

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 carefully before using any Simul8 websites or software products (the "Service") provided by Simul8 Corporation. By accessing or using our Services, 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 Service, paid or otherwise. They are a legal agreement between you and us.

If you disagree with any part of the Terms then you should not access the Service.

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 Massachusetts. 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 Clockwise Offices, 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.

Definitions

- "Terms", "Terms of Use" means the End User License Agreement and Terms of Use; and
- "you" "user" means you, the person who accesses and uses this website and/or the Service for yourself or on behalf of the organization that employs you; and
- "Account Holder" means any user who has created login credentials within the Service; 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", "Educational", "Free Trial" etc; and
- "Desktop" means on a single local computer including but not limited to, a laptop, desktop or tower computer designed for use by one person at a time; and
- "the Service" "services" refers to Simul8 websites and software provided online, on local computer ("Desktop"), or in apps on mobile devices, whether directly by us or via third parties and for specific software configurations ("Editions") that relate to the fee charged to you for the Service; and
- "Multi-User License" refers to a variation of this agreement where "one" is replaced by the number of agreed users who can use the Service; 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 Service; and

- “Worldwide” means everywhere that Simul8 is permitted to provide services by the jurisdictions where it has principle offices (US and EU); 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 Services for testing; and
- “Free Trial” means a designated free edition of the services for You to trial for free 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 Services or link or Services with other software or websites; and
- “Email address” means a current, working, active, email address (or similar that we may determine from time to time).
- “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 time basis for this will depend on your chosen service and your agreement with Simul8; and
- “CEM” “Customer Engagement Manager” means a member of the Simul8 team assigned to You to ensure you can get the most out of your software.

Fees and payments

Fees for Services

You agree to pay to Simul8 any fees for each Service you purchase or use (including any overage fees), in accordance with the pricing and payment terms presented to you for that Service. Where applicable, you will be billed using the billing method you select through the Simul8 website. If you have elected to pay the fees by credit card, you represent and warrant that the credit card information you provide is correct and you will promptly notify Simul8 of any changes to such information. Fees paid by you are non-refundable, except as provided in these Terms or when required by law.

Subscriptions

Some of our Services are billed on a subscription basis. This means that you will be billed in advance on a recurring, periodic basis. Billing cycles are typically monthly or annual, depending on what subscription plan you select when purchasing a Subscription.

Your Subscription will automatically renew at the end of each billing cycle unless you cancel auto-renewal through our cancellation page, or by contacting our customer support team.

While we will be sad to see you go, you may cancel auto-renewal on your Subscription at any time, in which case your Subscription will continue until the end of that billing cycle before terminating.

You may cancel auto-renewal on your Subscription immediately after the Subscription starts if you do not want it to renew. If you cancel your Subscription, and re-start it within 7 days of cancellation, Simul8 reserves the right to charge an administration fee of \$200/€175/£150, which will be charged to the payment method you have provided.

If you have purchased an annual subscription by alternative payment method such as bank transfer or check, subscriptions will automatically renew for additional periods equal to the expiring subscription term or one year (whichever is shorter), unless either party gives the other notice of non-renewal at least 30 days before the end of the relevant subscription term.

Please see [Suspension and Termination of Services](#) for further information.

Taxes

Our prices listed do not include any taxes, levies, duties or similar governmental assessments of any nature such as value-added, sales, use or withholding taxes, assessable by any jurisdiction (collectively, "Taxes") unless otherwise indicated.

You are responsible for paying Taxes associated with your purchase and keeping your billing information up to date.

(a) **United States Sales Tax.** If we have a legal obligation to pay or collect sales tax for which you are responsible, we will calculate the sales tax based upon the billing information we have about you and charge you that amount (which, if your billing information is incomplete or inaccurate, may be the highest prevailing rate then in effect), unless you provide us with a valid tax exemption certificate acceptable to the appropriate taxing authority.

- If you provide us with a tax exemption certificate, you represent and warrant that it accurately reflects your tax status and that you will keep such document current and accurate.
- If we subsequently determine in our sole discretion that your tax exemption document is valid, we will refund the sales tax collected.

(b) **Non-United States Sales Tax.** If applicable, we will charge you VAT, GST or any other sales, consumption or use taxes that arise in connection with your purchases of Simul8 products unless you provide us with a tax identification number that entitles you to an exemption, a valid tax exemption certificate or other documentary proof issued by an appropriate taxing authority that tax should not be charged. If you are located in a jurisdiction with multiple sales, consumption or use taxes, we may charge you the highest prevailing rate if your billing information is incomplete or inaccurate.

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 payments.

Price Changes

Simul8 may change the fees charged to you for the Services at any time, provided that, for Services billed on a subscription basis, the change will become effective only at the end of the then-current billing cycle of your subscription. Simul8 will provide you with advance notice of any change in fees. The pricing during any automatic renewal term will be the same as that during the immediately prior term unless we have given you written notice of a pricing increase at least 60 days before the end of that prior term for annual subscriptions, and 45 days for monthly subscriptions, in which case the pricing increase will be effective upon renewal and thereafter. Any such pricing increase will not exceed 7% of the pricing for the applicable Purchased Service in the immediately prior subscription.

If you wish to use paid parts of the Service (as set out on our website or in a quotation from us to you), you may be asked to provide payment information relevant to your purchase 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 any Purchase; 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 you use of the Service includes recurring / subscription payments (as set out on our web site or in a quotation from Us to You).

We reserve the right to refuse or cancel your request to access any parts of the Service at any time for reasons including but not limited to: Service availability, errors in the description or price of the Service, error in your request or other reasons. We reserve the right to refuse or cancel your payment if fraud or an unauthorized or illegal transaction is suspected.

Acceptable Uses

Your Responsibilities.

You are responsible for your conduct, Content, and communications with others while using the Services. You must comply with the following requirements when using the Services:

You may 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 Service 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 simulations to third parties who have themselves agreed to these Terms by becoming Account Holders themselves;

(a) You may not purchase, use, or access the Services for the purpose of building a competitive product or service or for any other competitive purposes.

(b) You may not misuse our Services by interfering with their normal operation or attempting to access them using a method other than through the interfaces and instructions that we provide.

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

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

(e) 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 Services available.

- (f) Unless permitted by applicable law, you may not deny others access to, or reverse engineer, the Services, or attempt to do so.
- (g) You may not transmit any viruses, malware, or other types of malicious software, or links to such software, through the Services.
- (h) You may not engage in abusive or excessive usage of the Services, which is usage significantly in excess of average usage patterns that adversely affects the speed, responsiveness, stability, availability, or functionality of the Services for other users. Simul8 will endeavour 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.
- (i) You may not use the Services to infringe the intellectual property rights of others, or to commit an unlawful activity.
- (j) Unless authorized by Simul8 in writing, you may not resell or lease the Services.
- (k) If your use of the Services requires you to comply with industry-specific regulations applicable to such use, you will be solely responsible for such compliance, unless Simul8 has agreed with you otherwise. You may not use the Services in a way that would subject Simul8 to those industry-specific regulations without obtaining Simul8's prior written agreement.
- (l) You may not register accounts by "bots" or other automated methods.
- (m) Your Content and use of the Services may not violate our Content Policy.
- (n) You may not modify, port, adapt or translate any portion of the Services except that you may enhance our Services via our APIs and SDKs;
- (o) You may not to reverse engineer, decompile, disassemble or otherwise attempt to discover the source code or any portion of the Service;
- (p) You may not install the Service on more than one Desktop computer at any one time
- (q) You may not use the Service both online and on Desktop at the same time
- (r) You agree not do anything that could reasonably be expected to damage, disable, overburden, or materially impair the Service or is likely to interfere

Education Edition

If we designate the Services as for use by educational users 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 license fee, and then the Service must only be used for educational or research purposes and not for commercial purposes;

Beta Edition

If we release a Beta Edition of our services 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.

Free Trial

If we designate any Edition of the Services 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.

Other editions

If we designate any Edition of the Services as “Free Trial”, “Not for Resale”, “Demonstration”, “Reseller Edition” or “Evaluation” the Service may not be used for any purpose other than demonstration or testing to help in the process of marketing or sales of the Service. For clarity this clause means that the Service marked in this way may not be used for consulting, training, or the marketing or sales of consulting or training.

Account Management

Keep Your Password Secure

If you have been issued an account by Simul8 in connection with your use of the Services, you are responsible for safeguarding your password and any other credentials used to access that account.

You, and not Simul8, are responsible for any activity occurring in your account (other than activity that Simul8 is directly responsible for which is not performed in accordance with your instructions), whether or not you authorized that activity. If you become aware of any unauthorized access to your account, you should notify Simul8 immediately.

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

Keep Your Details Accurate

You will inform us of your current active email address (or similar as we shall determine from time to time) 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 Services.

You agree we may contact you through your Email Address to maintain and manage the Service, provide you with support and help in using the Service 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

You must keep your email address and, where applicable, your contact details and payment details associated with your account current and accurate.

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

You will keep us informed if your email address or other contact information changes. You can do this by emailing info@Simul8.com.

You agree that we can initially also use the email address to contact you for marketing and publicity purposes but, we will also provide you with a means to unsubscribe from this class of communication.

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

Remember to Backup

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.

Account Inactivity

Simul8 may terminate your account and delete any Content contained in it 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 terminating your account to provide you with an opportunity to log in to your account so that it remains active.

Customer Success

Simul8 may assign you a CEM. The CEM may review your use of the Services and your Content to help you to more effectively use the Services, including by providing reporting and usage insight.

Your Content

User Content

The Services display content provided by others that is not owned by Simul8. Such content is the sole responsibility of the entity that makes it available. Correspondingly, you are responsible for your own Content and you must ensure that you have all the rights and permissions needed to use that Content in connection with the Services. Simul8 is not responsible for any actions you take with respect to your Content, including sharing it publicly. Please do not use content from the Services unless you have first obtained the permission of its owner or are otherwise authorized by law to do so.

Content Review

You acknowledge that, in order to ensure compliance with legal obligations, Simul8 may be required to review certain content submitted to the Services 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 Services.

You agree not to use with, or input into, the Service, 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.

You retain any and all of your rights to any Content you use with the Service 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 Service.

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

Suspension and Termination of Services

In order to ensure that you will not experience any interruption or loss of services, your subscription will automatically renew by default, according to which, unless you cancel your Subscription prior to its expiration, the Subscription will automatically renew upon the end of the then applicable Subscription Term, for a renewal period equal in time to the original Subscription Term (excluding extended periods) and, unless otherwise notified to you, at the same price (subject to applicable Tax changes and excluding any discount or other promotional offer provided for the first Subscription Term).

Accordingly, unless either you or us cancel the Subscription prior to its expiration, we will attempt to automatically charge you the applicable Subscription Fees upon or immediately prior to the expiration of the then applicable Subscription Term. If you wish to avoid such auto-renewal, you shall cancel your Subscription, prior to its expiration, at any time through visiting simul8.com/subscription/cancel and completing the cancellation form.

Except as expressly set forth in these Terms, in case you cancel your Subscription, during a Subscription Term, the Subscription will not renew for an additional period, but you will not be refunded or credited for any unused period within the Subscription Term.

If you cancel your subscription, your account will automatically be converted to a free share account at the end of your current billing period. Your simulations and files will be deleted within 7 days from the last day of your subscription. You will no longer be able to build new simulations or modify existing ones. You will continue to have access to any simulations shared with you unless you deactivate your account and be able to run any project/shared simulations within the guidelines of free share.

Simul8 is also free to terminate (or suspend access to) your use of your subscription or your account, for any reason in our discretion, including a breach of our Terms of service. Simul8 has the sole right to decide whether you are in violation of any of the restrictions set forth in these Terms. You will not be entitled to a refund in these circumstances.

We 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 from us to you) or if you are in material breach of this agreement by letting you know in writing (to the most recent email address you have given us). Upon termination you will continue to pay the license fees and we (unless you are in breach of this agreement) will continue to provide the Service until the termination date which may be later than the date at which either was informed of the termination if the license fee structure (as set out on our web site or in a quotation from Us to You) stipulates that.

When we stop providing the Service, terminate this agreement with you or reduce your level of access to the Service 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)

We may suspend your account and bar access to the Service 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. If we suspend your account, we will do our best to inform you of the reasons (but there may be legal reason why we cannot do this) and We will attempt to restore access as quickly as possible.

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.

Changes and Updates

Changes to Services

Simul8 constantly changes and improves the Services. Simul8 may add, alter, or remove functionality from a Service it provides to you at any time without prior notice.

Simul8 may also limit, suspend, or discontinue a Service provided to you at its discretion. If Simul8 discontinues a Service, we will give you reasonable advance notice to provide you with an opportunity to obtain a copy of your Content from that Service.

Simul8 may remove content from the Services it provides you at any time in our sole discretion, although we will endeavour to notify you before we do that if it materially impacts you and if practicable under the circumstances.

Downgrades

Downgrading your account plan may cause the loss of content, features, functionality, or capacity of your account.

We may reduce the level of access you have to the Service 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 from Us to You). If we do this then Content that you have entered in to the Service may become unavailable to you and will be deleted from the Service and our backups.

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

You accept that the nature of the designed purpose of the Service 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 Service (or anyone using your account) or your breach of these Terms.

User requirements

Legal Status

If you are an individual, you may only use the Services if you have the power to form a contract with Simul8. If you do not have the power to form a contract, you may not use the Services.

If you are not an individual, you warrant that you are validly formed and existing under the laws of your jurisdiction of formation, that you have full power and authority to enter into these Terms, and that you have duly authorized your agent to bind you to these Terms.

Embargoes

You may only use the Services if you are not barred under any applicable laws from doing so. If you are located in a country embargoed by United States or other applicable law from receiving the Services, or are on the U.S. Department of Commerce's Denied Persons List or Entity List, or the U.S. Treasury Department's list of Specially Designated Nationals, you are not permitted to purchase any paid Services from Simul8. You will ensure that: (a) your end users do not use the Services in violation of any export restriction or embargo by the United States; and (b) you do not provide access to the Services to persons or entities on any of the above lists.

Privacy

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 Services or the way we operate.

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

You agree not to enable or allow others to use the Services 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.

You can request access, correction, updates or deletion of your personal information at any time. To find out more about how seriously we take your privacy see our [Privacy Policy](#).

Disclaimers and Limitations of Liability

We reserve the right, at our sole discretion, to modify or replace these Terms at any time. If, in our reasonable 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 Service 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 Service.

Our failure to enforce or exercise any provision of these Terms is not a waiver of that provision. 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.

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.

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.

The Service is licensed, not sold. We reserve all rights not expressly granted to You in this agreement.

The Service is protected by copyright and other intellectual property laws and treaties. We and our suppliers own the title, copyright, and other intellectual property rights in the Service.

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

If you have any questions about these Terms, please contact us at info@simul8.com