

STADIUM® WEB END USER LICENSE AGREEMENT

IMPORTANT: PLEASE READ CAREFULLY THE TERMS AND CONDITIONS OF THE FOLLOWING LICENSE AGREEMENT BEFORE USING THE STADIUM® WEB SOFTWARE. SIMCO TECHNOLOGIES INC. ("SIMCO") IS WILLING TO LICENSE THE USE OF THE SOFTWARE (AS DEFINED BELOW) TO YOU AS THE INDIVIDUAL, LEGAL ENTITY OR COMPANY (REFERENCED BELOW AS "THE USER") AND WHO WILL BE USING THE SOFTWARE ONLY ON THE CONDITION THAT THE USER ACCEPTS ALL OF THE TERMS CONTAINED IN THIS AGREEMENT. AS A USER, YOU AGREE TO THE BINDING NATURE OF THIS AGREEMENT. BY CLICKING ON THE "I ACCEPT" BUTTON, OR IN ANY WAY INDICATING ASSENT ELECTRONICALLY, OR BY ACCESSING THE SOFTWARE WEBSITE, THE USER AGREES TO THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF THE USER DOES NOT AGREE TO THIS AGREEMENT, THE USER AGREES NOT TO USE OR ACCESS THE SOFTWARE AND THE SOFTWARE WEBSITE.

THIS IS A LEGAL AND ENFORCEABLE CONTRACT BETWEEN THE USER AND SIMCO TECHNOLOGIES INC. IF THE USER IS AGREEING TO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, USER REPRESENTS AND WARRANTS THAT HE HAS THE REQUISITE AUTHORITY AND LEGAL CAPACITY TO BIND HIS ORGANIZATION TO THIS AGREEMENT.

1. DEFINITIONS

- 1.1. **"Agreement"** means this Software End User License Agreement and all Schedules, if any, annexed to this Agreement as the same may be amended from time to time in accordance with the provisions hereof.
- 1.2. **"Person"** includes an individual, corporation, partnership, joint venture, trust, unincorporated organization, government or any agency or instrumentality thereof or any other entity recognized by law.
- 1.3. **"Related Documentation"** means any and all human-readable documentation which is to be delivered with the Software including, but not limited to, the User Guide.
- 1.4. **"Service Life Analysis Credits"** or **"SLA Credits"** means the number of simulation years that the USER has paid prior to its use of the Software, or that remains unused in the User's account, and that are necessary to perform the total duration of a specific project's launched simulation.
- 1.5. **"Software"** means the specific STADIUM® WEB application software, accessible through the Software website, and Related Documentation developed by SIMCO.
- 1.6. **"Third Party"** means any Person other than a Participant.

2. SOFTWARE LICENSE TERMS OF USE

- 2.1. Subject to the terms and conditions of this Agreement, and in exchange of subscription fees and payment of SLA Credits, SIMCO hereby grants to User a personal, non-transferable, non-exclusive license to use the Software and SIMCO agrees to provide to User the STADIUM® WEB Software, in executable form only. By accessing the Software through the Software website, the User becomes a registered user of the Software, which SIMCO provides for the exclusive use of each registered user.
- 2.2. User acknowledges and agrees that if and when the license subscription fee is not paid, the Software shall become unusable and inoperable and/or User shall not have access to the Software, unless the subscription fee is paid to SIMCO.
- 2.3. User acknowledges and agrees that the Software will allow the User to start simulations only if the SLA credits balance is sufficient; if and when there are no prepaid SLA credits in User's account, or there are insufficient SLA Credits to perform the required simulation, the Software will not allow the User to start the required new simulation, unless additional SLA Credits are paid to SIMCO. However, User will still have access to its existing data from previous simulations.

- 2.4. User will access the Software through a website. If a User is a company or an organization (the "Customer"), it is the sole responsibility of the Customer's administrator to manage internally the individual Users who will be granted separate accounts to access the Software on behalf of the Customer and use the Customer's SLA Credits. SLA Credits are managed on a Customer level, thus all the Customer's employees or representatives who will access the Software on behalf of the Customer will share the Customer's SLA Credits balance. The Customer's administrator will be notified if and when the SLA Credits balance is insufficient for each User's simulation request and should contact SIMCO to order additional SLA Credits.
- 2.5. User shall not, directly or indirectly:
- a) Reverse engineer, decompile, disassemble, modify, translate, make any attempt to discover the source code of the Software or underlying ideas or algorithms of the Software, or create derivative works from the Software, copy or recreate any component of the Software and delivery media;
 - b) Copy, sublicense, sell, rent, lease, distribute, or otherwise transfer rights to the Software or any portion of the Software;
 - c) Remove, delete or modify any copyright notices or any other proprietary notices or legends on, in or from the Software;
 - d) Use the Software in any manner that could damage, disable, overburden, or impair SIMCO's or any other party's search services, servers, or other services; or
 - e) Use the Software in any manner not authorized by this agreement.
- 2.6. User acknowledges and agrees that SIMCO may modify the terms and conditions of this Agreement at any time without notice to User. User's use of the Software constitutes its binding acceptance of this Agreement, including any modifications that SIMCO makes. Such changes or modifications shall be posted from time to time on the Software website User is responsible for regularly reviewing this Agreement and the terms and conditions it contains.

3. PRICES

- 3.1. User hereby acknowledges that SIMCO agrees to license the Software in return of subscription fees and payment of SLA Credits, as determined by SIMCO.
- 3.2. SIMCO reserves the right to change the price for the Software and/or for the Support services on a regular basis and all price changes shall become effective within a reasonable time notice determined by SIMCO.

4. COPYRIGHT AND INTELLECTUAL PROPERTY RIGHTS

- 4.1. User hereby acknowledges that the Software is the exclusive property of SIMCO Technologies Inc. and is protected by copyright law and patent law. SIMCO is the sole owner of the Software and, except as expressly set forth herein, shall retain any and all rights, titles and interests in the Software. No title to the intellectual property in the Software is transferred to the User. User acknowledges that SIMCO has not provided User with a copy of, and User acquires no rights of any kind with respect to, the Software source code. This agreement governs any releases, revisions, or enhancements to the Software that SIMCO may furnish to the User.

5. USER OBLIGATIONS

- 5.1. SIMCO and User hereby agree to the following:
- a) User is responsible for obtaining and maintaining all computer Hardware, software and communications equipment needed to internally access and use the Software, and for paying all third party access charges, if any, incurred while using the Software;
 - b) User is responsible for implementing, maintaining and updating all necessary and proper procedures and software for safeguarding against computer infection, viruses, worms, Trojan horses and other code that manifest contaminating or destructive properties (collectively "viruses"). User acknowledges that SIMCO cannot and does not guarantee or warrant that the Software will be free of viruses following installation or access by User;
 - c) User shall be solely responsible for its actions while using the Software and its contents;

- d) User acknowledges and agrees that SIMCO claims that the Software contains valuable proprietary information and trade secrets developed or acquired by SIMCO. User shall secure and protect the Software in a manner consistent with the maintenance of SIMCO's rights therein and take reasonable action by instruction or agreement with its employees or any third parties who are permitted access to the Software to satisfy its obligations hereunder.

5.2. User agrees:

- a) To abide by all local and international laws and regulations applicable to its use of the Software;
- b) Not to upload or distribute in any way files that contain viruses, corrupted files, or any other similar software or programs that may damage the operation of the Software;
- c) Not to use the Software for illegal purposes.

6. OBLIGATIONS OF SIMCO AND LIABILITY

- 6.1.** Subject to the exceptions set out elsewhere in this Agreement, SIMCO warrants that it will provide Software using reasonable care and skill and that the Software will perform substantially and materially in accordance with its functional specifications under normal use. If there is a material breach of the above warranty, SIMCO's entire liability and User's entire remedy shall be, at SIMCO's sole discretion, to:

- a) Modify the Software to conform to its functional specifications, in a reasonable workaround time and fashion; or
- b) If the foregoing is not commercially reasonable or feasible, terminate this Agreement and User's right to use the Software, and refund to User License Fee and unused SLA Credits, if any, as of the date of termination, with no further liability to SIMCO or User. These remedies are User's sole and exclusive remedies.

- 6.2.** Subject to the foregoing, all conditions, warranties, terms and undertakings, express or implied, statutory or otherwise, in respect of the Software or of any Support Services, and of any additional services, are hereby excluded to the greatest extent permissible by applicable law.

7. DISCLAIMER OF WARRANTIES

- 7.1.** STADIUM® Web Software is a tool developed to predict the long-term durability of concrete structures. This Software helps predict future conditions of concrete materials on the basis of a limited set of input parameters. The modeling used in this Software uses early-age laboratory test results or test results from field samples as input parameters. All input parameters used in the model have a range of acceptable results. This provides a simple analysis of concrete degradation. Previous conditions are assumed to carry forward in the prediction model, and there are no assurances that the structure under consideration will continue to be exposed to a similar environment as in the past. Furthermore, the accuracy of this Software is highly depended on user-supplied data; it is the user's responsibility to understand how the data entered affect the Software output.

- 7.2.** User acknowledges and agrees that the Software requires user to exercise independent and professional knowledge and judgment in its use. This Software is intended for the use of individuals who are competent to evaluate the significance and limitations of its content and results, and who will accept responsibility for the application of the results and information it produces. This Software is meant to help engineers; it is not a substitute for design services, judgment or experience. User further acknowledges that nothing in the Software or in anything else provided pursuant to this agreement constitutes or is intended to be professional advice or a substitute for professional knowledge or judgment.

- 7.3.** The user agrees to use the Software at the user's own risk. The user agrees that SIMCO offers no warranties whatsoever. All express, implied, and statutory warranties, including, without limitation, the warranties of merchantability, fitness for a particular purpose, and non-infringement of intellectual proprietary rights, are expressly disclaimed to the fullest extent permitted by law. Also, to the fullest extent permitted by law, SIMCO disclaims any representations, warranties, or guaranties as to the quality, suitability, truth, accuracy, or completeness of any of the materials contained in the Software.

- 7.4. SIMCO makes no warranty that (a) the Software will meet the user's requirements, (b) the Software will be error-free, uninterrupted, timely or secure, (c) defects will be corrected, or (d) the quality of any information or other material obtained by the user through the use of the Software will meet the user's expectations.
- 7.5. No advice or information, whether oral or written, obtained by the user from SIMCO will create any warranty not expressly stated in the terms of this agreement. SIMCO's employees or any of SIMCO's affiliated companies' employees are not authorized to vary these terms.

8. LIMITATION OF LIABILITY

- 8.1. To the maximum extent permitted by applicable law, and regardless of whether any remedy set forth herein fails of its essential purposes, in no event and under no circumstances shall SIMCO be liable to the user or to any third party for any direct, indirect, incidental, consequential, special, exemplary, or punitive damages including any loss of profits or data arising from the use or inability to use the Software, even if SIMCO has been advised of the possibility of such damages.
- 8.2. The user has sole responsibility to provide for adequate protection and backup of data and/or equipment used in connection with the Software, and will not make a claim against SIMCO for lost data, re-run time, inaccurate output, work delays, or lost profits resulting from the use of the Software.
- 8.3. By installing or accessing and using this Software, the user agrees to indemnify SIMCO and its subsidiaries, affiliates, officers, and employees and hold them harmless from any and all claims and expenses, including attorney's fees, arising from his use of the Software. By using the Software, the user hereby agrees to release SIMCO and its subsidiaries, affiliates, officers, and employees from any and all claims, demands, debts, obligations, damages (actual or consequential), costs, and expenses of any kind or nature whatsoever, whether known or unknown, suspected or unsuspected, disclosed or undisclosed, that the user may have against them arising out of or in any way related to such disputes and/or the Software. The user hereby agrees to waive all laws that may limit the efficacy of such releases.

9. MAINTENANCE LIMITED SUPPORT SERVICES

- 9.1. During the term of this Agreement, SIMCO shall provide the User with Support Services for the use of the Software by the User, through advice by e-mail request and response. Request will be received, and response will be given during working days, excluding Canadian Holidays, and between the hours of 9:00 am and 5:00 pm Eastern Time. SIMCO will use its best reasonable efforts to ensure a response time as soon as practicable, depending on the nature of the request and the type of response required.
- 9.2. Support Services shall not include the diagnosis and rectification of any errors resulting from:
 - a) Any problems, defects or failures that relate to the STADIUM® WEB Software and its interface elements, and any other components or applications, that are not the STADIUM® WEB Software;
 - b) Any alteration or modification to the Software made by any person other than SIMCO;
 - c) Minor defects in the Software which do not significantly affect or impair the use of the Software;
 - d) Any incorrect or improper use of the Software;
 - e) The failure by User to implement recommendations in respect of any solutions to errors previously advised by SIMCO; and
 - f) The use of the Software for any purpose for which it was not designed.
- 9.3. SIMCO shall, upon request by User, provide reasonable diagnosis and rectification of errors, even if the error in question results from any of the circumstances described in Section 9.2 when rectification is reasonably possible, but SIMCO may charge for this rectification of error on a time and materials basis.
- 9.4. The Support Services are only provided by SIMCO in respect of the current release of the Software and until Termination Date.

10. PASSWORDS AND SECURITY

- 10.1.** To access the Software, SIMCO will invite User, or Customer's administrator, to login to the website by creating its own account, or separate accounts for each User authorized to use Customer's account. User and/or Customer's Users are responsible for maintaining the confidentiality of all passwords and for ensuring that each password is used only by the authorized User. User and/or Customer's administrator are entirely responsible for any and all activities that occur under their accounts. User and/or Customer's administrator agree to immediately notify SIMCO of any unauthorized use of their accounts or any other breach of security known to them. SIMCO shall have no liability for any loss or damage arising from User's and/or Customer's administrator's failure to comply with these requirements. SIMCO uses best security precautions to manage and store User's and Customer's Administrator credentials. In case the User forgets his password, the system will provide a "I forgot my password" feature.
- 10.2.** SIMCO will maintain the Software at a reputable third party Internet service provider and hosting facility, where they are subject to commercially reasonable security precautions to prevent unauthorized access to the Software. User acknowledges that, notwithstanding such security precautions, use of or connection to the Internet provides the opportunity for unauthorized access to circumvent such precautions and illegally gain access to the Software and User Data. Accordingly, SIMCO cannot and does not guarantee the privacy, security or authenticity of any information so transmitted over the Internet.

11. TERMINATION

- 11.1.** The original term of this Agreement is initiated from the Activation Date and will end at the Termination Date agreed to between SIMCO and the User in a contractual document (Purchase Order, Subscription Agreement, etc.). Upon expiration of the term of this Agreement, this Agreement will expire and SIMCO will terminate User's ability to access and use the Software, unless User and SIMCO agree on renewed or new terms and conditions, for the continuous use of the Software by User by that date. Unused SLA Credits at the expiration of the term of this Agreement will be lost and not be reimbursed to User by SIMCO. In case of renewal or new agreement to continue User's access to the Software, previous unused SLA Credits will be continued under the renewed or new agreement.
- 11.2.** Notwithstanding the foregoing, SIMCO may immediately terminate or suspend User's access and use of the Software, or terminate this Agreement if User breaches or otherwise fails to comply with this Agreement and fails to remedy this breach within five (5) days of being so notified.
- 11.3.** If applicable, termination will not relieve User from any obligation to pay License Fees that remain unpaid and will not limit either Party from pursuing other available remedies. Upon termination of this Agreement or any part thereof in accordance with this Agreement as a result of User's breach, negligence or default, SIMCO will have no obligation to refund User any fees paid, if any. The provisions of this Section will not apply to those situations defined by law.
- 11.4.** Upon termination of this Agreement for whatever reason, User will immediately deliver up, or destroy, any materials and any confidential and proprietary information which it has no contractual rights to retain. The disclaimers of warranties and damages and limitations on liability shall survive termination.

12. NON-DISPARAGEMENT

- 12.1.** User hereby acknowledges and covenants never to disparage, speak ill of, or in any manner make, express, transmit, or otherwise communicate, any remark, comment, message, declaration or other statement of any kind, that might reasonably be construed to be derogatory or critical of, or negative toward, SIMCO, the Software, or any of SIMCO's other products, services, business methods, affiliates, officers, directors, employees or shareholders, and will take reasonable steps to prevent, and will not knowingly permit, any of User's respective employees or agents to disparage or speak ill of such persons and entities. Upon violation of any of the foregoing, SIMCO may immediately terminate this Agreement and User's access to the Services.

13. GOVERNING LAWS:

- 13.1.** This Agreement, all related transactions and any disputes hereunder shall be governed in all respects, including validity, interpretation and effect, by the laws of the Province of Quebec and the applicable laws of Canada, without regard to their conflict of laws principles.
- 13.2.** Any dispute under this Agreement shall be brought exclusively in the courts of the Province of Quebec (Canada) and User hereby submits to the exclusive jurisdiction of such courts. User agrees that any cause of action arising out of or related to this Agreement shall be brought within three (3) years after the cause of action arose; otherwise, such cause of action is permanently barred.

14. U.S. GOVERNMENT RESTRICTED RIGHTS

- 14.1.** Part of the Software is licensed subject to RESTRICTED RIGHTS. Use, duplication or disclosure by the U.S. Government or any person or entity action on its behalf is subject to restrictions as set forth in subdivision (b)(3) of the Rights in Noncommercial Technical Data and Computer Software Clause at DFARS (48 CFR §252.227-7018) for DoD contracts. The subcontractor and manufacturer is SIMCO Technologies Inc.
- 14.2.** Part of the Software was identified as “Proprietary Information” and “Background Invention” under the CRADA CR-08-001. The other part, developed and conceived exclusively by SIMCO Technologies Inc. under the CBP Program, is or may be considered “Protected CRADA Information” and a “Subject Invention”.
- 14.3.** The Software is a “commercial item” as that term is defined in 48 CFR §2.101, consisting of “commercial computer software” and “commercial computer software documentation” as such terms are used in 48 CFR §12.212. Consistent with 48 CFR §12.212 and 48 CFR §227.7201-1 through §227.7202-4, all U.S. Government End-Users acquire the Software with only those rights set forth herein.

15. MISCELLANEOUS

- 15.1.** This Agreement represents and contains the entire agreement between the User and SIMCO with respect to the subject matter contained herein and supersedes any other agreement, proposals, and communications, written or oral, between the User and SIMCO with respect to the use of this Software, including any terms printed on User’s purchase order or other forms or written agreements.
- 15.2.** No waiver of any default, condition or breach of this Agreement shall be deemed to imply or constitute a waiver of any other default, condition or breach of this Agreement, whether of a similar nature or otherwise.
- 15.3.** The failure of SIMCO to exercise or enforce any right or provision of this Agreement does not constitute a waiver of such right or provision. If a court of competent jurisdiction finds any provision of this Agreement to be invalid or unenforceable, the Parties nevertheless agree that the court should endeavor to give effect to the Parties’ intentions as reflected in the provision, and the other provisions of this Agreement in full force and effect.
- 15.4.** Neither Party shall be in default if its failure to perform any obligation under this Agreement is caused solely by supervening conditions beyond that Party’s reasonable control, including acts of God, civil commotion, war, strikes, labor disputes, third party Internet service interruptions or slowdowns, vandalism or “hacker” attacks, acts of terrorism or governmental demands or requirements.
- 15.5.** This Agreement shall be binding on and shall inure to the benefit of the Parties hereto and their respective successors and permitted assigns. User may not assign this Agreement without SIMCO’s prior written consent, not to be unreasonably withheld. SIMCO may assign this Agreement to any parent, subsidiary or affiliate or to any successor to its business, and SIMCO may subcontract any or all of its obligations hereunder, but shall nevertheless remain responsible for the performance of its obligations hereunder.
- 15.6.** The headings in this Agreement are for purposes of reference only and shall not limit or otherwise affect the meaning hereof.

15.7. If User is located outside the U.S.A. territory, the provisions of this Section 15.7 shall apply: *Les Parties confirment qu'elles ont accepté que la présente entente de license, de même que tous les documents s'y rattachant, soient rédigés en langue anglaise.*(translation: "It is the express will of the Parties that this Agreement, along with all related documents, are written in English").

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