

1 Simplicity Collect – Software as a Service Agreement

This Software License Agreement (together with any exhibits and attachments hereinafter referred to as the “**Agreement**”) is entered into between **Simplicity Collection Software, LLC** (“**Licensor**”) and you, the person or entity who is accessing and being licensed the Software and Documentation (“**Licensee**”).

DEFINITIONS:

The following capitalized terms shall have the meanings provided below:

- “**Content**” means any Licensee or third-party information, data, text, software, sound, photographs, images, graphics or other material which the Licensee wishes to display or distribute using the Software.
- “**Data**” means any data inputted by Licensee into the Software and the processed data that is made available to Licensee as a direct result of its use of the Software.
- “**Documentation**” means any written help files and instruction manuals regarding the use of the Software which Licensor makes generally available to its customers.
- “**End User**” means a person or entity that is an employee, authorized agent, consultant, or independent contractor of Licensee and can use the Software for Licensee’s own internal use and not for further resale or distribution.
- “**Intellectual Property Rights**” means any patent rights, copyrights, trade secrets, trademarks, service marks, know-how and any other similar rights or intangible assets recognized under any laws or international conventions and in any country or jurisdiction in the world, and all present and future registrations, applications, disclosures, renewals, extensions, continuations or reissues of the foregoing.
- “**Software**” means Licensor’s proprietary Software, Simplicity Collect, in machine executable, object code format only, which is licensed by Licensor to Licensee and includes Documentation. From time to time, the parties may add Software by executing an addendum to this Agreement.
- “**Term**” means unless this Agreement is earlier terminated in accordance with the terms hereof, the term of this Agreement will commence on the Effective Date and will remain in effect until all Service Orders have expired or been terminated in accordance with the terms thereof or of this Agreement.
- “**Confidential Information**” means the party receiving information (“**Recipient**”) from the other party (“**Discloser**”) shall treat Discloser’s information as confidential (“**Confidential Information**”) unless: (1) Recipient is able to demonstrate that the information was known to Recipient prior to the disclosure; (2) Recipient is able to demonstrate the information is part of the public domain; or (3) Recipient’s personnel, without knowledge of the Confidential Information, independently develops the information. Recipient shall only use the Confidential Information to either perform its obligations or as permitted under this Agreement. Except as permitted under this Agreement, Recipient shall not disclose or permit any third party to disclose any Confidential Information to any other person. Recipient shall not and shall not permit any third party to reproduce the Confidential Information or any portions thereof unless such reproductions are permitted by or are necessary for Recipient to perform its obligations under this Agreement. Recipient shall ensure that all reproductions of Discloser’s Confidential Information contain (if any) Discloser’s proprietary or confidentiality notices in the same manner such notices were set forth in or on the original. Recipient will protect the Discloser’s Confidential Information in the same manner that it employs to protect its own Confidential Information and in no event, will Recipient use less than reasonable efforts to protect the Discloser’s Confidential Information from disclosure.
- “**Effective Date**” means this License Agreement is valid without the Licensor’s signature. It becomes effective upon the Licensee’s use of the Software.

AGREEMENTS:

- 1) **Limited License** - Licensee acknowledges that this is only a limited non-exclusive, non-sublicensable, non-transferable license during the term. Licensor is and remains the owner of all titles, rights, and interests in the Software.
- 2) **Non-Tampering and Permitted Use** - This License permits Licensee to access the hosted Software from any computer or computerlike device. Licensee will not make copies of the Software, write or develop any derivatives of the Software, decompile, disassemble, reverse engineer, maliciously attack or authorize copies of the Software to be made by others, perform any penetration testing, scans, or testing of Licensor’s networks, hosting environments, or connections without the advance written consent of Licensor, authorize access to the Software by any third party other than the Licensee’s employees and authorized agents and other End Users, use the Software to provide processing services to third parties, sublicense or resell to any third party (including without limitation any subsidiaries, parents or affiliates) in part or in

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whole any of the Software, provide, disclose, divulge or make available to, or permit use of the Software by any third party other than End Users and remove, modify or obscure any copyright, trademark or other proprietary rights notices that are contained in the Software or Documentation. Licensee agrees to use the Software in accordance with legal and ethical collection practices and will not use the Software to support or engage in any illegal activities.

- 3) **No Other Third-Party Rights of Use-** Aside from the third party uses permitted under this Agreement, Licensee shall not sublicense, use the Services on a time share, service bureau or application service provider basis, or otherwise distribute the Software or allow any other third party to access or use the Software.
- 4) **Ownership of Data** - All Data remains the property of Licensee. Licensor acquires no right, title, or interest in any of the Data, whether the Data is input or uploaded to Licensor's website/servers or maintained on Licensee's computers and servers. Notwithstanding the foregoing sentence, Licensor may collect De-Identified Data to: (1) monitor Licensee's Capacity; (2) improve the Services, Services, or the user experience; (3) offer trending or statistical de-identified information to Licensor's user base; and (4) aggregate and use De-Identified Data for Licensor's business needs. "De-Identified Data" means statistical, system, usage, user experience, performance, and other data that does not identify Licensee, Licensee's customers, any individual, or any entity. Licensor shall only use De-Identified Data in a manner that complies with applicable laws. Any improvements, alterations or modifications generated from such analysis of such data in aggregate will be the sole property of the Licensor. Upon any termination of this Agreement and Licensee's use of the services provided by Licensor, Licensee shall be solely responsible for securing a copy of any and all Data of Licensee within thirty (30) days. After thirty (30) days, all Data shall be purged from Simplicity systems.
- 5) **Permissible Disclosures-** Recipient, whether Licensor or Licensee, may disclose the Confidential Information to its employees, subcontractors, advisors, or Affiliates, who have been informed of the confidential nature of the Confidential Information and who have obligations of confidentiality that protect such types of information from disclosure to third parties. If Recipient is required by law or court order to disclose Discloser's Confidential Information, Recipient may disclose the Confidential Information; subject to, where legally permitted, Recipient: (1) providing Discloser prompt and advance written notice of the requirement; and (2) after providing the notice, reasonably assisting Discloser, at Discloser's election and expense, in seeking to obtain an order protecting the information from further disclosure. Recipient acknowledges that the disclosure or use of the Discloser's Confidential Information in violation of this Agreement may give rise to irreparable injury to the Discloser, inadequately compensable in monetary damages. Accordingly, Recipient agrees that, in addition to any other legal or equitable remedies that may be available, Discloser may seek injunctive relief if there is any breach or threatened breach of this Section by Recipient.
- 6) **Information Security-** Support issues may arise which requires Licensor's staff to access a Licensee's Data stored in the Simplicity Collect system. Licensor's staff will make every reasonable effort to treat the Data responsibly and ethically, but under no condition assumes any responsibility for data mistakes, lost data, misplaced data, or any issues related to the Licensee's Data. Licensee acknowledges that no safeguards, procedures or processes will guarantee the security of Licensee Data and Licensor does not have any responsibility related to who Licensee provides access to such Licensee Data. Licensee is responsible for controlling all access to the Services and Services that Licensee grants to its Users, including administering and maintaining the confidentiality of all User accounts and passwords. Licensor is not liable for any damages incurred by Licensee as a result of a security incident or unauthorized access to Licensee Data that results from: (1) Licensee's actions; or (2) from the actions of any third party unaffiliated with Licensor, to the extent that such actions were not caused by Licensor's acts or omissions.
- 7) **Residuals-** As with any person performing their job, Licensor's personnel may learn to be more efficient and better at their jobs through learning and developing new ideas, concepts, know-how, methods, techniques, processes, skills, and adaptations in providing the Services to Licensee ("Residuals"). Licensor may use, disclose, and otherwise employ such Residuals in its business without violating this Agreement. For example, if another customer requests Licensor to implement a similar process to what Licensee is using, Licensor may do so and may use the Residuals to do so. Licensee shall not assert against Licensor any prohibition or restraint from using the Residuals as outlined in this Section.

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- 8) **No Transfer or Assignment** -Without obtaining Licensor’s prior written consent, Licensee shall not assign, transfer or otherwise delegate, in whole or in part: (1) any of the licenses or the Products or Services; or (2) any of Licensee rights, duties or obligations under this Agreement. Any assignment, transfer, or delegation made by Licensee without complying with this Section is null and void and will permit Licensor to terminate this Agreement immediately upon providing written notice to Licensee. Any, indirect or direct, change of ownership of Licensee is considered an assignment.
- 9) **Pricing Provision** - Licensee shall pay to Licensor current fees set forth on Simplicity Software’s web site. Licensee agrees that all license and maintenance fees are non-refundable and non-transferrable. Fees may be subject to change annually upon the Licensee’s anniversary start date to the current fees set forth on Simplicity Software’s web site.
- a) **Payment** - Upon payment by Licensee to Licensor of all licensing, hosting, support, and maintenance fees and other charges, Licensor shall allow access to the Software. All fees and other charges are payable in full, in U.S. dollars.
- b) **Non-payment Policy** - Accounts will be immediately suspended on the first day of non payment. Fifteen (15) days after the initial declined payment, a termination email will be sent to the Licensee notifying them that their account will be terminated, and all data removed if they do not make a payment. Thirty (30) days after the first day of nonpayment, all accounts will be terminated, and data will be removed. Access is permanently terminated.
- 10) **Compliance with Laws**- Each party is responsible for its own compliance, and each party shall comply, with all laws, statutes, and regulations applicable to its own business and related to the handling of personally identifiable information. In addition, Licensee shall comply with all Laws and Standards and use the Services in a manner that complies will Laws and Standards. Licensee acknowledges that Licensee has not retained Licensor to provide guidance, advice, or counsel with respect to the Laws and Standards and Licensee assumes all risk and liability for Licensee’s own compliance with the Laws and Standards. “Laws and Standards” means the Health Insurance Portability and Accountability Act, Hi-Tech Act, Fair Debt Collection Practices Act, Electronic Funds Transfer Act, Telephone Consumer Protection Act, the Telephone Robocall Abuse Criminal Enforcement and Deterrence Act, PCI-DSS, and any other applicable international, Federal, state, and providence laws, statutes, regulations, treaties, and industry standards that govern the pursuit or collection of debt, contacting individuals, handling of personally identifiable or financial information, privacy, and Licensee’s use of the Services to support such activities. Licensee acknowledges that Licensor is a United States company and offers no representation or warranty that Licensor, its Affiliates, or subcontractors comply with any other countries’ laws, regulations, or standards. If Licensee becomes aware of a regulatory investigation or a claim related to Licensee’s use of the Services, Licensee will promptly notify Licensor.
- 11) **Limited Liability** - In no event will Licensor be liable under this Agreement for consequential, special, exemplary, or any direct or indirect damages for any reason whatsoever (including without limitation, lost profits, to the extent such damages are consequential), regardless of whether arising from breach of contract, warranty, tort, strict liability, or otherwise, even if advised of the possibility of the loss or damage or if the loss or damage could have been reasonably foreseen. Licensor’s total cumulative liability from all causes of action under all theories of liability in connection with or arising out of this Agreement will be limited to and will not exceed more than the total fees paid by Licensee in each consecutive twelve (12) month period commencing upon the Effective date, for all claims arising in that same twelve (12) month period. None of the foregoing shall limit the liability of the Licensee to pay the Licensor all Fees due and owing under the Agreement. Notwithstanding anything in this Agreement to the contrary, Licensor will not have liability for actions taken utilizing user IDs or passwords including any unauthorized use or access.
- 12) **Disclaimer of Warranties. THE SERVICES ARE PROVIDED “AS-IS”, “WHERE IS” AND “WITH ALL FAULTS”, AND LICENSOR HEREBY DISCLAIMS ALL WARRANTIES WITH RESPECT TO THIS AGREEMENT OR THE SERVICE, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR ANY IMPLIED WARRANTIES ARISING OUT OF COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE.**

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13) Indemnity

- a) Licensor agrees, to the maximum extent permitted by applicable law, to indemnify and defend Licensee from and against any and all losses, including judgments, fees and expenses (including reasonable attorneys' fees) finally awarded by a court of competent jurisdiction or agreed to in a settlement and actually paid to such third party (collectively "Damages"), resulting from any third party (for avoidance of doubt a third party must be unrelated to the Licensee) claim that the Service infringes a United States patent, copyright or trademark. If the Service is held or believed by Licensor to so infringe, Licensor may, at its sole option and expense: (i) replace the Service with a substantial functionally equivalent and non-infringing product; (ii) modify the Service to avoid the infringement in a substantial functionally equivalent and non-infringing manner; or (iii) obtain a license for Licensee to continue use of the Service. If Licensor determines it is not commercially reasonable to pursue the remedies set forth in subsections (a), (b) or (c) of this Section, Licensor may terminate the license for the Service, and refund to Licensee any prepaid Fees not yet earned by Licensor at the time of such termination. Notwithstanding the foregoing, Licensor will have no obligation under this Section for any claim if such claim: (i) results from any combination of the Service with any technology or data, not provided by Licensor or, provided by Licensor at the request or direction of Licensee; (ii) results from any alteration, modification or customization of the Service made pursuant to Licensee's design, specifications, direction or request; (iii) results from Licensee's access or use of the Service in violation of any of the terms or conditions of this Agreement, or in a manner other than for its intended purpose; (iv) results from Licensee's violation of any law, rule or regulation; or (v) results from Licensee's continuing the alleged infringing activity after being notified thereof and being provided with replacements or modifications that would have avoided the alleged infringement. The obligations set forth in this Section are contingent upon and subject to Licensee giving Licensor: (i) prompt written notice and reasonable detail of such claims; and (ii) reasonable assistance in defending the claim. Licensee may, at its own expense, assist, participate in, and support the defense of such a claim if it so chooses (through legal counsel of its own choice) provided that: Licensor shall control such defense (including selection and retention of legal counsel of its choosing) and all negotiations relative to the defense and settlement of such claim; and Licensee shall cause any counsel it independently retains to cooperate with Licensor and its retained counsel. This Section sets forth the exclusive remedy and entire liability and obligation of Licensor with respect to third party claims.
- b) Licensee will indemnify and defend Licensor and its officers, directors, and employees, from and against any third party claims, losses, damages, liabilities, lawsuits, and expenses (including reasonable attorneys' fees, court costs and other defense expenses) arising out of or resulting from Licensee's breach of the terms of this Agreement or a data security breach or unauthorized access or disclosure of Licensee Data arising out of any act or omission of Licensee, its Affiliates, or Contractors or any third party claim that Licensee's data infringes, misappropriates, or otherwise violates a third party's U.S. patent rights, copyrights, trademark rights, trade secret rights, privacy rights, or any other intellectual property or proprietary rights.

14) Termination – This Agreement may be terminated by Licensor in accordance with the following:

- a) Licensor has the right to terminate this Agreement and Licensee's right to use this Software immediately and without any notice upon any material breach by Licensee of this Agreement.
- b) Licensor may terminate this Agreement at any time for convenience and will provide thirty (30) day notice to Licensee in the event of such termination.
- c) Upon termination:
 - i) all support, hosting, maintenance, services, and upgrades by Licensor will cease. Licensee understands that no refunds will be issued for cancelled accounts.
 - ii) Licensee agrees to return to Licensor or to destroy all copies of the Software and supporting material.

- 15) **Governing Law** - This Agreement will be interpreted and construed in accordance with the laws of the state of Indiana in the United States without regard to conflict of law principles. All disputes arising out of or related to this Agreement will be exclusively brought and exclusively maintained in the State courts located in Delaware County, Indiana, or the United States District Court for the Southern District of Indiana, Indianapolis Division (or upon appeal, to the appellate courts of corresponding jurisdiction to such State or Federal court). Each party irrevocably consents to and irrevocably waives any objection to the exclusive personal jurisdiction and exclusive venue of such State and Federal courts.

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- 16) **Non-Solicitation**- Licensor has a protectable business interest in the stability of its workforce, Licensor incurs substantial costs and expenses in recruiting and training its personnel, and that it would be difficult, if not impossible, to calculate damages related to the breach of Licensee’s obligations under this Section. During the Term and one year thereafter, Licensee shall not itself or have someone on Licensee’s behalf solicit for employment with any of Licensor’s personnel who (a) performed any service to Licensee in the past 24 months; (b) would occupy a role with Licensee that would alleviate the need for Licensor to provide services to Licensee; (c) performed any customer service or relationship management duty for Licensee in the past 24 months; or (d) occupied an executive role with Licensor in the past 24 months. If Licensee breaches this Section, Licensor may obtain injunctive relief and seek any other available legal remedy, and upon Licensor’s written demand, Licensee will pay to Licensor 150% of the last annual salary paid by Licensor to the personnel prior to Licensee seeking to employ the personnel. Licensee agrees that these damages are not unreasonable nor an unlawful penalty.
- 17) **Force Majeure**- Except for Licensee's payment obligations hereunder, a party will not be responsible for any failure to perform due to acts of God, terrorism, war, riot, embargoes, fire, floods, earthquakes, strikes, or other causes beyond its reasonable control (each a "Force Majeure Event") provided that such party gives prompt written notice to the other party of the Force Majeure Event. The time for performance will be extended for a period equal to the duration of the Force Majeure Event. If the Force Majeure Event causes a delay of more than three months, either party may terminate an Order or this Agreement without penalty by providing written notice to the other party.
- 18) **Trademarks**- Neither party shall use the other party's name or trademark without the express written permission of the other party.
- 19) **General**- This Agreement is the complete and exclusive statement of the parties’ agreement and supersedes all proposals, prior agreements, and other communications (oral or written) between the parties relating to the subject matter of this Agreement. The headings in this Agreement are for reference only and do not limit or define the meaning of any provision of this Agreement. To be effective, any modification to this Agreement needs to be in writing and signed by both parties. A waiver by either party of or a party’s delay exercising its rights under this Agreement does not constitute a waiver of any other provision, breach or default. If any provision of this Agreement is held invalid, illegal or unenforceable, the remaining provisions will remain in effect. All written notices to the other party under this Agreement need to be in writing and delivered to: (1) Licensee at the most recent address that Licensor has on file for such Licensee; and (2) Licensor at its principal offices and to the attention of the “Legal Department”. The notice is deemed received by a party at the earlier of: (a) when received, if hand delivered; (b) five days after being mailed by U.S. certified mail, return receipt requested, postage prepaid; or (c) one business day after mailed if sent by a reputable overnight delivery service with tracking capabilities. This Agreement inures to the benefit of and binds the parties, their permitted successors, heirs, and assigns. With respect to execution of this Agreement or any Order or other writing between the parties, the parties acknowledge that a facsimile or scanned file of a party's signature transmitted via email or other electronic means by the signing party to the other party is a binding, original signature of the signing party. In all matters relating to this Agreement, Licensee and Licensor will act as independent contractors. Neither party shall represent that it has any authority to assume or create any obligation, express or implied, on behalf of the other party, nor to represent the other party as an agent, employee, franchisee, or in any other capacity. The parties hereby agree that there are no third-party beneficiaries under this Agreement and no privity of contract will exist under this Agreement between a third party and either party.

Licensee

Simplicity Collection Software, LLC

By: _____

By: _____

Print name: _____

Print name: _____

Title: _____

Title: _____



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Date: _____

Date: _____

