending or rental of the original or copies of the Copyright Materials,
 - 9) public performance, display, screening, replaying and broadcasting and rebroadcasting as well as communicating Copyright Materials to the public in such a way that each person may access the work from a place and at a time individually chosen by him,
 - 10) applications for the implementation, based on the Copyright Materials, of any business intentions in any number, location and time,
 - 11) any modification (change) of the Copyright Materials (in particular the creation of new versions and adaptations) and the exercise of any copyright in relation to dependent works, in particular in the fields of exploitation mentioned above.
 4. The provisions of the preceding sections apply to the Copyright Materials in whole or in part, appearing independently or contained in the works of other entities, and any of their elaborations, regardless of how the development (change, modification) of the Copyright Materials or parts thereof occurred .
 5. The Company shall have exclusive right to authorize the exercise of the related rights in reference to the Copyright Materials.
 6. The Company can perform the entitlements referred in the preceding sections, independently and do not need anybody's consent for this purpose.
 7. The Company is entitled to use the Copyright Materials both with the designation of their authorship and without such a designation.
 8. The transfer of copyrights to the Copyright Materials takes place without time and territorial limits. In the same scope, the Company may use these rights and dispose of them.

9. The transfer of rights concerns the Copyright Materials in the state in which they are on the day they are transferred to the Company and on each subsequent day, including changes, corrections, additions and modifications made by the Seller.
10. In the moment agreed in section 2 above, the Company also acquires the ownership of the copies (carriers) of the Copyright Materials issued to him.
11. At the latest at the invoice including the payment of the Price, the Seller shall provide the Company with a written statement of the authors of the individual elements of the Copyright Materials confirming that they transferred to the Seller the copyrights to the works created by them to at least the extent to which the Seller agreed in the Contract to transfer them to the Company.
12. The Seller's remuneration for the transfer of the rights to the Copyright Materials in all of the above mentioned fields of exploitations and for the transfer of ownership of the copies of the Copyright Materials is covered by the Price.
13. The Seller guarantees that the author or the authors of the Copyright Materials will not exercise their personal rights to the Copyright Material in a manner that limits the Company in the enforcement of the rights to the Copyright Materials acquired by the Company, listed in the preceding sections, or in the use of the rights set out in this Article.
14. The Seller undertakes not to register, as a trademark or other objects of intellectual property, on its own behalf or on behalf of other entities, works - graphic, verbal or other works constituting elements of the Copyright Materials.
15. In case of any doubts, the provisions of this Article should be interpreted in such a way that the scope of rights to the Copyright Materials transferred by the Seller to the Company is as wide as possible and the enforcement of these rights by the Company is accompanied by as few restrictions as possible.
16. In the event of the Company's need to acquire Copyright rights in other fields of exploitation than specified above (new fields of exploitation), the Company shall report such a need to the Seller, and the Parties within 15 days from the date of receipt of the application by the Seller, shall sign an annex to the Contract, amending as of the day of its signature section 3 of this Article, so that they will add another point to it defining a new field of exploitation in the manner indicated by the Company in the application referred above, without additional remuneration.

Article 20 Other rights

The provisions of preceding Article shall apply accordingly to all other products of the Seller's activities arising from the performance of the Contract not being works under copyright law and made available to the Company.

Article 21 Licenses

1. If for any reason the effect referred to in the two preceding Articles will not be reached at the time of transfer to the Company even incomplete Authors Materials (carriers on which they were recorded) in the scope that the Company does not acquire property copyrights (or other intellectual property rights), the Company acquires a legally binding without territorial and time limitations, transferable, non-exclusive license, with no need to pay any license fee or remuneration, to use the Copyright Material in the scope specified in the two preceding Articles. In this case, the Goods shall be treated as defective, unless the Contract provides otherwise.
2. The license referred to in the preceding section shall be granted in particular in the case when with the Goods is transferred Software, to which the Seller has no copyrights.
3. If the Software is embedded in the Goods or the Goods are accompanied by Software owned by a third party (in particular previously licensed to other persons), the provisions of section 1 of this Article shall apply accordingly, however, the Seller guarantees that as of the date indicated in this section the appropriate license to the Software shall be granted by the right-holder.

Article 22
Third party claims

1. If any person makes a claim against the Company regarding the Copyright Materials, in particular claiming that the Company using them in connection with the Contract violates its rights, the Company is entitled to withhold all payments to the Seller until the dispute is resolved. (including titles other than those related to the Contract) up to the amount of reported claims.
2. If the claims referred to in the previous section are legitimate, the Company shall be entitled to satisfy them from the retained amounts, with the effect of fulfilling the performance for the benefit of the Seller
3. The provisions of this Article do not exclude or limit the obligations arising from the warranty or guarantee, as well as the obligation to repair the damage.

Chapter VII
Guarantee and warranty

Article 23
Guarantee and warranty

1. The Seller grants to the Company quality guarantee for the whole Contract subject, including Goods ("**Guarantee Subject**"). The guarantee period is 60 (sixty) months (unless the parties in the Contract decide otherwise) and counts from the date of delivery of the Guarantee Subject ("**Defect Notification Period**"). If the Guarantee Subject is installed in third party purchasing the Guarantee Subject from the Company, the Defect Notification Period shall be extended by the time between delivery and assembly of the Guarantee Subject in that third party, however, not more than by 6 months. The guarantee is transferable and worldwide binding. The Seller shall be liable for the same period under the warranty for defects referred to in the Civil Code. The guarantee and warranty covers also the period preceding the Defect Notification Period. In the event of repair or replacement of the Guarantee Subject, the Defect Notification Period for the given Guarantee Subject runs again from the beginning.
2. Subject to the provisions of the preceding section, the Company is not bound by any deadline to notify the Seller of the Defect.
3. It is inadmissible to make the guarantee conditionally or its duration conditional on the payment of the Price (in general or within a specified period).
4. The Seller is liable under the guarantee for Defects disclosed before the Defect Notification Period.
5. In the event of any Defects being revealed before the end of the Defect Notification Period, the Company shall inform the Seller about this and set a deadline to remove them. The deadline will not be shorter than 7 days and it will be possible to keep from a technical point of view.
6. Defects revealed in the Defect Notification Period will be qualified with the participation of Parties and evaluated in terms of the reasons for their arise, as at the date of drawing up the relevant protocol. The Company will inform the Seller about date and place of Defects qualification, at least two days in advance. In the event the Seller or his representative fails to appear at the date and place of the Defects qualification set by the Company, the Company shall itself make Defects qualifications and reasons for their arise, by preparing an appropriate protocol.
7. Removing the Defects will be each time confirmed in writing by the Parties, in a appropriate protocol of removing the Defects.
8. Regardless of other actions, to which the Company is entitled in accordance with the provisions of this Article, in the event of the Seller not removing the Defects within the prescribed period, the Seller shall pay the Company a contractual penalty for delay in

removing the Defects. The penalty amount is 0,2% of the net Price of the defective Goods, for each day, which has passed between the last day of the deadline, set by the Company to the Seller to remove the Defect, and the date of its actual removal. The payment of the contractual penalty described above does not release the Seller from the obligation to remove the concerned defect, nor does it violate other the Company entitlements, in particular the right to use the collaterals for proper performance of the Contract.

9. Regardless of the right to demand payment of the contractual penalty described above, as well as the use of Contract proper performance collaterals, if the Seller does not remove the Defect until the date specified in the notification, the Company is entitled to (at its option):
 - 1) remove without additional call the Defect himself or by employing others, in a reasonable manner, at the cost and risk of the Seller;
 - 2) make an relevant reduction of the Guarantee Subject Price;
 - 3) withdraw from the Contract in the scope of defective Guarantee Subject or from all or a relevant part of the subject of the Contract, if it is justified by the properties of the Contract subject or the purpose for which the subject of the Contract was acquired.
10. If the Defect proves to be a defect which threatens human life or health, or its occurrence will lead on the Company or third party's side property damage that increases with the time lapse to such an extent that covering the damage from the penalty referred to in section 8 of this Article is unlikely, and the Seller will not take in less than 8 hours (if the notification is forwarded on a Business Day or 16 hours if the notification is forwarded on another day) corrective actions upon receipt of such notification (the date indicated in section 5 of this Article is not applicable in this case), then the Company will be entitled to remove the Defect at the cost and risk of the Seller. Notwithstanding the foregoing, in exceptional situations where any delay in removal of Defects may cause a threat to human health or life or cause property damage exceeding its amount at least twice the value of work necessary to remove the Defect, the Company shall have the right to immediately take repair works at the Seller's cost, informing the Seller as much as it is possible about this fact.
11. If the Defect is of such a nature that it cannot be removed, which deprives the Company of significant benefits from the Guarantee Subject, the Company shall be entitled, at its option, to reduce the Price in proportion to the value of the Guarantee Subject affected by the non removable Defect, adding costs of lending, costs of dismantling all or part of the works, cleaning the place of execution of works or withdrawing from the Contract in the scope of a defective Guarantee Subject or in whole or a relevant part of the subject of the Contract, if it is justified by the properties of the subject of the Contract or the purpose for which the subject of the Contract was acquired.
12. If the Company does not indicate otherwise, work under the guarantee and warranty is carried out in the every place where the Guarantee Subject is located. In the event that work under the guarantee or warranty requires the dismantling of the Guarantee Subject, the cost of these activities charges the Seller. It is also the responsibility of the Seller to re-install the Guarantee Subject.
13. The Seller's obligation is to provide a replacement Guarantee Subject for the duration of the repair or until delivery of the new item within 5 days from the date of receipt of the notification of such need. If the Seller fails to fulfill this obligation, the Company shall be entitled to secure a replacement Guarantee Subject at the cost and risk of the Seller.
14. Provisions of the sections preceding of this Article shall apply accordingly to the Guarantee Subject being an item other than with specific parameters (properties specified by the Company), except that in such cases, apart from the right to demand repair of the item, the Company shall be entitled to an alternative (subject to the Company's choice) demand to replace the item with a new one (in this case, the deadline referred to in section 5 of this Article is a deadline for delivery of a new item), and next to the right to

remove the defect at the cost and risk of the Seller is the right to purchase the same item as the faulty item (or its substitute) at the cost and risk of the Seller.

15. The above provisions do not limit and exclude the Seller's liability under the provisions of the Civil Code, regarding contractual liability, including those resulting from the warranty or tort liability.
16. The Seller may free himself from liability under the warranty and guarantee, if he proves that the Defect was created as a result of doing the works according to the Company requirements, which the Seller questioned in writing and warned about the possibility of negative effects in the event of complying with these requirements.
17. If a dispute arises between the Parties about the occurrence of the Defect or its nature, it does not release the Seller from performing the duties referred to in this Article, nor does it limit the Company in the use of the entitlements provided for in this Article. In such a case, the Company shall be entitled to commission an assessment of the Guarantee Subject to an independent third party (such person is in particular a higher education facility, a scientific or research unit and a person entered in the list of court experts), which assessment will be binding for the Parties. If the assessment referred to in the previous sentence does not confirm the existence of a Defect, then the Company shall refund to the Seller the costs of activities performed under the obligations specified in this Article. Otherwise, the Seller will refund to the Company the costs of the assessment of the Guarantee Subject.

Article 24

Guarantee document

If, a guarantee document (in particular a warranty card) has been provided with the Guarantee Subject, this is without prejudice to the provisions of the previous Article.

Chapter VIII

Failure to fulfill or improper fulfillment of an obligation

Article 25

Contractual penalties in the event of failure to release or accept the Goods

1. If the Seller is in delay with release of the Goods, it shall pay the Company a contractual penalty in the amount of 0,2 % of the net Price for each day of delay. If the Seller is in delay with release of only a part of the Goods, the basis for calculation of a contractual penalty shall be the value of the Goods, with release of which the Seller delays.
2. If the Company withdraws from the Contract in whole or in part (also if the Seller fails to fulfill its obligations under the guarantee or warranty), the Seller will pay the Company a contractual penalty of 20% of the net Price (in case of a partial withdrawal 20% of the net Price of the Goods in the scope of which the Company withdrawn from the Contract).
3. All contractual penalties provided for in the Contract or the General Terms of Purchase shall be paid without a separate request for payment within 7 days from occurrence of the obligation to pay such penalties, unless the Contract or the General Terms of Purchase provide otherwise.
4. Whenever contractual penalties are reserved in the Contract or General Terms of Purchase, the Company shall be entitled to claim from the Seller compensation on general terms exceeding the amount of the contractual penalty.
5. It is not allowed to reserve any contractual penalties (or sanctions of a similar nature) from the Company to the Seller.
6. Contractual penalties foreseen in the Contract (and General Terms of Purchase) are independent of each other, which means that the arise of a right to one of them does not exclude the possibility of seeking the rest. In particular, the occurrence of a claim for payment of a contractual penalty related to withdrawal from the Contract does not exclude

the right to claim established earlier claims related to the delay or default in the performance of the Contract.

Article 25

Withdrawal from the Contract

1. The Seller, except for situations clearly provided for in the Contract shall be entitled to withdraw from the Contract only in the events 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 21 days.
3. Unless the Contract or General Terms of Purchase provide otherwise, submission by any of the Parties of a statement on withdrawal from the Contract shall be effective only if it was preceded by a demand to ensure the state of affairs compliant with the Contract along with specification of an additional period therefore, not shorter than 10 days and if such period expired ineffectively
4. The statement on withdrawal should include justification.
5. If performance of the Contract is not possible for the period of at least 60 days for reasons outside the responsibility of any of the Parties, each Party is entitled to withdraw from the Contract during the period of occurrence of such circumstances.
6. Withdrawal from the Contract by any of the Parties shall not result in the loss of the rights acquired by the Parties from the Contract, in the part in which the Contract has been already performed as well as claims for damages (including claims for payment of contractual penalties) related to failure to perform or improper performance of the Contract until the day of withdrawal, being effective only with regard to such part of the Contract that has not been performed. In the event of withdrawal from the Contract, the provisions of Article 31 and Article 33 as well as other provisions of the Contract that from their essence results they were also provided in the event of withdrawal from the Contract, shall remain in force.
7. In the event of withdrawal from the Contract, the Company shall be entitled to request to release it the incomplete Goods for payment of the relevant part of the Price, and if the withdrawal occurred due to reasons attributable to the Seller, the Company shall also be entitled to complete the manufacture of the Goods at the expense and risk of the Seller's.

Article 27

Limitation of liability

1. The Seller shall not be liable for failure to fulfill or improper performance of obligations under the Contract, only if it proves that this is a consequence of Force Majeure only.
2. The Seller is also liable for damages (including lost profits) that the Company have bear by failing to fulfill or performing improper its obligations towards its counterparty, if such damages are related to the failure or improper performance of obligations by the Seller related to the Contract
3. It is not allowed to limit the basis or scope of the Seller's liability in relation to the state specified in the General Terms of Purchase and the generally applicable provisions of law.

Chapter IX

Other provisions

Article 28

Additional collateral

1. If after conclusion of the Contract the Company becomes aware that the financial condition of the Seller makes doubtful the performance of the Contract by the Seller also in the event of reduction of the value of collateral provided earlier by the Seller in connection with a given Contract, the Company is entitled to demand from the Seller

additional collateral (in particular in the form of mortgage, registered pledge, bank or insurance guarantee), specifying a deadline not shorter than seven days and until fulfillment of its request the Company may withhold fulfillment of all of its contractual obligations.

2. The Company is entitled to terminate the Contract with immediate effect, if liquidation, bankruptcy or recovery proceedings are initiated against the Seller. In such situation all payments due to the Company under the Contract shall become immediately due.

Article 29

Subcontractors

1. When performing the Contract the Seller is entitled to use services of freely chosen third parties, whereas the Seller shall be responsible for their activities as for its own activities. The Seller is obliged to ensure that subcontractors comply with the provisions of the Contract, in particular regarding confidentiality.
2. The provisions of the previous section shall not apply to the production of Goods with specific parameters (properties specified by the Company) and works, the implementation of which is associated with the creation or transfer of Copyright Materials. In this case, entrusting work to a third party requires the prior written consent of the Company, under the pain of payment by the Seller to the Company contractual penalty in the amount of 25% of the net Price (in the case of entrusting part of the work making up the Contract - 25% of the net Price of for works entrusted to a third party).

Article 30

Informational activities

1. The Company is entitled to inform 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, about conclusion and performance of the Contract, its Parties and Goods delivered by the Seller.
2. For the informational purposes referred to in the preceding section, the Company is entitled to use the business name and logo of the Seller.
3. The Seller shall notify the Company about the event of initiation of liquidation, recovery or bankruptcy proceedings against the Seller or its business partners and about the existence of conditions to initiate any of these proceedings.

Article 31

Confidentiality and honesty

1. Subject to the provisions of the preceding Article, the Parties undertake to keep confidential and not to transfer to third parties information about the contents of the Contract and any data about the enterprise of the other Party and about its customers and business partners as well as other data obtained in connection with the Contract, specified by the Party disclosing it as confidential.
2. The information referred to in the previous section shall not be used by the Seller for any purpose other than for the purposes of the Contract.
3. The obligation referred to in the preceding two sections shall apply for the entire term of the Contract and shall expire ten years after the day when the Contract loses its binding force for any reason whatsoever, however it does not prejudice the protection of specific information resulting from the generally applicable laws in force in particular protection of business secrets in accordance with the provisions of the Act of 16th April 1993 - The Suppression of Unfair Competition Act (consolidated text: Journal of Laws of 2003 number 153, item 1503 as amended).

4. The Seller undertakes to the Company that neither he nor any person acting on his behalf or for him, shall not directly or indirectly provide financial or personal benefits or promise such benefits to persons acting on behalf of or for the benefit of the Company or other persons who may influence the conclusion of the Contract, its content or performance. The provisions of the present section also apply to small gifts, the presentation of which is customary.
5. In the event of a breach by the Seller of the obligation under section 1, 2 or 4 of this Article, the Seller is obliged to pay the Company a contractual penalty of 10% of the net Price.

Article 32

Communication between the Parties

1. Any notifications and statements of the Parties submitted in connection with the Contract or performance thereof should be, provided that the Contract or General Terms of Purchase do not provide otherwise, made in writing, otherwise null and void and sent by registered mail or courier or delivered in person to the addresses specified in the introductory part of the Contract or send by fax or via electronic mail.
2. Each Party shall immediately inform the other Party about every change of the mailing address, otherwise correspondence sent to the last indicated address shall be deemed effectively delivered within 3 days from the day of the first advice note. Changes referred to in the preceding sentence shall not be considered a change to the Contract
3. If the Contract of General Terms of Purchase provide for the performance of given activities (submission of a statement) within a specified period, it is sufficient to hold the period to send a registered letter, an e-mail or fax message before its expiry.

Article 33

Final Provisions

1. The Contract (with the General Terms of Purchase) 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. If any provision of the Contract is deemed invalid or in other manner legally ineffective, its remaining provisions shall remain in force and the invalid or in other manner legally ineffective provision shall be replaced with a relevant provision of generally applicable law, whereas the Parties shall immediately initiate discussions with the purpose of replacing such invalid or otherwise legally ineffective provision with a provision that is valid and effective, with possibly similar economic and legal effects.
3. Without a written consent of the Company, the Seller is not entitled to transfer any rights arising from the Contract to a third party.
4. If the Contract has been prepared in two or more language versions, the Polish language version shall prevail, and if such a version does not occur, the English version shall prevail.
5. The Company has the right to transfer to a third party its rights and obligations resulting from the Contract at any time, to which the Seller gives its consent. In particular the transfer of rights and obligations may be made to the benefit of a bank or company with its registered office on the territory of the Republic of Poland, indirectly or directly dependent on the Company or having personal or capital bonds with the Company.
6. Attachments to the Contract constitute its integral part.
7. Any changes in this Contract shall be made in writing, otherwise null and void.
8. If the Company does not exercise its rights under the Contract, does not enforce them, as well as in the event that it tolerates the performance of the Contract in a manner inconsistent with its content, under no circumstances shall it be considered as the will to amend the Contract or to resign of any rights or claims vested in the Company.
9. The Seller shall not set off amounts due from the Company against any amounts due to the Company under the Contract.

10. No claims of the Seller against the Company shall constitute the basis for the Seller to withhold payment for the Goods.
11. The Contract shall be subject to the Polish law, at the same time excluding the application of the United Nations Convention on Contracts for the International Sale of Goods made in Vienna on 11th April 1980.
12. Any disputes related to the Contract (in particular failure to perform or improper performance or disappearance of its legal existence) shall be resolved by a common court competent for the registered office of the Company.

Article 34
Entry into force

These General Terms of Purchase shall enter into force on the day of their publication on the website www.essystem.pl, i.e. on 26.11.2018 r.