



Control Network Solutions

OPENING NETWORK FRONTIERS

CNS elite DALI® Solutions Software End User License Agreement

(May be updated from time to time by Control Network Solutions Ltd)

CONTROL NETWORK SOLUTIONS LTD ("CNS") HAS DEVELOPED A STANDARDISED SET OF SOFTWARE COMPONENTS AND RELATED SOFTWARE FOR THE COMMISSIONING, CONTROL, TEST AND MAINTENANCE OF INTELLIGENT LIGHTING SYSTEMS AND DEVICES. CNS IS WILLING TO PROVIDE A LIMITED LICENSE OF THE SOFTWARE TO YOU (END USER) EXPRESSLY ON THE CONDITION THAT YOU ACCEPT ALL OF THE TERMS IN THIS AGREEMENT. PLEASE READ THE TERMS AND CONDITIONS OF THIS AGREEMENT CAREFULLY BEFORE INSTALLING THE LICENSED SOFTWARE COMPONENTS. BY INSTALLING THE **CNS ELITE DALI® SOLUTIONS** SOFTWARE COMPONENTS YOU ACKNOWLEDGE THAT YOU HAVE READ THIS AGREEMENT AND AGREE TO BE BOUND BY ITS TERMS AND CONDITIONS.

1. LICENSE GRANTS AND RESTRICTIONS.

- 1.1 **CNS elite DALI® Software.** Subject to the terms and conditions contained herein, CNS hereby grants you a non-transferable, non-exclusive, limited license to install, use and execute the **CNS elite DALI solutions software** on a single server, which is identified by serial number during the installation process (the "Designated System"), solely for your business use.
- 1.2 **No Other Rights Granted.** Apart from the license expressly granted herein, no license or other right is granted by CNS to you under this Agreement, either directly or by implication, estoppel, or otherwise (including, but not limited to, the right to prepare derivative works). You shall have no right or access to the source code

2. **YOUR RESPONSIBILITIES.** You shall (i) use all commercially reasonable efforts to ensure that your employees comply with the terms of this Agreement; (ii) not modify, decompile, disassemble, decrypt, extract, or otherwise reverse engineer the **CNS elite DALI solutions** software or any part thereof, or any **CNS elite DALI solutions** based application or **CNS elite DALI solutions** enabler or grant any other person or entity the right to do so or take any action that would assist any other person or entity in doing so and will promptly notify CNS of any information that any other person or entity is or is attempting to copy, reverse engineer, disassemble, decompile, translate or modify the **CNS elite DALI solutions** software; (iii) not insert, delete, replace, change or otherwise alter any files in the **CNS elite DALI solutions** software or any **CNS's elite DALI solutions** based application or **CNS's elite DALI solutions** enabler; (iv) not modify, change, prepare derivative works of or otherwise alter any Binary Code files included with the **CNS elite DALI solutions** software; (v) not loan, rent, lease, give, sublicense, transfer, publish, disclose, display, or otherwise make available the **CNS elite DALI solutions** software, in whole or in part, to any other person or entity; and (vi) not modify any application programming interface, including modifying any application programming interface by creating additional classes within any interface or otherwise causing the addition to or modification of the classes in an interface.



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3. **TECHNICAL SUPPORT.** CNS will provide 90 days free support from date of issue of licensed **CNS elite DALI solutions** software. Additional support will be available subject to a support agreement being in force.
4. **LICENSE FEES.** The license fees paid by or for you to CNS are paid in consideration of the licenses granted under this Agreement.
5. **OWNERSHIP AND CONFIDENTIALITY.**
 - 5.1 Ownership by CNS. CNS retains all right, title and interest, in and to the **CNS elite DALI solutions** software (and any portions thereof). You shall not have any right, title, or interest to the **CNS elite DALI solutions** software except as provided in this Agreement, and further shall secure and protect the **CNS elite DALI solutions** software consistent with maintenance of CNS's proprietary rights therein. You agree that you shall not contest or challenge, or take any action inconsistent with or that may damage or impair CNS's ownership or rights, and further that you shall not contest or challenge, or take any action inconsistent with or that may damage or impair the ownership or intellectual property rights of CNS's licensors. You shall not use the **CNS elite DALI solutions** software except as is expressly authorised in this Agreement.
 - 5.2 Confidentiality. You acknowledge that the **CNS elite DALI solutions** software contains valuable trade secrets of CNS and you agree to maintain the confidentiality of the **CNS elite DALI solutions** software using at least the same degree of care you use with your own confidential information. You acknowledge that upon your breach of Sections 5.1 or 5.2, CNS shall be entitled to equitable relief to protect its interests, including preliminary and permanent injunctive relief and you further agree to waive any right or claim to which you may be entitled to immunity or exemption from liability.
6. **WARRANTIES AND LIMITATIONS.**
 - 6.1 Disclaimer of Software Warranty. CNS LICENSES THE **CNS elite DALI solutions** SOFTWARE "AS IS," WITH NO OTHER EXPRESS OR IMPLIED WARRANTY OF ANY KIND. CNS SPECIFICALLY DISCLAIMS ALL INDIRECT OR IMPLIED WARRANTIES TO THE FULL EXTENT ALLOWED BY APPLICABLE LAW, INCLUDING WITHOUT LIMITATION ALL IMPLIED WARRANTIES OF, NON-INFRINGEMENT, MERCHANTABILITY, TITLE OR FITNESS FOR ANY PARTICULAR PURPOSE. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY CNS, ITS AGENTS OR EMPLOYEES SHALL CREATE A WARRANTY.
 - 6.2 Limitation of Liability. NEITHER CNS NOR ANY OF ITS LICENSORS, OFFICERS, AGENTS, EMPLOYEES OR REPRESENTATIVES SHALL BE LIABLE FOR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES OR PENALTIES (INCLUDING DAMAGES FOR LOST PROFITS, LOST BUSINESS, PERSONAL INJURY, LOST DATA, BUSINESS INTERRUPTION, AND THE LIKE), HOWEVER IT ARISES, WHETHER FOR BREACH OR IN TORT, EVEN IF CNS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
 - 6.3 Limitation of Remedies. NOTWITHSTANDING THE ABOVE, IN NO EVENT SHALL CNS'S MONETARY LIABILITY IN CONNECTION WITH THIS AGREEMENT OR THE NIAGARA FRAMEWORK, TO YOU EXCEED THE AMOUNTS PAID TO IT BY YOU PURSUANT TO THIS AGREEMENT.



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7. **ASSURANCES BY YOU.** THERE CAN BE NO ASSURANCES WHATSOEVER THAT CONTROL SYSTEMS SUCH AS THE **CNS elite DALI solutions** SOFTWARE WILL PROTECT ANY INDIVIDUAL OR HIS OR HER PROPERTY FROM HARM. APPROPRIATE SAFETY PRECAUTIONS MUST ALWAYS BE TAKEN WHEN OPERATING OR MAINTAINING EQUIPMENT CONNECTED TO THE **CNS elite DALI solutions** SOFTWARE. CNS ASSUMES NO RESPONSIBILITY OR LIABILITY FOR ANY INJURY OR DAMAGE TO ANY PERSONS OR PROPERTY RESULTING FROM THE USE BY YOU OF THE **CNS elite DALI solutions** SOFTWARE. FURTHER, YOU REPRESENT AND WARRANT THAT YOU WILL TAKE APPROPRIATE PRECAUTIONS, ESTABLISH APPROPRIATE PROCEDURES AND POST APPROPRIATE NOTICES TO ENSURE THAT PERSONS AND PROPERTY ARE NOT HARMED IN THE EVENT OF AN ERROR, MALFUNCTION OR UNEXPECTED OPERATION OF THE CNS **CNS's elite DALI solutions** SOFTWARE OR PRODUCTS.
8. **INDEMNIFICATION.** You shall indemnify and hold harmless CNS from and against all losses, claims, damages or other causes of any nature or kind whatsoever (including reasonable attorney's fees) arising directly or indirectly out of third party claims concerning (i) a breach of any of your obligations, covenants, representations or warranties contained herein; (ii) your selection of, transactions and/or agreements with any Certified Systems Integrator; and (iii) the negligence or intentional misconduct of you or your officers, employees, agents or contractors.
9. **TERM AND TERMINATION.** This Agreement is effective upon your installation of the **CNS elite DALI solutions** software and shall continue until terminated. You may terminate this Agreement at any time by returning the **CNS elite DALI solutions** software and all copies and extracts to CNS. CNS may terminate this Agreement upon a material or continuing breach of this Agreement by you by the giving of 10 days prior written notice of termination, stating the cause therefor, with termination becoming effective at the close of said 10-day term if the breach is not then cured to the satisfaction of CNS.
10. **GENERAL TERMS.**
 - 10.1 **Assignment.** You may assign this Agreement or your rights and obligations under this Agreement to a purchaser of the real property and/or hardware on which the software is installed, provided (i) you provide the purchaser with a copy of this Agreement and (ii) the purchaser agrees to comply with all of the terms and conditions of this Agreement. CNS may assign this Agreement without your consent.
 - 10.2 **Export.** Software, including technical data, is subject to U.K. and E.U. export control laws, and may be subject to export or import regulations in other countries. You agree to comply strictly with all such regulations and acknowledge that you have the responsibility to obtain such licenses to export, re-export, or import **CNS elite DALI solutions** software. The **CNS elite DALI solutions** software may not be used, sold, resold, sublicensed, diverted, transferred, reshipped, or otherwise exported or re-exported: (i) in, into or through any country designated as a terrorist supporting country by the U.K. government or any of its agencies; (ii) in, into or through any country which the U.K. has an embargo or with which the U.K. or any of its agencies maintains comprehensive trade controls; (iii.) to or by a national or resident of the countries described in (i) or (ii); or (iv) to or by any party which the U.K. government or any of its agencies as a party with which it is unlawful to do business.
 - 10.3 **Equitable Relief.** You acknowledge that any breach of your obligations hereunder with respect to the **CNS elite DALI solutions** software or the confidential information of CNS will cause CNS irreparable injury for which it has no adequate remedy at law, and therefore that CNS will



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be entitled to seek and obtain equitable relief, including preliminary injunctions and temporary restraining orders, to prevent any unauthorised use of the **CNS elite DALI solutions** software and confidential information, in addition to all other remedies available to it under this Agreement or other applicable law.

- 10.4 Entire Agreement. This Agreement comprises the entire agreement between the parties relating to its subject matter. This Agreement supersedes all prior agreements and understandings, written or oral, express or implied. This Agreement can be amended or modified only by a writing executed in advance by duly authorised representatives of each of the parties hereto. In the event any foreign ministry or other governmental entity or agency makes any changes, deletions or modifications to this Agreement, holds any provision herein unenforceable or imposes any conditions or restrictions on either party to this Agreement which affects its ability to fully perform, CNS shall have the right to immediately terminate this Agreement. By installing the **CNS elite DALI solutions** software, you represent and warrant that all consents, approval or authorisations of third parties, foreign ministries or any governmental entities or agencies, required as a recondition or otherwise necessary for you to enter into and perform its obligations under this Agreement have been duly obtained.
- 10.5 Waiver. A waiver of any breach of default of this Agreement shall not create a waiver of the term or of any subsequent breach of default.
- 10.6 Governing Law; Choice of Venue. The validity of this Agreement and the rights, obligations and relations of the parties hereunder shall be construed and determined under and in accordance with the substantive laws of England with respect to claims arising under the laws of the United Kingdom, without regard to conflicts of laws principles and excluding the Convention on Contracts for the International Sale of Goods. Any action arising from or relating to this Agreement or the conduct of the parties pursuant hereto shall be commenced and heard solely of competent jurisdiction found within English Courts, and CNS and you each consent to personal jurisdiction and venue in any such court.
- 10.7 Severability. Should any term or provision of this Agreement be finally determined by a court of competent jurisdiction to be void, invalid, unenforceable or contrary to law or equity, the offending term shall be modified and limited (or if strictly necessary, deleted) only to the extent required to conform to the requirements of law and the remainder of this Agreement (or, as the case may be, the application of such provisions to other circumstances) shall not be affected thereby but rather shall be enforced to the greatest extent permitted by law.