

## SOFTWARE-AS-A-SERVICE AGREEMENT FOR VISUAL PLANNING SOFTWARE SOLUTION AND ITS ASSOCIATED MODULES

BETWEEN:

**COMPANY NAME**

Address: **Address**

Represented by: **Contact Name**

As: **Job Title**

Named hereinafter "Licensee"

AND:

**Stilog IST**

Address: Le Capitole  
55 avenue des Champs Pierreux  
92000 Nanterre  
FRANCE

Represented by: **Christophe POIRMEUR**

As: **CEO**

Named hereinafter "Stilog" or "the Editor".

This Stilog Software-as-a-Service Agreement ("**Agreement**") is an addendum to the Visual Planning End User License Agreement (the "**License Agreement**") between Stilog IST ("**Stilog**") and the Licensee identified in the License Key, and forms a part of the License Agreement. This Agreement sets forth the terms and conditions governing Stilog's provision of Hosting and Maintenance Services for the Software (the "**Services**") as described in Section 1 below.

**By purchasing or using the Services, Licensee acknowledges and reaffirms its agreement to be bound by the License Agreement including the terms of this Agreement. Any capitalized terms not otherwise defined herein shall have the meanings given to them in the License Agreement. In the event of a conflict**

**between the Agreement and the License Agreement for the purposes of the Services, this Agreement shall control.**

IT IS AGREED AS FOLLOWS:

## **1. SCOPE OF SERVICE**

Stilog will provide the following Services subject to Licensee's payment of the subscription fees indicated on the applicable proposal:

**a. Hosting service for its software solution Visual Planning.** Stilog will provide the Licensee a right to access, run, and display an instance of Visual Planning hosted remotely on a shared server. This provision will be effective only for the duration of this agreement.

The server and associated services, including service level provided by Stilog to Licensee, are described in Exhibit A of this Agreement.

**b. Maintenance of the Visual Planning application.** Stilog will perform maintenance on the Visual Planning application as described in Exhibit B of this Agreement.

**c. Technical Support.** Stilog will provide technical support to Licensee's technical point of contact ("TPOC") for problems encountered by Licensee while using the Software where there is a reasonable expectation that the problem is caused by the Software. Licensee may submit requests for technical support: a) preferably by submitting a support ticket on the online support site at [http://www.visual-planning.com/support\\_en/web](http://www.visual-planning.com/support_en/web); b) if documents need to be attached to the request, sending e-mail to [support@stilog.com](mailto:support@stilog.com); or c) for issues causing an entire disruption of the service, by calling the Stilog support hotline set forth at +33 1 47 29 29 66. The support hotline is available Monday to Thursday from 9 AM to 1 PM and from 2 PM to 6 PM, French time and on Fridays from 9 AM to 1 PM and from 2 PM to 5 PM, French time, excluding French holidays and weekends. A list of applicable French public holidays is provided in Exhibit C. Stilog will respond to and work toward the resolution of tickets submitted as described in Exhibit B.

Stilog will provide the Services remotely in English from one of Stilog's sites. Additional fees will apply, including reasonable travel and living expenses, where onsite visits are required.

## **2. OWNERSHIP**

Stilog remains the owner of the hosted software. The Licensee acknowledges that the license granted under this Agreement does not provide the Licensee with title to or ownership of the Visual Planning application, but only a right of limited use under the terms and conditions of this Agreement.

## **3. ACCESS TO SERVER**

Stilog will undertake every effort to ensure the permanence, continuity and quality of hosting services it offers. Physical hosting may be subcontracted by Stilog to a third party service provider.

## **4. SERVICE PRICES, INVOICING AND PAYMENTS**

The prices of Services and subscription fees as well as invoicing and payments conditions are specified on the applicable proposal issued by Stilog or one of its authorized Vendors. The Services subscription will automatically renew for additional one (1) year terms (each a "Term") at the expiration of the then current Term unless terminated in accordance with Section 6. The renewed Agreement will be valid for the most recent version of the Visual Planning application only and at Stilog's public price only. Stilog may raise its fees for the Services at any time by giving Licensee at least thirty (30) days prior written notice. Any fee increases will be effective as of the next renewal Term. The Licensee may ask for a change in the number of licenses and authorized users at each renewal and should give at least thirty (30) days prior written notice. All additional licenses will be subject to Stilog's public price unless otherwise specified in an additional proposal issued by Stilog or one of its authorized Vendors.

If Licensee allows the Services to lapse through non-payment, Licensee will be required to pay all Services fees that would have been due through date of termination.

## 5. RESPONSIBILITY

Stilog will maintain administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Licensee's data. Those safeguards will include, but will not be limited to, measures for preventing access, use, modification or disclosure of Licensee's data except (a) to provide the Services and prevent or address service or technical problems, (b) as compelled by law, or (c) as Licensee expressly permits in writing.

Stilog cannot be held responsible for the inadequacy of the Services it provides to the business specific objectives that the Licensee may consider.

In no case can Stilog be held liable as a result of any action or claims of third parties, in particular:

- Information or documents contrary to legislation and regulations contained on the server disk area reserved for the Licensee;
- Suspension and / or termination of services, due to non-payment of sums due under this contract, and more generally because of the breach of any obligations of the Licensee such as set out herein.

In addition, because of the characteristics and limitations of the Licensee's Internet network, the Licensee acknowledges that Stilog cannot be held liable for:

- Difficult access to the server because of Licensee's network saturation at certain periods of time;
- Virus infection of Licensee's applications other than Visual Planning, whose protection is for the latter;
- Malicious intrusions by third parties on the server, despite reasonable security measures in place;
- Malicious use by third parties of passwords, admin login information or any confidential or sensitive information when this information has been communicated by the Licensee to those third parties;

It remains that Stilog will take all the possible security measures in the State of the Art to prevent these risks.

**6. TERMINATION.** Either Party may terminate this Agreement for a material breach of its terms by the other Party, provided the breach has not been remedied within thirty (30) days of receipt of a written notice from the non-breaching Party specifying the breach. Stilog may discontinue offering the Services at the end of a Term by giving Licensee thirty (30) days prior written notice. Termination of this Agreement will have no effect on Licensee's rights under the License Agreement to the version of the Software then in Licensee's possession. Stilog, at its sole option, may cease providing the Services to Licensee if Licensee fails to pay in full any outstanding and undisputed fees due under this Agreement within thirty (30) days after the date of Stilog's notice to Licensee of nonpayment. Stilog will re-commence providing the Services upon receipt in full of all such past due amounts.

**7. WARRANTY; DISCLAIMERS.** Stilog warrants that the Services will be performed in a workmanlike manner in accordance with industry standards. STILOG MAKES NO OTHER WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE SUBJECT MATTER OF THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT, OR ANY OTHER WARRANTY OF ANY KIND RESPECTING ANY SERVICES PERFORMED HEREUNDER.

**8. LIMITATION OF LIABILITY.** THE TOTAL CUMULATIVE LIABILITY OF EITHER PARTY TO THE OTHER PARTY FOR ANY AND ALL LIABILITY ARISING UNDER OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR OTHERWISE, SHALL NOT EXCEED THE FEES PAID TO STILOG BY LICENSEE UNDER THIS AGREEMENT FOR THE TWELVE MONTHS IMMEDIATELY PRECEDING SUCH LIABILITY. TO THE EXTENT PERMITTED BY APPLICABLE LAW, WHATEVER THE LEGAL 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, OR LOSS OF BUSINESS INFORMATION) ARISING IN CONNECTION WITH THIS AGREEMENT, THE SERVICES, OR FROM THE USE OF OR INABILITY TO USE THE SOFTWARE OR DOCUMENTATION, 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 ITS CONFIDENTIALITY OBLIGATIONS OR OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS.

## 9. GENERAL

- 9.1. Communications.** All written notices and invoices required to be sent shall be deemed to have been sent when posted by pre-paid post or sent by courier or overnight delivery service to the addresses set forth on the Order Form or to such other address as may be designated by a Party and shall be deemed received within five (5) working days if sent by first class post or within one working day if sent by courier or overnight delivery service.
- 9.2. No Assignment.** This Agreement may not be assigned by Licensee without Stilog's prior written consent, which consent shall not be unreasonably withheld. Assignments subject to this limitation shall not include assignment to an entity affiliated with Licensee, and assignments by Licensee to a successor in interest as a result of a merger, acquisition, or reorganization or sale of substantially all of Licensee's assets, so long as the said entity is a resident of the United States and Licensee provides Stilog written notice.
- 9.3. Force Majeure.** Except for the obligation to pay monies due and owing, neither party shall be liable for any delay or failure in performance due to events outside the defaulting party's reasonable control, including without limitation, acts of God, earthquake, labor disputes, shortages of supplies, actions of governmental entities, riots, war, fire, epidemics, terrorism, or delays of common carriers or other circumstances beyond its reasonable control. The obligations and rights of the excused party shall be extended on a day-to-day basis for the time period equal to the period of the excusable delay.
- 9.4. Entire Agreement.** This Agreement, including any referenced written addenda, proposals and exhibits constitutes the entire agreement between the Parties and supersedes all previous agreements or representations, written or oral, with respect to the Software and Documentation. This Agreement may not be modified or amended except in writing signed by a duly authorized representative of each Party.
- 9.5. Informal Dispute Resolution.** Except for the right of either Party to apply to a court of competent jurisdiction for injunctive relief, if any dispute arises between the Parties, the Parties shall first attempt to resolve such dispute among themselves prior to resorting to any formal legal action. Either Party may notify the other Party in writing of the occurrence of a dispute and establish a mutually convenient time and place to discuss the dispute. In any event, the meeting shall occur within a commercially reasonable period of time (which period shall not exceed fifteen (15) days from the date of the notice) and shall take place between Stilog's account executive, Licensee's equivalent representative and Licensee's Chief Information Officer. If the meeting does not resolve the dispute, either Party may then give the other Party written notice that the dispute continues. Within a commercially reasonable period of time after such notice, which period shall not exceed fifteen (15) days from the date of such notice, designated executives of both Parties shall meet to discuss the issue at a mutually convenient time and place. Such executives shall be at each Party's Vice President level or above. If the dispute has not been resolved within a reasonable period of time thereafter, then either Party may pursue applicable remedies under this Agreement, at law, or in equity.
- 9.6. Independent Contractors.** Nothing in this Agreement shall be construed to create any agency, employment, joint venture, or franchise relationship between Licensee and Stilog. Stilog shall be an independent contractor of Licensee for the performance under this Agreement.
- 9.7. Exhibits.** Exhibits A through described below and attached hereto, are incorporated into this Agreement wherever referenced.

<u>Exhibit A</u>	Description of hosting platform and associated services
<u>Exhibit B</u>	Description of technical support and maintenance services
<u>Exhibit C</u>	Data Processing Agreement
<u>Exhibit D</u>	List of French public holidays

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed by their respective duly authorized representatives as of the day and year set forth below.

**Stilog IST**

**COMPANY NAME**

By: \_\_\_\_\_

By: \_\_\_\_\_

Printed Name: **Christophe Poirmeur** \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: **CEO** \_\_\_\_\_

Title: \_\_\_\_\_

Date: **Effective date** \_\_\_\_\_

Date: \_\_\_\_\_

SAMPLE

## EXHIBIT A: Hosting platform and associated services

### 1. Hosting platform

Stilog will host the Licensee's Visual Planning application on a shared server. The current technical platform provided is hosted by OVH and located in France. At any moment, Stilog may modify the platform on which Licensee's application is being hosted.

### 2. Data

The Licensee hereby grants to Stilog a license to access, use and display data provided by him in any form, and data used, generated or stored in connection with his use of the hosted Visual Planning application. The Licensee will determine what data it wishes Stilog to host as part of the Visual Planning application.

### 3. Back-up

Stilog will perform on a daily basis an iterative 15-day backup of the Licensee's data, as well as initialization and operational maintenance of the server and, if applicable, of the hosted Visual Planning application.

### 4. Service Level

Stilog will use commercially reasonable efforts to provide a service level of 100% for the Visual Planning application.

**The issuance of Service Level Credits (defined below) is the sole and exclusive remedy of Licensee and Stilog's sole and exclusive obligation, for any Interruption of Service.** Interruption of Service means the Licensee's inability to connect to the Visual Planning Portal to access the Visual Planning application. If Licensee can connect to the Visual Planning Portal, there is no Interruption of Service, whether or not Licensee can use the Visual Planning Application.

#### 4.1. Service Level Credit

For each Interruption of Service occurring on a working day and lasting more than 24 hours after the interruption has been reported to Stilog through the Approved Procedures below, and after Stilog has duly reviewed the Interruption, Stilog shall provide a Service Level Credit of no more than one (1) month of the License fees due for that month by the Licensee to Stilog. Any Interruption of Service which is less than 24 continuous hours after the said Interruption of Service has been reported following the Approved Procedure below shall not be eligible for an award of Service Level Credits. Any Interruption of Service occurring on or reported on a non-working day, US public holiday or French public holiday will be accounted for an Interruption of Service starting on the next working day at midnight. Hours of Interruption of Service occurring on a non-working day, US public holiday or French public holiday do not count toward this 24 hours limit. The Licensee cannot combine several discontinuous Interruptions of Service to meet this calculation. In no case shall the Service Level Credit exceed the cloud subscription fees paid by Licensee to Stilog for the month in which the Interruption of Service occurred.

#### 4.2. Approved Procedure

This Approved Procedure aims at enabling Stilog to gain awareness and remedy as quickly as possible to any Interruption of Service. Licensee is eligible to receive Service Level Credit, subject to the following process:

- a. The Licensee's identified TPOC will report an Interruption of Service by opening a ticket on Stilog web-based ticketing system (HotTicket). The ticket must include a License number, URL used to access the Visual Planning Application, dates and times at which the Interruption of Service occurred, error messages received (if any), contact information, and full description of the interruption of Service including logs, if applicable. If the Licensee does not have access to HotTicket at that moment, the Interruption of Service should be reported by sending an email to [support@stilog.com](mailto:support@stilog.com).
- b. In order to receive Service Level Credit, Licensee must submit a ticket describing the Interruption of Service in HotTicket when the said Interruption of Service is discovered by Licensee. Any Interruption of Service reported after the Service has been fully restored will not be eligible for Service Level Credit.
- c. Stilog will acknowledge the Interruption of Service in writing and use commercially reasonable efforts to resolve the Interruption of Service and restore Licensee's access to the Visual Planning Portal.

- d. Once the Interruption of Service is resolved, Licensee will communicate the total duration of Interruption of Service for which he wishes to receive Service Level Credit to Stillog in writing.
- e. Stillog will review the duration claimed by Licensee against the date and time at which the Interruption of Services has been reported, monitoring logs of accessibility of its third party service provider's data centers and any additional information Stillog deems receivable.
- f. Stillog's determination of Service Level Credits is final.
- g. Licensee agrees to pay all invoices in full while an Interruption of Service is being reviewed or Service Level Credit is being determined.
- h. Stillog will communicate the Service Level Credits to Licensee through Stillog accounting and the ticket will be updated. The Service Level Credit may not be used to reduce the payments due in a Term below zero. Stillog will apply the Service Level Credits to the Licensee's future invoices for License fees.

#### **5. Service Level Credit Exclusion**

Service Level Credits do not apply for periods during which the Services are not available for the following reasons:

- Stillog or its third party service providers performing system upgrades, enhancements and routine maintenance activities, exceptional maintenance or maintenance determined by Stillog to be an emergency. The routine maintenance will be performed between 8am and 12am French Time and downtime shall not exceed 15 continuous minutes, unless one-day prior notice has been given to Licensee. Exceptional maintenance might occur outside that window and will be subject to a two day prior notice to Licensee, along with an estimate of expected downtime if it exceeds 15 minutes. Stillog will do its best effort to alert Licensee when it performs emergency maintenance and provide an estimate of expected downtime.
- Licensee use of the Services or any Licensee End User's use of the Visual Planning application in violation of the Software-as-a-Service Agreement;
- Issues relating to Licensee content;
- Problems with Licensee's access to Internet;
- System administration, commands, file transfers performed by Licensee representatives;
- Events described in the Force Majeure provision of the Software-as-a-Service Agreement;
- Problems caused by Licensee's use of the Services after Stillog advised Licensee to modify such use, if Licensee did not modify its use as advised;
- Problems arising from Licensee or any Third Party's software, hardware, network or other technology or equipment.

## EXHIBIT B: Description of technical support & maintenance services

### 1. Definitions.

- a. **“License”** means any Visual Planning license purchased by Licensee.
- b. **“Patch”** means an Error correction.
- c. **“Error”** means a reproducible bug, error, failure, defect, faulty design or delivery, non-compliance with Specifications and/or with applicable regulations and law pertaining to the functional scope and use location of the Software in force at the date of the present Agreement, observed by Licensee in the production environment of the Software and preventing Licensee to use and/or exploit all or a portion of the Software as described in the Visual Planning Documentation. The **“Documentation”** consists of all documentation pages available online at [www.visual-planning.com/doc](http://www.visual-planning.com/doc) that specifically relate to the Software version used by Licensee. Errors shall be further subdivided by severity levels as follows:
  - i. **“Blocking Error”** means a Software Error that prevents Licensee to use a critical function of the Software or a function with high financial impact, or that adversely affects data integrity; issues directly related to Java shall be specifically excluded from this category.
  - ii. **“Major Error”** means a Software Error that prevents Licensee to use a non-critical function of the Software and strongly affects Users’ workflow and processes.
  - iii. **“Minor Error”** means a Software Error that prevents Licensee to use a non-critical function of the Software that is also non-essential to Users’ workflow and processes.
- d. **“Update”** means a patch or “build” to be installed on the most current major version of the Software, referenced with a six-digit code in the form YYMMDD. **“Upgrade”** means a new standalone major version of the licensed Software referenced with a two-digit code in the form X.Y.

### 2. Scope of Support and Maintenance Services. Stilog will provide the following Services subject to Licensee’s payment of the fees indicated on applicable Proposal:

- a. **Technical Support.** Stilog will provide technical support to Licensee’s technical point of contact (“TPOC”) for Errors encountered by Licensee while using the Software, where there is a reasonable expectation that the Error is caused by the Software. An **“Error”** is defined as reproducible case of incorrect or defective functioning of Visual Planning affecting the ability of the Licensee to use a feature, as presented in the knowledge base of the Visual Planning version in use. Licensee may submit requests for technical support: a) preferably by submitting a support ticket on the online support site at [https://www.visual-planning.com/support\\_en/web/](https://www.visual-planning.com/support_en/web/); b) if documents need to be attached to the request, sending e-mail to [support@stilog.com](mailto:support@stilog.com); or c) by calling the Stilog support hotline set forth at +33 1 47 29 29 66. The support hotline is available Monday to Thursday from 9 AM to 1 PM and from 2 PM to 6 PM, French time and on Fridays from 9 AM to 1 PM and from 2 PM to 5 PM, French time, excluding weekends and French public holidays. Stilog will acknowledge reception of all tickets submitted and notify Licensee that the ticket is being processed. Stilog will qualify the level of severity of the Error and provide regular updates regarding the status of the Error to Licensee.

Licensee may access the online support site at any time to retrieve a history of actions taken by Stilog on Errors Licensee has reported and will receive automated notification whenever an open ticket changes status.

Stilog shall resolve reported Errors and provide corrective patches and workarounds according to the following service levels:

Error severity	Response time*	Time for providing a workaround solution**, if such a solution exists (after initial response)	Resolution time** (after initial response)
Blocking Error	2 hours	1 business day	4 business days
Major Error	4 hours	3 business days	10 business days
Minor Error	1 business day	5 business days	30 business days

All delays shall be understood as French business days, Monday through Friday, excluding company holidays listed in Exhibit C and week-ends.



\* The Response time shall be defined as the maximum delay in which Stilog will notify Licensee and start processing the Error, after receiving a detailed description of the Error, including all supporting documents necessary for a thorough analysis of the Error, such as, but not limited to, the vps file, client log files, server log files. Stilog will provide Licensee with a ticket reference number as part of the initial response.

\*\* Delays for providing a workaround solution and a full resolution. Those shall include the duration of the root cause analysis. After the analysis, Stilog will categorize the root cause of the reported Error as “program bug”, “configuration issue from Stilog”, “configuration issue from Licensee”; “infrastructure issue from Licensee”. The above stated delays shall only apply to root causes that are of the direct responsibility of Stilog, i.e. “program bug” and “configuration issue from Stilog”. For any other cause, Stilog shall use commercially reasonable efforts to provide Licensee with help and support in resolving the issue.

Stilog will determine the level of severity of each errors using all information and documents that have been brought to its attention by Licensee. Stilog’s determination of the Error type and root cause is final. Upon request, Stilog may provide a detailed argumentation for its decision using definitions of Error types and causes described above.

- b. **Stilog Knowledge-base.** Licensee will be provided with access to the Stilog self-help knowledge base available at <http://visual-planning.com/doc/en/start>.
- c. **Maintenance of the hosted Visual Planning application.** Stilog will monitor each hosted Visual Planning application and, shall promptly install on the Licensee’s hosted application all updates, upgrades, modifications, new versions, and enhancements to Visual Planning. In connection with this obligation, Licensee acknowledges that Stilog shall have the sole right to modify, upgrade, and change the Visual Planning application in any manner it deems appropriate.

### 3. Exclusions from Support and Maintenance Services.

- a. Covered Software Versions. The Services are provided only for versions of the Software that are actively being licensed by Stilog. All major versions of the Software will be maintained for at least 6 (six) months from the date of commercial release of the next major release.
- b. Additional Exclusions. The following matters are not covered by the Services. If Stilog reasonably determines that a reported problem is caused by any of the following, Stilog may charge Licensee for any Services rendered for the support request on a time and materials basis at Stilog’s then current standard professional services rates:
  - i. Any problem resulting from the misuse, improper use, or damage by Licensee to the Software;
  - ii. Any problem caused by modifications to the Software not made or expressly authorized in writing by Stilog;
  - iii. Any problem caused by or resulting from third party software; and
  - iv. Any problem caused by or resulting from the equipment or hardware used with the Software.
  - v. Any problem relative to a specific configuration of a Visual Planning planner by a Stilog consultant, a third party or the Licensee.

Stilog will not begin charging Licensee for this support without providing notification and obtaining approval.

Furthermore, the support service described above is solely limited to the resolution of errors and problems directly caused by the software. Functional support is not part of this agreement and may be subject to additional consulting or training fees.

Stilog is under no obligation to modify its Software solution in order to overcome the shortcomings or limitations of a third-party software or hardware, or misuse by the Licensee or its suppliers of such software or hardware.

- 4. Licensee Responsibilities.** Stillog's performance of the Services depends on Licensee's performance of the following obligations. Stillog will not be responsible for delays in providing the Services caused by Licensee's failure to perform these obligations.
- a. Licensee will designate a TPOC for the purpose of submitting support requests and receiving support under this Agreement.
  - b. Licensee will reasonably cooperate with Stillog in its delivery of the Services. Such cooperation includes promptly providing Stillog with:
    - i. all the steps necessary to recreate the reported problem and any other information or documentation that Stillog may reasonably request; and
    - ii. reasonable assistance in re-creating and diagnosing the problem.
  - c. Licensee is responsible for procuring, installing, and maintaining all equipment, telephone lines, communications interfaces, Internet connectivity, and other hardware necessary to remotely access the Visual Planning hosted application.
  - d. Stillog technical support personnel may require remote access to Licensee's systems in order to diagnose and resolve technical support issues. Licensee agrees to provide Stillog with access codes, procedures and permissions to access the Licensee's systems solely for the purpose of Stillog's provision of technical support. Stillog personnel will only access those systems authorized by Licensee.

SAMPLE

## EXHIBIT C: Data Processing Agreement

This Data Processing Agreement (“**DPA**”) forms part of the agreement, hereafter referred to as the “**Agreement**”, that is entered into between Stillog IST (“**Stillog**”) and the Licensee, and that defines the terms and conditions applicable to the services performed by Stillog (the “**Services**”). This DPA and the other provision of the Agreement are complementary. Nevertheless, in case of conflict, the DPA shall prevail.

Expressions which begin with an upper-case letter and which are not defined in this DPA shall have the meaning as set out in the Agreement.

The purpose of this DPA, which is entered into between Stillog and the Licensee in accordance with article 28 of the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (“**General Data Protection Regulation**” or “**GDPR**”), is to define the conditions under which Stillog is entitled, as a Processor and as part of the Services defined in the Agreement, to process under Licensee’s instruction, personal data as defined in the GDPR (“**Personal Data**”). The processing of personal data by Stillog as a data controller is out of the scope of this DPA.

For the purpose of this DPA, Stillog is acting as a “**Processor**” and the Licensee is presumed to act as a “**Controller**”, provided that “**Processor**”, “**Sub-processor**” and “**Controller**” have the meaning defined in the GDPR.

If the Licensee is acting as a processor on behalf of a third-party controller, the Parties expressly agree to the following conditions:

- a. The Licensee shall ensure that (i) all the necessary authorisations to enter into this DPA, including the Licensee’s appointment of Stillog as sub-processor, have been obtained from the Controller, (ii) an agreement, that is fully consistent with the terms and conditions of the Agreement including this DPA, has been entered into with the Controller pursuant to the said article 28 of the GDPR, (iii) any instructions received by Stillog from the Licensee in execution of the Agreement and this DPA are fully consistent with the Controller’s instruction and (iv) all the information communicated or made available by Stillog pursuant to this DPA is appropriately communicated to the Controller as necessary.
- b. Stillog shall (i) process Personal Data only under the Licensee’s instruction and (ii) not receive any instruction directly from the Controller, except in cases where the Licensee has factually disappeared or has ceased to exist in law without any successor entity taking on the rights and obligation of the Licensee.
- c. The Licensee, which is fully responsible to Stillog for the proper execution of the obligations of the Controller as provided under this DPA, shall indemnify and hold Stillog harmless against (i) any failure of the Controller to comply with applicable law, and (ii) any action, claim or complaint from the Controller concerning the provisions of the Agreement (including this DPA) or any instruction received by Stillog from the Licensee.

### 1. Scope

Stillog is authorised, as a Processor acting under Licensee’s instruction, to process the Controller’s Personal Data to the extent necessary to provide the Services.

The nature of operations carried out by Stillog on Personal Data may be computing, storage and/or any such other Services as described in the Agreement.

The type of Personal Data and the categories of data subjects are determined and controlled by the Licensee, at its sole discretion.

The processing activities are performed by Stillog for the duration provided in the Agreement.

### 2. Selection of the Services

The Licensee is solely responsible for the selection of the Services. The Licensee shall ensure that the selected Services have the required characteristics and conditions to comply with the Controller’s activities and processing purposes, as well as the type of Personal Data to be processed within the Services, including but

not limited to when the Services are used for processing Personal Data that is subject to specific regulations or standards (as an example, health or banking data in some countries).

If the Controller's processing is likely to result in high risk to the rights and freedom of natural persons, the Licensee shall select its Services carefully. When assessing the risk, the following criteria shall notably, but not limited to, be taken into account: evaluation or scoring of data subjects; automated-decision making with legal or similar significant effect; systematic monitoring of data subjects ; processing of sensitive data or data of a highly personal nature; processing on a large scale; matching or combining datasets; processing data concerning vulnerable data subjects; using innovative new technologies unrecognised by the public for the processing.

Stilog shall make available information to the Licensee, in the conditions set out below in clause "Audits", concerning the security measures implemented within the scope of the Services, to the extent necessary for assessing the compliance of these measures with the Controller's processing activities.

### **3. Compliance with Applicable Regulations**

Each Party shall comply with the applicable data protection regulations including the General Data Protection Regulation from the date which it enters into force in the European Union.

### **4. Stilog's obligations**

Stilog undertakes to:

- a. process the Personal Data uploaded, stored and used by the Licensee within the Services only as necessary to provide the Services as defined in the Agreement,
- b. neither access nor use the Personal data for any other purpose than as needed to carry out the Services (notably in relation to Incident management purposes),
- c. set up the technical and organisational measures described in the Agreement, to ensure the security of Personal Data within the Service,
- d. ensure that Stilog's employees authorised to process Personal Data under the Agreement are subject to a confidentiality obligation and receive appropriate training concerning the protection of Personal Data,
- e. inform the Licensee, if, in its opinion and given the information at its disposal, a Licensee's instruction infringes the GDPR or other European Union or European Union Member State data protection provisions,
- f. in case of requests received from a competent authority and relating to Personal Data processed hereunder, to inform the Licensee (unless prohibited by the applicable laws or a competent authority's injunction), and to limit the communication of data to what the authority has expressly requested.

At the Licensee's written request, Stilog will provide the Licensee with reasonable assistance in conducting data protection impact assessments and consultation with competent supervisory authority, if the Licensee is required to do so under the applicable data protection law, and in each case solely to the extent that such assistance is necessary and relates to the processing by Stilog of Personal Data hereunder. Such assistance will consist of providing transparency about the security measures implemented by Stilog for its Services.

Stilog undertakes to set up the following technical and organisational security measures:

- a. physical security measures intended to prevent access by unauthorised persons to the Infrastructure where the Licensee's data is stored,
- b. identity and access checks using an authentication system as well as a password policy,
- c. an access management system that limits access to the premises to those persons that need to access them in the course of their duties and within their scope of responsibility,
- d. security personnel responsible for monitoring the physical security of the premises,
- e. a system that physically and/or logically isolates clients from each other,
- f. user and administrator authentication processes, as well as measures to protect access to administration functions,
- g. an access management system for support and maintenance operations that operates on the principles of least privilege and need-to-know,
- h. processes and measures to trace actions performed on its information system, and

- i. operational processes aimed at ensuring that employees who left Stilog's employment no longer have access to Licensee data.

## 5. Personal Data Breaches

If Stilog becomes aware of an incident impacting the Controller's Personal Data (such as unauthorised access, loss, disclosure or alteration of data), Stilog shall notify the Licensee without undue delay.

The notification shall (i) describe the nature of the incident, (ii) describe the likely consequences of the incident, (iii) describe the measures taken or proposed to be taken by Stilog in response to the incident and (iv) provide Stilog's point of contact.

## 6. Location and transfer of Personal Data

In cases where the Services allow the Licensee to store content and notably Personal Data, such data are stored in Datacenters located in France. Stilog will not modify, without the Licensee's consent, the location or geographical area of Personal Data.

Those Datacenters are managed by our provider OVH, a Sub-processor as defined in the GDPR.

## 7. Sub-processing

Stilog uses services rendered by OVH (the "Subprocessor") to process Personal Data as part of the performance of the Services.

The Licensee expressly authorises Stilog to engage OVH as a Sub-processor.

Stilog shall ensure the Sub-processor is, as a minimum, able to meet the obligations undertaken by Stilog in the present DPA regarding the processing of Personal Data carried out by the Sub-processor. Stilog shall remain fully liable to the Licensee for the performance of any such obligation that the Sub-processor fails to fulfil.

Notwithstanding the foregoing, Stilog is expressly authorised to engage third-party providers (such as energy providers, network providers, network interconnection point managers or collocated datacenters, material and software providers, carriers, technical providers, security companies), without having to inform the Controller or obtain its prior approval, provided that such third-party providers do not access Personal Data.

## 8. Licensee's and Controller's Obligations

For the processing of Personal Data as provided under the Agreement, the Licensee shall provide to Stilog in writing (a) any relevant instruction and (b) any information necessary to the creation of the Processor's records of processing activities. The Licensee remains solely responsible for such processing information and instruction communicated to Stilog.

The Controller is responsible to ensure that:

- a. the processing of Controller's Personal Data as part of the execution of the Service has an appropriate legal basis (e.g., data subject's consent, Controller's consent, legitimate interests, authorisation from the relevant Supervisory Authority, etc.),
- b. any required procedure and formality (such as data protection impact assessment, notification and authorisation request to the competent data privacy authority or other competent body where required) has been performed,
- c. the data subjects are informed of the processing of their Personal Data in a concise, transparent, intelligible and easily accessible form, using clear and plain language as provided under the GDPR,
- d. data subjects are informed of and shall have at all the time the possibility to easily exercise their data rights as provided under the GDPR directly to the Licensee or to the Controller.

The Licensee is responsible for the implementation of the appropriate technical and organisational measures to ensure the security of the resources, systems, applications and operations which are not in the Stilog scope of responsibility as defined in the Agreement (notably any system and software deployed and run by the Licensee or the Users within the Services).

## 9. Data Subject Rights

The Controller is fully responsible for informing the data subjects of their rights, and to respect such rights, including the rights of access, rectification, deletion, limitation or portability.

Stilog will provide reasonable cooperation and assistance, as may be reasonably required for the purpose of responding to data subjects' requests. Such reasonable cooperation and assistance may consist of (a) communicating to the Licensee any request received directly from the data subject and (b) to enable the Controller to design and deploy the technical and organisational measures necessary to answer to data subjects' requests. The Controller shall be solely responsible for responding to such requests.

The Licensee acknowledges and agrees that in the event such cooperation and assistance require significant resources on the part of the Processor, this effort will be chargeable upon prior notice to, and agreement with the Licensee.

#### **10. Deletion and return of Personal Data**

Upon expiry of a Service (notably in case of termination or non-renewal), Stilog undertakes to delete in the conditions provided in the Agreement, all the Content (including information, data, files, systems, applications, websites, and other items) that is reproduced, stored, hosted or otherwise used by the Licensee within the scope of the Services, unless a request issued by a competent legal or judicial authority, or the applicable law of the European Union or of an European Union Member State, requires otherwise.

The Licensee is solely responsible for ensuring that the necessary operations (such as backup, transfer to a third-party solution, Snapshots, etc.) to the preservation of Personal Data are performed, notably before the termination or expiry of the Services, and before proceeding with any delete operations, updates or reinstallation of the Services.

In this respect, the Licensee is informed that the termination and expiry of a Service for any reason whatsoever (including but not limited to the non-renewal), as well as certain operations to update or reinstall the Services, may automatically result in the irreversible deletion of all Content (including information, data, files, systems, applications, websites, and other items) that is reproduced, stored, hosted or otherwise used by the Licensee within the scope of the Services, including any potential backup.

#### **11. Liability**

Stilog can only be liable for damages caused by processing for which (i) it has not complied with the obligations of the GDPR specifically related to data processors or (ii) it has acted contrary to lawful written instructions of the Licensee. In such cases, the liability provision of the Agreement shall apply.

Where Stilog and Licensee are involved in a processing under this Agreement that caused damage to data subject, the Licensee shall in a first time take in charge the full indemnification (or any other compensation) which is due to the data subject and, for second time, claim back from Stilog the part of the data subject's compensation corresponding to Stilog's part of responsibility for the damage, provided however that any limitation of liability provided under the Agreement shall apply.

#### **12. Audits**

At the Licensee's written request, Stilog shall make available to the Licensee all the information necessary to (a) demonstrate compliance with the requirements of the GDPR and (b) enable audits to be carried out. Such information may include certificates and audit reports.

If the aforesaid information, report and certificate prove to be insufficient to enable the Licensee to demonstrate that it meets the obligations laid down by the GDPR, Stilog and the Licensee will then meet to agree on the operational, security and financial conditions of a technical onsite inspection. In all circumstances, the conditions of this inspection must not affect the security of others Stilog's clients.

The aforementioned onsite inspection, as well as the communication of certificates and audit reports, may result in reasonable additional invoicing.

Any information that is communicated to the Licensee pursuant to this clause and that is not available on Stilog Website shall be considered as Stilog's confidential information under the Agreement. Before communicating such information, Stilog may require that the Licensee enters a specific non-disclosure agreement.

Notwithstanding the foregoing, the Licensee is authorised to answer to competent supervisory authority requests provided that any disclosure of information is strictly limited to what is requested by the said supervisory authority. In such a case, and unless prohibited by applicable law, the Licensee shall first consult with Stilog regarding any such required disclosure.

### EXHIBIT C: List of French public holidays

List of French public holidays in 2019

Date	Day	Holiday (English)	Holiday (French)
<b>1 January</b>	Tuesday	New Year's Day	Jour de l'An
<b>22 April</b>	Monday	Easter Monday	Lundi de Pâques
<b>1 May</b>	Wednesday	Labour Day	Fête du Travail
<b>8 May</b>	Wednesday	Victory in Europe Day	Fête de la Victoire
<b>30 May</b>	Thursday	Ascension Day	Ascension
<b>9 June</b>	Sunday	Whit Sunday	Pentecôte
<b>10 June</b>	Monday	Whit Monday	Lundi de Pentecôte
<b>14 July</b>	Sunday	National Day	Fête Nationale
<b>15 August</b>	Thursday	Assumption of Mary	Assomption
<b>1 November</b>	Friday	All Saints' Day	Toussaint
<b>11 November</b>	Monday	Armistice Day	Armistice 1918
<b>25 December</b>	Wednesday	Christmas Day	Noël

List of French public holidays in 2020

Date	Day	Holiday (English)	Holiday (French)
<b>1 January</b>	Wednesday	New Year's Day	Jour de l'An
<b>13 April</b>	Monday	Easter Monday	Lundi de Pâques
<b>1 May</b>	Friday	Labour Day	Fête du Travail
<b>8 May</b>	Friday	Victory in Europe Day	Fête de la Victoire
<b>21 May</b>	Thursday	Ascension Day	Ascension
<b>30 May</b>	Sunday	Whit Sunday	Pentecôte
<b>1 June</b>	Monday	Whit Monday	Lundi de Pentecôte
<b>14 July</b>	Tuesday	National Day	Fête Nationale
<b>15 August</b>	Saturday	Assumption of Mary	Assomption
<b>1 November</b>	Sunday	All Saints' Day	Toussaint
<b>11 November</b>	Wednesday	Armistice Day	Armistice 1918
<b>25 December</b>	Friday	Christmas Day	Noël

List of French public holidays in 2021

Date	Day	Holiday (English)	Holiday (French)
<b>1 January</b>	Friday	New Year's Day	Jour de l'An
<b>5 April</b>	Monday	Easter Monday	Lundi de Pâques
<b>1 May</b>	Saturday	Labour Day	Fête du Travail
<b>8 May</b>	Saturday	Victory in Europe Day	Fête de la Victoire
<b>13 May</b>	Thursday	Ascension Day	Ascension
<b>23 May</b>	Sunday	Whit Sunday	Pentecôte
<b>24 May</b>	Monday	Whit Monday	Lundi de Pentecôte
<b>14 July</b>	Wednesday	National Day	Fête Nationale
<b>15 August</b>	Sunday	Assumption of Mary	Assomption
<b>1 November</b>	Monday	All Saints' Day	Toussaint
<b>11 November</b>	Thursday	Armistice Day	Armistice 1918
<b>25 December</b>	Saturday	Christmas Day	Noël