

Terms of Use

Simulcation — Datacenter Simulation Platform

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These Terms of Use (the "Terms") govern your access to and use of the Simulcation website, web application and related services made available at simulcation.com (together, the "Service"). The Service is operated by **Simulcation** ("Simulcation", "we", "us" or "our"), based in Switzerland. "Simulcation" and the Simulcation logo are protected trademarks.

1. Acceptance of These Terms

By checking the "I agree" box and completing registration — or otherwise creating an Account, accessing or using the Service — you confirm that you have read, understood and agree to be bound by these Terms and by any documents expressly referenced in them, including our Privacy Policy.

If you do not agree to these Terms, do not check the box, do not create an Account, and do not access or use the Service.

If you are registering on behalf of an organisation, you confirm that you are authorised to accept these Terms on that organisation's behalf, in which case "you" refers to that organisation.

Registration checkbox label (suggested):

I have read and agree to the Terms of Use and Privacy Policy.

We keep a record of the version of the Terms you accepted and the date of acceptance. Please read these Terms carefully before you start using the Service.

2. Definitions

- **"Account"** means the registered user account required to access most features of the Service.
- **"Content"** means all information, data, text, graphics, simulations, configurations, bills of materials and other materials made available through the Service.
- **"Subscription"** means a paid plan that grants access to specified features of the Service for a defined billing period.
- **"User", "you" or "your"** means any individual or entity that accesses or uses the Service.

3. Scope and Changes to These Terms

The information provided through the Service is made available for informational and simulation purposes only and does not constitute a legally binding offer, professional advice, or a guarantee of any commercial outcome.

We may amend these Terms from time to time, for example to reflect changes in the Service, in our business, or in applicable law. The current version is always available within the Service. Where changes are material, we will notify you by a reasonable means (such as a notice within the Service or by email to the address linked to your Account) before they take effect. Your continued use of the Service after the changes take effect constitutes acceptance of the revised Terms. If you do not accept the revised Terms, you must stop using the Service and may cancel your Subscription.

4. Eligibility and Minors

The Service is not directed to, nor intended for use by, anyone under the age of 16. If you are under 16, you may not use the Service. If you are at least 16 but under 18 (or under the age of majority in your jurisdiction), you may use the Service only with the involvement and consent of a parent or legal guardian who agrees to be bound by these Terms on your behalf.

If you use the Service on behalf of an organisation, you represent that you are authorised to accept these Terms on that organisation's behalf, in which case "you" refers to that organisation.

5. Accounts and Security

To access most features you must register an Account and provide accurate, current and complete information. You are responsible for keeping your login credentials confidential and for all activity that occurs under your Account. You must notify us promptly at the contact address below if you suspect any unauthorised use of your Account.

We may use third-party identity and authentication providers to operate sign-in and Account security. We may suspend or restrict access to an Account where we reasonably believe it is necessary to protect the Service, other users, or to comply with law.

6. The Service

Simulcation operates software, provided on a Software-as-a-Service (SaaS) basis, that lets users model the design and operation of enterprise IT datacenters using various components, configurations and services. Content describing components and services may be supplied by third-party vendors or other sources, and is provided for modelling and informational purposes only.

We may modify, add, suspend or discontinue all or part of the Service (including individual features) at any time, with or without notice. We do not warrant uninterrupted or error-free availability of the Service, and we do not guarantee that any simulated configuration, recommendation or output is suitable for any particular business or production use.

7. Subscriptions, Fees and Payment

7.1. Plans and pricing

Access to paid features requires a Subscription or, where offered, a one-time purchase. Available plans, features and prices are shown within the Service at the point of purchase or in a separate price list. Prices are stated in the currency indicated at checkout (which may include USD, EUR, GBP or CHF) and, unless stated otherwise, are exclusive of any applicable value-added tax (VAT) or other taxes, which will be added where required.

7.2. Billing, renewal and cancellation

Subscription fees are billed in advance for the applicable billing period (for example monthly or annually). Unless stated otherwise at purchase, Subscriptions renew automatically for successive periods of the same length at the then-current price, until cancelled. You may cancel renewal at any time through your Account settings; cancellation takes effect at the end of the current paid period, and you retain access until then.

Where you upgrade, downgrade or otherwise change a Subscription mid-period, we may apply a prorated charge or credit reflecting the change for the remainder of that period. We may change prices and plan features; for recurring Subscriptions, price changes apply from the next renewal and we will give you reasonable advance notice.

7.3. Payment processing

Payments are processed by third-party payment providers (for example Stripe). By submitting payment details you authorise us and our payment provider to charge the applicable fees and taxes. We do not store full card details ourselves; your use of the payment provider is subject to its own terms and privacy policy.

7.4. Refunds and consumer rights

Except where required by mandatory law, fees already paid are non-refundable and we do not provide refunds or credits for partial billing periods or unused access. Nothing in this section limits any non-waivable statutory rights you may have as a consumer, including any applicable right of withdrawal.

7.5. Promotions, trials and contests

We may offer free trials, promotional pricing, contest tiers or other special offers, which may be subject to additional terms stated at the time. We may modify or withdraw such offers, and unless stated otherwise a trial converts to a paid Subscription at the end of the trial period unless cancelled beforehand.

8. Right of Use (Licence to You)

Subject to your compliance with these Terms and payment of any applicable fees, Simulcation grants you a limited, revocable, non-exclusive, non-transferable and non-sublicensable right to access and use the Service for your own internal or personal purposes for the duration of your Subscription or, where applicable, your free access.

You are not granted any rights in the software underlying the Service, its source code or associated libraries. Licences may be issued as a single-user licence or as a multi-user (organisation) licence for a defined number of users, in each case for the defined licence period. Depending on the plan, when a Subscription ends your access or available features may be reduced to a free or public tier, or may cease.

9. Acceptable Use

You agree not to, and not to permit any third party to:

- copy, modify, adapt, translate, create derivative works of, reverse engineer, decompile or disassemble the Service or attempt to derive its source code, except to the extent such restriction is prohibited by mandatory law;
- rent, lease, lend, sell, sublicense, share, resell or otherwise provide access to the Service, your Account or your credentials to any third party, except under an express written agreement with Simulcation;
- use the Service in any unlawful manner, or to infringe the rights of others, or to upload malicious code, or to disrupt, overload, probe or circumvent the security or integrity of the Service;
- use automated means to access, scrape or extract Content except as expressly permitted; or remove, obscure or alter any proprietary notices.

You must keep your credentials confidential. Third parties wishing to use the Service must obtain their own licence by registering.

10. User Content and Communications

The Service may allow you to create, upload or transmit Content (such as simulation configurations) and to post communications in any community, comment or messaging areas we may provide. You retain ownership of Content you submit, and you grant Simulcation a worldwide, non-exclusive, royalty-free licence to host, store, reproduce and process that Content to the extent necessary to operate and provide the Service.

You are responsible for the Content and communications you submit and represent that you have the rights to submit them. We may, but are not obliged to, monitor or review such areas, and we may remove Content that we reasonably consider to breach these Terms or applicable law. We have no liability for the content of user communications, whether arising under copyright, defamation, privacy or otherwise.

11. Intellectual Property

The Service and all Content provided by Simulcation — including its organisation, design, graphics, icons, illustrations, text, software, compilations and digital conversions — together with related documentation, are owned by Simulcation or its licensors and are protected by copyright, trademark and other intellectual property rights, and may constitute business and trade secrets of Simulcation. Except as expressly permitted in these Terms, you may not copy, redistribute, frame, republish or otherwise exploit any part of the Service.

12. Third-Party Services and Links

The Service may rely on, integrate with, or contain descriptions of and links to products, websites and services owned or operated by third parties (for example payment, authentication, hosting and analytics providers, and vendor product information). Such links and integrations are provided for your convenience and do not constitute an endorsement. We have no control over, and accept no responsibility for, the content,

availability, terms or data-protection practices of third parties. Use of third-party services is at your own risk and subject to their terms.

13. Updates, Releases and Maintenance

We are entitled at any time to adapt and improve the Service through updates, bug fixes and new releases, and to carry out maintenance. Valid Subscriptions and their commercial terms continue to apply and are not affected by routine updates. Where reasonably practicable, we will communicate significant changes through the Service.

14. Warranties and Disclaimers

To the maximum extent permitted by applicable law, the Service and all Content are provided "**as is**" and "**as available**", without warranties of any kind, whether express or implied, including any implied warranties of merchantability, fitness for a particular purpose, non-infringement, accuracy or uninterrupted availability. The Service may contain bugs, errors or limitations.

We make no representation or warranty regarding the quality, accuracy or completeness of any product information, recommendations, bills of materials or other outputs generated through the Service, and such outputs must not be relied upon as the sole basis for procurement, design or other business decisions. You use the Service and any Content at your own discretion and risk.

15. Limitation of Liability

To the maximum extent permitted by applicable law, Simulcation shall not be liable for any indirect, incidental, special or consequential damages, nor for loss of profits, business, data or goodwill, arising out of or in connection with your use of, or inability to use, the Service, whether based in contract, tort (including negligence) or otherwise.

Subject to the following paragraph, Simulcation's total aggregate liability arising out of or relating to the Service shall not exceed the amount you paid to Simulcation for the Service in the twelve (12) months preceding the event giving rise to the liability.

Nothing in these Terms excludes or limits Simulcation's liability where such exclusion or limitation is not permitted by mandatory law — in particular, liability for unlawful intent or gross negligence, for death or personal injury caused by our negligence, or under mandatory product-liability or consumer-protection law, is not excluded or limited.

16. Indemnification

To the extent permitted by law, you agree to indemnify and hold Simulcation harmless from any third-party claims, liabilities, damages and reasonable costs arising out of your breach of these Terms, your misuse of the Service, or your infringement of the rights of any third party.

17. Term and Termination

These Terms apply for as long as you use the Service. You may stop using the Service and cancel your Subscription at any time as described in Section 6. We may suspend or terminate your access, with or without notice, if you breach these Terms or applicable law, or to protect the Service or other users. Upon termination your right to use the Service ceases; sections that by their nature should survive (including those on intellectual property, disclaimers, limitation of liability, indemnification and governing law) will survive. We are not obliged to refund fees already paid where termination results from your breach.

18. Data Protection and Privacy

Your privacy matters to us. To provide the Service we process personal data such as your name, email address, organisation, billing details and usage data. We process

personal data in accordance with the revised Swiss Federal Act on Data Protection (FADP, in force since 1 September 2023) and, where applicable, the EU General Data Protection Regulation (GDPR).

Details of what personal data we collect, why, the legal bases, recipients (including payment, hosting and authentication providers), international transfers and your rights are described in our **Privacy Policy**, which forms part of these Terms. Personal data may be processed by us, our affiliates and our sub-processors, including hosting in Switzerland or the EU. Where we wish to use your data for direct marketing, we will rely on a lawful basis and, where required, your separate consent, which you may withdraw at any time.

You have the right to obtain information about the personal data we hold about you, and to request its correction or deletion, subject to applicable law. Please note that transmission of data over the internet can never be guaranteed to be completely secure, and we cannot accept liability for risks inherent in such transmission that are beyond our reasonable control.

19. Force Majeure

Simulcation will not be liable, or considered to be in breach of these Terms, for any delay or failure to perform resulting from causes beyond our reasonable control that we could not have avoided through commercially reasonable diligence (for example natural events, fire, explosion, vandalism or cyber-attack, storms, national emergencies, civil unrest, war, strikes or other labour disputes, or acts or omissions of third parties).

20. Miscellaneous

If any provision of these Terms is held invalid or unenforceable, it will be interpreted to give the closest lawful effect to its intent, and the remaining provisions will remain in full force and effect. Our failure to enforce any provision is not a waiver of it or of the right to enforce it later.

Simulcation and you are independent parties, and nothing in these Terms creates any partnership, joint venture, agency or employment relationship. You may not assign or transfer these Terms without our prior written consent; we may assign them in connection with a merger, acquisition or transfer of assets. These Terms, together with the Privacy Policy and any plan-specific terms, constitute the entire agreement between you and Simulcation regarding the Service and take precedence over any conflicting terms within the Service.

21. Governing Law and Jurisdiction

These Terms are 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). The ordinary courts at the registered seat of Simulcation in Switzerland (Lucerne) shall have exclusive jurisdiction over any dispute arising out of or in connection with these Terms, subject to any mandatory place of jurisdiction provided by law (including for consumers).

22. Contact

You can reach us at:

Simulcation Rigistrasse 18, 6045 Meggen, Switzerland Email: info@simulcation.com

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