Simul8 End User License Agreement and Terms of Use

Thank you for considering using Simul8. Please read this End User License Agreement and Terms of Use ("Terms") carefully before using any Simul8 websites or software products (the "Software") provided by Simul8 Corporation.

By accessing or using our Software, you're agreeing to be bound by these Terms and our **Privacy Policy**. These Terms apply to all visitors, users and organizations who wish to access or use the Software, paid or otherwise. They are a legal agreement between you and us.

If you disagree with any part of the Terms then you do not have permission to access the Software.

1 Choice of Law and Contracting Entity

If you reside in, or are a corporate entity of, the United States, Canada or Mexico your relationship is with Simul8 Corporation, a company registered in Delaware with a registered office at 1209 Orange St, Wilmington, Delaware, 19801, USA and these Terms are governed by the law of Delaware. If you reside, or are a corporate entity of, elsewhere, your relationship is with Simul8 Corporation Ltd, a company registered in Scotland with a registered office at 77 Renfrew Street, Glasgow, G2 3BZ, UK; and these Terms are governed by the law of Scotland. Some countries (including those in the European Union) have laws that require agreements to be governed by the local laws of the user's country.

2 Definitions

- "Terms", means this Simul8 End User License Agreement and Terms of Use; and
- "you" "user" means you, the person who accesses and uses this website and/or the Software for yourself or on behalf of the organization that employs you and has paid the appropriate license fee (as set out on our website on in a quotation) and not the employee of a third-party organization; and
- "Account Holder" means any user who has created login credentials within the Software; and
- "us", "we", "our" or "Simul8 Corporation" the legal entity with which you are contracting; and
- "Edition" refers to the designed purpose/capability of the software, for example, but not limited to, "Professional", "Multi-User", "Educational", "Free Trial" etc; and

- "Desktop" means a local computer including but not limited to, a laptop, desk based or tower computer, designed for use by one person at a time. For the avoidance of doubt this definition includes server-class (SC) computers (whether on-premises or in the cloud) and virtual machines (VM) however for all types of computer access must be limited to one user at a time (for example where they are remotely accesses); and
- "Online" means the edition of the Softwarethat runs on the cloud and is access by the user via a web browser; and
- "the Software" refers to Simul8 websites and software provided online, on local computers ("Desktop"), or in apps on mobile devices, whether directly by us or via third parties and for specific configurations ("Editions") that relate to the fee charged to You for the Software; and
- "Centrally Managed License" refers to a variation of this agreement where a central Administrator manages an agreed number of Account Holders who can use the Software; and
- "Content" means any documents, simulations, data, scripts, procedures, images, results, information and associated intellectual property entered to or generated by an Account Holder through the Software; and
- "Worldwide" means everywhere except those countries where Simul8 is not permitted to export by the governments and laws in the jurisdictions where Simul8 has principal offices (US, EU and UK), (for example by export embargos, or similar, imposed by those jurisdictions); and
- "Qualified Educational Institution" is a degree awarding academic institution accredited by the applicable governmental regulatory agency in the country in which the Institution has its principal offices; and not a training center; and
- "Educational Edition" is an edition of the software specifically intended for Qualified Educational institutions; and
- "Beta Edition" means a designated Edition of the Software for testing or feedback; and
- "Free Trial" means a designated free edition of the Software for You to trial at no cost for a specified period; and
- "APIs and SDKs" mean any tools we provide to help you automate and customize the outputs of your work with our Software or link to our Software from other products or websites; and
- "Email address" means one or more current, working, active, email address (or similar that we may determine from time to time); and
- "Administrator" means an individual appointed by you or the organization that employs you, to whom we give access to additional features designed to control who has access to a Centrally Managed License; and

- "Subscriptions", "subscription" means a form of payment where you will be billed in advance on a recurring periodic basis; and
- "Billing cycle" means the time frame that you will be billed for, the length of this time will depend on your selection from our web site or as set out in a quotation; and
- "Written", 'In writing" means a communication sent via email to a currently active email address that you have registered with us most recently and that you maintain and read and/or an email that you send to info@simul8.com; and
- "Quotation" means a written document from Us to You setting out a specific offer of pricing and timing related to the Software and which you have taken up by placing an order or making a purchase referencing that quotation. Where a specific quotation is not refenced or there is ambiguity the relevant details on our website shall prevail.

3 License Agreement and Limitations

On acceptance by you of the Terms set out in this document and payment of the current licensing fee for the relevant Edition (as set out on our web site or in a quotation) plus any relevant sales or similar taxes that We are obliged to collect, You are granted a nonexclusive, nontransferable, time-limited (as set out on our web site or in a quotation), Worldwide license to use the Software, subject to the following express conditions, and you agree that your failure to adhere to any of these conditions shall constitute a breach of these Terms on your part:

3.1   You will not to copy, license, sublicense, sell, rent, lease, lend, resell, transfer, assign, distribute, or otherwise commercially exploit or make available to any third party the Software or the Content in any way unless (1) a separate reseller, OEM or distributor agreement has been executed between you and us or (2) you are deploying your Content to third parties who have themselves agreed to these Terms by becoming Account Holders themselves. The Software and its technology are the intellectual property of Simul8 and its suppliers and are protected by copyright law, trademarks and international treaties. The Software is licensed, not sold. Unauthorized reproduction or distribution of this Software, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law.

3.2   You affirm that, if you are using the Software in an organizational context or on behalf of an employer, that you have authority from that entity to agree to these terms.

3.3 You will inform us of your current active email address and a name and/or organization name so that we can setup login credentials that allow you only (as Account Holder) to access the Content and features attached to the Software, or, in the case of a Centrally Managed License, you will inform us of the same information so that we can set up an Administrator who can then set up the individual Account Holders. If you need to update your email address you will inform us via info@simul8.com .

3.4 In all the information You provided to Us you will only use names and/or trademarks that you have the right to use.

3.5 You will keep us informed if your email address or other contact information changes.

3.6 You agree we may contact you through your Email Address to maintain and manage the Software, provide you with support and help in using the Software and to arrange payment of fees (if any) and similar. We will use your Email Address as the sole means of contact with you for purposes of this legal contract.

3.7 You can contact us at info@SIMUL8.com or see simul8.com/contact.

3.8 Beyond those reasons stated in clause 3.6, You agree that we can initially also use your email address to make you aware of additional products and services available from us, although we will also provide you with a means to unsubscribe from this additional class of communication.

3.9 You are responsible for your conduct, Content, and communications with others while using the Software.

3.10 You agree not to use with, or input into, the Software, any Content that may damage any other person's computing devices or software, or Content that may be offensive or in violation of any law (including intellectual property, secrets or confidential materials that You do not have the right to use). You specifically represent and warrant that: (i) the Content is yours (you own it) and/or you have the right to use it, and (ii) that Your Content does not violate the privacy rights, publicity rights, copyrights, contract rights or any other rights of any person or entity.

3.11 You agree not to upload Content or use the Software in a way that may harm the reputation of the Software or Us.

3.12 You acknowledge that, to ensure compliance with legal obligations, Simul8 may be required to review certain content submitted to the Software to determine whether it is illegal or whether it violates these Terms (such as when unlawful content is reported to us). We may also modify, prevent access to, delete, or refuse to display content that we believe violates the law or these Terms. However, Simul8 otherwise has no obligation to monitor or review any content submitted to the Software.

3.13   You retain any and all of your rights to any Content you use with the Software and you are responsible for protecting those rights. We take no responsibility and assume no liability for Content you or any third-party uses in the Software.

3.14   By entering Content to the Software, you are permitting us to host, access, store, scan, execute, back-up and make all reasonable use of your content to provide the Software to you and (if you specifically request) share it with other users of the Software to whom you have requested access be permitted.

3.15   You will not modify, port, adapt or translate any portion of the Software except that you may enhance our Software via our APIs and SDKs.

3.16   You will not reverse engineer, decompile, disassemble or otherwise attempt to discover the source code or any portion of the Software.

3.17   You may not access our Software for the purpose of designing or building a competitive product or service or for any other competitive purposes.

3.18   You may not misuse our Software by interfering with its normal operation or attempting to access it using a method other than through the interfaces and instructions that we provide, except that you may use our APIs & SDKs to create your own interface(s) to the Software.

3.19   You may not circumvent or attempt to circumvent any limitations that Simul8 imposes on your account.

3.20   Unless authorized by Simul8 in writing, you may not probe, scan, or test the vulnerability of any Simul8 system or network.

3.21   Unless authorized by Simul8 in writing, you may not use any manual or automated system or software to extract or scrape data from the websites or other interfaces through which we make our Software available.

3.22   Unless permitted by applicable law, you may not deny others access to the Software, or attempt to do so.

3.23   You may not transmit any viruses, malware, or other types of malicious code, or links to such, through the Software.

3.24   You may not engage in abusive or excessive usage of the Software, which is usage significantly in excess of average usage patterns that adversely affects the speed, responsiveness, stability, availability, or functionality of the Software for other users. Simul8 will endeavor to notify you of any abusive or excessive usage to provide you with an opportunity to reduce such usage to a level acceptable to Simul8.

3.25   You may not use the Software to infringe the intellectual property rights of others, or to commit an unlawful activity.

3.26   If your use of the Software requires you to comply with industry-specific regulations applicable to such use, you will be solely responsible for such compliance. You may not use the Software in a way that would subject Simul8 to those industry-specific regulations without obtaining Simul8's prior written agreement.

3.27   You may not register accounts by "bots" or other automated methods.

3.28   You may only install the Software on one Desktop computer at any one time, or, in the case of a Centrally Managed license, on a maximum of the number of Desktop computers as set out in a quotation.

3.29   You may not to use the Software both online and on Desktop at the same time.

3.30   The Software may only be used by employees of the organization paying the license fee.

3.31   We may use records of any interaction with you, for example, but not limited to, support, feedback, automated analysis, feature requests and suggestions, to enhance or modify our Software or the way we operate.

3.32   If you wish to use paid parts of the Software (as set out on our web site or in a quotation), you may be asked to provide payment information including, without limitation, a payment card number, expiration date, billing address, etc. You represent and warrant that: (i) you have the legal right to use any payment card(s) or other payment method(s) in connection with the Software; and that (ii) the information you supply to us is true, correct and complete. You agree to update us if those payment details change if your use of the Software includes recurring / subscription payments (as set out on our web site or in a quotation).

3.33   We may make use of third-party services for the purpose of facilitating payment processing. By submitting your payment details, you grant us the right to securely provide the information to these third parties subject to our Privacy Policy.

3.34   Use of our paid Software is billed on a subscription basis. You will be billed in advance on a recurring, periodic basis. The length of you Billing Cycle depends on the selection you made when subscribing. Your Simul8 subscription starts on date of purchase.

3.35   Your Subscription will automatically renew (and your payment card charged) at the end of each billing cycle for the same duration as the expiring billing cycle unless you cancel auto-renewal through our cancellation page, or by contacting our customer support team or emailing us. If you have purchased a subscription by alternative payment method such as bank transfer or check, subscriptions will automatically renew (and you will be invoiced) for additional periods equal to the expiring billing cycle, unless either party gives the other written notice of non-renewal a minimum of the shorter of 30 days or 30% of the billing cycle before the end of the relevant billing cycle.

3.36   If you cancel auto-renewal your subscription and Software will continue to be available until the end of the current billing cycle whereupon this agreement shall terminate.

3.37   Payments paid by you are non-refundable, except as provided in these Terms or when required by law.

3.38   Non-payment is not a method of cancelation. If you fail to pay for a subscription that has been renewed (even if via auto-renewal) you owe a dept to Simul8 that we are entitled to pursue via the appropriate channels. If a debt remains unpaid we reserve the right to close your account, delete your Content and continue to require payment of the outstanding debt for the billing cycle that has renewed but not been paid for.

3.39   Our prices (as set out on our web site or in a quotation) do not include any taxes, levies, duties or similar governmental assessments of any nature such as, but not limited to value-added, sales, use or withholding taxes assessable in any jurisdiction unless otherwise indicated. You are responsible for paying taxes associated with your purchases from Us and keeping your billing details current so we can correctly collect those taxes where we are required to. We will use your billing information to assess and collect those taxes (in addition to the price you pay for our Software) and pay them on to the associated tax authority.

3.40   If you are required by law to withhold any Taxes from your payments to Simul8, you must provide Simul8 with an official tax receipt or other appropriate documentation to support such withholding.

3.41   Simul8 may change the prices for the Software at any time, provided that, for Software billed on a subscription basis, the change will become effective only at the end of the then-current billing cycle. Simul8 will provide you with advance notice of any change in prices. The pricing during any auto-renewal billing cycle will be the same as that during the immediately prior billing cycle unless we have given you written notice of a pricing increase before the start of the last 10% of the billing cycle, in which case the pricing increase will be effective upon renewal and thereafter.

3.42   We reserve the right to refuse or cancel your request to access any parts of the Software at any time for reasons including but not limited to: Software availability, errors in the description or price of the Software, error in your request or other reasons.

3.43   We reserve the right to refuse or cancel your payment if fraud or an unauthorized or illegal transaction is suspected.

3.44   You agree not to do anything that could reasonably be expected to damage, disable, overburden, or materially impair the Software or is likely to interfere with any other party's use of the Software.

3.45   You agree not to enable or allow others to use the Software using Your own Account Holder login credentials, email address, password or license key and You are responsible for maintaining the confidentiality of these, including but not limited to the restriction of access to your computer and/or account. You agree to accept responsibility for any and all activities or actions that occur under your account. You must notify us immediately upon becoming aware of any breach of security or unauthorized use of your account.

3.46   Accounts may not be shared and may only be used by one person per account.

3.47   It is not possible to transfer ownership of an Account Holder's Content, rights or obligations.

3.48   You are responsible for maintaining, protecting, and making backups of your Content. To the extent permitted by applicable law, Simul8 will not be liable for any failure to store, or for loss or corruption of, your Content.

3.49   Simul8 may close your account and delete any Content if there is no account activity (such as a log in event or payment) for over 12 months. However, we will attempt to warn you by email before closing your account to provide you with an opportunity to log in to your account so that it remains active.

3.50   If we designate the Software as for use by educational users ("Educational Edition"), then you may only use the Educational Edition provided that you are a student registered at, or an employee of, the Qualified Educational Institution paying the appropriate fee, and then the Software must only be used for educational or research purposes and not for commercial purposes. For avoidance of doubt, use of Educational Editions directly by a student of a Qualified Educational Institution in their learning or doctorial research inside a non-educational establishment (for example a commercial company) is permitted by this clause but not to the extent that the Software is accessible by the non-educational establishment without the student present.

3.51   If we designate any Edition of the Software as for testing ("Beta Edition") and give you access, then you will only share information about that Edition and its features with users who have been given access to the same Edition and with Us.

3.52   If we designate any Edition of the Software as "Free Trial" then it is provided for a specific individual on a one-off basis and use of a different email address (or similar) by the same individual to obtain a subsequent free trial constitutes a breach of this agreement.

3.53   If we designate any Edition of the Software as "Free Trial", "Not for Resale", "Demonstration", "Reseller Edition" or "Evaluation" the Software may not be used for any purpose other than demonstration or testing to help in the process of marketing or sales of the Software. For

clarity this clause means that the Software marked in this way may not be used for consulting, training, or the marketing or sales of consulting or training.

3.54   This agreement does not confer rights on either party to use trademarks or service marks other than in ways that communicate factual information and do not imply recommendation, endorsement, or affiliation. Where a party makes it clear that marks are trademarks or service marks the other party agrees to make reasonable efforts to adhere to published media guidelines.

3.55   You agree not to use the Software in, or remotely from, any locations outside the definition of "Worldwide".

3.56   If you make access to the Software available to third parties by using APIs or SDKs (or by other similar means) or by using a re-branded edition of the Software you agree to impose the same terms and conditions on those users as if they had agreed to these Terms directly such that their obligations to Us are the same. You agree to be directly responsible for maintaining compliance by such third parties.

3.57   We are constantly updating the Software. We may experience delays in updating information on the Software and in our advertising on websites. Information found on the Software may contain errors or inaccuracies and may not be complete or current. Products or services may be mispriced, described inaccurately, or unavailable in the Software and we cannot guarantee the accuracy or completeness of any information found on the Software. We therefore reserve the right to change or update information and to correct errors, inaccuracies, or omissions at any time without prior notice.

3.58   You accept that the nature of the designed purpose of the Software means that it can be used in an unlimited number of different ways to create an unlimited number of different works that may not have been intended by Us and so You agree to defend, indemnify and hold harmless Us, our agents, directors, employees, suppliers and contractors, from and against any and all liability, claims, damages, obligations, losses, liabilities, costs or debt, and expenses (including but not limited to incidental or consequential damages and legal costs) arising from Your use of the Software (or anyone using Your account) or Your breach of these Terms.

3.59   You accept that the nature of the Software provided means that it is designed to help you take business decisions but you remain fully responsible for those decisions and for verification and validation of data entered, Content created and results obtained, from using the Software.

3.60   You may terminate this agreement at any time subject to the relevant license fee structure (as set out on our web site or in a quotation) by letting Us know in writing to info@simul8.com .

3.61   We may suspend access to your account or terminate this agreement at any time subject to the relevant license fee structure (as set out on our web site or in a quotation) or immediately without prior notice or liability, under our sole discretion, for any reason whatsoever and without limitation if we consider there has been possible breach of these terms or on technical or business grounds not reasonably within our control. Simul8 has the sole right to decide whether you are in violation of any of the restrictions set forth in these Terms. Upon termination you will continue to pay the license fees and we will continue to provide the Software until a termination date which may be later than the date at which you were informed of termination. We will attempt to inform you of the reasons for suspension or termination if that is legal for us to do and we determine that doing so will not risk breaching confidentiality. If the reasons can be rectified, we will consider restoring access. You will not be entitled to a refund in circumstances where you have breached the Terms.

3.62   If you elect to downgrade your subscription you may lose features and functionality and/or make your Content incompatible with the Software.

3.63   We may reduce the level of access you have to the Software for reasons such as, but not limited to, expiration of a time period related to the relevant fee structure (as set out on our web site or in a quotation). If we do this, then Content that you have entered in to the Software may become unavailable to you and will be deleted from the Software and our backups.

3.64   When we stop providing the Software, you terminate this agreement (eg by canceling renewal) or we terminate this agreement or reduce your level of access to the Software then you will no longer have access to your Content and it will be unavailable (it will be deleted and back-ups will be cleared of it on our normal back-up cycle). It is our policy to retain Content for 7 days after termination of an account, but we do not guarantee this will be technically possible in all cases. This means your Content is normally deleted and cannot be retrieved 7 days after the end of a billing cycle during which you cancel your account. This will also remove your Content from the accounts of anyone with whom you have shared your Content. If you cancel your paid renewal but do not terminate this agreement and you have Content in your account that was shared with you by other account holders who are still active subscribers then your account may automatically convert to an account that can access that Content while it still meets any conditions of such shared Content.

3.65   After we stop providing the Software Your contact details will be deleted from our Software after a reasonable time has elapsed that allows us to retain timely and necessary records of recent business transactions.

3.66   We reserve the right, at our sole discretion, to modify or replace these Terms at any time. If, in our reasonably judgement, such a change is material and not either a requirement of law or force majeure, then existing Account Holders will be provided at least 30 days' notice by email prior to any new terms taking effect during which time the previous Terms will continue to apply. By starting or continuing to access or use the Software after any revisions become effective, you agree to be bound by the revised terms. If you do not agree to the new terms, you are no longer authorized to use the Software.

3.67   Simul8 constantly changes and improves the Software. While our policy is to strive to maintain all past functionality and maintain full forward/backward compatibility, Simul8 may add, alter, or remove functionality from Software it provides to you at any time without prior notice.

3.68   Simul8 disclaims all other warranties, representations, or conditions, express or implied, including but not limited to, any implied warranty or condition of merchantability or fitness for any purpose. Specifically, Simul8 makes no representation or warranty that the Software or documentation are error free or meet any particular standards or conditions.

3.69   All provisions of these Terms which by their nature should survive termination shall survive termination, including, without limitation, ownership provisions, warranty disclaimers, indemnity and limitations of liability.

3.70   Either party's failure to enforce or exercise any provision of these Terms is not a waiver of that provision.

3.71   If any provision of these Terms is held to be invalid or unenforceable by a court, the remaining provisions of these Terms will remain in effect. These Terms constitute the entire agreement between us regarding the Software, and supersede and replace any prior agreements we might have had between us regarding the Software.

3.72   Some jurisdictions do not allow the exclusion of certain warranties or the exclusion or limitation of liability for consequential or incidental damages, so the limitations above may not apply to you.

If you have any questions about these Terms, please contact us (see simul8.com/contact) or email info@SIMUL8.com

If you are purchasing items from Simul8 other than software you may want to review our terms and conditions for consulting, training etc at simul8.com/service_terms

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