

# End User License Agreement for Siteco iQ Software

This End User License Agreement (“**EULA**”) is a legal agreement between you (as either individual or a single entity, “**YOU**”) and Siteco GmbH, Georg-Simon-Ohm-Str. 50, 83301 Traunreut, Germany (“**SITECO**”) that governs the use of the Siteco iQ software (“**SOFTWARE**”).

Please read the EULA carefully. By clicking on “accept”, or using the SOFTWARE, you confirm that YOU have read the EULA and consent to be bound by all of its terms and conditions. If YOU do not accept all of the terms of this EULA, YOU have no right to use the SOFTWARE.

## Preamble

The SOFTWARE is specifically generated for the management of SITECO luminaires (“**PURPOSE**”). Within this framework, YOU can, among other things, download the technical documentation of all SITECO luminaires, or make independently feasible changes to the settings after delivery of the luminaire, as well as document the location of the luminaire. By registering an organisation and the associated users, work packages with tasks can be created and processed offline and online directly at the location of the luminaire.

The SOFTWARE is provided in executable format (i.e. web application via an internet browser) unless explicitly stipulated otherwise for certain software modules and may a) be downloaded to your mobile devices (e.g. smartphone, tablet, etc.) to access services (i.e. mobile app), b) require services maintained remotely required for normal operations (i.e. cloud services) and c) require subscription services, including services that can be accessed using the mobile apps (i.e. subscription services).

The SOFTWARE is provided together with the related documentation (“**DOCUMENTATION**”).

## I. License Grant and License Restrictions; Open Source and Third Party Software

Subject to the terms and conditions of this EULA, YOU are hereby granted the non-exclusive, non-transferrable, worldwide right to a) use and have used the SOFTWARE and the DOCUMENTATION (“**BUNDLE**”) for internal evaluation, test and demonstration purposes and b) use and have used the BUNDLE for the PURPOSE.

YOU are not entitled to distribute and sublicense the SOFTWARE.

Other than those explicitly stipulated herein, YOU are not granted any rights to the BUNDLE.

Unless explicitly allowed by applicable mandatory law, YOU are not entitled to disassemble, reverse engineer, decompile and/or modify the SOFTWARE or any part thereof.

The SOFTWARE may contain freeware, shareware or open source software (“**OPEN SOURCE SOFTWARE**”). No license fee is charged to YOU for the use of such OPEN SOURCE SOFTWARE. YOU acknowledge and agree that SITECO provides no warranties and shall have no liability whatsoever in respect of YOUR possession and/or use of the OPEN SOURCE SOFTWARE. Regarding such portions of SOFTWARE, YOU hereby accept the specific license conditions either being part of the DOCUMENTATION or otherwise provided by SITECO (“**OPEN SOURCE CONDITIONS**”). Upon YOUR request, SITECO provides a copy of the source code of the OPEN SOURCE SOFTWARE, if required by the OPEN SOURCE CONDITIONS.

To the extent there is a conflict between this EULA and the OPEN SOURCE CONDITIONS, the terms of the OPEN SOURCE CONDITIONS shall prevail over the terms and conditions of this EULA with regard to the OPEN SOURCE SOFTWARE.

The availability of the SOFTWARE may be dependent on the third-party websites from which YOU download the mobile apps (e.g. the app store from Apple or the Android app market from Google, each an “**APP STORE**”). The EULA is between YOU and SITECO and not with an APP STORE. Each APP STORE may have its own terms and conditions to which YOU must agree before downloading mobile apps from it. YOU agree to comply with, and your license to use the mobile apps is conditioned upon your compliance with such APP STORE terms and conditions. To the extent such APP STORE conditions are less restrictive than, or otherwise conflict with, the terms and conditions of the EULA, the more restrictive or conflicting terms and conditions in the EULA apply.

The SOFTWARE contains third party software modules (“**THIRD PARTY SOFTWARE**”). Such THIRD PARTY SOFTWARE is provided under the terms and conditions as set forth herein unless otherwise explicitly stated herein.

With respect to programs of the BUNDLE proprietary to third party licensors of SITECO who are direct and intended third party beneficiaries of certain terms and conditions herein relating to the protection of such THIRD PARTY SOFTWARE and/or documentation, YOU agree that those third party beneficiaries may enforce these terms and conditions directly against YOU.

## **II. Accounts**

To use the BUNDLE, YOU may have to register for a user account (“**ACCOUNT**”) and provide certain information about yourself as prompted by the applicable registration form.

YOU are responsible for maintaining the confidentiality of your ACCOUNT login information and for all activities that occur under your ACCOUNT. Please keep your ACCOUNT login information in a safe place. YOU should properly log out from the SOFTWARE when YOU finish. In case your ACCOUNT login information is misplaced or lost, YOU agree that SITECO is not liable for resulting damages or losses.

YOU agree to provide truthful, complete, and accurate information when registering an ACCOUNT. Should anything change after registration, YOU should promptly update your registration information.

YOU agree that SITECO reserves the right to provide your information and information collected by SITECO about YOU and your ACCOUNT (e.g., account activities) at the request of government authorities.

SITECO values your privacy. Please review our privacy statement. It describes SITECO's practices regarding information SITECO may collect from you. SITECO will collect, use, store and share your personal information in accordance with the EULA and the privacy statement.

When creating an ACCOUNT or using the SOFTWARE, SITECO will ask YOU for certain information. If required by local laws or regulations, YOU must provide truthful and accurate information about your identity. If YOU fail to provide all of the necessary information or fail to provide truthful and accurate information, your access and use of the SOFTWARE will be denied or limited.

SITECO cares about the integrity and security of your personal information. SITECO, however, cannot guarantee that unauthorized third parties will never be able to defeat our security measures or use your personal information for improper purposes. YOU provide your personal information at your own risk. YOU agree that SITECO or other authorized parties assume no responsibility for any of your direct, indirect, derivative or punitive damages result from unauthorized access to or change of your transfer or data.

## **III. Intellectual Property**

The BUNDLE, including all content, information, photographs, illustrations, graphics, names, logos and THIRD PARTY SOFTWARE contained therein, if any, are the property of SITECO and/or its licensors and are protected by copyright and trademark laws and other intellectual property rights. The word and device trademark SITECO, other product trademarks, illustrations and logos identify SITECO products and are the property of SITECO.

YOU shall maintain, reproduce and include in all full or partial copies of the BUNDLE all notices and legends (including copyright and trademark notices) included in the BUNDLE as received from SITECO.

Other than explicitly stated herein, nothing contained in the above shall be construed as granting, by implication or otherwise, any license or right to use any patent, trademark or any other intellectual property right of SITECO, nor does it grant any license or rights to use any copyrights or other rights related to the materials described above except as explicitly stated.

## **IV. Hyperlinks**

The SOFTWARE may contain hyperlinks to web pages or similar links. While SITECO will carefully inspect the linked pages when creating the reference, it can by no means make sure that their content will be as expected on time of visit. Therefore, we cannot take any responsibility for the contents of the referred pages.

## **V. SOFTWARE Maintenance**

SITECO may generate updates fixing defects in the SOFTWARE (“**UPDATE(S)**”), upgrades adding certain features to the SOFTWARE (“**UPGRADE(S)**”) or new versions of the SOFTWARE (“**NEW VERSION(S)**”), together “**IMPROVEMENTS**”. Information about new UPDATES and UPGRADES will be provided online. The IMPROVEMENTS may be automatically installed without providing any additional notice or receiving any additional consent. YOU consent to this automatic update. If YOU do not want such IMPROVEMENTS, your remedy is to terminate your ACCOUNT and/or stop using the SOFTWARE.

## **VI. Pricing**

The BUNDLE is free of charge.

## **VII. Warranty**

SITECO warrants that a) the SOFTWARE will substantially provide the key functions described in the DOCUMENTATION, meet the acknowledged state of the art and will be free of material defects deteriorating or decreasing the value or the fitness for the use in accordance with Section I above and b) the DOCUMENTATION will be up to date, complete and free from material errors.

The warranty period is twelve (12) months and begins upon delivery of the BUNDLE (“**WARRANTY PERIOD**”).

In the event that a copy of the BUNDLE fails to meet the above warranties (“**DEFECT**”), SITECO will use commercially reasonable efforts to either correct the respective copy or deliver an UPDATE remedying such DEFECT during the WARRANTY PERIOD.

This warranty shall not apply to copies of the SOFTWARE not provided by SITECO. Warranty claims are also excluded a) in case of insignificant deviation of the SOFTWARE from the agreed characteristics, b) if the DEFECT is not reproducible, c) for errors or restrictions of use originating after the transfer of risk to YOU, in particular resulting from improper operation, usage or handling, disregard of the DOCUMENTATION, d) for errors or restrictions of use resulting from improper interconnection with and/or integration into third party equipment, unless such interconnection and integration was performed by SITECO or its subcontractors, e) if YOU or any other third party modifies, maintains or services the SOFTWARE without the written approval of SITECO.

## **VIII. Viruses**

While SITECO will implement utmost care to prevent any destructive or otherwise harmful programs from becoming part of the SOFTWARE, SITECO cannot assure the safety of the SOFTWARE. It is YOUR responsibility to take all necessary preventive measures and actions.

## **IX. Third Party Claims**

If a claim, suit, action or proceeding is brought against YOU by a third party alleging that YOUR use of the SOFTWARE infringes such third party’s patent(s) and/or copyright(s) (“**CLAIM**”), the following shall apply:

If, as a result of such a CLAIM, YOU become enjoined or it is likely, in SITECO’s reasonable opinion, that YOU will become enjoined from using the SOFTWARE and SITECO has caused the infringement wilfully or negligently, SITECO shall at its election and its cost - except as set forth below in this Section, and subject to the conditions and limitations stated below in this Section: a) procure for YOU the right to use the SOFTWARE or b) provide YOU with a non-infringing replacement product or modify the SOFTWARE so that it becomes non-infringing, provided that the replacement product or modified SOFTWARE, as applicable, meets substantially the same functional specifications as the SOFTWARE. Upon SITECO’s execution of one of the options set out in this Section, SITECO shall be relieved of any further obligation or liability to YOU as a result of any such infringement.

YOU will take all reasonable steps to cooperate with SITECO in SITECO’s efforts to mitigate any potential damages, costs and expenses incurred by SITECO under this provision.

SITECO shall only be liable as set out herein above if YOU give SITECO prompt written notice of any alleged or threatened CLAIMS, allow SITECO on its request to control the defence and/or settlement of such CLAIM, do not consent to any judgment or decree or do any other act in compromise of any CLAIM

without first obtaining SITECO's written consent and provides to SITECO all reasonable cooperation and information as may be requested by SITECO.

SITECO shall not be liable with respect to any CLAIMS arising out of or relating to either a) use or incorporation in any SOFTWARE of any design, technique, modification or specification originating with, furnished or requested by YOU; or b) the combination with or incorporation into the SOFTWARE or elements thereof with any other product, software, or subassembly not supplied by SITECO for such purpose if such infringement would not have occurred without such combination; c) the modification of SOFTWARE by YOU or any person or entity other than SITECO; d) any of YOUR applications or a third party application; e) the use of SOFTWARE other than as permitted under this EULA; or f) use of other than the most current IMPROVEMENT (if such infringement or claim would have been prevented by the use of such IMPROVEMENT).

YOU are bound to defend, indemnify and hold SITECO harmless against any and all claims arising for infringement of any third party rights arising out of or relating to YOUR designs, techniques, modifications, specifications, combinations of SOFTWARE with other product, software and/or subassembly.

UNLESS THE INFRINGEMENT HAS BEEN CAUSED INTENTIONALLY, WITH GROSS NEGLIGENCE OR BY BREACH OF A MATERIAL CONTRACTUAL OBLIGATION, THE FOREGOING SECTIONS STATE THE ENTIRE LIABILITY OF SITECO AND YOUR EXCLUSIVE REMEDY WITH RESPECT TO INFRINGEMENT OF ANY INTELLECTUAL PROPERTY RIGHTS, EITHER STATUTORY OR EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY PATENT RIGHTS, COPYRIGHTS, UTILITY MODELS, DESIGN PATENTS, MASK WORK RIGHTS, MORAL RIGHTS, TRADE SECRETS, TRADEMARKS, TRADE NAMES, SERVICE MARKS, KNOW-HOW AND ANY OTHER SIMILAR RIGHTS OR INTANGIBLE ASSETS RECOGNIZED UNDER ANY LAWS OR INTERNATIONAL CONVENTIONS, AND IN ANY COUNTRY OR JURISDICTION IN THE WORLD AS INTELLECTUAL CREATIONS TO WHICH RIGHTS OF OWNERSHIP ACCRUE, AND ALL REGISTRATIONS, APPLICATIONS, DISCLOSURES, RENEWALS, EXTENSIONS, CONTINUATIONS OR REISSUES OF THE FOREGOING NOW OR HEREAFTER IN FORCE. EXCEPT AS EXPRESSLY STATED IN THIS ARTICLE, ALL WARRANTIES AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS AS MENTIONED BEFORE ARE HEREBY DISCLAIMED TO THE FULLEST EXTENT PERMITTED BY LAW. ANY LIABILITY REGARDING SUCH INTELLECTUAL PROPERTY RIGHTS SHALL BECOME BARRED TWELVE (12) MONTHS AFTER THE DELIVERY OF THE RESPECTIVE PRODUCT TO YOU.

Section X (Liability) is applicable to SITECO's liability according to this Section.

#### **X. Liability**

SITECO's liability under this EULA shall not be limited as far as the damage has been caused by intent and/or gross negligence. It shall also not be limited for all claims arising from the Product Liability Act (Produkthaftungsgesetz).

Should SITECO negligently breach an essential or cardinal obligation, SITECO's liability is limited to the amount of the typically arising and foreseeable damages, at a maximum however to the amount of one thousand Euros (1.000 EUR).

In all other cases than those stipulated above or except as otherwise explicitly stipulated in this EULA, claims for damages against SITECO shall be excluded. This exclusion also includes the personal liability of employees, legal representatives and vicarious agents.

#### **XI. Confidentiality**

The BUNDLE is or contains confidential information. YOU are bound to treat the confidential information as confidential and not disclose it in any way or form to anyone except your employees who reasonably need to know such confidential information for the implementation of SOFTWARE and who are bound to confidentiality either by their employment agreement or otherwise to an extent not less stringent than the obligations under this EULA.

#### **XII. Export Control**

The export of certain information, the BUNDLE may, e.g. due to its nature or intended use or final destination, be subject to authorisation. YOU are obliged to strictly conform to the export regulations for

information, SOFTWARE and DOCUMENTATION, in particular with those of the EU as well as the individual EU member states and the USA. When providing the BUNDLE, SITECO will label such information, the BUNDLE requiring authorisation in accordance with German and EU export control lists and the U.S. Commerce Control List.

### **XIII. Term**

Both SITECO and YOU may terminate this EULA, in addition to any other remedies it may have, if the other party is in default of a material obligation under this EULA and fails to cure such default within thirty (30) days following its receipt of written notice of the default. Within thirty (30) days following termination of this EULA, whether terminated by YOU or SITECO, YOU must destroy all copies of the BUNDLE or else return all copies to SITECO. Notwithstanding the foregoing, each party may terminate this EULA for material cause.

### **XIV. Assignment**

Neither the rights nor the obligations of this EULA may be assigned or transferred in any manner, except with the prior written consent of the other party and except as part of a transfer of all or of a substantial part of the activities to which the subject matter of this EULA pertains whether by sale, merger or consolidation provided, however, that SITECO may assign any and all of its rights and obligations without YOUR prior written to a SITECO affiliate. In case of such a transfer the respective party shall take care that the transferee, assignee or successor will comply with this EULA.

### **XV. Dispute Resolution and Applicable Law**

The place of jurisdiction shall be Traunstein if YOU are a merchant in terms of the German Commercial Code (Handelsgesetzbuch).

This EULA shall be governed by German law. The application of the German Uniform Code on the Formation of Contracts for the International Sale of Movable Goods of 17 July 1973 and the United Nations Convention on Contracts for the International Sales of Goods (CISG) of 11 April 1980 is excluded.

### **XVI. Contact Us**

If YOU have any comments or questions about this EULA or any questions relating to your personal data processing, please contact SITECO at the address below:

Siteco GmbH, Georg-Simon-Ohm-Straße 50, 83301 Traunreut, Germany

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