

# MUTUAL NON-DISCLOSURE AGREEMENT

This Mutual Non-Disclosure Agreement (the "Agreement") is entered into as of the Effective Date set out below by and between the parties identified below (each a "Party" and together the "Parties").

## Party A (Discloser / Recipient)

<b>Legal name</b>	Simulcation
<b>Registered office</b>	Rigistrasse 18, 6045 Meggen, Switzerland
<b>Company / UID no.</b>	Exempt
<b>Represented by</b>	Duncan Pond

## Party B (Discloser / Recipient)

<b>Legal name</b>	[Counterparty legal name]
<b>Registered office</b>	[Address]
<b>Company / reg. no.</b>	[Number]
<b>Represented by</b>	[Name, function]

**Effective Date:** [date]

## Background

The Parties wish to explore and/or pursue a potential business relationship in connection with the Simulcation datacenter simulation platform and related services (the "Purpose"). In the course of the Purpose, each Party may disclose to the other certain confidential and proprietary information. This Agreement sets out the terms on which such information is disclosed and protected. The Parties agree as follows:

### 1. Definition of Confidential Information

- "Confidential Information" means any non-public information disclosed by or on behalf of one Party (the "Discloser") to the other Party (the "Recipient"), whether before or after the Effective Date, in any form (oral, written, electronic, visual or otherwise), that is designated as confidential or that a reasonable person would understand to be confidential given its nature or the circumstances of disclosure.
- Without limitation, Confidential Information includes: software, source code, architecture, APIs, simulation models, algorithms, component taxonomies and tech-tree data; product roadmaps, designs and specifications; pricing, commercial terms and business plans; customer, prospect, partner and supplier information; security configurations and infrastructure details; and the existence, content and status of discussions between the Parties.

3. The terms of this Agreement and the fact that the Parties are in discussions are themselves Confidential Information.

## 2. Exclusions

Confidential Information does not include information that the Recipient can demonstrate by competent evidence:

- was lawfully in its possession without obligation of confidence before disclosure by the Discloser;
- is or becomes publicly available through no breach of this Agreement by the Recipient;
- is lawfully received from a third party who is not bound by a duty of confidentiality; or
- is independently developed by the Recipient without use of or reference to the Discloser's Confidential Information.

## 3. Obligations of the Recipient

The Recipient shall:

1. use the Confidential Information solely for the Purpose and for no other purpose;
2. keep the Confidential Information strictly confidential and protect it using at least the same degree of care it uses for its own confidential information of like importance, and in no event less than a reasonable standard of care;
3. not disclose the Confidential Information to any third party except as permitted under Clause 4; and
4. not copy, reproduce or reverse-engineer the Confidential Information except to the extent reasonably necessary for the Purpose.

## 4. Permitted Disclosures

1. The Recipient may disclose Confidential Information to its employees, officers, directors, affiliates and professional advisers ("Representatives") who need to know it for the Purpose, provided such Representatives are bound by confidentiality obligations no less protective than those in this Agreement. The Recipient remains responsible for any breach by its Representatives.
2. The Recipient may disclose Confidential Information to the extent required by law, regulation or a competent authority or court, provided that (where legally permitted) it gives the Discloser prompt prior written notice and reasonable assistance to enable the Discloser to seek protective measures.

## 5. No Licence, No Warranty

1. All Confidential Information remains the property of the Discloser. Nothing in this Agreement grants the Recipient any licence or right (whether by implication, estoppel or otherwise) in or to the Confidential Information or any intellectual property of the Discloser, except the limited right to use it for the Purpose.
2. Confidential Information is provided "as is". The Discloser makes no representation or warranty as to its accuracy or completeness, and shall have no liability arising from the Recipient's use of or reliance on it.

## 6. No Obligation to Proceed

This Agreement does not oblige either Party to disclose any information, to proceed with any transaction or relationship, or to enter into any further agreement. Any such relationship will be governed by a separate written agreement.

## 7. Data Protection

Where Confidential Information includes personal data, each Party shall comply with applicable data protection laws, including the Swiss Federal Act on Data Protection (FADP) and, where applicable, the EU General Data Protection Regulation (GDPR). The Parties do not intend to exchange personal data under this Agreement other than the business-contact details of their Representatives; where any further processing is envisaged, the Parties shall enter into a separate data processing agreement.

## 8. Term and Duration of Obligations

1. This Agreement takes effect on the Effective Date and continues for [two (2)] years, unless terminated earlier on [thirty (30)] days' written notice by either Party.
2. Termination or expiry does not affect Confidential Information disclosed before that date. The confidentiality obligations in this Agreement survive for [three (3)] years from the date of disclosure of the relevant Confidential Information, save that obligations in respect of trade secrets continue for as long as the information remains a trade secret under applicable law.

## 9. Return or Destruction

On the Discloser's written request, or on termination or expiry of this Agreement, the Recipient shall promptly return or, at the Discloser's option, securely destroy all Confidential Information and copies in its possession or control, and on request certify such destruction in writing. The Recipient may retain one copy to the extent required by law or its bona fide internal record-retention policy, which copy remains subject to this Agreement.

## 10. Remedies

The Recipient acknowledges that a breach of this Agreement may cause irreparable harm to the Discloser for which monetary damages may be an inadequate remedy. Accordingly, the Discloser is entitled to seek injunctive or other equitable relief in addition to any other remedies available at law, without the need to post a bond or prove actual damages.

## 11. General

1. **Entire agreement.** This Agreement constitutes the entire agreement between the Parties regarding its subject matter and supersedes all prior discussions and understandings.
2. **Amendments.** Any amendment must be in writing and signed by both Parties.
3. **Assignment.** Neither Party may assign or transfer this Agreement without the other Party's prior written consent, except to a successor in connection with a merger or sale of substantially all of its assets.
4. **No waiver.** Failure or delay in exercising any right does not constitute a waiver of it.
5. **Severability.** If any provision is held invalid or unenforceable, the remaining provisions remain in full force, and the invalid provision shall be replaced by a valid one that most closely reflects the Parties' intent.

- 6. **Notices.** Notices under this Agreement shall be in writing and sent to the addresses set out above (or as updated in writing), by email with confirmation of receipt or by registered post.
- 7. **Counterparts.** This Agreement may be executed in counterparts, including by electronic signature, each of which is an original and together constitute one instrument.

## 12. Governing Law and Jurisdiction

- 1. This Agreement is governed by and construed in accordance with the substantive laws of Switzerland, excluding its conflict-of-law rules and the United Nations Convention on Contracts for the International Sale of Goods (CISG).
- 2. The Parties submit to the exclusive jurisdiction of the ordinary courts of [Lucerne], Switzerland, subject to any mandatory place of jurisdiction.

AGREED by the Parties as of the Effective Date.

For and on behalf of Simulcation	For and on behalf of [Counterparty]
Name:	Name:
Title:	Title:
Date:	Date: