



Simation

Learn in our World. Succeed in Yours.

## ISIS Affiliate Service Agreement

### Welcome

This Affiliate Service Agreement (the "Agreement") is made by and between Simation Global Technology Ltd., a British Columbia, Canadian corporation ("Simation"), and you, as an Affiliate user of the ISIS service ("You", "Your", "Affiliate").

To be an authorized Affiliate of Simation, you agree to abide by the terms and conditions contained in this Agreement. By applying to the ISIS Affiliate Program, you indicate your acceptance of this Agreement and its terms and conditions. If you do not accept this Agreement, you will not be eligible for the ISIS Affiliate Program.

For reference, a Definitions section is included at the end of this Agreement.

### 1. Privacy & Security; Disclosure

Simation's privacy and security policies may be viewed at <http://www.simation.us>. Simation respects the privacy of its affiliates and promises not to disclose personal or business information to third parties without the express permission of the Affiliate. Simation will not sell contact or company names, e-mail addresses, phone numbers, or any other personal or company information to anyone else. Simation considers this information to be private, and it will remain as such. Simation reserves the right to modify its privacy and security policies in its reasonable discretion from time to time. Subscribers, when they initially log in, will be asked whether or not they wish to receive marketing and other non-critical Service-related communications from Simation from time to time. They may opt out of receiving such communications at that time or at any subsequent time by changing their preference under Personal Setup. Note that because the Service is a hosted, online application, Simation occasionally may need to notify all users of the Service (whether or not they have opted out as described above) of important announcements regarding the operation of the Service. If you become a paying customer of the Service, you agree that Simation can disclose the fact that you are a paying customer and the Modules of the Service that you are using.

### 2. Responsibilities of Affiliate and Simation

Simation hereby grants you a non-exclusive, non-transferable, worldwide right to represent the Service, subject to the terms and conditions of this Agreement. All rights not expressly granted to you are reserved by Simation and its licensors.

- i. Affiliate will place Simation's supplied banners and/or links anywhere on the Affiliate's website or other web-related content, newsletters, news blasts, blogs, wikis, or within non-spam emails;
- ii. Simation may email Affiliate concerning new affiliate programs;
- iii. Simation may change the service from time to time without notice;
- iv. Affiliate will not send spam or otherwise duplicative or unsolicited messages in violation of applicable laws;
- v. Affiliate will not send or store infringing, obscene, threatening, libelous, or otherwise unlawful or tortuous material, including material harmful to children or violative of third party privacy rights;
- vi. Affiliate will not send or store material containing software viruses, worms, Trojan horses or other harmful computer code, files, scripts, agents or programs;



- vii. Affiliate will not interfere with or disrupt the integrity or performance of the Service or the data contained therein;
- viii. Simiation will collect and calculate all information and statistics, and will be the only valid statistics used for determining Affiliate commissions;
- ix. Affiliate shall provide Simiation with complete and accurate address and contact information. This information includes Affiliate's legal name, street address, e-mail address, and name and telephone. Affiliate agrees to update this information within thirty (30) days of any change to it. If the contact information provided is false or fraudulent, Simiation reserves the right to terminate Affiliate access to the Affiliate Program in addition to any other legal remedies. The physical address listed for receiving commission payments MUST be the Affiliate's actual address
- x. Liability is restricted mutually (see appropriate sections following in this Agreement);
- xi. Affiliate accounts that are left inactive will be removed from our system if their balance is equal to or less than \$100. At no time will an Affiliate ever owe money to Simiation based on fees - the account will simply be closed. An abandoned Affiliate account is defined as any account that has not added new subscriptions for a period of six (6) months, nor have any transactions been posted to that account. If either condition is true - the account will remain in an active state.
- xii. THE FOLLOWING TYPES OF SITES ARE NOT ALLOWED TO PARTICIPATE IN Simiation: ADULT SITES, SITES THAT DISPLAY ADULT BANNERS, SITES THAT PROMOTE VIOLENCE, BIGOTRY, OR HATRED. SITES THAT PROMOTE ILLEGAL ACTIVITY, including but not limited to WAREZ, CRACKING, and HACKING SITES. Affiliate shall notify Simiation by e-mail at [affiliate@simiation.us](mailto:affiliate@simiation.us) of any known or suspected unauthorized uses of Affiliate's Account, or any known or suspected breach of security, including loss, theft or unauthorized disclosure of your affiliate program information including personal Simiation Affiliate links. Any fraudulent, abusive or otherwise illegal activity may be grounds for termination by Simiation and referral to the appropriate law enforcement agencies.
- xiii. Simiation RESERVES THE RIGHT TO DEEM ANY SITE INAPPROPRIATE AND TERMINATE THE SITE AS AN AFFILIATE OF Simiation. Affiliates not permitted to use the Simiation or ISIS names in any domain name. If Affiliate is terminated from the Affiliate Program, Simiation has the right to withhold money earned within the Affiliate Program or money that is owed within the Affiliate Program and you will not be allowed to re-join the ISIS Affiliate Program.
- xiv. Affiliate shall not reverse engineer or access the Service in order to:
  - a. Build a competitive product or service,
  - b. Build a product using similar ideas, features, functions or graphics of the Service, or
  - c. Copy any ideas, features, functions or graphics of the Service.

Failure to abide by these rules could mean termination from a given affiliate program, or from Simiation completely, with a complete forfeit of commissions.

### 3. Affiliate Payment

Affiliate will receive a Commission for any subscriber that completes payment for any ISIS module that enters the Affiliate Code at the time of the payment transaction, calculated at ten percent (10%) of the modules payment, excluding taxes. Affiliate understands that the Commission amount may be changed at any time with ninety (90) days written notice. Payments are made automatically and mailed out on the fifteenth (15th) day of each month for the previous months' transactions. Commissions credited to Affiliate's Account does not accrue interest. In the event a refund to an ISIS subscriber is provided, Simiation may recover the corresponding Commission previously credited to the Affiliate's Account, and the refund Commission will be immediately deducted from the Affiliate's Account balance. In the event that the Affiliate's Account balance is less than the refund Commission, the refund Commission will be deducted against the Affiliate's future earnings. You will NEVER be asked to send money to Simiation.



#### **4. Non-Disclosure**

Simation acknowledges that in the course of this Agreement it shall have access to confidential and proprietary information ("Confidential Information") from Affiliate's organization. Simation agrees not to disclose or disseminate the Confidential Information without Affiliate's prior express written consent. The term "Confidential Information" shall not include information that is or becomes part of the public domain through no action or omission of Simation that becomes available to Simation from third parties without knowledge by Simation of any breach of fiduciary duty, or that Simation had in its possession prior to the date of this Agreement. Any Affiliate information received by Simation is used solely for tracking and Commission payment purposes.

#### **5. Intellectual Property Ownership**

Affiliate is granted a non-exclusive, limited, revocable right to use Simation provided trademarks and banners. All images, technology and content provided for Affiliate's use is and shall remain the sole property of Simation, and no part thereof shall be deemed assigned or licensed to Affiliate except as explicitly provided for herein. All intellectual property rights, including trademarks, copyrights, patent rights or applications, tradenames and service marks related to the foregoing shall remain Simation's sole property, including rights in and to any derivatives thereof. Affiliate may not modify the trademarks, banners, the content or any of the images provided in any way.

Simation may immediately terminate Affiliate's license to use the marks if Simation reasonably believes that such use dilutes, tarnishes or blurs the value of their marks. Affiliate acknowledges that their use of the marks will not create in Affiliate, nor will Affiliate represent that they have, any right, title or interest in or to the marks other than the license granted by the Simation above. Affiliate will not challenge the validity of or attempt to register any of the marks or their interest therein as a licensee, nor will Affiliate adopt any derivative or confusingly similar names, brands or marks or create any combination marks with the marks. Affiliate acknowledges Simation's ownership and exclusive right to use the marks and agree that all goodwill arising as a result of the use of the marks shall inure to the benefit of Simation.

#### **6. Termination by Notice**

Either party may terminate this Agreement by notifying the other party by providing a minimum of six (6) months written notice.

#### **7. Termination for Cause**

Any breach of your obligations or unauthorized use of the Simation Technology or Service will be deemed a material breach of this Agreement. Simation, in its sole discretion, may terminate your password, account or use of the Service if you breach or otherwise fail to comply with this Agreement. In addition, Simation may terminate a free account at any time in its sole discretion.

#### **8. Representations & Warranties**

Each party represents and warrants that it has the legal power and authority to enter into this Agreement. Simation represents and warrants that it will provide the Service in a manner consistent with general industry standards reasonably applicable to the provision thereof and that the Service will perform properly under normal use and circumstances. You represent and warrant that you have not falsely identified yourself nor provided any false information to gain access to the Affiliate Program and that your company and contact information is correct.



## 9. Mutual Indemnification

You shall indemnify and hold Simation, its licensors and each such party's parent organizations, subsidiaries, affiliates, officers, directors, employees, attorneys and agents harmless from and against any and all claims, costs, damages, losses, liabilities and expenses (including attorneys' fees and costs) arising out of or in connection with:

- (i) A claim alleging that use of the Service infringes the rights of, or has caused harm to, a third party;
- (ii) A claim, which if true, would constitute a violation by you of your representations and warranties; or
- (iii) A claim arising from the breach by you or your Users of this Agreement, provided in any such case that Simation :
  - a. Gives written notice of the claim promptly to you;
  - b. Gives you sole control of the defense and settlement of the claim (provided that you may not settle or defend any claim unless you unconditionally release Simation of all liability and such settlement does not affect Simation 's business or Service);
  - c. Provides to you all available information and assistance; and
  - d. Has not compromised or settled such claim.

Simation shall indemnify and hold you and your parent organizations, subsidiaries, affiliates, officers, directors, employees, attorneys and agents harmless from and against any and all claims, costs, damages, losses, liabilities and expenses (including attorneys' fees and costs) arising out of or in connection with:

- (i) A claim alleging that the Service directly infringes a copyright, a U.S. patent issued as of the Effective Date, or a trademark of a third party;
- (ii) A claim, which if true, would constitute a violation by Simation of its representations or warranties; or
- (iii) A claim arising from breach of this Agreement by Simation; provided that you:
  - a. Promptly give written notice of the claim to Simation;
  - b. Give Simation sole control of the defense and settlement of the claim (provided that Simation may not settle or defend any claim unless it unconditionally releases you of all liability);
  - c. Provide to Simation all available information and assistance; and
  - d. Have not compromised or settled such claim.

Simation shall have no indemnification obligation, and you shall indemnify Simation pursuant to this Agreement, for claims arising from any infringement arising from the combination of the Service with any of your products, service, hardware or business process(s).

## 10. Disclaimer of Warranties

SIMATION AND ITS LICENSORS MAKE NO REPRESENTATION, WARRANTY, OR GUARANTY AS TO THE RELIABILITY, TIMELINESS, QUALITY, SUITABILITY, TRUTH, AVAILABILITY, ACCURACY OR COMPLETENESS OF THE SERVICE OR ANY CONTENT. SIMATION AND ITS LICENSORS DO NOT REPRESENT OR WARRANT THAT:



- (A) THE USE OF THE SERVICE WILL BE SECURE, TIMELY, UNINTERRUPTED OR ERROR-FREE OR OPERATE IN COMBINATION WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEM OR DATA;
- (B) THERE ARE NO VIRUSES OR OTHER HARMFUL COMPONENTS;
- (C) THE SECURITY METHODS EMPLOYED WILL BE SUFFICIENT;
- (D) THE SERVICE WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS;
- (E) ANY STORED DATA WILL BE ACCURATE OR RELIABLE;
- (F) THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION, OR OTHER MATERIAL PURCHASED OR OBTAINED BY YOU THROUGH THE SERVICE WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS;
- (G) ERRORS OR DEFECTS WILL BE CORRECTED; OR
- (H) THE SERVICE OR THE SERVER(S) THAT MAKE THE SERVICE AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS.

THE SERVICE AND ALL CONTENT IS PROVIDED TO YOU STRICTLY ON AN "AS IS" BASIS. ALL CONDITIONS, REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS, ARE HEREBY DISCLAIMED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW BY SIMATION AND ITS LICENSORS.

#### **11. Internet Delays / Force Majeure**

SIMATION'S SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS. SIMATION IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS.

Neither party shall be liable hereunder by reason of any failure or delay in the performance of its obligations hereunder on account of strikes, shortages, riots, insurrection, fires, flood, storm, explosions, acts of God, war, governmental action, labor conditions, earthquakes or any other cause which is beyond the reasonable control of such party.

#### **12. Limitation of Liability**

IN NO EVENT SHALL EITHER PARTY'S AGGREGATE LIABILITY EXCEED THE COMMISSION FEES ACTUALLY PAID TO YOU, TO A MAXIMUM OF ONE THOUSAND DOLLARS (USD\$1,000), IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM. IN NO EVENT SHALL EITHER PARTY AND/OR ITS LICENSORS BE LIABLE TO ANYONE FOR ANY INDIRECT, PUNITIVE, SPECIAL, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL OR OTHER DAMAGES OF ANY TYPE OR KIND (INCLUDING LOSS OF DATA, REVENUE, PROFITS, USE OR OTHER ECONOMIC ADVANTAGE) ARISING OUT OF, OR IN ANY WAY CONNECTED WITH THIS SERVICE, INCLUDING BUT NOT LIMITED TO THE USE OR INABILITY TO USE THE SERVICE, OR FOR ANY CONTENT OBTAINED FROM OR THROUGH THE SERVICE, ANY INTERRUPTION, INACCURACY, ERROR OR OMISSION, REGARDLESS OF CAUSE IN THE CONTENT, EVEN IF THE PARTY FROM WHICH DAMAGES ARE BEING SOUGHT OR SUCH PARTY'S LICENSORS HAVE BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

Simulation will make reasonable commercial efforts to keep its service operational during normal business hours. However, certain technical difficulties may, from time to time, result in temporary service interruptions. Affiliate understands and acknowledges that it is normal to have a certain amount of



system downtime and further agrees not to hold Simation liable for any of the consequences of such interruptions.

### **13. Additional Rights**

Certain states and/or jurisdictions do not allow the exclusion of implied warranties or limitation of liability for incidental, consequential or certain other types of damages, so the exclusions set forth above may not apply to you.

### **14. Local Laws and Export Control**

This Service provides services and uses software and technology that may be subject to United States export controls administered by the U.S. Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, and other U.S. agencies. The user of this Service ("User") acknowledges and agrees that the Service shall not be used, and none of the underlying information, software, or technology may be transferred or otherwise exported or re-exported to countries as to which the United States maintains an embargo ("Embargoed Countries"), or to or by a national or resident thereof, or any person or entity on the U.S. Department of Treasury's List of Specially Designated Nationals or the U.S. Department of Commerce's Table of Denial Orders (collectively, "Designated Nationals"). The lists of Embargoed Countries and Designated Nationals are subject to change without notice. By using the Service, you represent and warrant that you are not located in, under the control of, or a national or resident of an Embargoed Country or Designated National. You agree to comply strictly with all U.S. export laws and assume sole responsibility for obtaining licenses to export or re-export as may be required.

This Service may use encryption technology that is subject to licensing requirements under the U.S. Export Administration Regulations, 15 C.F.R. Parts 730-774 and Council Regulation (EC) No. 1334/2000.

Simulation and its licensors make no representation that the Service is appropriate or available for use in other locations. If you use the Service from outside the United States of America and Canada you are solely responsible for compliance with all applicable laws, including without limitation export and import regulations of other countries. Any diversion of the Content contrary to United States and Canadian law is prohibited. None of the Content, nor any information acquired through the use of the Service, is or will be used for nuclear activities, chemical or biological weapons, or missile projects, unless specifically authorized by the United States government for such purposes.

### **15. Notice**

Simulation may give notice by means of a general notice on the Service, electronic mail to your e-mail address on record in Simulation's account information, or by written communication sent by first class mail or pre-paid post to your address on record in Simulation's account information. Such notice shall be deemed to have been given upon the expiration of 48 hours after mailing or posting (if sent by first class mail or pre-paid post) or 12 hours after sending (if sent by email). You may give notice to Simulation (such notice shall be deemed given when received by Simulation) at any time by any of the following:

- (a) Letter sent by confirmed facsimile to Simulation at +1 (250) 483-7219;
- (b) Letter delivered by nationally recognized overnight delivery service or first class postage prepaid mail to Simulation at the following address:

Simulation Global Technology Ltd,  
1863 Oak Bay Avenue,



Victoria, British Columbia  
Canada V8R 1C6;

in either case, addressed to the attention of: Chief Executive Officer.

## **16. Modification to Terms**

Simation reserves the right to modify the terms and conditions of this Agreement or its policies relating to the Service at any time, effective upon posting of an updated version of this Agreement on the Service.

## **17. Assignment; Change in Control**

This Agreement may not be assigned by you without the prior written approval of Simation but may be assigned without your consent by Simation to:

- (i) A parent or subsidiary,
- (ii) An acquirer of assets, or
- (iii) A successor by merger.

Any purported assignment in violation of this section shall be void. Any actual or proposed change in control of you that results or would result in a direct competitor of Simation directly or indirectly owning or controlling 50% or more of you shall entitle Simation to terminate this Agreement for cause immediately upon written notice.

## **18. General**

With respect to U.S. Customers, this Agreement shall be governed by California law and controlling United States federal law, without regard to the choice or conflicts of law provisions of any jurisdiction, and any disputes, actions, claims or causes of action arising out of or in connection with this Agreement or the Service shall be subject to the exclusive jurisdiction of the state and federal courts located in San Francisco, California. With respect to Non-U.S. Customers, this Agreement shall be governed by the laws of British Columbia, Canada, without regard to the choice or conflicts of law provisions of any jurisdiction, and any disputes, actions, claims or causes of action arising out of or in connection with this Agreement or the Service shall be subject to the exclusive jurisdiction of the courts of British Columbia, Canada. No text or information set forth on any other purchase order, preprinted form or document (other than an Order Form, if applicable) shall add to or vary the terms and conditions of this Agreement. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then such provision(s) shall be construed, as nearly as possible, to reflect the intentions of the invalid or unenforceable provision(s), with all other provisions remaining in full force and effect. No joint venture, partnership, employment, or agency relationship exists between you and Simation as a result of this agreement or use of the Service. The failure of Simation to enforce any right or provision in this Agreement shall not constitute a waiver of such right or provision unless acknowledged and agreed to by Simation in writing. This Agreement, together with any applicable Order Form, comprises the entire agreement between you and Simation and supersedes all prior or contemporaneous negotiations, discussions or agreements, whether written or oral, between the parties regarding the subject matter contained herein.



## 19. Definitions

As used in this Agreement and in any other documentation now or hereafter associated herewith:

"Agreement" means these terms of use and any materials available on the Simation website specifically incorporated by reference herein, as such materials, including the terms of this Agreement, may be updated by Simation from time to time in its sole discretion;

"Modules" means those features and functions that are bundled for use together in a simulation unit and priced as that one unit (such as "Insulin - Advanced" or "Insulin - Pregnancy"), and are subscribed to by Users on the Order Form(s) wherein at least one of the available module units must be subscribed to by a User;

"Effective Date" means the earlier of either the date this Agreement is accepted by selecting the "I Accept" option presented on the screen after this Agreement is displayed or the date the parties have executed the Agreement by hand below;

"Intellectual Property Rights" means unpatented inventions, patent applications, patents, design rights, copyrights, trademarks, service marks, trade names, domain name rights, mask work rights, know-how and other trade secret rights, and all other intellectual property rights, derivatives thereof, and forms of protection of a similar nature anywhere in the world;

"Simation" means collectively Simation Global Technology Ltd., a British Columbia corporation, having its principal place of business at 1863 Oak Bay Avenue, Victoria, British Columbia, Canada, V8R 1C6;

"Simation Technology" means all of Simation's proprietary technology (including software, hardware, products, processes, algorithms, user interfaces, know-how, techniques, designs and other tangible or intangible technical material or information) made available to you by Simation in providing the Service;

"Service(s)" means the specific edition of Simation's online simulation solutions, billing, data analysis, or other services identified during the ordering process, developed, operated, and maintained by Simation, accessible via <http://www.simation.us> or another designated web site or IP address, or ancillary online or offline products and services provided to you by Simation, to which you are being granted access under this Agreement, including the Simation Technology and the Content;

"User(s)" means the person authorized to use the Service and have been supplied user identifications and passwords.

### Questions or Additional Information:

If you have questions regarding this Agreement or wish to obtain additional information, please send an e-mail to [info@simation.us](mailto:info@simation.us).



**AGREED**

**FOR AFFILIATE:**

By: \_\_\_\_\_  
(signature)

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

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

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

Company: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_

State/Province: \_\_\_\_\_

Zip/Postal Code: \_\_\_\_\_

Country: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

Website: \_\_\_\_\_

**FOR SIMATION:**

By: \_\_\_\_\_  
(signature)

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

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

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