

EULA Subscription
End user license agreement: ZigiWave

READ THE TERMS AND CONDITIONS OF THIS LICENSE AGREEMENT ("AGREEMENT") CAREFULLY BEFORE DOWNLOADING, INSTALLING OR OTHERWISE USING THE ZIGIWAVE SOFTWARE ("SOFTWARE"), WHICH IS LICENSED BY ZIGIWAVE AD ("ZIGIWAVE"). THE SOFTWARE IS AVAILABLE AT WWW.ZIGIWAVE.COM ("SITE") THROUGH DOWNLOADING. BY CLICKING THE "I AGREE" BUTTON, YOU ON BEHALF OF THE ENTITY THAT YOU REPRESENT, ("YOU" or "YOUR") AGREE TO BE UNCONDITIONALLY BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT. YOU FURTHER REPRESENT AND WARRANT THAT: (i) YOU ARE AT LEAST 18 YEARS OLD; AND (ii) YOU HAVE FULL AUTHORITY TO BIND THE ENTITY TO THESE TERMS AND CONDITIONS. IF YOU DO NOT AGREE TO COMPLY WITH AND BE BOUND BY THESE TERMS AND CONDITIONS OR DO NOT HAVE AUTHORITY TO BIND SUCH ENTITY, PLEASE DO NOT ACCEPT THE TERMS AND CONDITIONS OF THIS AGREEMENT OR ACCESS OR USE THE SOFTWARE OR ITS DOCUMENTATION. YOU HEREBY AGREE THAT ALL AND ANY COMMUNICATION AND DOCUMENTS BETWEEN YOU AND ZIGIWAVE MAY BE EXCHANGED BY EMAIL, THROUGH ZIGIWAVE'S WEBSITE OR BY OTHER ELECTRONIC MEANS. YOU HEREBY AGREE THAT ZIGIWAVE WILL PROVIDE YOU A CONFIRMATION FOR THE CONCLUSION OF THE PRESENT AGREEMENT IN ELECTRONIC FORM ONLY AND AGREE TO NOT REQUIRE AN ORIGINAL (NON-ELECTRONIC) SIGNATURE OR DELIVERY OR RETENTION OF NON-ELECTRONIC RECORDS, TO THE EXTENT NOT PROHIBITED UNDER APPLICABLE LAW. SINCE THE SOFTWARE IS ACCESSIBLE FOR DOWNLOADING AS DIGITAL CONTENT WHICH IS NOT SUPPLIED ON A TANGIBLE MEDIUM BY DOWNLOADING THE SOFTWARE AND BY CLICKING THE "I AGREE" BUTTON OR WHEN SUBMITTING THE PURCHASE ORDER, YOU AGREE WITH THE COMMENCEMENT OF THE PERFORMANCE OF THIS AGREEMENT AND ACKNOWLEDGE THAT IN THIS WAY YOU LOSE YOUR RIGHT OF WITHDRAWAL UNDER BULGARIAN CONSUMER PROTECTION ACT, AS FAR AS IT APPLIES.

1. Definitions. The following terms shall have the following meanings whenever used in this Agreement.

"Documentation" means the Software's installation and configuration guide.

"Software" means ZigiWave's ZigiOpssoftware, in object code format.

"ZigiWave" is ZigiWave AD, a joint stock company, duly incorporated and existing under the laws of Republic of Bulgaria, registered under UIC 205463794, with seat and registered address in Bulgaria, Sofia 1729, Mladost Region, Mladost 1A Residential Area, block 505A, entr. 2, fl. 3, tel.: +... email: info@zigiwave.com

"You" and "your" refers to the Client that is contracting the Software from ZigiWave.

"Quote" means the ZigiWave sales quote detailing ZigiWave's offer to provide You the Software and Support, which usually contains the License and Support fees.

"Purchase order" means an Order Form sent by You to ZigiWave that the parties may mutually execute from time to time and which confirms Your willing to receive the Software License and or/ the Support Services.

2. Scope of the Agreement and License Grant.

ZigiWave hereby grants to you, subject to the terms and conditions of this Agreement, and You hereby accept, a nonexclusive, temporary, revocable, nonassignable, nontransferable worldwide license to use the Software in a machine-readable, object code form only, and the related Documentation, only as authorized under this Agreement, for your internal

business use only. The Software may be used only on a single server owned, leased, or otherwise controlled by you. Each copy of the Software and Documentation must contain ZigiWave's and its licensors' proprietary rights and copyright notices in the same form as on the original. Neither concurrent use on two (2) or more servers nor use in a network other than yours is permitted without separate authorization and it may be subject to the payment of additional license fees.

3. License Restrictions

You receive the rights to the Software specifically granted in Clause 2 above. Except as expressly permitted by this Agreement, You may not, and may not permit or aid others without limiting the generality of the foregoing to: (i) distribute, rent, lease, market, sublicense, resell or otherwise transfer the Software or Documentation; (ii) use the Software for timesharing services, as a service bureau or otherwise to provide services to third parties (iii) reverse engineer, decompile or disassemble all or any portion of the Software; (iv) update, modify, reproduce, duplicate, copy, create derivative works from, publicly display, distribute or otherwise disseminate the Software, the Documentation or any part thereof; (v) extract source code from the object code of the Software; or (vi) destroy or otherwise remove any proprietary notices or labels on or embedded within the Software. You acknowledge and agree that the Software and the Documentation are proprietary products of ZigiWave and/or its licensors and are protected under Bulgarian copyright law and any other applicable copyright laws. You further acknowledge and agree that all rights, title, and interest in and to the Software, including associated intellectual property rights, are and shall remain the property of ZigiWave and/or its licensors. This Agreement does not convey to You an interest in or to the Software or the Documentation, but only a non-exclusive, revocable and limited right of use in accordance with the terms of this Agreement. Notwithstanding the abovementioned, You may reproduce the Documentation as reasonably necessary to support internal use of the Software. Furthermore, You understand and agree that the license is granted as described in details the Quote sent to You which is an inseparable part of the present Agreement. Additional or different features of the Software are subject to a separate agreement between the Parties.

4. Technical support.

Technical support is a service included in the license grant by means of the present Agreement. Nevertheless, the parameters, terms and conditions for the provision of the support services will be regulated in the Technical Support Agreement and the Quote which is provided to You by ZigiWave and which forms an inseparable part of the present Agreement.

5. Acceptance of the Terms and Conditions of the End-User License Agreement; Electronic Statements.

Each time when You click the "I AGREE" button concerning the acceptance of this Agreement or when sending a Purchase Order, as well as at any action performed by You and confirmed by You via the Site or via email to ZigiWave, You make an electronic statement within the meaning of the Bulgarian Electronic Document and Electronic Signature Act as amended (EDESA). You also make an electronic statement within the meaning of the EDESA each time You send an electronic message via email to ZigiWave or to its Distributors. With their recording on ZigiWave or on its Distributors' servers through a

universally adopted standard for transformation by technical means making their reproduction possible, the electronic statements acquire the quality “electronic documents” within the meaning of the EDESA. ZigiWave and its Distributors may store in log-files the data You provide during the submission of any order forms or other requests to ZigiWave or its Distributors, as well as your IP address and any other information needed for your identification and for the reproduction of your electronic statements, solely for the purpose of potential legal dispute and subject to the confidentiality and data protection obligations established in the present Agreement.

5.1 Each time You send a message via email to ZigiWave or to its Distributors You shall provide at least the following details: full name of the entity You represent and your full name; a registered address (as per as per the entity’s registration); a company (registration) number (if applicable), contact details (at least a valid email address and phone number). You hereby agree that when filling any order form on the Site, as well as when sending a message to ZigiWave or its Distributors, You shall provide your full and true identification data and all other information required in the respective electronic forms, and shall notify ZigiWave or its Distributors of any change of these data within a 7-day term. In cases where false data are presented to ZigiWave or its Distributors, they are entitled to terminate and suspend immediately and without prior notification the provision of the services, including the granted licenses. In this case, the termination of the provision of the services shall be considered as an automatic termination of this Agreement.

5.2 You also agree and acknowledge that the electronic messages sent to You by ZigiWave via the Site or from the email address of a member of the ZigiWave’s sales department or by its Distributors through the email addresses notified to you, are electronic statements and that the electronic data pertaining to the authorship of these statements, which are included therein and logically connected to them, identify ZigiWave or the respective Distributor as their author and titular and constitute an electronic signature within the meaning of Art. 13, para.1 of EDESA. You agree and acknowledge this electronic signature to be equal to a handwritten signature in your relations with ZigiWave and its Distributors.

5.3 For avoidance of any doubt, by sending a Purchase Order and/ or clicking on the virtual button “I AGREE”, You perform an electronic statement and declare that You are acquainted with the Agreement, accepts its terms and conditions and undertake to observe it. The text of this Agreement is available on Internet on <http://test.zigiwave.com/eula-s> in a way which allows its storage and reproduction.

5.4 You can correct without any restriction the information You fill in the Purchase Order or other order forms before the performance of the statement under the preceding paragraphs, i.e. before submitting it to ZigiWave or to its Distributors by clicking on the respective virtual button or sending the respective message via email.

5.5 It is strictly prohibited to act on behalf of an entity without the necessary legal powers and authorizations. In case a person acts as a representative of a company or an entity without actually possessing representative powers, this person owes compensation for all damages caused to the respective company or entity, to ZigiWave and its Distributors and to any other third party as a result of the actions committed by the person with no representative powers.

6. Distributors

You may purchase license to use the Software and/or the support services subject to this Agreement directly from ZigiWave or from its Distributors. Distributors are legal persons

entitled by ZigiWave to offer ZigiWave's licenses and services. Distributors are entitled to: (1) conclude on ZigiWave's behalf with You this Agreement; and (2) to collect the applicable license and support fees. Only explicitly authorized Distributors are entitled to act as such, if You have any doubts about any of ZigiWave's distributors, please contact us immediately and we will provide You with the relevant information.

You hereby agree and acknowledge that in case You purchase from a authorized Distributor the license for the Software and/or support services under this Agreement, the Agreement is concluded between You and ZigiWave. All licenses under this Agreement are granted, respectively provided, by ZigiWave, regardless whether You have paid the license and support fees to ZigiWave or to a Distributor. Furthermore, except if otherwise agreed by the Parties all support services, if applicable are as well granted, respectively provided, by ZigiWave, regardless whether You have paid the license and support fees to ZigiWave or to a Distributor.

7. Confidentiality.

"Confidential Information" refers to the following information that one party to this Agreement ("Discloser") discloses to the other ("Recipient"): (a) any document Discloser marks "Confidential"; (b) the non-public features and functions of the Software and/or the Support Services, for which ZigiWave is Discloser; and (d) any other nonpublic, sensitive information Recipient should reasonably consider a trade secret or otherwise confidential. Notwithstanding the foregoing, Confidential Information does not include information that: (i) is in Recipient's possession at the time of disclosure; (ii) is independently developed by Recipient without use of or reference to Confidential Information; (iii) becomes known publicly, before or after disclosure, other than as a result of Recipient's improper action or inaction; or (iv) is approved for release in writing by Discloser.

7.1 Recipient shall not use Confidential Information for any purpose other than to facilitate the transactions contemplated by this Agreement (the "Purpose"). Recipient: (a) shall not disclose Confidential Information to any employee or contractor of Recipient unless such person needs access in order to facilitate the Purpose and undertakes a Confidentiality obligation; and (b) shall not disclose Confidential Information to any other third party without Discloser's prior written consent. Without limiting the generality of the foregoing, Recipient shall protect Confidential Information with the same degree of care it uses to protect its own confidential information of similar nature and importance, but with no less than reasonable care. Recipient shall promptly notify Discloser of any misuse or misappropriation of Confidential Information that comes to Recipient's attention. Notwithstanding the foregoing, Recipient may disclose Confidential Information as required by applicable law or by proper legal or governmental authority.

7.2 This obligation of confidentiality shall remain effective throughout the term of the Contract and shall indefinitely continue enforceable until its express waiver.

8. License and Support Fees.

The license granted under this Agreement is subject to Your compliance with the terms of this Agreement and the timely payment of any applicable license fees, as set forth in the Quote provided to You by ZigiWave or its Distributors, or as otherwise agreed in writing between You and ZigiWave or its Distributors. The Parties hereby agree that the license fee

shall include as well the support fee for the support services during the term of the present Agreement and therefore no additional fee shall be paid for those services.

8.1 Payments of the due license and/or support fees must be made within thirty (30) days of the date of the submission of the respective Purchase Order by You. Any and all payments made to ZigiWave or to its Distributors pursuant to, or under, this Agreement are non-refundable.

8.2 Applicable value added tax, or a similar tax, may be added to the license and support fees as legally required, and shall be paid by you.

9. License Term and Termination.

9.1 License Term. This Agreement shall become effective upon your acceptance of its terms and conditions and shall continue to be in force for an initial term of ONE (1) year. You may decide to renew the License Term by giving written notice to ZigiWave at least THIRTY (30) days prior to the expiration of the current License Term of Your intent to renew this Agreement. In this case, ZigiWave will send You a Quote with the then- applicable renewal license fee and upon payment by You of the renewal fee, the present Agreement will be considered renewed for another period of ONE (1) year after the date specified in the relevant Quote sent to You in this regard.

Unless otherwise agreed by the parties, the renewal procedure mentioned in the present Clause shall be valid for any subsequent renewals of the License Term.

Notwithstanding the abovementioned, unless the parties mutually agree to renew the initial or any successive License Term, and You pay the then-applicable License fees, this Agreement will terminate on the last day of the then-current License Term.

9.2 Termination. This Agreement shall be terminated: (1) at the date of termination; (2) upon mutual agreement between the parties; (3) in other cases stipulated by the applicable law.

Besides the cases stipulated in the present Agreement either party may terminate this Agreement as a consequence of the other Party's material breach by sending written notice specifying in detail the nature of the breach, effective in THIRTY (30) days unless the other party first cures such breach, or effective immediately if the breach is not subject to cure.

Upon termination or rescission of the Agreement, You agree to immediately cease the use of the Software and Documentation, to remove the Software from all hard drives, networks and other storage media, to destroy all copies of the Software and Documentation in your possession or under your control, and, at ZigiWave request, to certify in writing that You have done so.

10. Customer cooperation.

You shall provide any reasonable assistance and cooperation necessary or convenient to facilitate the implementation of the Software and/or the provision of the Support Services.

11. Updates.

ZigiWave may from time to time make bug fixes, corrections and revisions of the version of the Software licensed to You hereunder ("Updates"). For clarity, Updates do not include new versions or releases of the Software ("Upgrades"), which may be provided by ZigiWave subject to payment of the additional license fees. Notwithstanding the foregoing, both updates and upgrades are subject to active support subscription.

12. Out of scope.

Any service not expressly included in the present Agreement or its attachments are out of the scope of the present Agreement and are subject to an additional agreement between the Parties and payment of additional fees.

13. Trademarks.

Each Party hereby grants the other a non-exclusive, non-transferable, free worldwide license to use their respective distinctive signs for the term of the present Agreement for the sole purpose of including them in materials produced for the purposes of the present Agreement as well as in their respective professional presentations, portfolios and web pages. The present authorization does not grant to the Licensee any additional intellectual property or other similar rights, preserving each Party full ownership to their respective distinctive signs.

14. Warranty Disclaimer.

THE SOFTWARE IS LICENSED "AS IS" WITHOUT WARRANTY OF ANY KIND, AND ZIGIWAVE, ITS DISTRIBUTORS AND ITS LICENSORS DISCLAIM ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, OR NON-INFRINGEMENT OF THIRD-PARTY'S RIGHTS. ZIGIWAVE MAKE NO WARRANTY THAT THE OPERATION OF THE SOFTWARE WILL BE UNINTERRUPTED OR ERROR-FREE. FURTHERMORE, ZIGIWAVE PROVIDES NO WARRANTY REGARDING, AND WILL HAVE NO RESPONSIBILITY FOR, ANY CLAIM ARISING OUT OF: (A) A MODIFICATION OF THE SOFTWARE MADE BY ANYONE OTHER THAN ZIGIWAVE, UNLESS ZIGIWAVE APPROVES SUCH MODIFICATION IN WRITING; OR (B) USE OF THE SOFTWARE IN COMBINATION WITH ANY OPERATING SYSTEM NOT AUTHORIZED IN THE SOFTWARE AND SERVICES SPECIFICATIONS.

15. Limitation of Liability.

ZigiWave may from time to time make bug fixes, corrections and revisions of the version of the Software licensed to You hereunder ("Updates"). For clarity, Updates do not include new versions or releases of the Software ("Upgrades"), which may be provided by ZigiWave subject to payment of the additional license fees. Notwithstanding the foregoing, both updates and upgrades are subject to active support subscription.

IN NO EVENT WILL ZIGIWAVE'S OR ITS DISTRIBUTORS' TOTAL CUMULATIVE LIABILITY IN CONNECTION WITH THIS AGREEMENT, FROM ALL CAUSES OF ACTION OF ANY KIND, INCLUDING TORT, CONTRACT, NEGLIGENCE, STRICT LIABILITY AND BREACH OF WARRANTY, EXCEED THE AMOUNTS, IF ANY, PAID BY YOU IN ACCORDANCE WITH THIS AGREEMENT IN THE TWELVE (12) MONTH PERIOD PRECEDING THE FILING OF THE APPLICABLE CLAIM.

16. Governing Law and Jurisdiction.

This Agreement shall be construed and governed in accordance with the laws of the Republic of Bulgaria. The United Nations Convention on Contracts for the International Sales of Goods shall not apply to this Agreement.

The parties agree to use their best reasonable efforts to resolve any dispute arising out of or in connection with this Agreement, including any issues regarding its existence, validity or termination. The Parties agree that disputes arising out of this agreement will be under the jurisdiction of the competent courts of Sofia, Bulgaria.

17. Costs of Litigation.

If any action is brought by either party to this Agreement against the other party regarding the subject matter hereof, the prevailing party shall be entitled to recover, in addition to any other relief granted, reasonable attorney's fees and litigation costs.

18. Entire Agreement.

This Agreement and its attachments, expressly mentioned as forming part of it, set forth the entire understanding and agreement between you and ZigiWave, and supersede all prior agreements, whether written or oral, with respect to the Software and Documentation, and may be amended only in writing signed by both parties.

19. Severability.

Should any provision of this Agreement be declared void or unenforceable by any court of competent jurisdiction, such declaration shall have no effect on the other provisions hereof. The Parties, hereby agree to substitute any invalid clause with a valid one which shall be the closest to their original intentions.

20. No Waiver.

The failure of either party to enforce any rights granted hereunder or to take action against the other party in the event of any breach hereunder shall not be deemed a waiver by that party with respect to subsequent enforcement of rights or subsequent actions in the event of future breaches.

21. Indemnification.

You shall indemnify and hold ZigiWave and its Distributors harmless from any loss and liability that they may incur, including costs, claims, demands or judgments, arising out of any breach of your obligations pursuant to the terms of this Agreement.

22. Personal Data.

The personal data exchanged between the Parties for the purpose of executing the present Agreement shall be processed with the utmost confidentiality and in accordance with the applicable regulations on personal data protection. Each of the Parties' representing persons is informed that their personal data will be processed by the other party in order to allow development, compliance and control of the contractual relationship, which is the legal basis for the processing. In addition, their personal data shall be stored for the term of the contractual relationship and until the extinction of the limitation period for liabilities with regard to the processing of personal data that may arise from the Agreement.

The data of the Parties may be communicated to banks and financial entities, for the management of collections and payments and to public authorities where required by Law. Each Party's representing persons may request access to, rectification of or deletion of their personal data and the limitation of their processing at the address of the other Party set in the present Agreement or otherwise provided. Furthermore, the representing persons have the right to complain to the relevant Data Protection Authority.

23. Written form.

The written form shall be considered accomplished with sending an e-mail, clicking on a virtual button in web page, clicking on a check-box in the Site or others similar, as far as the statement is technically stored in a way that allows it to be reproduced.