

# SimpleCloud Platform Agreement



This SimpleCloud Platform Agreement (the "Agreement") is executed between SUMMUS RENDER, S.L. and the entity or person agreeing to these terms ("Customer").

"SimpleCloud" means Summus Render, S.L., a company incorporated under the laws of Spain, with offices at C/Albasanz 14 bis 2ºH, 28037, Madrid with Tax Identification number ESB74230061.

This Agreement is effective as of the date Customer clicks to accept the Agreement (the "Effective Date"). This Agreement governs Customer's access to and use of the services as agreed between SimpleCloud and the Customer (the "Services"). For an offline variant of this Agreement, you may contact SimpleCloud for more information.  
(info@simplecloud.io)

- 1. Provision of the Services.

1.1 Services Use. Subject to this Agreement, during the Term, Customer may: (a) use the Services, (b) integrate the Services into any application that has material value independent of the Services, and (c) use any software provided by SimpleCloud as part of the Services. Customer may not sublicense or transfer these rights except as permitted under the assignment section of the Agreement.

1.2 Console. SimpleCloud will provide the Services to Customer. As part of receiving the Services, Customer will have access to the Admin Console, through which Customer may administer the Services.

1.3 Facilities. All facilities used to store and process an application and Customer data will adhere to reasonable security standards no less protective than the security standards at facilities where SimpleCloud processes and stores its own information of

a similar type. SimpleCloud has implemented at least industry standard systems and procedures to (i) ensure the security and confidentiality of an application and Customer data, (ii) protect against anticipated threats or hazards to the security or integrity of an application and Customer data, and (iii) protect against unauthorized access to or use of an application and Customer data.

1.4 Data Location. SimpleCloud may process and store the Customer data anywhere SimpleCloud or its agents maintain facilities. By using the Services, Customer consents to this processing and storage of Customer data.

1.5 Accounts. Customer must have an account to use the Services, and is responsible for the information it provides to create the account, and its passwords for the account, and for any use of its account. If Customer becomes aware of any unauthorized use of its password, its account, Customer will notify SimpleCloud as promptly as possible. SimpleCloud has no obligation to provide Customer multiple accounts.

1.6 New Applications and Services. SimpleCloud may: (i) make new applications, tools, features or functionality available from time to time through the Services and (ii) add new services to the "Services" definition from time to time (by adding them at this URL), the use of which may be contingent upon Customer's agreement to additional terms.

1.7 Modifications.

a. To the Services. SimpleCloud may make commercially reasonable updates to the Services from time to time. If SimpleCloud makes a material change to the Services, SimpleCloud will inform Customer, provided that Customer has subscribed with SimpleCloud to be informed about such change.

b. To the Agreement. SimpleCloud may make changes to this Agreement, including pricing (and any linked documents) from time to time. Unless otherwise noted by SimpleCloud, material changes to the Agreement will become effective thirty (30) days after they are posted, except if the changes apply to new functionality in which case they will be effective immediately. SimpleCloud will provide at least ninety (90) days' advance notice for materially adverse changes to any Service agreement by either: (i) sending an email to Customer's primary point of contact; (ii) posting a notice in the Admin Console; or (iii) posting a notice to the applicable Service agreement's webpage. If Customer does not agree to the revised Agreement, please stop using the Services. SimpleCloud will post any modification to this Agreement to the Terms URL.

c. To the Data Processing and Security Terms. SIMPLE may only change the Data processing and security terms where such change is required to comply with applicable law, applicable regulation, court order, or guidance issued by a governmental regulator or agency, where such change is expressly permitted by the data processing and security terms, or where such change:

- (i) is commercially reasonable;
- (ii) does not result in a degradation of the overall security of the Services;
- (iii) does not expand the scope of or remove any restrictions on SimpleCloud's processing of Customer personal data, as described in Section 5.2 (Scope of Processing) of the data processing and security terms; and
- (iv) does not otherwise have a material adverse impact on Customer's rights under the data processing and security terms.

If SimpleCloud makes a material change to the data processing and security terms in accordance with this Section, SimpleCloud will post the modification to the URL.

1.8 Service Specific Terms and Data Processing and Security Terms. The service specific terms and data processing and security terms are incorporated by this reference into the Agreement.

## 2. Customer Obligations.

2.1 Compliance. Customer is solely responsible for its applications, projects, and Customer data and for making sure its applications, projects, and Customer data comply with the Services specific terms. SimpleCloud reserves the right to review the application, project, and Customer data for compliance with the terms of the Services Agreement. Customer is responsible for ensuring all Customer end users comply with Customer's obligations under the Services specific terms and the restrictions in Sections 2.3 and 2.5 below.

2.2 Privacy. Customer will obtain and maintain any required consents necessary to permit the processing of Customer data under this Agreement.

2.3 Restrictions. Customer will not, and will not allow third parties under its control to:  
(a) copy, modify, create a derivative work of, reverse engineer, decompile, translate, disassemble, or otherwise attempt to extract any or all of the source code of the Services (subject to Section 2.4 below and except to the extent such restriction is expressly prohibited by applicable law); (b) use the Services for high risk activities; (c) sublicense, resell, or distribute any or all of the Services separate from any integrated

application; (d) create multiple applications, accounts, or projects to simulate or act as a single application, account, or project (respectively) or otherwise access the Services in a manner intended to avoid incurring fees or exceed usage limits or quotas; (e) unless otherwise set forth in the Service specific terms, use the Services to operate or enable any telecommunications service or in connection with any application that allows Customer end users to place calls or to receive calls from any public switched telephone network;

2.4 Third Party Components. Third party components (which may include open source software) of the Services may be subject to separate license agreements. To the limited extent a third-party license expressly supersedes this Agreement, that third party license governs Customer's use of that third party component.

2.5 Documentation. SimpleCloud may provide Documentation for Customer's use of the Services. The Documentation may specify restrictions (e.g. attribution or HTML restrictions) on how the applications may be built or the Services may be used and Customer will comply with any such restrictions specified.

2.6 Copyright Policy. SimpleCloud provides information to help copyright holders manage their intellectual property online, but SimpleCloud cannot determine whether something is being used legally or not without their input. SimpleCloud responds to notices of alleged copyright infringement.

### 3. Suspension.

3.1 Acceptable Use Policy Violations. If SimpleCloud becomes aware that Customer's or any Customer end user's use of the Services violates the acceptable use policy set forth in the Services specific terms executed with the Customer, SimpleCloud will give Customer notice of the violation by requesting that Customer correct the violation. If Customer fails to correct the violation within twenty-four (24) hours of SimpleCloud's request, then SimpleCloud may suspend all or part of Customer's use of the Services until the violation is corrected.

### 4. Intellectual Property Rights; Use of Customer Data; Feedback.

4.1 Intellectual Property Rights. Except as expressly set forth in this Agreement, this Agreement does not grant either party any rights, implied or otherwise, to the other's content or any of the other's intellectual property. As between the parties, Customer

owns all intellectual property rights in Customer data and the application or project (if applicable), and SimpleCloud owns all intellectual property rights in the Services and software.

4.2 Use of Customer Data. SimpleCloud will not access or use Customer data, except as necessary to provide the Services to Customer.

4.3 Customer Feedback. If Customer provides SimpleCloud feedback about the Services, then SimpleCloud may use that information without obligation to Customer, and Customer hereby irrevocably assigns to SimpleCloud all right, title, and interest in that feedback.

## 5. Technical Support Services

5.1 By Customer. Customer is responsible for technical support of its applications and projects.

5.2 By SimpleCloud. Subject to payment of applicable support fees, SimpleCloud will provide technical support services to Customer during the Term in accordance with the Services specific terms.

## 6. Deprecation of Services

6.1 Discontinuance of Services. SimpleCloud may discontinue any Services or any portion or feature for any reason at any time without liability to Customer. SimpleCloud will announce if it intends to discontinue or make backwards incompatible changes to the Services. SimpleCloud will use commercially reasonable efforts to continue to operate those Services versions without these changes for at least one (1) year after that announcement, unless (as SimpleCloud determines in its reasonable good faith judgment):

- (i) required by law or third party relationship (including if there is a change in applicable law or relationship), or
- (ii) doing so could create a security risk or substantial economic or material technical burden.

## 7. Confidential Information.

7.1 Obligations. The recipient will not disclose confidential information -information

which is marked as confidential or would normally under the circumstances be considered confidential information-, except to affiliates, employees, agents or professional advisors who need to know it and who have agreed in writing (or in the case of professional advisors are otherwise bound) to keep it confidential. The recipient will ensure that those people and entities use the received confidential information only to exercise rights and fulfill obligations under this Agreement, while using reasonable care to keep it confidential.

7.2 Required Disclosure. Notwithstanding any provision to the contrary in this Agreement, the recipient may also disclose confidential information to the extent required by applicable legal process; provided that the recipient uses commercially reasonable efforts to: (i) promptly notify the other party of such disclosure before disclosing; and (ii) comply with the other party's reasonable requests regarding its efforts to oppose the disclosure. Notwithstanding the foregoing, subsections (i) and (ii) above will not apply if the recipient determines that complying with (i) and (ii) could: (a) result in a violation of legal process; (b) obstruct a governmental investigation; and/or (c) lead to death or serious physical harm to an individual.

## 8. Term and Termination.

8.1 Agreement Term. The "Term" of this Agreement will begin on the Effective Date and continue until the Agreement is terminated as set forth in Section 8 of this Agreement.

8.2 Termination for Breach. Either party may terminate this Agreement for breach if: (i) the other party is in material breach of the Agreement and fails to cure that breach within thirty (30) days after receipt of written notice; (ii) the other party ceases its business operations or becomes subject to insolvency proceedings and the proceedings are not dismissed within ninety (90) days; or (iii) the other party is in material breach of this Agreement more than two (2) times notwithstanding any cure of such breaches. In addition, SimpleCloud may terminate any, all, or any portion of the services or projects, if Customer meets any of the conditions in Section 8.2(i), (ii), and/or (iii).

8.3 Termination for Convenience. Customer may stop using the Services at any time assuming the incurred obligations within the Services. Customer may terminate this Agreement for its convenience at any time on prior written notice and upon termination and fulfilling of the Customer's obligations, must cease use of the

applicable Services. SimpleCloud may terminate this Agreement for its convenience at any time without liability to Customer to the extent permitted by law.

8.4 Effect of Termination. If the Agreement is terminated, then: (i) the rights granted by one party to the other will immediately cease; (ii) all Fees owed by Customer to SimpleCloud are immediately due upon receipt of the final electronic bill; (iii) Customer will delete the software, any application, instance, project, and any Customer data; and (iv) upon request, each party will use commercially reasonable efforts to return or destroy all confidential information of the other party.

## 9. Publicity.

Customer is permitted to state publicly that it is a customer of the Services. If Customer wants to display SimpleCloud brand features in connection with its use of the Services, Customer must obtain written permission from SimpleCloud in advance. SimpleCloud may include Customer's name or brand features in a list of SimpleCloud customers, online or in promotional materials. SimpleCloud may also verbally reference Customer as a customer of the Services. Neither party needs approval if it is repeating a public statement that is substantially similar to a previously-approved public statement. Any use of a party's brand features will inure to the benefit of the party holding intellectual property rights to those brand features. A party may revoke the other party's right to use its brand features under this section with written notice to the other party and a reasonable period to stop the use.

## 10. Representations and Warranties.

Each party represents and warrants that: (a) it has full power and authority to enter into the Agreement; and (b) it will comply with all laws and regulations applicable to its provision, or use, of the Services, as applicable. SimpleCloud warrants that it will provide the Services in accordance with the applicable services agreement.

## 11. Disclaimer.

EXCEPT AS EXPRESSLY PROVIDED FOR IN THIS AGREEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW: (a) SIMPLECLOUD AND ITS SUPPLIERS DO NOT MAKE ANY OTHER WARRANTY OF ANY KIND,

WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR USE AND NONINFRINGEMENT; (b) SIMPLE AND ITS SUPPLIERS ARE NOT RESPONSIBLE OR LIABLE FOR THE DELETION OF OR FAILURE TO STORE ANY CUSTOMER DATA AND OTHER COMMUNICATIONS MAINTAINED OR TRANSMITTED THROUGH USE OF THE SERVICES; (c) CUSTOMER IS SOLELY RESPONSIBLE FOR SECURING AND BACKING UP ITS APPLICATION, PROJECT, AND CUSTOMER DATA; and (d) NEITHER SIMPLE NOR ITS SUPPLIERS, WARRANTS THAT THE OPERATION OF THE SOFTWARE OR THE SERVICES WILL BE ERROR-FREE OR UNINTERRUPTED. NEITHER THE SOFTWARE NOR THE SERVICES ARE DESIGNED, MANUFACTURED, OR INTENDED FOR HIGH RISK ACTIVITIES.

## 12. Limitation of Liability.

12.1 Limitation on Indirect Liability. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NEITHER PARTY, NOR SIMPLE'S SUPPLIERS, WILL BE LIABLE UNDER THIS AGREEMENT FOR LOST REVENUES OR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES, EVEN IF THE PARTY KNEW OR SHOULD HAVE KNOWN THAT SUCH DAMAGES WERE POSSIBLE AND EVEN IF DIRECT DAMAGES DO NOT SATISFY A REMEDY.

12.2 Limitation on Amount of Liability. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NEITHER PARTY, NOR SIMPLE'S SUPPLIERS, MAY BE HELD LIABLE UNDER THIS AGREEMENT FOR MORE THAN THE AMOUNT PAID BY CUSTOMER TO SIMPLECLOUD UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTHS PRIOR TO THE EVENT GIVING RISE TO LIABILITY.

12.3 Exceptions to Limitations. These limitations of liability do not apply to violations of a party's intellectual property rights by the other party, indemnification obligations, or Customer's payment obligations.

## 13. Indemnification.

13.1 By Customer. Unless prohibited by applicable law, Customer will defend and indemnify SimpleCloud against indemnified liabilities in any third-party legal



proceeding to the extent arising from: (i) any application, project, instance, Customer data or Customer brand features; or (ii) Customer's, or Customer end users', use of the Services in violation of the acceptable use policy set forth in the services agreement.

13.2 By SIMPLECLOUD. SimpleCloud will defend and indemnify Customer and its affiliates against indemnified liabilities in any third-party legal proceeding to the extent arising solely from an allegation that use of (a) SimpleCloud's technology used to provide the Services or (b) any SimpleCloud brand feature infringes or misappropriates the third party's patent, copyright, trade secret, or trademark.

13.3 Exclusions. This Section 13 will not apply to the extent the underlying allegation arises from:

- a. the indemnified party's breach of this Agreement;
- b. modifications to the indemnifying party's technology or brand features by anyone other than the indemnifying party;
- c. combination of the indemnifying party's technology or brand features with materials not provided by the indemnifying party; or
- d. use of non-current or unsupported versions of the Services or brand features;

13.4 Conditions. Sections 13.1 and 13.2 will apply only to the extent:

- a. The indemnified party has promptly notified the indemnifying party in writing of any allegation(s) that preceded the third-party legal proceeding and cooperates reasonably with the indemnifying party to resolve the allegation(s) and third-party legal proceeding. If breach of this section 13.4(a) prejudices the defense of the third-party legal proceeding, the indemnifying party's obligations under Section 13.1 or 13.2 (as applicable) will be reduced in proportion to the prejudice.
- b. The indemnified party tenders sole control of the indemnified portion of the third-party legal proceeding to the indemnifying party, subject to the following: (i) the indemnified party may appoint its own non-controlling counsel, at its own expense; and (ii) any settlement requiring the indemnified party to admit liability, pay money, or take (or refrain from taking) any action, will require the indemnified party's prior written consent, not to be unreasonably withheld, conditioned, or delayed.

13.5 Remedies.

- a. If SimpleCloud reasonably believes the Services might infringe a third party's intellectual property rights, then SimpleCloud may, at its sole option and expense: (a) procure the right for Customer to continue using the Services; (b) modify the Services to make them non-infringing without materially reducing their functionality; or (c)

replace the Services with a non-infringing, functionally equivalent alternative.

b. If SimpleCloud does not believe the remedies in Section 13.5(a) are commercially reasonable, then SimpleCloud may suspend or terminate Customer's use of the impacted Services.

13.6 Sole Rights and Obligations. Without affecting either party's termination rights, this Section 13 states the parties' only rights and obligations under this Agreement for any third party's intellectual property rights allegations and third-party legal proceedings.

## 14. Miscellaneous.

14.1 Notices. All notices must be in writing and addressed to the other party's legal department and primary point of contact. The email address for notices being sent to SimpleCloud Administration Department is [info@simplecloud.io](mailto:info@simplecloud.io). Notice will be treated as given on receipt as verified by written or automated receipt or by electronic log (as applicable).

14.2 Assignment. Neither party may assign any part of this Agreement without the written consent of the other, except to an affiliate where: (a) the assignee has agreed in writing to be bound by the terms of this Agreement; (b) the assigning party remains liable for obligations under the Agreement if the assignee defaults on them; and (c) the assigning party has notified the other party of the assignment. Any other attempt to assign is void.

14.3 Change of Control. If a party experiences a change of control -control of greater than fifty percent of the voting rights or equity interests of a party- (for example, through a stock purchase or sale, merger, or other form of corporate transaction): (a) that party will give written notice to the other party within thirty days after the change of control; and (b) the other party may immediately terminate this Agreement any time between the change of control and thirty (30) days after it receives that written notice.

14.4 Force Majeure. Neither party will be liable for failure or delay in performance to the extent caused by circumstances beyond its reasonable control.

14.5 No Agency. This Agreement does not create any agency, partnership or joint venture between the parties.

14.6 No Waiver. Neither party will be treated as having waived any rights by not exercising (or delaying the exercise of) any rights under this Agreement.

14.7 Severability. If any term (or part of a term) of this Agreement is invalid, illegal, or

unenforceable, the rest of the Agreement will remain in effect.

14.8 No Third-Party Beneficiaries. This Agreement does not confer any benefits on any third party unless it expressly states that it does.

14.9 Equitable Relief. Nothing in this Agreement will limit either party's ability to seek equitable relief.

14.10 Governing Law.

ALL CLAIMS ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE SERVICES WILL BE GOVERNED BY THE LAWS OF SPAIN; AND (II) FOR ALL CLAIMS ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE SERVICES, THE PARTIES CONSENT TO PERSONAL JURISDICTION IN, AND THE EXCLUSIVE VENUE OF, THE COURTS IN THE CITY OF MADRID.

- 14.11 Amendments. Except as set forth in Section 1.7(b) or (c), any amendment must be in writing, signed by both parties, and expressly state that it is amending this Agreement.

14.12 Survival. The following Sections will survive expiration or termination of this Agreement: 4, 7, 8.4, 11, 12, and 14.

14.13 Entire Agreement. This Agreement sets out all terms agreed between the parties and supersedes all other agreements between the parties relating to its subject matter. In entering into this Agreement, neither party has relied on, and neither party will have any right or remedy based on, any statement, representation or warranty (whether made negligently or innocently), except those expressly set out in this Agreement. After the Effective Date, SimpleCloud may provide an updated URL in place of any URL in this Agreement.

14.14 Conflicting Terms. If there is a conflict between the documents that make up this Agreement, the documents will control in the following order: the Agreement, and the terms at any URL. If SimpleCloud provides this Agreement in more than one language for the country of your billing address, and there is a discrepancy between the English text and the translated text, the English text will govern.