

## **Copyright Notice and Terms of Use**

Copyright ©2016. The University of Mississippi Medical Center ("UMMC"). All Rights Reserved. Exclusively licensed to

By logging on to the url, [www.github.com/HumMod/AVPHumMod](http://www.github.com/HumMod/AVPHumMod) (herein, the "Site") and accessing, executing and/or using the executable file for the HumMod™ software program (the "Program") and related documentation and files available on the Site including but not limited to the .DES files (the "Files" and together with the Program, the "Works"), you (hereafter, "You") hereby acknowledge and agree that You have read, understood and agree to the terms and conditions of this Notice and Agreement Accordingly, You acknowledge that this Notice and Agreement represents and constitutes a legally binding contract.

### **1. Ownership of the Works.**

(a) You acknowledge that UMMC is owner of the Works, and the Works are exclusively licensed to HC Simulation, LLC, a Mississippi limited liability company and its affiliates (the "Owner-Licensee Parties"). You agree not to take any action inconsistent with the ownership and/or rights set forth in the immediately preceding sentence. While Users may modify .DES files located on the Site as part of noncommercial research and study pursuant to the terms of *Paragraph 2* below, You agree that You will not claim ownership rights to the Works, or any derivative, compilation, sequel or series, or related Works owned by, licensed to or used by the Owner-Licensee. You agree that neither this Notice and Agreement, nor your use of the Works, shall give You any right, title, or interest in the Works other than the right to use the same strictly in accordance with this Notice and Agreement.

(b) You admit the validity of all copyrights for the Work and all associated registrations and acknowledge that any and all rights that might be acquired by You because of Your use of the Works shall inure to the sole benefit of the Owner-Licensee Parties.

(c) You further acknowledge that Owner-Licensee Parties own and/or enjoy all right, title and interest to the name HumMod™ and all rights therein are expressly claimed and reserved. You agree that you will not take any actions inconsistent with the trademark rights set forth in the immediately preceding sentence.

### **2. Terms of Use.**

(a) By acknowledging the terms and conditions of this Notice and Agreement, You are hereby granted limited, revocable, non-exclusive permission to access the Site and download the Program and access and view the Files without fee, but solely under the following conditions:

- (i) Use of the Works is strictly limited to Educational Uses, as defined herein below;
- (ii) Use of the Site and/or the Works for “Commercial Purposes” is expressly prohibited. The term “Commercial Purposes” includes, without limitation, any paid, government-supported and/or grant-funded research and development projects;
- (iii) You may modify .DES Files only and solely for purposes of non-commercial scientific research, study and validation, but you shall not create any software or documentation that is similar to any of the Works;
- (iv) You shall not encumber, transfer, rent, lease, time-share or use the Works in any service bureau arrangement or for the benefit of any third party;
- (v) You shall not copy, distribute, manufacture, adapt, create derivative works of, translate, localize, reverse-engineer, port or otherwise modify the Works or permit or suffer any third party to engage in any of the acts proscribed in this paragraph; and
- (vi) In no event shall Your permitted use extend beyond “Fair Use” for educational purposes as that term is used in United States Copyright laws, including the U.S. Copyright Act of 1976;
- (vii) This copyright Notice and Agreement shall not be removed, altered, adulterated or modified in any respect.

(b) As used herein, the term “Educational Uses” shall be strictly limited to: (i) noncommercial instruction or curriculum based teaching by educators to students at not-for-profit educational institutions, whether public or private; (ii) planned noncommercial study or investigation toward making a contribution in a field of knowledge; (iii) presentation of research findings at noncommercial peer conferences, workshops or seminars; or (iv) validation or testing of scientific findings and conclusions that may be drawn from the Works.

(c) The permission and license granted herein to use the Works may be modified, revoked or terminated at any time, with or without notice, in the sole discretion of the Owner-Licensee Parties. Upon termination of this Notice and Agreement, or upon the conclusion of Your use of the Works, whichever occurs first, all rights and permissions granted to You herein shall immediately cease, and You shall not retain any copies or archives of the Works, without the written consent of the Owner-Licensee Parties. Upon request of the Owner-Licensee Parties at any time, You

agree to return, destroy or delete any portion of the Works in Your custody, care or control.

(d) Please note that all commercial uses for the Programs are administered through HC Simulation, LLC. For commercial licensing opportunities, please contact HC Simulation, Attn: Robert Hester, 1577 Barnes Road, Canton, MS 39046; 601-594-2230; [hcsimulation@gmail.com](mailto:hcsimulation@gmail.com).

#### 4. Other Terms of Use.

(a) IN NO EVENT SHALL OWNER-LICENSEE PARTIES BE LIABLE TO ANY PARTY FOR DIRECT, INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFITS, ARISING OUT OF THE USE OF THE WORKS, EVEN IF OWNER-LICENSEE PARTIES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

(b) OWNER-LICENSEE PARTIES SPECIFICALLY DISCLAIM ANY WARRANTIES, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THE WORKS PROVIDED HEREUNDER ARE PROVIDED "AS IS". NEITHER OWNER-LICENSEE PARTIES NOR THEIR RESPECTIVE AFFILIATES HAS/HAVE ANY OBLIGATION TO PROVIDE MAINTENANCE, SUPPORT, UPDATES, ENHANCEMENTS, OR MODIFICATIONS.

(c) Your use of the Works is at Your own sole and absolute risk. You shall fully indemnify, defend, and hold harmless the Owner-Licensee Parties from and against any and all claims, losses, damages, expenses, and liability -- other than those for infringement, arising, directly or indirectly, from: (a) Your use of the Works, irrespective of whether such use conforms to the standards and terms set forth in this Notice; and (b) any breach of the terms and conditions of this Agreement.

(d) You acknowledge that Owner-Licensee parties may suffer irreparable harm in the event of breach of the terms and conditions stated in this Notice and Agreement, including, without limitation, any action which harms, threatens, impairs or dilutes the ownership and/or license rights described herein. According, you acknowledge that Owner-Licensee may enforce the terms of this Notice, and its/their rights specified herein through specific performance and/or injunctive relief, without the requirement of posting security and/or bond. Such proceedings may be initiated and litigated to conclusion (including appeals) in the State or Federal Courts located in Hinds and/or Madison County, Mississippi and You waive any objection to personal jurisdiction and/or forum non-conveniens. In the event it becomes necessary for the Owner-Licensee

Parties (or either of them) to file a suit to enforce this Notice and Agreement or any provisions contained herein, and such party (ies) prevails in such action, then such prevailing party(ies) shall be entitled to recover, in addition to all other remedies or damages, reasonable attorney's fees and court costs incurred in such suit or proceeding.

(e) This Notice and Agreement (including, without limitation, the permissions granted hereunder) is personal to You and shall not be assigned or transferred by You, including, without limitation, by operation of law. Any attempt on Your part to assign, sub-license, or transfer Your limited rights under this Notice and Agreement shall be invalid and void.

(f) You hereby ratify, affirm and agree that, by accessing the Site and by downloading, viewing and/or using the Works (but solely for the permitted Educational Uses set forth herein), that you have read, fully understood and hereby agree to all terms and conditions of this Notice and Agreement as if Your manual signature was set forth herein or hereon. Without limiting the generality of the foregoing, You agree, upon the request of the Owner-Licensee Parties at any time, to execute any such documents and/or further assurances that such parties deem necessary and advisable to further evidence and/or memorialize the rights and obligations of the respective parties set forth herein.