DILIsymServices

A SIMULATIONS PLUS COMPANY

DILIsym® Software License- For Academic Use (Teaching, or Noncommercial Academic Research)

Last updated: January 12, 2018

DILIsym Services, Inc.
Academic License Agreement

This License Agreement ("Agreement") is made between _____ (Institution) with an address of _____ and DILIsym Services, Inc., including its parent company, Simulations Plus, Inc. ("DSSI") with an address of 6 Davis Drive, PO Box 12317, Research Triangle Park, North Carolina, 27709, USA.

In consideration of the mutual agreements of DSSI and Institution contained herein and other good and valuable consideration, the legal sufficiency of which is hereby acknowledged, DSSI and Institution hereto agree as follows.

1. Definitions.

1.1 Software means the version(s) of DILIsym® Software (including any component parts thereof) that DSSI makes available to Institution under this Agreement, as well as related documentation (electronic, written, and or visual) made available to Institution by or on behalf of DSSI. It is DSSI's sole discretion as to which version and documentation will be made available under this Agreement, and whether or not any updates thereto will be made available during the Term (as defined below).

1.2 "Academic Teaching" or "Teaching" means use of the Software for instructional purposes ONLY, and NOT for research purposes, at the Institution. Instructional purposes include student instruction, student demonstrations, and student projects, as part of a current course offering at the Institution.

1.3 "Non-commercial Academic Research" or "Academic Research" means use of the Software ONLY for research performed by a faculty member at the Institution, wherein the research (i) does not now or in the future benefit or involve, or is not funded by, a commercial entity; and/or (ii) is not now, or in the future, subject to consulting or licensing obligations or other grant of rights to any commercial entity or third party; (iii) will not generate any intellectual property rights for any one or more of the faculty member, Institution, third party, or commercial entity, and (iv) the results of which will be released in the public domain by publication. If your research does not meet these criteria, please contact DSSI for an application for a commercial research license.

1.4 "Results" means, in the context of Academic Research, information, data, findings, results, inventions, and/or intellectual property, which is conceived, first reduced to practice, or developed as a result of use of the Software by or on the premises of Institution.

1.5 "User" means an employee of the Institution who is identified in Section 2.2, and who will be using the Software on behalf of the Institution in accordance with this Agreement. "Group Users" in the case of a group license, means more than one User, each employed by Institution, as set forth in Section 2.2.

1.6 "Term" of this Agreement means the period beginning the Effective Date and for 1 year from the Effective Date, after which this Agreement shall expire.

1.7 "Effective Date" means the later of the dates accompanying the signatures within this Agreement.

2. License Grant and Scope of License Grant

2.1 The license granted under this Agreement is for the sole use, as designated below ("Use").

___ Non-commercial Academic Research, as set forth in Institution's Application for an Academic License.

X Academic Teaching, as set forth in Institution's Application for an Academic License.

2.2 The license granted under this Agreement is for the following user (as designated below) only.

X   a single User at Institution, _____ (Name and Title of User)

____ Group Users at Institution,
_____ (Name and Title of each Group User)
_____
_____

2.2 As of the Effective Date, Institution has agreed to receive the following number of license:

Number of PC-based Software licenses	1

2.3 During the Term, subject to the terms and conditions of this Agreement, DSSI grants to the Institution a nonexclusive, nontransferable license for the User to use the Software solely for the Use designated herein. This Agreement allows the Institution to install the licensed Software on personal computers (PC, such as desktop or laptop computers) located at the Institution, provided that no third party is provided access to the Software by Institution. The maximum number of PCs that Institution may install the Software will not exceed the number provided in Section 2.2 herein.

2.4 Institution shall comply with, and shall ensure that its User complies with, the following terms and conditions on Use of the Software, with User being employed by the Institution, and who Uses the Software on behalf of the Institution.

● Institution is prohibited from: disabling or bypassing any time limitation mechanism contained in the Software or licensing management system needed for Software installation; reverse engineering, decompiling, disassembling, or transferring the Software or source code of the Software or aiding or allowing a third party to do the same; using the Software, or allowing a third party to use the Software, for creating a comparable or competing software product, or software product for a different application, in the same or in another programming language.

●, Institution is prohibited from (a) copying all or a portion of the Software to any medium or file other than on the number of PCs of Institution as provided in Section 2.2 herein, or (b) transmitting, downloading, or copying the same to a computer, server, or storage medium, other than an Institution-owned PC or (c) publishing the code or any other part of the Software.

● In no case shall Institution rent, lease, charge, loan, distribute, lend, sublicense, redistribute nor re-license the Software or any source code derived therefrom to a third party individual or entity. In no case shall Institution grant further redistribution rights for Software without prior written consent of DSSI.

● Institution may NOT for, or permit, a third party individual or entity to repackage, translate, adapt, vary, modify, alter, create derivative works based upon, or integrate any other computer programs with, Software in whole or in part.

● Institution may NOT use the Software to engage in, or allow others to engage in, any illegal activity.

● Institution may NOT transfer or assign its rights or obligations under this Agreement to any third party individual or entity, nor authorize all or any part of the Software to be copied on to a computer or computer media for or of a third party individual or entity.

● Institution shall: (a) not allow employees of Institution, other than a User, to use or access the Software; (b) monitor and keep accurate records of User's activities utilizing the Software; and (c) notify DSSI immediately if it becomes aware of unauthorized use or transfer of the Software licensed by Institution.

● Institution shall notify DSSI immediately if, during the Term, the User becomes no longer employed by the Institution, and Institution shall ensure that User shall then have no access to Software at the Institution.

● Institution shall not use the Software for commercial purposes, such as for commercial gain by it and/or a sponsor for research at Institution, or receiving payment by generating Results for a commercial entity, or for contract research, or for fee-based access to a database generated or maintained by Institution, or for developing software in the case such software is then to be transferred or distributed for consideration. If at any point Institution desires to use the Software for commercial purposes, it shall contact DSSI to negotiate a commercial license.

● Consent to Collection and Use of Data. As a condition of this Agreement and the license granted hereunder, Institution acknowledges that the Software or the licensing management system required for installation of the Software may contain certain features that generate, collect, and transmit data to DSSI about the installation, setup, and use of the Software, including technical and related information that identifies User's computer (such as Internet Protocol Address and hardware identification), operating system, Software version, and non-personally identifiable usage statistics; and Institution agrees that this information can be used by DSSI (a) to authenticate the Software and for license verification, (b) to verify compliance with the terms of this Agreement; and (c) to enable DSSI to develop, improve, and support DSSI's products and services.

3. Delivery and Support

3.1 Institution acknowledges that the licensed Software needs to be installed through a licensing management system ("Flexera").

3.2 Documentation supporting use of Software will be provided by DSSI through a documentation site. No other support is provided under this Agreement. Without obligation, DSSI may, in its sole discretion and within its own schedule, review the merit of any issues or questions reported by Institution regarding its use of Software.

3.3 DSSI reserves the right to audit Institution's compliance with this Agreement, and Institution agrees to give reasonable access to DSSI to do so, provided DSSI gives Institution reasonable advanced notice of such audit and the audit is performed during normal business hours of Institution.

4. No Warranty

THERE IS NO WARRANTY FOR SOFTWARE, TO THE EXTENT PERMITTED BY APPLICABLE LAW, AND DSSI EXPRESSLY DISCLAIMS ANY WARRANTY, WHETHER EXPRESSED OR IMPLIED, FOR

THE SOFTWARE (INCLUDING DOCUMENTATION ASSOCIATED WITH THE SOFTWARE). THE SOFTWARE IS DELIVERED TO YOU 'AS IS' AND WITH ALL FAULTS. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, DSSI DOES NOT WARRANT THE PERFORMANCE OR RESULTS INSTITUTION MAY OBTAIN BY USING THE SOFTWARE EXCEPT TO THE EXTENT THAT ANY WARRANTY, CONDITION, REPRESENTATION OR TERM CANNOT BE EXCLUDED OR LIMITED BY APPLICABLE LAW. DSSI MAKES NO WARRANTIES, CONDITIONS, REPRESENTATIONS OR OTHER TERMS (EXPRESS OR IMPLIED WHETHER BY STATUTE, COMMON LAW, CUSTOM, USAGE OR OTHERWISE) AS TO ANY MATTER INCLUDING, WITHOUT LIMITATION, MERCHANTABILITY, NON-INFRINGEMENT OF THIRD PARTY RIGHTS, SATISFACTORY QUALITY, SUITABILITY FOR A PARTICULAR PURPOSE, SAFETY, UTILITY, ACCURACY OF THE RESULTS, AND FITNESS FOR PURPOSE. THE PROVISIONS OF THIS SECTION 4 SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT HOWSOEVER CAUSED. THE ENTIRE RISK AS TO THE QUALITY AND PERFORMANCE OF, AND INSTITUTION'S USE OF, SOFTWARE IS WITH INSTITUTION.

5. Limitation of Liability

Institution acknowledges that the Software is a modeling tool for research purposes to predict and simulate drug development scenarios based on assessment of the current scientific and clinical information, as well as currently accepted approaches for drug safety. The Results or information generated by Institution's use of the Software cannot guarantee any specific outcome, nor establish a standard of care, nor are they intended to dictate the treatment of any particular patient, or establish safety criteria for a drug. Patient care, drug safety, and treatment decisions should always be based on the independent medical judgment of health care providers, given each patient's individual clinical circumstances. In no event shall DSSI be liable for any damages whatsoever (including, without limitation, consequential damages, damages for loss of business profits, business interruption, loss of business information, or any other pecuniary loss) arising out of the use of or inability to use Software and related materials, even if being advised of the possibility of such damages. Because some states do not allow the exclusion or limitation of liability for consequential or incidental damages, the above limitation may not apply.

6. Intellectual Property

6.1 Title, ownership, intellectual property rights (copyright, trademarks, trade names, and other intellectual property rights), specifications, data, algorithms, equations, design, graphical user interfaces, screen layouts related to or in the Software and including the accompanying documentation are, and shall remain, solely in DSSI.

6.2 Institution's pre-existing intellectual property rights shall remain the property of Institution.

6.3 (Applies only to Academic Research Use) All Results will be owned by Institution. Prior to the end of the Term, Institution shall inform DSSI of Results, such as by a written report, manuscript or printed publication submitted to bnelson@dilisym.com, DSSI is hereby and irrevocably granted by Institution the right to use the Results, free of any further obligation to Institution to do so, to improve DSSI's software and modeling.

7. Termination

7.1 DSSI is entitled to terminate this Agreement, and/or the license granted hereunder, at its sole discretion, if Institution does any one or more of: (a) fails to comply with any of the terms and conditions in this Agreement; (b) uses the Software for other than the Use.

7.2 Upon expiration or termination in accordance with either of Sections 1.7 & 7.1, Institution must destroy or delete all copies of the Software and related documentation from all storage medium in Institution's control.

8. Third Party Software

The Software may need third party software programs for installation and/or operation of the whole or portions of the Software, and Institution is responsible for obtaining a license and/or permission to use such third party software, as well as to use third party software in accordance with the terms and conditions of any license agreement with such third parties.

9. Compliance with Applicable Law

Institution is solely responsible for its compliance with, and it agrees to comply with, all applicable laws, rules, and regulations in connection with your use of the Software. Institution acknowledges that the Software may be subject to the import and export laws of the United States, specifically the U.S. Export Administration Regulations, and the laws of any country where software is imported or re-exported. Institution agrees to comply with all relevant laws and will not to export any Software in contravention to U.S. law nor to any prohibited country, entity, or person for which an export license or other governmental approval is required.

10. U.S. Government Contracts

The Software is provided with restricted rights and is a "commercial item," as that term is defined in 48 C.F.R. 2.101, consisting of "commercial computer software" and "commercial computer software documentation," as such terms are used in 48 C.F.R. 12.212. Use, duplication, or disclosure by U.S. Government agencies or contractors is subject to the restrictions as set forth in 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4, and other applicable provisions, or in successor provisions, as well as the limitations set forth in this Agreement.

11. General

This Agreement represents the complete agreement concerning the subject matter hereof and may be amended or waived only by a writing executed by both DSSI and Institution. If any provision of this Agreement is held to be unenforceable, such provision shall be reformed only to the extent necessary to make it enforceable. This Agreement shall be governed by the laws of the State of North Carolina, country of USA, excluding conflict of law provisions. The application of the United Nations Convention on Contracts for the International Sale of Goods is expressly excluded. Sections 2.4, 3.3, 4, 5, 6, 7, 9, 10, and 11 of this Agreement will survive any termination or expiration of this Agreement. Institution acknowledges that DSSI would suffer substantial damage if the Institution breached this Agreement and agrees that if that happened, DSSI is entitled (in addition to any other rights or remedies) to obtain an injunction from any court with jurisdiction, without posting of bond or other security.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the Effective Date, as evidenced by the signature of the representative who has the authority to agree to the terms and conditions on behalf of the respective party.

DILIsym Services, Inc.   [Institution]: _____

By:_____   By:_____

Brett Howell, Ph.D.   Name:

5

President   Institution Title:

 Acknowledged &Understood

USER

_____

Name:

Title: