

CITY OF BEDFORD, OHIO

ORDINANCE NO. 064-24

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO A MODIFICATION TO THE MASTER SERVICE AGREEMENT WITH SIMPLEX-IT FOR ADDITIONAL INFORMATION TECHNOLOGY SERVICES FOR THE CITY OF BEDFORD, EXCLUDING THE MUNICIPAL COURT, AND DECLARING AN EMERGENCY

WHEREAS, the Administration recommends that the City modify the contract with Simplex-IT to provide additional information technology services, including increased security, to better serve the public in the City of Bedford, pursuant to Section 104.02 of the City of Bedford's Codified Ordinances.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Bedford, County of Cuyahoga, and the State of Ohio:

Section 1. That the City Manager is hereby authorized to enter into a modification to the Master Service Agreement with Simplex-IT for additional Information Technology (IT) Services for the City of Bedford.

Section 2. That the Finance Director is hereby authorized to appropriate whatever funds are necessary to facilitate the terms of the agreement from the General Fund.

Section 3. That actions of this Council concerning and relating to the passage of this legislation were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 4. This Ordinance is declared to be an emergency measure immediately necessary for the public peace, health, safety, and welfare of the City of Bedford, Ohio, and for the further reason to commence said service.

WHEREFORE, this Ordinance shall take effect and be in force from and after the earliest date permitted by law.

Stanley C. Koci, Mayor-President of Council

Tracy M. Simons, CMC, Clerk of Council

Prepared and approved as to legal content by: _____
John J. Montello, Law Director

PASSED: November 18, 2024

The logo for Simplex IT features the word "Simplex" in a grey, sans-serif font, followed by a red "x" with a white dot in its center, and "IT" in a bold, black, sans-serif font.

Vision, Confidence *and* Strategy
for Business IT

We have prepared a quote for you

Convert to '25 (City Hall and PD)

QUOTE #000848 V2

PREPARED FOR

City of Bedford

PREPARED BY

Bob Coppedge

Thursday, November 07, 2024

City of Bedford
Jennifer Howland
165 Center Road
Bedford, OH 44146
JHowland@BedfordOh.Gov

Dear Jennifer,

Consolidated Proposal for City Hall and Police Department

This proposal combines City Hall and the Police Department into a single plan, unlike the earlier version which only included City Hall.

Changes and Additions:

1. **Increase in Devices:** The number of desktops and laptops has increased for both City Hall and the Police Department, with City Hall rising from 70 to 74 and PD from 34 to 41 (#'s updated 7 Nov 24).
2. **Removal of MDR Discount:** The MDR discount, which was limited to Q1 2024, has been removed.
3. **Server Backup Structure:** The server backup structure will be replaced.
4. **Separation of Services for Budgeting:** MDR, Password Management, and DMARC Management are separated for budgeting purposes due to the significant impact of MDR on grants.
5. **Introduction of Model '25:** Model '25 services and changes are introduced, marking an improvement over previous models starting from Model '22.
6. **Cybersecurity and End User Training:** New cybersecurity training with simulated phishing attacks and more aggressive end user training are added.
7. **Password Management:** Access to the "Keeper" password management tool is included, with licenses for 10% of the user pool.
8. **MDR and DMARC Management:** Sophos MDR for servers, workstations, and firewalls, as well as DMARC Management for email security, are included.
9. **Financial Changes:** The proposal includes a 2% increase in costs, an unsupported device add-on charge, and an increase in the hourly rate from \$150 to \$190 starting July 2024.

Additional Details:

- **Cybersecurity Training:** The biggest challenge in our industry is getting people to take cybersecurity training seriously. We have designed a process using our new vendor (Phin) to ensure all employees with 365 accounts receive both the training and simulated attacks. Employees will be reminded when they haven't kept up with the training, and you will have a straightforward way to see who's keeping up with training and who isn't.
- **End User Training:** We will become more aggressive in encouraging you to make this benefit available to your employees. We have created a worksheet that allows you to create default "Learning Paths" to assign to your employees. We'll deploy the product for all current employees, add our default Learning Paths, and walk you through how to create your own Learning Paths.
- **Password Management:** Historically, we have included online documentation (aka "My Glue"), which includes limited Password Management. We're now including access to "Keeper," which is one of the top Password Management tools. In our Model Year '25 proposal, we will include licenses for 10% of your user pool to use however you'd like, and you can purchase additional licensing.
- **MDR for Servers/Workstations/Firewalls:** Sophos Managed Detection and Response (MDR) is a fully managed 24/7 service delivered by experts who detect and respond to cyberattacks targeting your computers, servers, networks, cloud workloads, email accounts, and more.
- **DMARC Management:** To ensure safe and proper delivery of your email, providers like Google and others require your email environment to be properly configured and managed with SPF, DKIM, and DMARC settings. We will implement the

configuration and then monitor the results.

- **Device Encryption:** Add encryption for all devices instead of only ones that go off premises, increasing the number to 111.
- **Cyber Insurance:** Add access to optional cyber insurance from Sophos and cysurance for organizations using services like MDR. The insurance isn't included (or required) in this agreement, only access to purchase it.

Financial Changes:

- **2% Increase:** Inflation is still hitting us, just like everyone else. Our vendor and tool pricing increased by more than 5% in 2023. This increase will also be applied to Model '23, '22, and prior agreements. It will not impact MS 365 and Azure licensing.
- **Unsupported Device Add-On:** We are adding a charge for supporting devices that are no longer under manufacturer support. This will be primarily for computer operating systems, but we reserve the right to apply this to firewalls, switches, printers, and wireless access points.
- **Hourly Rate Increase:** Starting 1 July 2024, our base hourly rate will increase from \$150 to \$190. This increase will be for all clients, not just those selecting Model '25.

Additional Initiatives:

- **"How Do I" Videos:** We will start posting videos aimed at our clients on how to get more out of our tools and processes. The goal is to create a couple of videos a month and make them available through YouTube, our website, and Bigger Brains.
- **In-Person Events:** We began a new series of in-person events aimed at sharing some of our knowledge with the community. Our next event on August 29th will deal with the topic of AI, with real-world examples and demonstrations on how it will benefit organizations like the City of Bedford.

Scheduling and Implementation:

- Kurt and his Professional Services team will be busy implementing these changes for our clients. We want to get everyone up and running, especially on the MDR services, but won't sacrifice the quality of our work. We won't charge for Model '25 until we're actually implementing the new services.

Specific to Bedford:

- Simplex-IT provided an older firewall for the Cemetery without charge 2-3 years ago. That firewall is at the end of life and needs to be replaced. This agreement includes a new firewall for the cemetery (owned by Simplex-IT). *Update: The new firewall was installed last month.*
- If the City is interested, purchasing 12 months of 365 licensing ahead of time would save the City approximately 16.67% of the licensing cost.
- Additional steps are needed to move the City more in the direction of the State of Ohio's Best Practices. We also need to ensure that certain servers will be retired/replaced over the next 12 months.
- The PD will require additional work to ensure they're in line with the Dispatch security requirements. This will require a project to make configuration changes, additional services on some workstations, and some login requirements.

Conclusion:

Patti, Kurt and I have spent a lot of time ensuring that we're presenting a Model '25 that results in your organization being more productive and secure. We welcome your feedback.

Let me know if you have any questions. Thank you again for your partnership with Simplex-IT. On behalf of everybody here, it is greatly appreciated.

This proposal does not include costs for direct SAAS (Software As A Service) subscriptions such as Microsoft 365 and/or Microsoft Azure. Unless otherwise stated, those services will be managed by Simplex-IT on behalf of the client and billed as part

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Email: bob@simplex-it.com
Web: <https://www.Simplex-IT.com>

of the monthly invoice for this agreement.

This quote is governed under the terms of our attached Master Services Agreement (MSA). The services listed in this quote are further defined and governed under the terms of our attached Services Statement. By accepting this quote, you accept the terms of the MSA and the Services Statement.



Bob Coppedge
CEO
Simplex-IT LLC

Monthly Services

Product Details	Recurring	Qty
SiMS Monthly Model 24 Agreement. Please see SOS document for line item details.	\$23,420.86	1
SiMS '24 Monthly Agreement. Please see SOS document for line item details.		1
<u>Device Support:</u>		
MS 365 Management		1
Managed Server On Premise Physical		1
Managed Server On Premise Host		3
Managed Server On Premise Virtual		12
Managed Physical Workstation		112
<u>Device Monitoring:</u>		
Monitoring software for all servers, workstations and devices		128
Management and monitoring for network infrastructure		16
<u>Backup</u>		
Cloud backup of 365 data (email, SharePoint Online, OneDrive for Business, and Teams). Additional licenses from quoted #'s \$4/month		125
Business Continuity and Disaster Recover services		2
up to 1TB cloud image backup for designated laptops and desktops. Additional licenses from quoted #'s \$20/month		5
On premise medium BCDR device with approximately 7TB storage for server backups (also located in cloud), owned and managed by Simplex -IT.		1
Cloud backup license and management for virtual server		8
8TB BCDR appliance with cloud sync owned and managed by Simplex-IT		1
BCDR storage appliance		1
BCDR:Veeam Solution		1

Monthly Services

Product Details	Recurring	Qty
BCDR Cloud Storage 1TB		3
BCDR agent licenses		3
<u>Productivity</u>		
Online Employee Training. Additional licenses from quoted #'s \$2/month (includes phishing attacks)		125
Cyber Security Training for Employees		125
<u>Security</u>		
Simulated Phishing Attacks		125
Dark Web Monitoring. Additional domains from quoted #'s \$30/month		2
Device Encryption. Additional licenses from quoted #'s \$2/month		128
DNS based web filtering for Windows devices. Additional licenses from quoted #'s \$2.75/month		128
Email Advanced Threat Protection. Additional licenses from quoted #'s \$5.50/month		131
Automated documentation and auditing		2
Sophos Firewall Device Management (firewall owned by client)		2
Advanced firewall owned by Simplex-IT		1
Onsite Tech add-on		1
<u>virtual CIO</u>		
Online Payment Portal		1
\$20/hr Labor Discount		1
Document collaboration platform		1
Technology Business Review (TBR): Formal review of IT and business alignment and objectives		1
Asset collection and review		1

Monthly Services

Product Details	Recurring	Qty
Advanced Multifactor Authentication services. Additional licenses from quoted #'s \$6/month		131
<u>Enhanced Security Options:</u>		
<u>Options</u>		
"Friends of Simplex-IT" discount	(\$2,000.00)	1
MDR Services	\$2,380.50	1
24/7 MDR Desktop Protection (includes Endpoint w/IntX). Additional licenses from quoted #'s \$17/month		121
24/7 MDR Server Protection (includes Endpoint w/IntX). Additional licenses from quoted #'s \$25/month		16
24/7 MDR Sophos Firewall Protection		3
24/7 MDR MS 365 Cloud Protection		1
Password Management	\$72.00	1
Password Management service. Additional licenses from quoted #'s \$6/month		12
DMARC Management	\$80.00	1
Management and tracking of DMARC (plus SPF and DKIM) records, priced per domain (used for emails). For Email security. Additional domains \$30/month/domain.		2
Access to Cyber Security Insurance provided through Sophos and cysurance.	\$0.00	1
Monthly Subtotal:		\$23,953.36

Services

Description	Price	Qty	Ext. Price
<p>Implementation Fee</p> <p>Installation, configuration, setup of devices, monitoring, security and other services listed in proposal. Both onsite and remote time.</p> <p>Implementation can be scheduled within 90 days of signature. Implementation should take approximately 30 days (with customer cooperation and availability).</p> <p>Onboarding fee (minus discounts, if applicable) due prior to the start of Onboarding.</p>	\$4,000.00	1	\$4,000.00
<p>Implementation of MDR services</p> <p>Installation, configuration, setup of MDR services. Both onsite and remote time.</p> <p>Implementation can be scheduled within 90 days of signature. Implementation should take approximately 30 days (with customer cooperation and availability).</p> <p>Onboarding fee (minus discounts, if applicable) due prior to the start of Onboarding.</p>	\$1,500.00	1	\$1,500.00
<p>DMARC Implementation fee</p> <p>Installation, configuration, setup of DMARC services. Both onsite and remote time.</p> <p>Implementation can be scheduled within 90 days of signature. Implementation should take approximately 30 days (with customer cooperation and availability).</p> <p>Onboarding fee (minus discounts, if applicable) due prior to the start of Onboarding.</p>	\$250.00	1	\$250.00
<p>IT Consulting Services</p> <p>Installation, configuration, setup of Password Management services for the number of user accounts listed in the proposal. Both onsite and remote time.</p> <p>Implementation can be scheduled within 90 days of signature. Implementation should take approximately 30 days (with customer cooperation and availability).</p> <p>Onboarding fee (minus discounts, if applicable) due prior to the start of Onboarding.</p>	\$250.00	1	\$250.00
Subtotal:			\$6,000.00

Convert to '25 (City Hall and PD)



Prepared by:
Simplex-IT LLC
Bob Coppedge
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Prepared for:
City of Bedford
165 Center Road
Bedford, OH 44146
Jennifer Howland
(440) 232-1600
JHowland@BedfordOh.Gov

Quote Information:
Quote #: 000848
Version: 2
Delivery Date: 11/07/2024
Expiration Date: 11/29/2024

Quote Summary


Description	Amount
Services	\$6,000.00
Total:	\$6,000.00

Monthly Recurring Summary

Description	Amount
Monthly Services	\$23,953.36
Monthly Total:	\$23,953.36

Taxes, shipping, handling and other fees may apply. We reserve the right to cancel orders arising from pricing or other errors.

Simplex-IT LLC

Signature: 
Name: Bob Coppedge
Title: CEO
Date: 11/07/2024

City of Bedford

Signature: _____
Name: Jennifer Howland
Date: _____

Simplex-IT Master Services Agreement

The following terms and conditions governs the relationship between Simplex-IT LLC, an Ohio limited liability company (“us,” “our,” “we,” or “Simplex-IT”) and you, and limits our liability for any services or products that we provide to you. Please read these terms carefully and keep a copy for your records.

SCOPE; SERVICES

- a) *Scope.* This master services agreement (this “Agreement”) governs all services that we perform for you, as well as any licenses, services, or products that we sell or re-sell to you (collectively, the “Services”).
- b) *Quotes.* The Services are not described in this Agreement; instead, we may perform a requested or required service for you or, from time to time, we may provide you with a quote, proposal, service order, or similar electronic document (“Quote”) proposing the Services. The Quote may have one or more additional documents attached to it, such as a statement of work or statement of services (each a “Service Statement”), that further defines or describes the scope and provision of the Services, as well as terms of payment and (if applicable) auto-renewal of the Services. **By accepting the Quote, you also agree to the terms of each Service Statement and the terms of this Agreement. If you do not agree to the terms of the Service Statement and this Agreement, then you should not accept the Quote.**
- c) *Versioning.* The version of this Agreement can be identified by the “Last Updated” reference located at the bottom of this document. Upon agreeing to an Order, you should refer back to this document and note the version of this Agreement that applies to that particular Order.
- d) *Conflict.* If there is a specific, material difference or a direct conflict between the language in a Quote or Service Statement on the one hand, and the language in this Agreement on the other, then the language of the Quote or Service Statement (as applicable) will control. If there is a direct conflict between the language in a Quote and a Service Statement, then the Quote will control.

GENERAL REQUIREMENTS

- a) *Environment.* As used in this Agreement, “Environment” means, collectively, any computer network (cloud-based or otherwise), computer system, peripheral or device (virtual or physical) acquired, installed, maintained, monitored, or operated by us under a Quote. To avoid a delay or negative impact on our provision of the Services, during the term of the Services we strongly advise you to refrain from modifying or moving the Environment or installing software in the Environment, unless we expressly authorize such activity. In all situations (including those in which we are co-managing an Environment with your internal IT department), we will not be responsible for changes to the Environment that are not authorized by us or issues that arise from those changes.
- b) *Requirements.* Everything in the Environment must be genuine and licensed—including all hardware, software, etc. If we ask for proof of authenticity and/or licensing, you must provide us with such proof. If our Services require certain minimum hardware or software requirements as indicated in a Quote or Service Statement (“Minimum Requirements”), you agree to implement and maintain those Minimum Requirements as an ongoing requirement of us providing the Services to you.
- c) *Updates.* Patches and updates to hardware and software (“Updates”) are created and distributed by third parties—such as equipment or software manufacturers—and may be supplied to us from time to time for installation into the Environment. If Updates are provided to you as part of the Services, we will implement and follow the manufacturers’ recommendations for the installation of Updates; however, (i) we do not warrant or guarantee that any Update will perform properly, (ii) we will not be responsible for any downtime or losses arising from or related to the installation, use, or inability to use any Update, (iii) we will not be responsible for the remediation of any device or software that is rendered inoperable or non-functional due to the Update, and (iv) we reserve the right, but not the obligations, to refrain from installing an Update until we have determined, in our reasonable discretion, that the Updates will be compatible with the configuration of the Environment and materially beneficial to the features or functionality of the affected software or hardware.
- d) *Third Party Support.* If, in our discretion, a hardware or software issue requires vendor or OEM support, we may contact the vendor or OEM (as applicable) on your behalf and invoice you for all fees and costs involved in that process. If the fees or costs are anticipated in advance or exceed \$300, we will obtain your permission before incurring such expenses on your behalf unless exigent circumstances require us to act otherwise.
- e) *Advice; Instructions.* From time to time, we may provide you with specific advice and directions related to the Services (“Advice”). For example, our Advice may include increasing server or hard drive capacity, increasing CPU power, replacing obsolete equipment, or requesting that you refrain from engaging in acts that disrupt the Environment or that make the Environment less secure. You are strongly advised to promptly follow our advice which, depending on the situation, may require you to make additional purchases or investments in the Environment at your sole cost. We are not responsible for

any problems or issues (such as downtime or security-related issues) caused by your failure to promptly follow our Advice. If, in our discretion, your failure to follow our Advice renders part or all of the Services economically or technically unreasonable to provide, then we may terminate the applicable Services for cause by providing notice of termination to you. Unless specifically and expressly stated in writing by us (such as in a Order), any services required to remediate issues caused by your failure to follow our Advice, or your unauthorized modification of the Environment, as well as any services required to bring the Environment up to or maintain the Minimum Requirements, are out-of-scope.

- f) *Prioritization.* All Services will be performed on a schedule, and in a prioritized manner, as we deem reasonable and necessary. Exact commencement / start dates may vary or deviate from the dates we state to you depending on the Service being provided and the extent to which prerequisites (if any), such as transition or onboarding activities, must be completed.
- g) *Authorized Contact(s).* We will be entitled to rely on any directions or consent provided by your personnel or representatives who are authorized to provide such directions or consent (“Authorized Contacts”). If no Authorized Contact is identified in an applicable Order or if a previously identified Authorized Contact is no longer available to us, then your Authorized Contact will be the person (i) who accepted the Order, and/or (ii) who is generally designated by you during the course of our relationship to provide us with direction or guidance. We will be entitled to rely upon directions and guidance from your Authorized Contact until we are affirmatively made aware of a change of status of the Authorized Contact. If your change is provided to us in writing (physical document or by email), then the change will be implemented within two (2) business days after the first business day on which we receive your change notice. If your change notice is provided to us in person or by telephone (live calls only), the change will be implemented on the same business day in which the conversation takes place. Do not use a ticketing system or help desk request to notify us about the change of an Authorized Contact; similarly, do not leave a recorded message for us informing us of a change to your Authorized Contact. We reserve the right to delay the Services until we can confirm the Authorized Contact’s authority within your organization.
- h) *Insurance.* If you are supplied with hardware or accessories on a rental, license, or temporary basis (“Simplex-IT Equipment”), then you agree to acquire and maintain, at your sole cost, insurance for the full replacement value of that those items. Simplex-IT must be listed as an additional insured / loss payee on any policy acquired and maintained by you under this Agreement, and the policy will not be canceled or modified during the term of the applicable Services without prior notification to Simplex-IT. Upon our request, you agree to provide proof of insurance to us, including proof of payment of any applicable premiums or other amounts due under the insurance policy.

FEES; PAYMENT

- a) *Fees.* You agree to pay the fees, costs, and expenses charged by us for the Services as described in each Quote and Service Statement. You are responsible for sales tax and any other taxes or governmental fees associated with the Services. If you qualify for a tax exemption, you must provide us with a valid certificate of exemption or other appropriate proof of exemption. You are also responsible for all freight, insurance, and taxes (including but not limited to import or export duties, sales, use, value add, and excise taxes).
- b) *Schedule.* All fees will be due and payable in advance of the provision of the Services unless otherwise indicated in the Quote or Service Statement. If applicable, recurring payments made by ACH will be deducted from your designated bank account within the first week of the month in which the Services are to be provided, or if applicable, your designated credit card will be charged within the first week of the month in which the Services are to be provided. Generally, all prices anticipate automatic monthly recurring payment by you. Payments by any other methods may result in increased fees or costs.
- c) *Nonpayment.* Fees that remain unpaid for more than fifteen (15) days after the date on the applicable invoice will be subject to interest on the unpaid amount(s) until and including the date payment is received, at the lower of either 1% per month or the maximum allowable rate of interest permitted by applicable law. We reserve the right, but not the obligation, to suspend part or all of the Services without prior notice to you in the event that any portion of undisputed fees are not timely received by us. Monthly or recurring charges (if applicable) will continue to accrue during any period of suspension. Notice of disputes related to fees must be received by us within ninety (90) days after the applicable Service is rendered or the date on which receive an invoice, whichever is later; otherwise, you waive your right to dispute the fee thereafter. A re-connect fee of up to five percent (5%) may be charged to you if we suspend the Services due to your nonpayment.

ACCESS

You hereby grant to us and our designated third party vendors the right to monitor, diagnose, manipulate, communicate with, retrieve information from, and otherwise access the Environment solely as necessary to enable us or our vendors, as applicable, to provide the Services. Depending on the Service, we may be required to install one or more software agents into the Environment through which such access may be enabled. It is your responsibility to secure, at your own cost and prior to the commencement of any Services, any necessary rights of entry, licenses (including software licenses), permits or other permissions necessary for Simplex-IT or its vendors to provide Services to the Environment and, if applicable, at your designated premises, both physically and virtually. Proper and safe environmental conditions must be provided and assured

by you at all times. Simplex-IT shall not be required to engage in any activity or provide any Services under conditions that pose or may pose a safety or health concern to any personnel, or that would require extraordinary or non-industry standard efforts to achieve.

LIMITED WARRANTIES; LIMITATIONS OF LIABILITY

- a) *Hardware / Software Purchased Through Simplex-IT.* All equipment, machines, hardware, software, peripherals, or accessories purchased through Simplex-IT (“Third Party Products”) are generally nonrefundable once the item is obtained from Simplex-IT’s third party provider or reseller. If you desire to return a Third Party Product, then the third party provider’s or reseller’s return policies shall apply. We do not guarantee that purchased Third Party Products will be returnable, exchangeable, or that re-stocking fees can or will be avoided. You will be responsible for the payment of all re-stocking or return-related fees charged by the third party provider or reseller. We will use reasonable efforts to assign, transfer and facilitate all warranties (if any) and service level commitments (if any) for the Third Party Products to you, but will have no liability whatsoever for the quality, functionality or operability of any Third Party Products, and we will not be held liable as an insurer or guarantor of the performance, uptime or usefulness of any Third Party Products. All Third Party Products are provided “as is” and without any warranty whatsoever as between Simplex-IT and you (including but not limited to implied warranties).
- b) *Liability Limitations.* **This paragraph limits the liabilities arising from the Services as well as the liabilities arising under this Agreement and any Order, and is a bargained-for and material part of our business relationship with you.** You acknowledge and agree that Simplex-IT would not provide any Services, or enter into any Order or this Agreement, unless Simplex-IT could rely on the limitations described in this paragraph. In no event shall either party be liable for any indirect, special, exemplary, consequential, or punitive damages, such as lost revenue, loss of profits (except for fees due and owing to Simplex-IT), savings, or other indirect or contingent event-based economic loss arising out of or in connection with the Services, this Agreement, any Order, or for any loss or interruption of data, technology or services, or for any breach hereof or for any damages caused by any delay in furnishing Services under this Agreement or any Order, even if a party has been advised of the possibility of such damages; however, reasonable attorneys’ fees awarded to a prevailing party (as described below), your indemnification obligations, and any amounts due and payable pursuant to the non-solicitation provision of this Agreement shall not be limited by the foregoing limitation. Except for the foregoing exceptions, a responsible party’s (“Responsible Party’s”) aggregate liability to the other party (“Aggrieved Party”) for damages from any and all claims or causes whatsoever, and regardless of the form of any such action(s), that arise from or relate to this Agreement (collectively, “Claims”), whether in contract, tort, indemnification, or negligence, shall be limited solely to the amount of the Aggrieved Party’s actual and direct damages, not to exceed the amount of fees paid by you (excluding hard costs for licenses, hardware, etc.) to Simplex-IT for the specific Service upon which the applicable claim(s) is/are based during the three (3) month period immediately prior to the date on which the cause of action accrued or \$5,000, whichever is greater. The foregoing limitations shall apply even if the remedies listed in this Agreement fail of their essential purpose; however, the limitations shall not apply to the extent that the Claims are caused by a Responsible Party’s willful or intentional misconduct, or gross negligence. Similarly, a Responsible Party’s liability obligation shall be reduced to the extent that a Claim is caused by, or the result of, the Aggrieved Party’s willful or intentional misconduct, gross negligence, or to the extent that the Aggrieved Party failed to reasonably mitigate (or attempt to mitigate, as applicable) the Claims.

INDEMNIFICATION

Each party (an “Indemnifying Party”) agrees to indemnify, defend and hold the other party (an “Indemnified Party”) harmless from and against any and all losses, damages, costs, expenses or liabilities, including reasonable attorneys’ fees, (collectively, “Damages”) that arise from, or are related to, the Indemnifying Party’s breach of this Agreement. The Indemnified Party will have the right, but not the obligation, to control the intake, defense and disposition of any claim or cause of action for which indemnity may be sought under this section. The Indemnifying Party shall be permitted to have counsel of its choosing participate in the defense of the applicable claim(s); however, (i) such counsel shall be retained at the Indemnifying Party’s sole cost, and (ii) the Indemnified Party’s counsel shall be the ultimate determiner of the strategy and defense of the claim(s) for which indemnity is provided. No claim for which indemnity is sought by an Indemnified Party will be settled without the Indemnifying Party’s prior written consent, which shall not be unreasonably delayed or withheld.

TERM; TERMINATION

- a) *Term.* This Agreement begins on the date on which we provide a Service to you or you accept a Quote (whichever is earlier) and continues until terminated as described in this Agreement. Each Quote will have its own term and will be terminated only as provided herein, unless otherwise expressly stated in the Quote. The termination of Services under one Quote shall not, by itself, cause the termination of (or otherwise impact) this Agreement or the status or progress of any other Services between the parties. **Be aware that a Quote and/or a Service Statement may provide for auto-renewal; please review your documents carefully.**

- b) *Termination Without Cause.* Unless Either party may terminate this Agreement without cause prior to the Quote's natural (*i.e.*, specified) expiration date by providing no less than thirty (30) days prior written notice. If you terminate the Services under a Quote without cause and without Simplex-IT's consent, then you will be responsible for paying the normal monthly fee for the month the notification was made and the subsequent month as well. During this time Simplex-IT will continue delivering services and reasonably assisting the Client to offboard their services. If no Services under a Quote are in progress, then either party may terminate this Agreement without cause by providing the other party with five (5) days prior written notice.
- c) *Termination For Cause.* In the event that one party (a "Defaulting Party") commits a material breach under a Quote, Service Statement, or under this Agreement, the non-Defaulting Party will have the right, but not the obligation, to terminate immediately the Services under the relevant Quote (a "For Cause" termination) provided that (i) the non-Defaulting Party has notified the Defaulting Party of the specific details of the breach in writing, and (ii) the Defaulting Party has not cured the default within twenty (20) days (ten (10) days for non-payment by Client) following receipt of written notice of breach from the non-Defaulting Party. If Simplex-IT terminates this Agreement or any Quote For Cause, or if you terminate any Services under a Quote without cause prior to such Quote's expiration date, then Simplex-IT shall be entitled to receive, and you hereby agree to pay to us, all amounts that would have been paid to Simplex-IT had this Agreement or Quote (as applicable) remained in full effect, calculated using the fees and costs in effect as of the date of termination ("Termination Fee"). If you terminate this Agreement or a Quote For Cause, then you will be responsible for paying only for those Services that were delivered properly and accepted by you up to the effective date of termination.
- d) *Client Activity As A Basis for Termination.* In the event that you or any of your staff, personnel, contractors, or representatives engages in any unacceptable act or behavior that renders it impracticable, imprudent, or unreasonable to provide the Services to you, then in addition to Simplex-IT's other rights under this Agreement, Simplex-IT will have the right upon providing you with ten (10) days prior written notice, to terminate this Agreement or the applicable Quote For Cause or, at our discretion and if applicable, amend the applicable Quote to eliminate from coverage any System Malfunction or any equipment or software causing the System Malfunction.
- e) *Consent.* You and we may mutually consent, in writing, to terminate a Quote or this Agreement at any time.
- f) *Equipment / Software Removal.* Upon termination of this Agreement or applicable Quote for any reason, you will provide us with access, during normal business hours, to your premises or any other locations at which Simplex-IT Equipment is located to enable us to remove all Simplex-IT Equipment from the premises. If you fail or refuse to grant Simplex-IT access as described herein, or if any of the Simplex-IT Equipment is missing, broken or damaged (normal wear and tear excepted) or any of Simplex-IT-supplied software is missing, we will have the right to invoice you for, and you hereby agree to pay immediately, the full replacement value of any and all missing or damaged items. Certain services may require the installation of software agents in the Environment ("Software Agents"). You agree not to remove, disable, circumvent, or otherwise disrupt any Software Agents unless we explicitly direct you to do so.
- g) *Transition; Deletion of Data.* In the event that you request our assistance to transition away from our services, we will provide such assistance if (i) all fees due and owing to us are paid to us in full prior to Simplex-IT providing its assistance to you, and (ii) you agree to pay our then-current hourly rate for such assistance, with up-front amounts to be paid to us as we may require. For the purposes of clarity, it is understood and agreed that the retrieval and provision of passwords, log files, administrative server information, or conversion of data are transition services, and are subject to the preceding requirements. You also understand and agree that any software configurations that we custom create or program for you are our proprietary information and shall not be disclosed to you under any circumstances. **Unless otherwise expressly stated in a Quote or Service Statement, we will have no obligation to store or maintain any Client data in our possession or control beyond ten (10) calendar days following the termination of this Agreement or the applicable Services.** We will be held harmless for, and indemnified by you against, any and all claims, costs, fees, or expenses incurred by either party that arise from, or are related to, our deletion of your data beyond the time frames described in this section.

RESPONSE; REPORTING

- a) *Response.* We respond to any notification received by us of any error, outage, alarm, or alert pertaining to the Environment in accordance with the priority table(s) supplied to you by us. In no event will we be responsible for delays in our response or our provision of Services during those periods of time covered under the Transition Exception (defined below), or periods of delay caused by Scheduled Downtime, Client-Side Downtime, Vendor-Side Downtime (all defined below) or periods in which we are required to suspend the Services to protect the security or integrity of the Environment or our equipment or network, or (iv) delays caused by a force majeure event.
 - i) Scheduled Downtime. For the purposes of this Agreement, Scheduled Downtime will mean those hours, as determined by us but which will not occur between the hours of 9:00 AM and 5:00 PM Eastern Time, Monday through Friday without your authorization or unless exigent circumstances exist, during which time we will perform scheduled maintenance or adjustments to the Environment. We will use our best efforts to provide you with at least twenty-four (24) hours of notice prior to scheduling Scheduled Downtime.

- ii) Client-Side Downtime. We will not be responsible under any circumstances for any delays or deficiencies in the provision of, or access to, the Services to the extent that such delays or deficiencies are caused by your actions or omissions (“Client-Side Downtime”). Client-Side Downtime includes, but is not limited to, any period of time during which we require your participation or we require information, directions, or authorization from you but cannot reach your Authorized Contact(s).
 - iii) Vendor-Side Downtime. We will not be responsible under any circumstances for any delays or deficiencies in the provision of, or access to, the Services to the extent that such delays or deficiencies are caused by third party service providers, third party licensors, or “upstream” service or product vendors.
- b) *Transition Exception*. You acknowledge and agree that for the first forty-five (45) days following the commencement date of any Service, as well as any period of time during which we are performing off-boarding-related services (e.g., assisting you in the transition of the Services to another provider, terminating a service, etc.), the response time commitments provided to you will not apply to us, it being understood that there may be unanticipated downtime or delays related to those activities (the “Transition Exception”).

CONFIDENTIALITY

- a) *Defined*. For the purposes of this Agreement, Confidential Information means any and all non-public information provided by one party (a “Discloser”) to the other party (a “Recipient”), including but not limited to customer-related data, customer lists, internal documents, internal communications, proprietary reports and methodologies, and related information. Confidential Information will not include information that: (i) has become part of the public domain through no act or omission of the Recipient, (ii) was developed independently by the Recipient, or (iii) is or was lawfully and independently provided to the Recipient prior to disclosure by the Discloser, from a third party who is not and was not subject to an obligation of confidentiality or otherwise prohibited from transmitting such information.
- b) *Use*. The Recipient will keep the Confidential Information it receives fully confidential and will not use or disclose such information to any third party for any purpose except (i) as expressly authorized by the Discloser in writing, or (ii) as needed to fulfill its obligations under this Agreement, or (iii) as required by any law, rule, or industry-related regulation.
- c) *Due Care*. The Recipient will exercise the same degree of care with respect to the Confidential Information it receives from the Discloser as it normally takes to safeguard and preserve its own confidential and proprietary information, which in all cases will be at least a commercially reasonable level of care.
- d) *Compelled Disclosure*. If a Recipient is legally compelled (whether by deposition, interrogatory, request for documents, subpoena, civil investigation, demand or similar process) to disclose any of the Confidential Information, and provided that it is not prohibited by law from doing so, the Recipient will immediately notify the Discloser in writing of such requirement so that the Recipient may seek a protective order or other appropriate remedy and/or waive the Discloser’s compliance with the provisions of this Section. The Recipient will use its best efforts, as directed by the Discloser and at the Discloser’s expense, to obtain or assist the Recipient in obtaining any such protective order. Failing the entry of a protective order or the receipt of a waiver hereunder, the Recipient may disclose, without liability hereunder, that portion (and only that portion) of the Confidential Information that the Recipient has been advised, by written opinion from its counsel (which shall be shared with the Discloser), that the Recipient is legally compelled to disclose.
- e) *Additional NDA*. In our provision of the Services, you and we may be required to enter into one or more additional nondisclosure agreements (each an “NDA”) for the protection of a third party’s Confidential Information (such as, for example, a business associate agreement). In that event, the terms of the NDA will be read in conjunction with the terms of the confidentiality provisions of this Agreement, and the terms that protect confidentiality most stringently shall govern the use and destruction of the relevant Confidential Information.

ADDITIONAL TERMS; THIRD PARTY SERVICES

- a) *EULAs*. Portions of the Services may require you to accept the terms of one or more third party end user license agreements (“EULAs”). If the acceptance of a EULA is required in order to provide the Services to you, then you hereby grant us permission to accept the EULA on your behalf. EULAs may contain service levels, warranties and/or liability limitations that are different than those contained in this Agreement. **You agree to be bound by the terms of such EULAs and will look only to the applicable third party provider for the enforcement of the terms of such EULAs.** If, while providing the Services, we are required to comply with a third-party EULA and the third party EULA is modified or amended, we reserve the right to modify or amend any applicable Order with you to ensure our continued compliance with the terms of the third party EULA.
- b) *Third Party Services*. Portions of the Services may be acquired from, resold from, and/or rely upon the services of, third party vendors, manufacturers, or providers (“Third Party Provider”). Third Party Providers may provide services such as data hosting services, help desk services, malware detection services, domain registration services, and data backup/recovery services (each, a “Third Party Service”). Not all Third Party Services will be expressly identified as being provided by a Third Party Vendor, and at all times we reserve the right to utilize the services of any Third Party Provider or to change Third Party Providers in our sole discretion as long as the change does not materially diminish the Services that we are obligated

to provide to you. ***Please note:*** You understand and agree that Third Party Providers are not our contractors, subcontractors, or otherwise under our managerial or operational control. While we will endeavor to facilitate a workaround for the failure of a Third Party Service, we will not be responsible, and will be held harmless by you, for any failure of any Third Party Service as well as the failure of any Third Party Provider to provide such services to Simplex-IT or to you.

- c) ***Data Loss.*** Under no circumstances will we be responsible for any data lost, corrupted, or rendered unreadable due to (i) communication and/or transmissions errors or related failures, (ii) equipment failures (including but not limited to silent hardware corruption-related issues), or (iii) our failure to backup or secure data from portions of the Environment that were not expressly designated to receive such services in the Quote, nor will we be responsible for the recovery of data due to any of the foregoing. Unless expressly stated in writing by us, we do not warrant or guarantee that any maintained storage device or functionality, data backup device or functionality, or load balancing functionality will operate in an error-free manner.
- d) ***BYOD.*** You hereby represent and warrant that we are authorized to access all devices, peripherals and/or computer processing units, including mobile devices (such as notebook computers, smart phones and tablet computers) that are connected to the Environment (collectively, “Devices”), regardless of whether such Devices are owned, leased or otherwise controlled by you. Unless otherwise stated in writing by us, Devices will not receive or benefit from the Services while the devices are detached from, or unconnected to, the Environment. **Client is strongly advised to refrain from connecting Devices to the Environment where such devices are not previously known to us and are not expressly covered under a managed service plan from us (“Unknown Devices”).** We will not be responsible for the diagnosis or remediation of any issues in the Environment caused by the connection or use of Unknown Devices in the Environment, and we will not be obligated to provide the Services to any Unknown Devices. Only devices that are owned by Client and that are used exclusively in Client's business are supported. Unless otherwise stated in the Quote, the scope of the Services will not include coverage of "home" or personal devices, i.e., non-business devices or devices that are primarily used for non-business purposes.
- e) ***Equipment.*** All Simplex-IT Equipment is licensed to you, and is neither owned by you nor leased to you. Upon the termination of applicable Services, your license to use the Simplex-IT Equipment shall immediately terminate, and thereafter all Simplex-IT Equipment must be returned to us immediately at your expense. All configurations on the Simplex-IT Equipment are our proprietary information and will not be circumvented, modified, or removed by you without our prior written consent.

OWNERSHIP

Each party is, and will remain, the owner and/or licensor of all works of authorship, patents, trademarks, copyrights and other intellectual property owned by such party (“Intellectual Property”), and nothing in this Agreement, any Quote or Service Statement, shall be deemed to convey or grant any ownership rights or goodwill in one party’s Intellectual Property to the other party. For the purposes of clarity, you understand and agree that we own any software, codes, algorithms, or other works of authorship that we create while providing the Services to you. If we provide licenses to you for third party software, then you understand and agree that such software is licensed, and not sold, to you. You are allowed to use such third party software subject to the terms and conditions of (i) this Agreement, (ii) the applicable Quote, (iii) written directions supplied to you by us, and, (iv) any applicable EULA; no other uses of such third party software are permitted. To the maximum extent permitted by applicable law, we make no warranty or representation, either expressed or implied with respect to third party software or its quality, performance, merchantability, or fitness for a particular purpose.

ARBITRATION

Except for undisputed collections actions to recover fees due to us (“Collections”), any dispute, claim or controversy arising from or related to this Agreement, including the determination of the scope or applicability of this agreement to arbitrate, shall be settled by arbitration before one arbitrator who is mutually agreed upon by the parties. The arbitration shall be administered and conducted by the American Arbitration Association (the “AAA”) or if there is no AAA-certified arbitrator available within a twenty (20) mile radius of our office, then by any arbitration forum as determined by us, pursuant to the selected forum’s arbitration rules for commercial disputes (the “Rules”). In the event of any inconsistency between the Rules and the procedures set forth in this paragraph, the procedures set forth in this paragraph will control. The arbitrator will be experienced in contract, intellectual property and information technology transactions. If the parties cannot agree on an arbitrator within fifteen (15) days after a demand for arbitration is filed, the arbitration venue shall select the arbitrator. The arbitration shall take place in our office unless we agree to a different venue. The arbitrator will determine the scope of discovery in the matter; however, it is the intent of the parties that any discovery proceedings be limited to the specific issues in the applicable matter, and that discovery be tailored to fulfill that intent. Initially, the cost of the arbitration shall be split evenly between the parties; however, the party prevailing in the arbitration shall be entitled to an award of its reasonable attorneys’ fees and costs.

MISCELLANEOUS

- a) *Compliance.* Unless otherwise expressly stated in a Quote, the Services are not intended, and will not be used, to bring Client into full regulatory compliance with any rule, regulation, or requirement that may be applicable to Client's business or operations. Depending on the Services provided, the Services may aid Client's efforts to fulfill regulatory compliance; however, the Services are not (and should not be used as) a compliance solution.
- b) *Disclosure.* You warrant and represent that you know of no law or regulation governing your business that would impede or restrict our provision of the Services, or that would require us to register with, or report our provision of the Services (or the results thereof), to any government or regulatory authority. You agree to promptly notify us if you become subject to any of the foregoing which, in our discretion, may require a modification to the scope or pricing of the Services. Similarly, if you are subject to responsibilities under any applicable privacy law (such as HIPAA), then you agree to identify to us any data or information subject to protection under that law prior to providing such information to us or, as applicable, prior to giving us access to such information.
- c) *No Fiduciary.* The scope of our relationship with you is limited to the specific Services provided to you; no other relationship, fiduciary or otherwise, exists or will exist between us. If, by operation of law, a fiduciary relationship is imposed or presumed for out-of-scope services, you hereby waive that relationship and any fiduciary obligations thereunder.
- d) *Virtual Security.* You understand and agree that no security solution is one hundred percent effective, and any security paradigm may be circumvented and/or rendered ineffective by certain malware, such as certain ransomware or rootkits that were unknown to the malware prevention industry at the time of infection, and/or which are downloaded or installed into the Environment. We do not warrant or guarantee that all malware or malicious activity will be capable of being detected, avoided, quarantined or removed, or that any data deleted, corrupted, or encrypted by such malware ("Impacted Data") will be recoverable. Unless otherwise expressly stated in a Quote, the recovery of Impacted Data is out-of-scope. Moreover, unless expressly stated in a Quote or Service Statement, we will not be responsible for activating multifactor authentication in any application in or connected to the Environment. **You are strongly advised to (i) educate your employees to properly identify and react to "phishing" activity (i.e., fraudulent attempts to obtain sensitive information or encourage behavior by disguising oneself as a trustworthy entity or person through email), and (ii) obtain insurance against cyberattacks, data loss, malware-related matters, and privacy-related breaches, as such incidents can occur even under a "best practice" scenario. Unless a malware-related incident is caused by our intentionally malicious behavior or our gross negligence, we are held harmless from any costs, expenses, or damages arising from or related to such incidents.**
- e) *Physical Security.* You agree to implement and maintain reasonable physical security for all managed hardware and related devices in your physical possession or control. Such security measures must include (i) physical barriers, such as door and cabinet locks, designed to prevent unauthorized physical access to protected equipment, (ii) an alarm system to mitigate and/or prevent unauthorized access to the premises at which the protected equipment is located, (iii) fire detection and retardant systems, and (iv) periodic reviews of personnel access rights to ensure that access policies are being enforced, and to help ensure that all access rights are correct and promptly updated.
- f) *Non-Solicitation.* Each party (a "Restricted Party") acknowledges and agrees that during the term of this Agreement and for a period of one (1) year following the termination of this Agreement, the Restricted Party will not, individually or in conjunction with others, directly or indirectly solicit, induce or influence any of the other party's employees with whom the Restricted Party worked to discontinue or reduce the scope of their business relationship with the other party, or recruit, solicit or otherwise influence any employee of the other party with whom the Restricted Party worked to discontinue his/her employment or agency relationship with the other party. In the event of a violation of the terms of the restrictive covenants in this section, the parties acknowledge and agree that the damages to the other party would be difficult or impracticable to determine, and in such event, the Restricted Party will pay the other party as liquidated damages and not as a penalty an amount equal to one hundred thousand dollars (\$100,000) or the amount that the other party paid to that employee in the one (1) year period immediately preceding the date on which the Restricted Party violated the foregoing restriction, whichever is greater. In addition to and without limitation of the foregoing, any solicitation or attempted solicitation for employment directed to a party's employees by the Restricted Party will be deemed to be a material breach of this Agreement, in which event the affected party shall have the right, but not the obligation, to terminate this Agreement or any then-current Quote immediately For Cause.
- g) *Collections.* If we are required to send your account to Collections or to start any Collections-related action to recover undisputed fees, we will be entitled to recover all costs and fees we incur in the Collections process including but not limited to reasonable attorneys' fees and costs.
- h) *Assignment.* Neither this Agreement nor any Quote may be assigned or transferred by a party without the prior written consent of the other party. This Agreement will be binding upon and inure to the benefit of the parties hereto, their legal representatives, and permitted successors and assigns. Notwithstanding the foregoing, we may assign our rights and obligations hereunder to a successor in ownership in connection with any merger, consolidation, or sale of substantially all of the assets of our business, or any other transaction in which ownership of more than fifty percent (50%) of our voting securities are transferred; provided, however, that such assignee expressly assumes our obligations hereunder.

- i) *Amendment.* Unless otherwise expressly permitted under this Agreement, no amendment or modification of this Agreement or any Quote will be valid or binding upon the parties unless such amendment or modification is originated in writing by Simplex-IT, specifically refers to this Agreement or the Quote being amended, and is accepted in writing (email or electronic signature is acceptable) by you.
- e) *Time Limitations.* The parties mutually agree that, unless otherwise prohibited by law, any action for any matter arising out of or related to any Service, this Agreement or any Quote (except for issues of nonpayment by Client) must be commenced within six (6) months after the cause of action accrues or the action is forever barred.
- f) *Severability.* If any provision hereof or any Quote is declared invalid by a court of competent jurisdiction, such provision will be ineffective only to the extent of such invalidity, illegibility or unenforceability so that the remainder of that provision and all remaining provisions will be valid and enforceable to the fullest extent permitted by applicable law.
- g) *Other Terms.* We will not be bound by any terms or conditions printed on any purchase order, invoice, memorandum, or other written communication supplied by you unless we have expressly acknowledged the other terms and, thereafter, expressly and specifically accepted such other terms in writing.
- h) *No Waiver.* The failure of either party to enforce or insist upon compliance with any of the terms and conditions of this Agreement, the temporary or recurring waiver of any term or condition of this Agreement, or the granting of an extension of the time for performance, will not constitute an Agreement to waive such terms with respect to any other occurrences.
- i) *Merger.* This Agreement, together with any and all Quotes and each applicable Service Statement, sets forth the entire understanding of the parties and supersedes any and all prior agreements, arrangements or understandings related to the Services; however, any payment obligations that you have or may have incurred under any prior superseded agreement are not nullified by this Agreement and remain in full force and effect. No representation, promise, inducement or statement of intention has been made by either party which is not embodied herein. We will not be bound by any of our agents' or employees' representations, promises or inducements if they are not explicitly set forth in this Agreement or any Quote or Service Statement. Any document that is not expressly and specifically incorporated into this Agreement or a Quote will act only to provide illustrations or descriptions of Services to be provided and will not modify this Agreement or provide binding contractual language between the parties. The foregoing sentence shall not apply to any business associate agreement required under HIPAA, which the parties may (if required) enter into after the Effective Date of this Agreement.
- j) *Force Majeure.* Neither party will be liable to the other party for delays or failures to perform its obligations because of circumstances beyond such party's reasonable control. Such circumstances include, but will not be limited to, any intentional or negligent act committed by the other party, or any acts or omissions of any governmental authority, natural disaster, act of a public enemy, acts of terrorism, riot, sabotage, disputes or differences with workmen, power failure, communications delays/outages, delays in transportation or deliveries of supplies or materials, cyberwarfare, cyberterrorism, or hacking, malware or virus-related incidents that circumvent then-current anti-virus or anti-malware software, and acts of God.
- k) *Survival.* The provisions contained in this Agreement that by their context are intended to survive termination or expiration of this Agreement will survive. If any provision in this Agreement is deemed unenforceable by operation of law, then that provision shall be excised from this Agreement and the balance of this Agreement shall be enforced in full.
- l) *Insurance.* Simplex-IT and you will each maintain, at each party's own expense, all insurance reasonably required in connection with this Agreement or any Quote, including but not limited to, workers compensation and general liability. We agree to maintain a general liability policy with a limit not less than \$1,000,000 per occurrence. All of the insurance policies described herein will not be canceled, materially changed or renewal refused until at least thirty (30) calendar days written notice has been given to the other party by certified mail.
- m) *Governing Law; Venue.* This Agreement and all Services will be governed by, and construed according to, the laws of the state of Ohio. You hereby irrevocably consent to the exclusive jurisdiction and venue of Summit County, Ohio, for all claims and causes of action arising from or related to this Agreement.
- n) *No Third Party Beneficiaries.* The Parties have entered into this Agreement solely for their own benefit. They intend no third party to be able to rely upon or enforce this Agreement or any part of this Agreement.
- o) *Usage in Trade.* It is understood and agreed that no usage of trade or other regular practice or method of dealing between the Parties to this Agreement will be used to modify, interpret, or supplement in any manner the terms of this Agreement.
- p) *Business Day.* If a time period set forth in this Agreement expires on a day other than a business day in Summit County, Ohio, such period will be extended to and through the next succeeding business day in Summit County, Ohio.
- q) *Notices; Writing Requirement.* Where notice is required to be provided to a party under this Agreement, such notice may be sent by U.S. mail, overnight courier or email as follows: notice will be deemed delivered three (3) business days after being deposited in the United States Mail, first class mail, certified or return receipt requested, postage prepaid, or one (1) day following delivery when sent by FedEx or other overnight courier, or one (1) day after notice is delivered by email. Notice sent by email will be sufficient only if the message is sent to the last known email address of the recipient or such other email address that is expressly designated by the recipient for the receipt of legal notices. All electronic documents and communications between the parties, including email, will satisfy any "writing" requirement under this Agreement.

- r) *Independent Contractor.* Simplex-IT is an independent contractor, and is not your employer, employee, partner, or affiliate.
- s) *Contractors.* Generally, we do not utilize contractors to perform onsite services (such as equipment installation, network wiring, etc.); however, should we elect to contract a portion of those services to a third party, we will guarantee that work as if we performed the work ourselves. For the purposes of clarity, you understand and agree that Third Party Services are not considered to be subcontracted services, and providers of Third Party Services are not our contractors or subcontractors.
- t) *Data & Service Access.* Some of the Services may be provided by persons outside of the United States and/or your data may occasionally be accessed, viewed, or stored on secure servers located outside of the United States. You agree to notify us if your company requires us to modify these standard service provisions, in which case additional (and potentially significant) costs will apply.
- u) *Counterparts.* The parties intend to sign, accept and/or deliver any Quote, this Agreement, or any amendment in any number of counterparts, and each of which will be deemed an original and all of which, when taken together, will be deemed to be one agreement. Each party may sign, accept, and/or deliver any Quote, this Agreement, or any amendment electronically (*e.g.*, by digital signature and/or electronic reproduction of a handwritten signature) or by reference (as applicable).

Last Updated: March 2022

This Service Statement is our “owner’s manual” that generally describes all managed services provided or facilitated by Simplex-IT; however, only those services specifically described in the Quote will be facilitated and/or provided to you (collectively, the “Services”). Activities or items that are not specifically described in the Quote will be out of scope and will not be included unless otherwise agreed to by us in writing.

Please read this Service Statement carefully and keep a copy for your records.

Dark Web Monitoring

- 24/7 monitoring of the Dark web for credentials linked to the primary domain of the client
- Sample Dark Web sources can include:
 - Dark web chatroom: Compromised data discovered in a hidden IRC.
 - Hacking sites: Compromised data exposed on a hacked website or data dump site.
 - Hidden theft forum: Compromised data published within a hacking forum or community.
 - P2P file leak: Compromised data leaked from a peer-to-peer file sharing program or network.
 - Social media post: Compromised data posted on a social media platform.
 - C2 server/malware: Compromised data harvested through botnets or on a command and control (C2) server.
- An alert identifying the compromised information will be emailed to primary client contact upon discovery.
- The client will be given access to the site of the monitoring service for additional information and reports.
- Up to 10 “personal” email addresses (ie, gmail.com, yahoo.com) per monitored domain can also be monitored.
- Simplex-IT will be available during normal business hours for questions and advice regarding alerts. Additional action is available at Simplex-IT’s normal billable hourly rate.
- It is the responsibility of the client to prioritize and take any action regarding the discovered information.
- Materials will be made available to the client that can be shared with end users regarding the importance of Dark Web monitoring and not reusing passwords.
- Dark Web information frequently does not include the original source of the compromised material. Simplex-IT cannot guarantee identifying any additional information beyond what is originally provided.

ACH Discount

- A 5% discount against the monthly/annual agreement price (only agreement invoices)
- This discount is already included in the amount invoiced monthly/annual.
- The discount is not taken against monthly/annual cloud services (ie, MS 365, Azure) that are not included in the agreement, but possibly bundled into the agreement invoices.

- This discount will be applied while the following is in place:
 - The client has an automatic payment through ACH (not credit card) within 15 days of invoice delivery for the full invoice amount.
- Simplex-IT has the authority to remove the discount if for any reason the automatic payment process stops.

MS 365 Management

Management of MS/Office 365, including license/user management, product configurations, support.

Includes management of status quo (current) product configurations. New services/configurations may be considered as new Projects depending on complexity.

(does not include actual license costs)

Managed Server

Managed Server Cloud Based Virtual

Managed Server On Premise Host

Managed Server On Premise Physical

Managed Server On Premise Virtual

If any of these services are included in the agreement, it includes the following:

Server Management Support Plan for '23:

- -Unlimited Phone Support
- -Unlimited Remote Control Support
- -Service Availability Monitoring
- Maintenance
- -Microsoft Patch Management
- -Event Log Monitoring
- -Log File Maintenance
- -Drive Space Monitoring
- -Printer Setting Management
- Security
- -User Account Administration
- -File Sharing Permission Administration
- -Security Administration
- -Virus Definition & Prevention
- -Online Asset Management
- -Online Trouble Ticket Management
- -Online License Management
- -Desktop Optimization & Management

- -Spyware and Adware Removal
- -VPN Client Management

Managed Physical Workstation

Managed Dedicated Azure Virtual Desktop

Managed Shared Azure Virtual Desktop

If any of these services are included in the agreement, it includes the following:

Workstation Management Support Plan for '23:

Additional workstations beyond initial count may be billed at current monthly rate

Workstation Management Plan:

- -Unlimited Remote-Control Support
- -Microsoft Application Support
- Maintenance
- -Online Asset Management
- -Online Trouble Ticket Management
- -Online License Management
- -Desktop Optimization & Management
- -Spyware and Adware Removal
- -VPN Client Management
- Security:
- -Windows Patch Management
- -Antivirus Software Management & Update

Managed Distributed Workstation

If this service is included in the agreement, it includes the following:

This is for physical workstations that aren't part of a server-based organization but are managed through Microsoft MS 365.

Workstations beyond initial count is at additional cost (as of 2 Feb 24, \$120/month/device)

Workstation Management Plan:

Support:

- -Unlimited Remote Control Support
- -Microsoft Application Support
- Maintenance

- -Online Asset Management
- -Online Trouble Ticket Management
- -Online License Management
- -Desktop Optimization & Management
- -Spyware and Adware Removal
- -VPN Client Management
- Security:
- -Windows Patch Management
- -Antivirus Software Management & Update

Monitoring software for all servers, workstations and devices

Under this service, we install software agents on managed devices that monitor and report the status and events occurring on those devices on a 24x7 basis. Alerts are generated and responded to by Simplex-IT during normal business hours; off-hours alerts are handled on a "best efforts" basis and are subject to technician availability.

Specific monitoring for manageable non-Windows devices

Monitor and manage Network Devices (ie, firewalls, switches, routers, access points). Best efforts to manage and monitor devices based on access to credentials and other limitations. Includes patching.

Managed Power Device

If this service is included in the agreement, it includes the following:

IP Controllable Power Conditioner with Auto Reboot. Device owned by Simplex-IT.

Cloud Backup of MS 365 Data

If this service is included in the agreement, it includes the following:

MS 365 Cloud to Cloud Backup, including:

- Exchange Online
- SharePoint Online
- OneDrive for Business
- Teams

Backups will occur several times each day.

Additional mailboxes from stated numbers will be billed additionally at current rate (as of 1 Mar '23 that is \$4/licensed mailbox/month)

Email Advanced Threat Protection

If this service is included in the agreement, it includes the following services bundled together:

- 365 Protection: ATP (Advanced Threat Protection)
- 365 Archiving
- MS 365 Cloud Backup

Additional licensed mailboxes from stated numbers will be billed additionally at current rate (as of 1 Mar '23 that is \$5.50/mailbox/month)

Backup and Disaster Recovery services

If this service is included in the agreement, it includes the following:

Backup, Business Continuity and Disaster Recovery services. Device owned by Simplex-IT. See separate entry for device (and cloud storage) capacity, named "BCDR:<model>"

- 24/7 monitoring of backup system, including offsite backup, offsite replication, and an onsite backup appliance ("Backup Appliance")
- Troubleshooting and remediation of failed backup disks
- Preventive maintenance and management of imaging software
- Firmware and software updates of backup appliance
- Problem analysis by the network operations team
- Monitoring of backup successes and failures
- Daily recovery verification

Targeted Devices: Only the data on the devices listed in the Quote will be backed up ("Covered Devices"); no other data from any other devices in the managed environment will be backed up.

Backup Frequency: Changes in data on Covered Devices will be saved in near-real time; once each day (usually at 2 AM) the entire hard drive is backed up.

Backup Data Security: All backed up data is encrypted in transit and at rest in 256-bit AES encryption. All facilities housing backed up data implement physical security controls and logs, including security cameras, and have multiple internet connections with failover capabilities.

Backup Retention: Backed up data will be retained for one year.

Backup Alerts: Managed servers will be configured to inform of any backup failures. Backup failures, if any, will be remediated during our normal business hours.

Resolution: We endeavor to complete file restorations of less than 20 files within one (1) hour after we are notified of the need for restoration; additional files may require additional time. In all cases, however, restoration is performed solely during our normal business hours and is subject to technician availability. File restoration requests/questions should be submitted as a normal service request ticket.

Capacity: We will endeavor to provide a device that has sufficient storage space and performance for the foreseeable future. Should the client needs outgrow the provided device, we will inform the client prior to failure of the services and include solutions and, if necessary, additional costs.

Emergency Virtualization: We will use these services to create emergency access to servers in response to significant outages. During these times server performance will be significantly slower than on the original hardware, and possibly unusable depending upon the type of outage. We will use all reasonable resources to resume access to client data. We will also restore on premise servers back to operational status. However, we will not be responsible for any costs to that recovery outside of our time.

(space) BCDR appliance with cloud sync owned and managed by Simplex-IT

If any of these services are included in the agreement, it includes the following:

These are the hardware devices included in the “Backup and Disaster Recovery services” primarily for servers.

Each one is a BCDR (Business Continuity/Disaster Recovery) device. The amount of backup storage for the device is included in the description (ie, a “8TB BCDR Appliance...” includes up to 8 Terabytes backup storage). This device includes on premise image backups of servers and cloud-based secure backups of one year history. See “Backup, Business Continuity and Disaster Recovery services” for details.

BCDR Storage Appliance

If this service is included in the agreement, it includes the following:

A device owned and managed by Simplex-IT that will serve to:

- Store backups for specifically identified devices.
- Verify backups for those devices.
- If needed, operate virtually those backed up devices temporarily.
- Provide source for daily backups to be uploaded to cloud based storage.

Devices run virtually using appliance will perform significantly slower than the original device, especially if multiple devices will be run simultaneously.

BCDR Agent Licenses

If this service is included in the agreement, it includes the following:

Software licenses necessary for BCDR on premises and cloud backup solutions. Each server and workstation (whether virtual or physical) require a single license.

BCDR Cloud Storage

If this service is included in the agreement, it includes the following:

Cloud storage of specifically identified devices. This includes the ability to download files from backups and complete device images. The backups will be available for download, restore and emergency operations. This resource is primarily used for image backups of supported servers using Veeam as a backup application.

Fees will be based on cloud backup space consumed and priced per TB. This means that the Quantity (and therefor cost) will fluctuate, and the proposal is simply an estimate.

(space) NAS with cloud sync owned and managed by Simplex-IT

If this service is included in the agreement, it includes the following:

Network Storage device (along with monitoring and management of it) that includes designated space, along with cloud backups of up to 1 year of data.

Up to 1TB cloud image backup for designated laptops and desktops

If this service is included in the agreement, it includes the following:

Workstation Cloud Backup. Image based cloud backup for desktop/laptop (based on Internet connection). Automatic backup of Windows desktop/laptop of up to 1TB hard drives. Backups can be run virtually in cloud, downloaded as image or individual files.

Backup for additional devices beyond stated numbers will be billed additionally at current rate (as of 1 Apr '23 that is \$20/device/month).

BCDR:Veeam Solution

If this service is included in the agreement, it includes the following:

Management of a server backup solution standardized around the Veeam platform.

BCDR Cloud Storage 1TB

If this service is included in the agreement, it includes the following:

Cloud backup resources primarily used in Veeam based BCDR solutions, priced by TB

BCDR:Veeam Solution

If this service is included in the agreement, it includes the following:

Management of a server backup solution standardized around the Veeam platform.

Online Employee Training

If this service is included in the agreement, it includes the following:

Access for one employee per license to online catalog of over 190 classes (Office, QuickBooks, Time Management). Client will be responsible

Access to online self-paced catalog of over 200 classes (Office, QuickBooks, Time Management) aimed at end users. It will be the client's responsibility to use the service, track the progress of employees and monitor/maintain their progress. Simplex-IT will provide both training and support to the client to perform these tasks. Client will be given access to monitor and encourage employees to take the training. It is up to the Client to use these services appropriate to their desired goals.

Quarterly Client Training (QCT)

If this service is included in the agreement, it includes the following:

Event held at Simplex-IT offices, exclusively for Simplex-IT clients. This half-day event features product demos, reviews, training, industry news, and a chance to chat with other Simplex-IT clients. All client employees are encouraged to attend when content is applicable or interesting.

Basic SIEM services

If this service is included in the agreement, it includes the following:

MS 365 log collection and detection.

Email Advanced Threat Protection

If this service is included in the agreement, it includes the following:

365 Email Security with Advanced Threat Protection.

Additional mailboxes from stated numbers will be billed additionally at current rate (as of 1 Apr '23 that is \$5.50/licensed mailboxes/month).

24/7 MDR Sophos Firewall Protection

24/7 MDR MS 365 Cloud Protection

24/7 MDR non-Sophos Firewall Protection (per device behind firewall).

24/7 MDR Server Protection (includes Endpoint w/IntX)

24/7 MDR Desktop Protection (includes Endpoint w/IntX)

If any of these services are included in the agreement, it includes the following:

Fully-managed, 24/7 service that detect and respond to cyberattacks targeting your covered computers, servers, network, cloud workloads, email accounts (as identified in description), and more.

Device Encryption

If this service is included in the agreement, it includes the following:

Hardware device encryption for Windows based devices using Microsoft's BitLocker technology.

Sophos Firewall Management by Simplex-IT (firewall owned by client)

If this service is included in the agreement, it includes the following:

Management of Sophos Firewall, owned and licensed by client.

Non-Sophos Firewall Management by Simplex-IT (firewall owned by client)

If this service is included in the agreement, it includes the following:

Management of non-Sophos Firewall, owned and licensed by client. Best efforts will be made by Simplex-IT since this is not a standard firewall.

Advanced Firewall Device owned by Simplex-IT

If this service is included in the agreement, it includes the following:

Advanced security Firewall, owned, licensed and maintained by Simplex-IT.

Advanced endpoint EDR

If this service is included in the agreement, it includes the following:

Additional security monitoring on all workstations that identifies, detects and prevents criminal intrusion beyond what antivirus/endpoint provides. Endpoint Detection and Recovery.

Advanced workstation endpoint protection

If this service is included in the agreement, it includes the following:

Advanced Endpoint security software. This provides virus and malware protection for desktops and laptops (Windows and iOS).

Advanced server endpoint protection

If this service is included in the agreement, it includes the following:

Advanced Endpoint security software. This provides virus and malware protection for servers (Windows).

Automated documentation and auditing

If this service is included in the agreement, it includes the following:

Automation tools for documentation, change management and discovery.

Password Management service.

If this service is included in the agreement, it includes the following:

Password Management, SSO Authentication, Advanced MFA. Additional licenses from the proposed quantity are available at additional cost (as of 2 Feb 24, \$6/month/license).

Simulated Phishing Attacks

If this service is included in the agreement, it includes the following:

Simulated Phishing attacks against end users. It will be the client's responsibility to use the service, schedule the simulated attacks and take appropriate action with employees that fail the simulated attack. Simplex-IT will provide both training and support to the client to perform these tasks. It is up to the Client to use these services appropriate to any level defined by a third party, such as a cyber security insurance provider.

IT Policy and Procedures

If this service is included in the agreement, it includes the following:

Access to Boilerplate IT Policy and Procedures for your organization, plus annual review. One per organization.

Management and tracking of DMARC

If this service is included in the agreement, it includes the following:

Management and tracking of DMARC (plus SPF and DKIM) records. The quantity is per domain that is used by the client for emails.

Cyber Security Training for Employees

If this service is included in the agreement, it includes the following:

Access to online self-paced centralized IT security training aimed at end users, updated annually. It will be the client's responsibility to use the service, track the progress of employees and take appropriate action with employees that fail to take the training. Simplex-IT will provide both training and support to the client to perform these tasks. Client will be given access to monitor and encourage employees to take the training. It is up to the Client to use these services appropriately to any level defined by a third party, such as a cyber security insurance provider.

DNS based web filtering for Windows devices

If this service is included in the agreement, it includes the following:

Web Monitoring Service for Windows servers, desktops and laptops. Service will block access to known dangerous web sites.

Online Payment Portal

If this service is included in the agreement, it includes the following:

Online access to all invoices, payments and history. Ability to pay automatically or on demand using CC or ACH.

Document collaboration platform

If this service is included in the agreement, it includes the following:

Access to Cloud documentation/password platform and services.

Technology Business Review (TBR): Formal review of IT and business alignment and objectives

If this service is included in the agreement, it includes the following:

Regular Business/Technology review between Simplex-IT and customer. Goal is to verify IT Strategy Overview, discuss future plans for client business. Frequency will be determined during onboarding phase, but no less frequently than annual.

Asset collection and review

If this service is included in the agreement, it includes the following:

Tracking (when available) asset (including warranty) information for purchased IT products and licensing. Reminders when warranties nearing expiration along with assistance for quoting and purchasing renewals (when appropriate). This is a part of TBR process.

Labor Discount

If this service is included in the agreement, it includes the following:

Discount for additional work not covered by agreement. \$30 will be discounted from the current hourly rate (as of 1 Jan '22 that is \$150/hour). If work is billed at a fixed fee a similar discount percentage will be applied. Discount does not apply for outsourced work, or Senior security or dba work.

Options

IT Consulting Services

If this service is included in the agreement, it includes the following:

Work performed “as is”, as directed by client and using best judgement by Simplex-IT resources to accomplish goals and objectives outlined by client. This service is performed at the current hourly rate for Simplex-IT. The agreement may specify a number of block hours, or be simply billed as “Time and Material”. Unused hours during the term do not roll over to the next period, nor to a different project. In the case of block hours, worked hours in excess of the number of block hours indicated will be billed at the current hourly rate for Simplex-IT.

Cloud IAAS Management:

If this service is included in the agreement, it includes the following:

Management of cloud-based Infrastructure As A Service resources. This would include the resources and subscriptions for cloud-based infrastructure, but not the infrastructure objects contained therein (although those might be supported by other services in the agreement). Cloud subscriptions,

configurations in terms of performance and billing strategies and overall IAAS frameworks will be managed and maintained according to best practices.

Onsite Tech add-on

If this service is included in the agreement, it includes the following:

Work covered by other parts of the agreement that needs to be performed on site is not billable. Client agrees to take assist in taking reasonable steps to allow Simplex-IT to solve the issue remotely. On site visits are limited to locations within a 75 mile radius of Simplex-IT corporate office, and are based on technician availability.

ACH Discount

If this service is included in the agreement, it includes the following:

5% discount on monthly agreements paid through Simplex-IT's ACH Portal. This discount is only valid if the client has set up for monthly agreement invoices to pay automatically within 30 days of billing date through ACH. Discount does not apply to subscription items, such as Microsoft 365, Azure and other subscription services.

CoMITs

Full CoMITs Discount

Desktop CoMITs Discount

Server CoMITs Discount

If any of these services are included in the agreement, it includes the following:

With CoMITs, the Internal IT employees (or other resources engaged by the Client) accept the full responsibility of managing and monitoring both the Client IT resources (ie, servers, workstations, end users, devices) as well as the services provided by Simplex-IT throughout this agreement. Simplex-IT will manage the configuration, implementation, and upgrading of these services based on industry best practices.

With CoMITs, Internal IT resources can reach out to Simplex-IT for occasional advice or simple consultation about any situation without additional charge. This will be provided "as is" and with best efforts.

With CoMITs, Internal IT resources can take a situation that is the responsibility of Internal IT resources and escalate it to Simplex-IT. It should be done in the form of a ticket when possible. Simplex-IT will bill time expended on this issue at the then normal hourly rate. Unless otherwise determined at the

escalation, there will be no implicit or explicit limit to the hours expended on the issue, although Simplex-IT will minimize time spent and communicate reasonably on both progress and time expended.

When BCDR backup services are included, Simplex-IT will monitor and maintain the backups. In the case of BCDR backup issues that require work on the backed up devices (ie, a server needs assistance), Simplex-IT will advise the Internal IT resources as to action(s) needed.

In the case of Full CoMITs, Internal IT is responsible for managing all operations, using Simplex-IT provided resources at their own discretion.

In the case of Desktop CoMITs, Simplex-IT will manage and monitor the servers and infrastructure (ie, firewalls, switches, wireless access points) for the organization. Internal IT is responsible for managing all other operations, using Simplex-IT provided resources at their own discretion.

In the case of Server CoMITs, Simplex-IT will manage and monitor the end users and workstations (desktop and laptop devices) for the organization. Internal IT is responsible for managing all other operations, using Simplex-IT provided resources at their own discretion.

Last revised: February 2024