

Terms of service

SIMLOUD LTD. (THE "COMPANY", "WE", "OUR" OR "US****") WELCOMES YOU ("CUSTOMER", "YOU" OR "YOUR") TO OUR WEBSITE AT SIMLOUD.COM (TOGETHER WITH OTHER DOMAINS OWN BY THE COMPANY AND REDIRECTED TO THE COMPANY'S WEBSITE, THE "WEBSITE"). BY EITHER: (1) EXECUTING ANY BILATERAL AGREEMENT, INCLUDING ANY DIGITAL COPY TO WHICH THE CUSTOMER AGREES ONLINE, BETWEEN THE CUSTOMER AND THE COMPANY, INCLUDING BUT NOT LIMITED TO A FEE AGREEMENT OR ANY OTHER AGREEMENT WITH RESPECT TO THE COMPANY'S PRODUCT OR SERVICES (AS DEFINED BELOW) (THE "PURCHASE ORDER"); (2) USING THE PRODUCT OR THE SERVICES IN ANY FORM OR MANNER; OR (3) ACTIVELY AGREEING TO THESE TERMS OF SERVICE (THE "TERMS") BY COMPLETING THE SIGN-UP FORM IN ORDER TO CREATE AN ACCOUNT (AS DEFINED BELOW) , YOU AGREE TO THESE TERMS, WHICH GOVERN YOUR (AS DEFINED BELOW) USE OF OUR PRODUCT AND SERVICES. IF YOU ARE ENTERING INTO THESE TERMS ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THESE TERMS. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THESE TERMS, YOU MAY NOT USE THE PRODUCT OR ANY OF OUR SERVICES AND IF YOU HAVE STARTED SUCH USE YOU MUST CEASE IT WITHOUT DELAY. You may not use the Product or the Services under these Terms if You are Our direct competitor, except with Our prior written consent. In addition, You may not use the Product or the Services under these Terms for purposes of monitoring their availability, performance or functionality, or for any other benchmarking or competitive purposes. These Terms are effective between You and Us as of the earlier date of: (i) using the Product for Trial Period (as defined below) (ii) registering for the Product through Our Website; (ii) executing a Purchase Order.

PRODUCT AND SERVICES

1.1. We provide a SaaS platform that automates the entire solution of cloud micro services including infrastructure creation, cost management, CI/CD, centralized login and monitoring, service management, cost estimation and management and troubleshooting (the "Product"). In addition to the Product, which in Our discretion may be provided for free for a trial period as detailed below, You may opt to subscribe to use the Product and certain additional services and features offered by Us, which interoperate with the Product (respectively, the "Subscription" and the "Services"). Services are listed on Our Website and may include inter alia, at Our sole discretion, and as may be amended from time to time, the Simloud Architecture Consultation and the Software Agent. During the Subscription term detailed in the applicable Purchase Order, and each renewal thereof (the "Subscription Term"), Company shall provide its standard support and maintenance services to Customers subject to the SLA policy attached to these Terms as Exhibit A (the "SLA").

1.2. Customer acknowledges that the Product and Services: (i) do not operate as an archive or file storage service and Company does not store all of the Customer Data (as defined below) provided during the Term, and therefore Customer is solely responsible for the backup of its Customer Data, and (ii) may be subject to export control laws applicable to Customer or in Customer's jurisdiction.

1.3. Company may change the Product's and Services' layout and design and the availability of the content and functions included therein or may change the form, features or nature of the Product and Services from time to time, and will use commercially reasonable efforts to notify Customer of any material modifications. Notifying the Customer by sending email to the email address provided to Company and/or informing of any change on Company's Website shall be considered as sufficient commercially reasonable efforts under this Section.

USER ACCOUNT

Customer must complete the registration process and create a user account in order to use the Product and Services (the "Account"). You will be required to provide Us basic information upon registration, including but not limited to a user name, password, phone number, email and the name of Your company or entity. Additionally, You shall undergo a certain certification and authentication process, during which We may request additional information. Your cooperation with the authentication and certification is a condition to the right to use Our Product and Services and the access granted under these Terms. You hereby acknowledge and agree (1) to keep the login details and credentials including the passwords confidential and secured at all times, and otherwise comply with the terms of these Terms; (2) not to share password or other account access information with any other party, temporarily or permanently; and (3) to promptly notify the Company in writing if You become aware of any unauthorized access or use of the Account.

TRIAL

The Company may at its sole discretion provide the Product to the Customer on a trial basis, free of charge, until the earlier of (a) the end of the free trial as set out on the Customer's Account; (b) the start date of any Subscription purchased by Customer, or (c) termination of the Trial by the Company in its sole discretion (the "Trial Period"). Notwithstanding anything to the contrary in these Terms, during the Trial Period the Product is provided "AS IS." COMPANY MAKES NO REPRESENTATION OR WARRANTY AND SHALL HAVE NO INDEMNIFICATION OBLIGATIONS WITH RESPECT TO THE PRODUCT DURING THE TRIAL PERIOD. COMPANY SHALL HAVE NO LIABILITY OF ANY TYPE WITH RESPECT TO THE PRODUCT DURING THE TRIAL PERIOD, UNLESS SUCH EXCLUSION OF LIABILITY IS NOT ENFORCEABLE UNDER APPLICABLE LAW IN WHICH CASE COMPANY'S TOTAL AGGREGATE LIABILITY ARISING OUT OF OR RELATING TO THE PRODUCT IS US\$300. ANY DATA AND CONFIGURATIONS ENTERED INTO CUSTOMER'S ACCOUNT DURING THE TRIAL PERIOD MAY BE PERMANENTLY LOST UPON TERMINATION OF THE TRIAL PERIOD.

LICENSES

4.1 We hereby grant the Customer a non-exclusive, revocable, non-sublicensable, non-transferable worldwide and limited right and license for the Subscription Term or the Trial Period, as applicable, to access and use the Product and the Services, as applicable, solely for Customer's internal purposes.

4.2 You hereby grant Us and our Third Party Services (as defined below) providers a worldwide, limited license for the Term (as defined below) to host, copy transmit, and display Your Content (as defined below), as reasonably necessary for Us to provide the Services in accordance with these Terms and Your Subscription.

RESTRICTIONS

5.1 During the applicable Trial Period or Subscription Term as applicable, You shall not:

5.1.1. permit any third party to access or use the Product or the Services on behalf of any third party (which includes operating any form of facility on behalf of any third party or operating a service bureau, timesharing or similar service);

5.1.2. copy, modify, create derivative works of, download, adapt, emulate, migrate to another service the Product or the Services and/or any part thereof in any way, or publish or make any use of the Product or the Services on any website, media, network or system other than those agreed to under these Terms and/or frame, “deep link”, “page scrape”, mirror and/or create a browser or border environment around any of the Product or the Services;

5.1.3 obscure, alter, amend or remove any copyright notice, trademark or other proprietary marking on, or visible during the operation or use of the Product, including any watermarks, restrictions and signs indicating proprietary rights of any of the Company’s licensors, contained in or accompanying the Product or Services, including copyright mark [©], Creative Commons [(cc)] indicators, or trademarks [® or ™];

5.1.4. attempt to discover or gain access to the Product’s or the Services’ source code or to reverse engineer, decrypt, extract, disassemble or decompile the Product or the Services;

5.1.5. attempt to gain unauthorized access to or interfere with the proper working of the Product or the Services, in particular, not attempt to: (i) disable, circumvent, bypass or otherwise avoid any measures used to prevent or restrict access to the Product or Services, or any other systems or networks connected to the Product, by hacking, password mining, or other illegitimate or prohibited means, (ii) access the Product or Services or accounts of other users, by any means or technology (e.g. scraping and crawling), other than through the Account, or (iii) employ any hardware, software, device or technique to pool connections or reduce the number of devices or users that directly access or use the Product or Services (e.g. ‘multiplexing’, ‘virtualization’, and ‘pooling’) in order to circumvent any restrictions on scope of authorized use contained in these Terms;

5.1.6. perform any illegal action to collect login data and/or passwords for other websites, third parties, software or services;

5.1.7. use the Product or the Services in a manner that violates or infringes any rights of any third party, including but not limited to, right of privacy, proprietary rights or intellectual property rights of any third parties, including without limitation copyright, trademarks, designs, patents and trade secrets;

5.1.8. probe, scan, or test the vulnerability of the Product or the Services or any network connected to the Product or the Services;

5.1.9. use the Product or the Services to engage in any fraudulent activity or further any fraudulent purpose or otherwise engage in any unlawful activity; or

5.1.10. use the Product or the Services to design, develop, distribute and/or otherwise transmit or execute, any virus, worm, Trojan Horse, time bomb, web bug, spyware, malware, or any other computer code, file, or program that may or is intended to damage or hijack the operation of any hardware, software, or telecommunications equipment, or any other actually or potentially harmful, disruptive, or invasive code or component ("Malicious Code") or take any action that imposes an unreasonable or disproportionately large load on the infrastructure of the Product or the Services or the Company's systems or networks connected to the Product or Services.

FEES AND USAGE LIMITS

6.1. Upon expiration or termination of the Trial Period, Access to the Product and Services is subject to monthly Subscription fees, based on the number of environments You create or manage on Your chosen cloud platform, in accordance with Your Purchase Order, and the terms of payment specified in such Purchase Order and in these Terms.

6.2. All fees are exclusive of taxes, levies, duties imposed by taxing authorities, including without limitation VAT, or any bank wire and transfer fees, and Customer shall be responsible for payment of all such taxes, levies, duties or wire and transfer fees. Customer shall pay all fees in U.S. Dollars or in such other currency as agreed to in writing by the parties. All amounts invoiced hereunder are due and payable within thirty (30) days of the date of the invoice provided by the Company. All fees and other amounts paid by the Customer under these Terms are nonrefundable.

6.3. The Company reserves the right to modify the fees after the first twelve months of the Subscription Term, subject to thirty (30) days prior written notice to the Customer. Customer may terminate the Subscription Term subject to a written notice to the Company within fifteen (15) days of receipt of the fee modification notice from the Company.

6.4. For more information regarding Our Subscription fees and payment information, please visit Our subscription programs page at simloud.com/pricing or contact Us at contact@simloud.com. Services may be subject to certain limitations as per the terms of Your Subscription. If You exceed Your allocated usage limits under Your Subscription terms, We reserve the right to charge the applicable fees for Services used in excess of Your usage limits in accordance with the rates prescribed under the Purchase Order.

CUSTOMER'S DATA

7.1. As part of the registration process Customers are required to provide certain information and create a password. In addition, while using the Products and Services,

Company may collect and Customer may provide, upload, or otherwise make accessible to Company certain data, software and/or information (all together, the "Customer Data"), which may include individually identifying or identifiable information ("Personal Data"). All Personal Data shall be retained in accordance with Company's privacy policy, which can be found here simloud.com/privacy-policy.

7.2. All processing of Personal Data under these Terms shall be subject to the Data Processing Addendum attached herein as Exhibit B.

7.3 By providing the Company with Customer Data and any other login information or other information regarding Customer's cloud services accounts ("Cloud Account Information") Customer is expressly authorizing the Company to store and use the Cloud Account Information. Customer is responsible for the accuracy, integrity and completeness of Customer's Cloud Account Information and for authorizing and enabling the Company to use Customer's Cloud Account Information, including submitting Customer's username and passwords to third party cloud services, websites or APIs that Customer will designate for the purposes of providing Customer with the Services. Customer acknowledges and agrees that when the Company is using the Cloud Account Information the Company is using such information per Customer's request and on Customer's behalf.

7.4. If so elected by Customer, Customer may install an agent on Customer's premises for the purpose of permitting Company to interact with Customer's cloud provider on behalf of Customer (the "Software Agent").

7.5. Company may not and shall not access any Customer Data stored in Customer's cloud service unless authorized in advance and in writing by Customer or unless required by applicable law (and in such case shall make reasonable efforts to inform the Customer prior to any such activity as reasonably possible and allowed under such applicable law).

7.6. To the extent that the Customer has any intellectual property rights in the Customer Data, Customer grants the Company a nonexclusive license to use, process and, to the extent requested by the Customer, store the Customer Data in order to provide the Services hereunder. Customer acknowledges that Company is a mere processor of Customer's Data and does not own or control it.

WARRANTIES

8.1. Here are some mutual commitments between the parties. Each party warrants and represents that:

(a) it has the full power and authority to enter into these Terms and to perform its obligations and responsibilities hereunder;

(b) neither the execution and delivery of this Terms nor the consummation of the transactions contemplated hereby will violate or conflict with any prior obligation contemplated hereby; and

(c) it is duly organized, validly existing and in good standing under the laws of its jurisdiction of incorporation or organization or if Customer is a person, Customer declares he/she is over the age of eighteen (18).

8.2. Here are some commitments We make to You. We warrant that during the Subscription Term:

- (a) the Product and the Services shall be provided with reasonable care and skill;
- (b) the Company has the authority to grant the licenses set forth herein;
- (c) We will use commercially reasonable efforts to maintain the Product and Services in accordance with industry standards and subject to the Purchase Order;
- (d) We will not knowingly transmit Malicious Code to You; and

Company's sole liability and Customer's exclusive remedy for any breach of this warranty shall be to use reasonable commercial efforts to remedy any failure of the Product or Services in accordance with the terms of the Service Level Agreement, attached as Exhibit A hereto, provided that (i) the Customer is not otherwise in breach of this Terms; and (ii) Customer has reported in writing to Company the claimed failure promptly upon discovery.

8.3. Here are some commitments You make to Us. You represent and warrant that during the Subscription Term:

- (a) You have the required corporate and legal authority to bind Your company or such other legal entity which You represent to these terms and any payment obligations;
- (b) You are the rightful owner or licensee of any Customer Data, including but not limited to proprietary data, datasets and any user generated content (the "Content") you upload to the Product or that You have (and will continue to have) all the necessary licenses, rights, consents, and permissions from the licensors of such Content or Customer Data required to use the foregoing as contemplated by these terms and that such Content does not infringe any third party's intellectual property, privacy, publicity or other rights;
- (c) Customer Data, Content or any other material uploaded by You to the Service or Product does not infringe any third party's intellectual property, privacy, publicity or other rights.
- (d) You will use the Products and Services in compliance with any applicable laws, including without limitation privacy and data protection laws, and that You have the full right, authority, permissions, approvals and consents to permit the Company to process Customer Data under these Terms, including as applicable, to share it with third party services or make use of it on third party services, in order to provide the Services and Product. You hereby acknowledge that Company relies on Your representations hereunder, and You shall remain solely responsible and liable for, and release the Company from, any and all liability arising from, the Company's authorized use of the Customer Data as permitted herein;

(c) You will be responsible for the accuracy, quality and legality of the Customer Data; and

(f) You shall prevent unauthorized access to or use of the Product or Services, and notify Us promptly of any such unauthorized access or use. Furthermore, You authorize Us to host, copy, transmit, display and adapt Your Content or Customer Data, as necessary for Us to provide the Services in accordance with the Terms.

THIRD PARTY SERVICES; OPEN SOURCE SOFTWARE

9.1. Customer acknowledges that the Product or the Services may include certain third party services, products and tools as well as certain open source software (the "Third Party Services"), which are subject to special terms as further set out in Exhibit C.

9.2. Customer acknowledges that the Company merely acts as an intermediary platform between the Customer and shall not be in any way responsible or liable with respect thereto. Company will not be a party to, or in any way be responsible for monitoring, any interaction or transaction between Customer and any Third Party Services and cannot guarantee any specific outcomes from use and/or interactions with the Third Party Services. Company may, at any time and at its sole discretion, subject to a written notice to the Customer suspend, disable access to or remove from the Account and/or the Services, any Third Party Services, or replace such Third Party Services either through an alternate provider or by the Company, without any liability to Customer

9.3. Any and all use of such Third Party Services shall be at the Customer's sole risk and responsibility, and Customer hereby assumes all risks, liabilities and/or harm of any kind arising in connection with and/or resulting from any interactions with the Third Party Services. Such risks may include, among others, misrepresentation of information about and/or by Third Party Services, breach of warranty and/or contract, violation of rights, and any consequent claims.

9.4. Failure to comply with the licenses or terms of use for any provider of Third Party Services shall constitute a breach of these Terms, and the Customer acknowledges that the provider of the Third Party Services may be entitled to seek recourse against the Customer as if the Customer was a direct customer of such provider of the Third Party Services.

WARRANTY LIMITATIONS; DISCLAIMER

10.1. EXCEPT AS EXPLICITLY SET FORTH IN THESE TERMS, THE PRODUCT AND SERVICES, INCLUDING THE THIRD PARTY SERVICES, ARE MADE AVAILABLE TO THE CUSTOMER ON AN "AS IS" "WITH ALL FAULTS" AND "AS AVAILABLE" BASIS, WITHOUT ANY WARRANTIES OF ANY KIND, BY OPERATION OF LAW OR OTHERWISE, INCLUDING ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, WORKMANLIKE EFFORT, NON-INFRINGEMENT, OR ANY OTHER WARRANTY, ALL TO THE FULLEST EXTENT PERMITTED BY LAW.

10.2. The Company specifically does not represent or warrant that the Product and Services or any Content, reports, information, or results that Customer obtains through use of the

Products and Services are complete, accurate, of any certain quality, reliable or secure in any way, suitable for or compatible with any of Customer's contemplated activities, devices, operating systems, browsers, software or tools (or that they will remain as such at any time), or that their operation will be uninterrupted, error-free, or free of any viruses, bugs or other harmful components or program limitations or Malicious Code.

10.3 Certain portion of the Product or Services are currently offered in their BETA version, and undergoing BETA testing (the "Beta Services") and therefore may still contain software bugs, suffer disruptions and not operate as intended or designated. Customer acknowledges and agrees that the Company shall not provide any support services with respect to any such Beta Services and that the SLA shall not apply to such Beta Services. Customer's use of the Services at this BETA stage signifies Customer's agreement to participate in such Services' BETA testing.

CONFIDENTIALITY

11.1. "Confidential Information" shall mean all information disclosed by a party (a "Disclosing Party") to the other party (a "Receiving Party"), during the Term, including without limitation, certain non-public proprietary, confidential and/or trade secret information or data, regardless of the manner in which it is furnished, which given the totality of the circumstances, a reasonable person or entity should have reason to believe is proprietary, confidential, or competitively sensitive. Your Confidential Information includes the Customer Data; Our Confidential Information includes the Product, the Services and data provided in respect therewith. Confidential Information shall exclude any information that (i) is now or subsequently becomes generally available in the public domain through no fault or breach on Receiving Party's part; (ii) the Receiving Party can demonstrate by records to have had rightfully in its possession prior to disclosure of the Confidential Information; (iii) the Receiving Party rightfully obtained from a third party who has the right to transfer or disclose it, without default or breach of these Terms; or (iv) the Receiving Party can demonstrate in its records to have independently developed, without breach of these Terms and/or any use of or reference to the Confidential Information.

11.2. The Receiving Party agrees: (a) not to disclose the Confidential Information it may obtain to any third parties other than to its directors, officers, employees, advisors, subcontractors, service providers or consultants (collectively, the "Representatives") on a strict "need to know" basis only, for the purpose of fulfilling its obligations under these Terms; (b) not to use, disclose or reproduce any of the Confidential Information for any purposes except to carry out its rights and responsibilities under these Terms; (c) to keep the Confidential Information confidential using at least the same degree of care the Receiving Party uses to protect its own confidential information, which shall in any event be no less than a reasonable degree of care.

11.3. Notwithstanding the foregoing, if the Receiving Party is required by legal process or any applicable law, rule or regulation, to disclose any of Confidential Information, it may do so to the minimum extent required to meet its legal obligation. Notwithstanding the above, Confidential Information may be disclosed pursuant to the order or requirement of a court, administrative agency, or other governmental body; provided, that Receiving Party shall

make the best effort to provide prompt notice of such court order or requirement to Disclosing Party, to enable Disclosing Party to seek a protective order or otherwise prevent or restrict such disclosure.

INTELLECTUAL PROPERTY

12.1. Subject to the limited licenses granted hereunder, We and Our licensors and third party providers, as may be applicable, reserve all rights, title and interest in and to the Product and Services under these Terms, including all related intellectual property rights. No rights are granted to You hereunder other than as expressly set forth herein.

12.2. Subject to the limited licenses granted hereunder, You reserve all rights, title and interest in and to the Customer Data, the Content, and Your proprietary software for which the Product and Services are used, including all related intellectual property rights. No rights are granted to Us hereunder other than as expressly set forth herein.

12.3. You hereby grant to Us a royalty-free, worldwide, irrevocable, perpetual license to use and incorporate into the Product or any Services under these Terms any suggestions, requests for enhancements, recommendations or corrections (the "Feedback") provided by You relating to existing features or addition of new features and capabilities to the Product or any Services under these Terms.

12.4. The Company may collect, disclose, publish and use in any other manner any anonymous and nonidentifiable information which derives from the use of the Product and Services by the Customer (for example, aggregated and analytics information about the use of the Products and Services, etc.), in order to provide and improve Company's Product and Services.

INDEMNIFICATION

13.1. During the Subscription Term, We shall defend You, Your agents, employees, officers and directors against any claim, demand, suit, or proceeding made or brought against You by a third party alleging that the Product or Services under these Terms infringe or misappropriate the intellectual property rights of a third party (a "Claim Against You"), and shall indemnify You for any damages, attorney fees and costs finally awarded against You as a result of, and for amounts paid by You under a court-approved settlement of, a Claim Against You; provided that You (a) promptly give Us written notice of the Claim Against You; (b) give Us sole control of the defense and settlement of the Claim Against You (provided that We may not settle any Claim Against You unless the settlement unconditionally releases You of all liability); and (c) provide to Us all reasonable assistance, at Our expense. In the event of a Claim Against You, or if We reasonably believe the Product or any of the Services under these Terms may infringe or misappropriate, We may in Our discretion and at no cost to You (i) modify the Product or such Services so that they no longer infringe or misappropriate or (ii) obtain a license for Your continued use of the Product or such Services in accordance with the terms of these Terms.

13.2. You shall defend Us, Our licensors, affiliates, distributors, and resellers, and each of Our or their respective assignees, agents, employees, officers and directors against any claim, demand, suit or proceeding made or brought against Us by a third party alleging that Your use of the Services in accordance with these Terms, infringes or misappropriates the intellectual property rights of any party or violates applicable law as a result of the Customer Data or the Content (a "Claim Against Us"), and shall indemnify Us for any damages, attorney fees and costs finally awarded against Us as a result of, or for any amounts paid by Us under a court-approved settlement of, a Claim Against Us; provided that We (a) promptly give You written notice of the Claim Against Us (failure to provide such prompt notice shall not relieve Customer from its indemnification obligations, unless and to the extent such failure to notify prejudiced Customer's ability to defend the claim); (b) give You sole control of the defense and settlement of the Claim Against Us (provided that You may not settle any Claim Against Us unless the settlement unconditionally releases Us of all liability); and (c) provide to You all reasonable assistance, at Your expense.

LIMITATION OF LIABILITY

14.1. EXCEPT FOR THE EXCLUSIONS SET OUT IN SECTIONS 14.3 AND 14.4 BELOW AND TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW IN NO EVENT SHALL EITHER PARTY BE LIABLE UNDER ANY THEORY OF TORT, CONTRACT, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY FOR LOST PROFITS, REVENUE, BUSINESS, SALES OR ANTICIPATED SAVINGS, LOSS OF USE, LOSS OF USE OF SOFTWARE, HARDWARE OR DATA, COST OF PROCUREMENT OF SUBSTITUTE SERVICES, LOSS OF CUSTOMERS, CONTRACTS OR OPPORTUNITY, LOSS OF OR DAMAGE TO REPUTATION OR GOODWILL, PUNITIVE, SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE OR WHETHER EITHER PARTY HAD BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

14.2. EXCEPT FOR THE EXCLUSIONS SET OUT IN SECTIONS 14.3 AND 14.414.3 BELOW AND TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY IN CONNECTION WITH THESE TERMS FOR AN AMOUNT TO EXCEED THE AGGREGATE AMOUNTS PAID BY CUSTOMER UNDER THESE TERMS FOR THE TWELVE (12) MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM.

14.3. Exclusions:

- (a) fraudulent misrepresentation or any other fraudulent act or omission;
- (b) death or personal injury; and
- (c) failure to duly pay the Fees.

14.4. In addition to the limitations set forth in Section 14.3 above, the Company shall not be liable, whether in contract, tort (including negligence), breach of statutory duty, under any indemnity or otherwise, for any loss, damage, expense or liability incurred or sustained as a result of:

- (d) the use of the Product or the Services except for their normal intended purpose;
- (e) the use of any Third Party Services;
- (f) the use of the Product or the Services or part of them after non-infringing Product or Service(s) has been made available to Customer by the Company in accordance with Section 13.1 above;
- (g) any adaptation or modification of the Product or the Services, or integration or combination with any other equipment, software, product or material not supplied or approved in writing by the Company, in each case carried out by anyone other than the Company or without the Company's express written consent;
- (h) any defect arising in the Product or Services as a result of misuse, willful act, or negligence on the part of anyone other than the Company, abnormal operating conditions or any failure by the Customer to follow any written or oral instructions of the Company as to use;
- (i) the compliance by the Company with any design, specification or instructions provided by the Customer or on the Customer's behalf;
- (j) any unauthorized access to or use of the Company's servers and systems and/or any personal information and/or other information stored therein;
- (k) any interruption or cessation of transmission to or from the Product or the Services; or
- (l) any Force Majeure Event. For the purposes of this Section, a "Force Majeure Event" shall mean any event beyond Our reasonable control (which shall include, without limitation, Act of God, explosion, flood, tempest, fire or accident, war or threat of war, sabotage, insurrection, civil disturbance or requisition, acts, restrictions, pandemic or epidemics, regulations, by-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority, import or export regulations or embargoes, strikes, lock-outs or other industrial actions or trade disputes (whether involving personnel of the Company or a third party), Cyber attacks, or any interruption or failure of the internet or of any network, telecommunications, power supply or infrastructure, slow connections, traffic congestion, overload of Our or other's servers.

TERM AND TERMINATION

15.1. These Terms enter into effect on the date You accept them and remain in effect until the latest of: (1) the Trial Period has expired; or (2) Your Subscription Term has expired (the "Term").

15.2. If You wish to terminate these Terms or any Purchase Order, You may do so at any time for any reason or without reason upon fourteen (14) days prior written notice to the Company or by ceasing use of Your Account.

15.3. Deleting Your Account can only be done by sending an email directly to contact@simloud.com with a specific request, which will require Us to authenticate the request with You as an authorized representative. Thereafter, You shall not be able to use any of the Product or Services until You renew Your Subscription. Cancelling Your Account may cause the loss of certain information You provided Us and/or the capacity of Your Account. We do not accept any liability for such loss.

15.4. We may terminate these Terms or any Purchase Order without cause, by written notice to You, and the termination will enter into effect within thirty (30) days from the written notice to You. Any such termination by Us may result in the destruction of all information and data associated with Your use of Product or Services under these Terms.

15.5. In addition, Company or Customer may terminate these Terms with immediate effect if the other party materially breaches these Terms and such breach remains uncured (to the extent that the breach can be cured) fifteen (15) days after having received written notice thereof. In the event that either Party becomes liquidated, dissolved, bankrupt or insolvent, whether voluntarily or involuntarily, or shall take any action to be so declared, the other Party shall have the right to immediately terminate these Terms.

15.6. If Company believes that Customer is using the Product or Services in a manner that may cause harm to Company or any third party, then Company may, without prejudice to any other Company right under these Terms, including the right to terminate these Terms, suspend the Customer's access to and use of the Product and Services until such time as Company believes the threat of harm, or actual harm, has passed. Any suspension by Company of the Product or Services under this paragraph shall not excuse Customer from its obligation to make payments under these Terms and any Purchase Order related thereto, provided that following any suspension lasting more than thirty (30) days caused by factors outside the control of Customer, Customer shall have the right to terminate the Terms or Purchase Order.

15.7. Upon termination of these Terms: (i) all licenses granted to You hereunder will automatically terminate, and (ii) You must immediately cease all use of the Product and Services under these Terms, delete and destroy all copies of Confidential Information in Your possession or control. Termination of these Terms shall not relieve You of Your obligations to pay amounts accrued or owing, nor affect any legal rights or obligations, which may have arisen under these Terms prior to or at the date of termination. In addition, no refund of fees paid in advance shall be due in respect of any unexpired portion of the Subscription Term, unless these Terms were terminated due to the Company's material breach of these Terms.

15.8. Company may retain Customer Data for a period of thirty (30) days following the expiration or termination of these Terms ("Data Retention Period") during which time the Customer may contact the Company to export Customer Data. Customer acknowledges that during the export process Customer Data may be altered, reduced or lost. Following this Data Retention Period, the Company reserves the right to delete all Customer Data. Once deleted, such Customer Data and Customer Content cannot be recovered.

TRADEMARKS

Company and its affiliates may use Customer's name and logo: (i) in sales presentations, promotional/marketing materials, and press releases to identify Customer as a customer of the Company; and (ii) in order to develop a brief customer profile for use by Company on Our Website for promotional purposes.

GOVERNING LAW

These Terms shall be governed by and construed in accordance with the laws of England without regard to the application of principles of conflicts of law. Any dispute, controversy or claim arising out of, or relating to these Terms, its interpretation or performance hereunder shall be settled exclusively by arbitration in accordance with the International Chamber of Commerce ("ICC") Arbitration Rules (the "Rules") and shall be held in London, England in the English language by one arbitrator. The appointing authority shall be the ICC acting in accordance with the Rules adopted by the ICC for this purpose. All arbitration costs and expenses, including the arbitrator's fees, will be borne equally by the parties, unless otherwise awarded by the arbitrator in his discretion. Each party hereby waives any forum non conveniens claim in connection with said arbitration or any similar objection or any claims against the enforcement of the arbitrator's ruling in any applicable jurisdiction. Nothing in this section will be construed as prohibiting any party from applying to a court for an injunctive relief with or without prior written notice to the other party.

MISCELLANEOUS

18.1. These Terms represent the complete agreement concerning the subject matter hereof and may be amended by Us with or without prior notice - at any time and in any manner. If any provision of these Terms is held to be unenforceable, such provision shall be reformed only to the extent necessary to make it enforceable. In the event of conflict or inconsistency among the following documents, the order of precedence shall be: (i) these Terms; and (ii) any Purchase Order.

18.2. Neither party may assign its rights or obligations under these Terms without the prior written consent of the other party. Notwithstanding the foregoing, either party may assign its rights or obligation under these Terms without the consent of the other in connection with any merger (by operation of law or otherwise), consolidation, reorganization, or sale of all or substantially all of its assets or business related to these Terms. Without derogating of the above, the Customer may not assign its rights or obligations under these Terms without the consent of the Company in connection with any merger (by operation of law or otherwise), consolidation or reorganization of the Customer with any direct competitors of the Company, or sale of all or substantially all of the Customer's assets or business related to these Terms to the Company's direct competitor.

18.3. The relationship hereby established between the parties is solely that of independent contractors, and these Terms shall not create an agency, partnership, joint venture or employer-employee relationship, and nothing under these Terms shall be deemed to

authorize either party to act for, represent, or bind the other party. Neither party nor any on its behalf shall have the authority to enter into or conclude any agreements on behalf of the other party nor otherwise bind nor obligate the other party nor make any representations or commitments on behalf of the other party.

18.4. All Sections, which by their nature are meant to survive, shall survive termination of these Terms.

18.5. Unless the parties expressly agree otherwise in writing, if a party: (i) fails to exercise or delays exercising or only exercises partially any right or remedy provided under these Terms or by law; or (ii) agrees not to exercise or to delay exercising any right or remedy provided under these Terms or by law, then that party shall not be deemed to have waived and shall not be precluded or restricted from further exercising that or any other right or remedy.

18.6. All notices or other communications hereunder will be in writing and will be given via the Account or by providing personal delivery, e-mail, overnight courier service, or by registered or certified mail (postage prepaid and return receipt requested) addressed to the parties' addresses as set forth below. Notice sent pursuant to these Terms will be deemed given (i) in the case of notice via the Account, (ii) in the case of personal delivery, or (iii) in the case of e-mail - on the same day of delivery, provided that in the case of e-mail, the notice given by email shall only be considered to be validly served under these Terms if the sender can show that (x) it has received both a "delivery receipt" and a "read receipt", and (z) it has sent a confirmation copy of the notice by post or courier as soon as reasonably possible. Notice sent by regular mail, certified or registered mail, postage prepaid, return receipt requested, will be deemed given on the fifth day following such mailing.

18.7. All variations to these Terms must be agreed, set out in writing and signed on behalf of both parties before they take effect.

18.8. Customer may receive from time to time promotional messages and materials from the Company or its partners, by mail, e-mail or any other contact form Customer may provide Company with. Customer shall notify the Company in writing if it does not want to receive such promotional materials or notices.