

END USER LICENSE AGREEMENT

VISUAL PLANNING 5.2

IMPORTANT – PLEASE READ THESE TERMS CAREFULLY

This End User License Agreement (“**Agreement**”) is an agreement with Stilog I.S.T. (“**Stilog**”) that governs the Licensed Parties’ use of the Software. This Agreement also applies to any Fixes and Updates to the Software except to the extent that there are terms that are included with those items which supersede this Agreement.

**By downloading, installing, or using the Software, the Licensed Parties agree to be bound by the terms of this Agreement. If a Licensed Party does not agree, then it is not permitted to download, install, or use the Software. The Licensed Parties will have the rights set forth below for so long as the Licensed Parties comply with the terms of this Agreement.**

**1. DEFINITIONS.**

“**Add-on Module(s)**” means additional modules that can be added to and used together with the base Visual Planning Server application. Add-on Modules include: Visual Planning Portal (“VP Portal”), WebCalendar, WebSMS, and Geolocation.

- VP Portal is a Concurrent User-based full HTML 5 Web Portal generated from the Software that is accessible from computers, tablets or mobile devices with HTML 5 compliant browsers.
- WebCalendar is a module for Internet calendar publication which can publish specific information from the Software to Google Calendar, Microsoft Outlook and any other software or service that supports the iCalendar file format in Web URL format.
- WebSMS is a module that enables SMS capabilities in the Software. WebSMS works with Esendex([www.esendex.com](http://www.esendex.com)) or BulkSMS ([usa.bulksms.com](http://usa.bulksms.com)) accounts to send SMS messages containing information from the Software in customer configured and defined SMS templates.

“**Concurrent User**” (aka Floating User) means a user-based license that allows any individual to access an Instance of the Software from any device capable of accessing the Software. The number of Concurrent Users licensed refers to the maximum number of individuals that may simultaneously access an Instance of the Software;

“**Documentation**” means the user guides, manuals and release notes provided by Stilog for the Software;

“**Fix(es)**” means any change or workaround to the Software that corrects a problem with the Software that causes it to crash, lose data, or prevents it from performing substantially in accordance with the Documentation;

“**Instance**” means a single copy of the Software used in a production environment which is created by executing the Software’s setup or install procedure or by duplicating an existing copy of the Software.

“**Licensed Parties**” means the Licensee, its sublicensed Subsidiaries, and their respective independent contractors that use the Software solely for performing services for Licensee or its sublicensed Subsidiaries’ internal business operations.

“**Licensee**” means the legal entity identified in the License Key.

“**Named User**” means a user-based license that is specific to an individual user and which may not be shared with other individual users;

“**Open Source**” means software components that are licensed under a license approved by the Open Source Initiative or similar open source or freeware licenses and are embedded in the Software.

“**Run,**” “**Runs**” or “**Running**” means to load an Instance of the Software into the memory of a Server or other computing device (e.g. laptop, smartphone, tablet, etc.) and execute one or more instructions.

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“**Server**” means a physical or virtualized hardware system capable of Running the Visual Planning Server application. A hardware partition or blade is considered to be a separate physical hardware system.

“**Software**” means the version of the base Visual Planning Server application (including all components included in the base package) identified above, any additionally licensed Add-on Modules, and all Fixes and Updates.

“**Subsidiary**” means any legal entity that is owned by the Licensee where ownership means direct or indirect control of more than a 50% interest or the right to direct the management and affairs of the entity.

“**Updates**” (also referred to as ‘Builds’) means minor releases of the Software containing Fixes, minor enhancements or user interface changes. Updates are designated in the format yymmdd where ‘yy’ stands for year, ‘mm’ stands for month, and ‘dd’ stands for day.

“**User**” means an individual authorized by Licensee to use the Software according to the terms and conditions of this Agreement.

“**Visual Planning Server**” means the Server portion of the Software that enables configuration and deployment of the Software on a given network. One Visual Planning Server license is required for each server Running the Software.

### 2. LICENSE RIGHTS; RESTRICTIONS.

**2.1 General.** Stillog licenses the Software based on: (i) the number of Instances of the Software that the Licensed Parties Run; (ii) the number of Named Users and Concurrent Users that access Instances of the Software either directly or through the VP Portal; (iii) the Add-on Module(s) licensed; and (iv) the number of URLs generated by the Software for iCalendar files using Web Calendar. Each Instance of the Software that a Licensed Party Runs requires a separate license.

(a) *Visual Planning Server and Add-On Module Licenses.* The Licensee must assign a license for the base Visual Planning Server application (and Add-on Modules) to a Server (including Servers owned or controlled by Licensee’s sublicensed Subsidiaries) before Running an Instance of the base Visual Planning Server application (and purchased Add-on Module(s)) on that Server. Licensee is not permitted to assign the same license to more than one Server. Add-on Module licenses are assigned to a specific Instance of the Visual Planning Server application. This section does not apply to Licensee if he is under a Software-as-a-Service Agreement (aka Cloud access), as the Visual Planning Server license shall be assigned by Stillog itself to the Server where Licensee’s application is hosted.

(b) *Named User Licenses.* Where Named Users are required in order to access an Instance of the Software, Licensee must acquire and assign Named User licenses for each individual user that directly or indirectly accesses those Instances of the Software. Licensee may permanently re-assign a Named User license from one individual user to another. Licensee may also assign a Named User license to a temporary worker while the normally assigned individual is absent. Named User licenses are assigned to a specific Instance of the Software cannot be used to access a different Instance of the Software.

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### 2.3 Additional Rights and Restrictions.

- (a) *License Keys.* The Software requires a valid license key in order to install and Run the Software (the "**License Key**"). The License Key is unique to Licensee and sets forth the number of Instances Licensee is permitted to Run, the number of Named Users and Concurrent Users that may access those Instances, and applicable quantities for any licensed Add-on Module(s). Each License Key must be activated before it can be used. License Keys can be activated over the telephone or the Internet. Each License Key can only be activated once. Licensee may only use the number of licenses that the License Key permits. Licensee is not permitted to make copies of the License Key without Stilog's prior written consent. Licensee is not permitted to share the License Key with any third parties.
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### 4. WARRANTY; DISCLAIMERS.

**4.1 Scope of Warranties.** Stilog warrants that the Software will perform substantially as described in the Documentation for a period of ninety (90) days from the date the License Key is activated.

**4.2 Disclaimers.** THE SOFTWARE IS COMPLEX COMPUTER SOFTWARE. ITS PERFORMANCE WILL VARY DEPENDING ON THE LICENSED PARTIES' HARDWARE PLATFORM, SOFTWARE INTERACTIONS, THE CONFIGURATION OF THE SOFTWARE AND OTHER FACTORS. THE SOFTWARE IS NEITHER FAULT TOLERANT NOR FREE FROM ERRORS, CONFLICTS OR INTERRUPTIONS. STILOG DOES NOT WARRANT OR GUARANTEE THAT THE SOFTWARE WILL MEET A LICENSED PARTY'S REQUIREMENTS, THAT THE SOFTWARE WILL OPERATE ERROR-FREE, THAT A LICENSED PARTY'S USE OF THE SOFTWARE WILL BE UNINTERRUPTED, OR THAT STILOG WILL CORRECT ALL ERRORS IN THE SOFTWARE. IN ADDITION, THE WARRANTY IN SECTION 4.1 ABOVE DOES NOT COVER, AND STILOG SHALL HAVE NO RESPONSIBILITY OR LIABILITY FOR PROBLEMS CAUSED BY MODIFICATIONS OR CUSTOMIZATIONS TO THE SOFTWARE MADE BY A LICENSED PARTY OR ANY OTHER THIRD PARTY ACTING ON A LICENSED PARTY'S BEHALF, OR EVENTS BEYOND STILOG'S REASONABLE CONTROL. THE WARRANTIES STATED IN SECTION 4.1 ARE THE SOLE AND EXCLUSIVE WARRANTIES PERTAINING TO THE SOFTWARE AND DOCUMENTATION. TO THE EXTENT PERMITTED BY LAW, STILOG EXPRESSLY DISCLAIMS ALL OTHER EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS, INCLUDING WARRANTIES OR CONDITIONS OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT, QUALITY AND FITNESS FOR A PARTICULAR PURPOSE. TO THE EXTENT AN IMPLIED WARRANTY OR GUARANTEE CANNOT BE DISCLAIMED, IT WILL ONLY BE EFFECTIVE FOR THE TERM OF THE LIMITED WARRANTY.

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**6. LIMITATION OF LIABILITY.** TO THE EXTENT PERMITTED BY APPLICABLE LAW, WHATEVER THE LEGAL OR EQUITABLE BASIS FOR THE CLAIM, NEITHER PARTY, NOR ANY OF ITS SUBSIDIARIES OR SUPPLIERS, WILL BE LIABLE FOR ANY INDIRECT DAMAGES (INCLUDING, WITHOUT LIMITATION, CONSEQUENTIAL, SPECIAL OR INCIDENTAL DAMAGES, DAMAGES FOR LOST PROFITS OR REVENUES, BUSINESS INTERRUPTION, LOSS OF GOODWILL, COMPUTER FAILURE OR MALFUNCTION, LOSS OF DATA OR BUSINESS INFORMATION, OR ANY AND ALL OTHER COMMERCIAL DAMAGES OR LOSSES) ARISING IN CONNECTION WITH THIS AGREEMENT OR FROM THE USE OF OR INABILITY TO USE THE SOFTWARE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF SUCH POSSIBILITY WAS REASONABLY FORESEEABLE. HOWEVER, THIS EXCLUSION DOES NOT APPLY TO EITHER PARTY'S LIABILITY TO THE OTHER FOR VIOLATION OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS. STILOG'S MAXIMUM AGGREGATE LIABILITY FOR DIRECT DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT WILL BE LIMITED TO THE LICENSE FEES PAID FOR THE SOFTWARE. NO ACTION, REGARDLESS OF FORM, ARISING OUT OF OR RELATING TO THIS AGREEMENT MAY BE BROUGHT BY EITHER PARTY MORE THAN TWO (2) YEARS AFTER THE CAUSE OF ACTION HAS ACCRUED.

**7. TERM AND TERMINATION.** The Licensed Parties will have the rights set forth herein for so long as the Licensed Parties comply with the terms of this Agreement. This Agreement automatically terminates if a Licensed Party breaches its terms and such breach is not cured within thirty (30) days of Stilog's written notice of breach or is not able to be cured. Sections 4, 6, 7, 8 and 9 will survive any termination of this Agreement.

**8. RETURN OR DESTRUCTION OF SOFTWARE AND DOCUMENTATION UPON TERMINATION OF LICENSE.** If any license granted under this Agreement is terminated in accordance with the terms of this Agreement, the Licensed Parties must within thirty (30) days thereafter: (a) cease using the Software and Documentation; and (b) return the Software and Documentation and any copies thereof to Stilog or certify in writing that it has been destroyed. This requirement applies to copies of the Software and Documentation in all forms, partial and complete, in and on all types of media and computer memory, and whether or not modified or merged into other materials.

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### 9. GENERAL.

**9.1 Severability.** In the event any provision or part thereof of this Agreement is held to be invalid or unenforceable by any court of competent jurisdiction, the remaining provisions and parts of this Agreement shall remain in full force and effect.

**9.2 Waiver.** No waiver of any breach of this Agreement will be a waiver of any other breach, and no waiver will be effective unless made in writing and signed by an authorized representative of the waiving Party.

**9.3 Entire Agreement.** This Agreement constitutes the entire agreement between the Parties and supersedes all previous agreements and representations, written or oral, with respect to the Software and Documentation. This Agreement may not be modified or amended except in an express writing signed by a duly authorized representative of each Party.

**9.4 Governing Law.** The validity, interpretation, and performance of this Agreement shall be controlled by and construed under the laws of France as if performed wholly within France and without giving effect to the principles of conflicts of laws. The Parties hereby consent to the exclusive jurisdiction of the courts located in Nanterre, France. The Parties specifically exclude application of the United Nations Convention on Contracts for the International Sale of Goods to this Agreement.