

**WEB SITE CONSULTING AND LICENSING AGREEMENT**

This AGREEMENT (the "Agreement") is made and entered into as of the 31st day of December 2023 (the "Effective Date"), by and between Simpleview, LLC with offices at 8950 N. Oracle Road, Tucson, Arizona, 85704 ("Simpleview") and the Keith County Board of Commissioners, with offices at 511 North Spruce St., Room 101, Ogallala, NE 69153 ("Client").

**RECITALS**

- A. WHEREAS, Simpleview offers certain consulting, development and hosting services and web-based applications for use on the World Wide Web, including the proprietary customer relationship management application ("CRM") and a state-of-the-art website content management system ("CMS");
- B. WHEREAS, Client desires that Simpleview maintain and host the Client website (the "Site") on Simpleview's CMS, create and implement a design for the Site, and provide certain other services and applications useful in the design, programming, and maintenance of the Site;
- C. WHEREAS, Client desires to engage Simpleview, and Simpleview desires to be engaged by Client, to provide Internet services and products on the terms and subject to the conditions set forth below;

NOW THEREFORE, in consideration of the mutual promises set forth herein, Simpleview and Client (collectively, the "Parties") hereby agree as follows:

**1. Simpleview Services**

Simpleview agrees to provide Client with services for development and hosting of the Site on the World Wide Web as set forth or described in Exhibit A hereto (the "Web Site Services") and to provide Client with additional services, if any, set forth or described in Exhibit B hereto (the "Additional Services"), which exhibits may be amended from time to time by mutual agreement of the Parties. Obligations of Simpleview, if any, to provide ongoing maintenance tasks for the Web Site shall be set forth and included as part of Additional Services on Exhibit B hereto ("Maintenance") (the Web Site Services and the Additional Services are hereinafter referred to collectively as the "Services"). Client agrees that Simpleview is responsible only for providing the Services specifically set forth in Exhibit A and Exhibit B hereto.

**2. Web Site Development and Hosting****2.1 Delivery of Client Content**

"Client Content" shall mean any materials provided by Client for incorporation into the Site, including, but not limited to, any images, photographs, illustrations, graphics, audio clips, video clips or text. Client shall deliver the Client Content to Simpleview in an electronic file format specified and accessible by Simpleview (e.g., .txt, .jpg) or as otherwise specified in Exhibit A. Any services required to convert or input Client Content not set forth in Exhibit A as Web Site Services shall be charged as Additional Services. Client shall promptly deliver all Client Content to Simpleview as required by Simpleview.

**2.2 Work Orders**

If Client wishes to implement upgrades or revisions to the Site that differ materially from the Services in Exhibits A and B, Client shall submit to Simpleview a written change order containing (i) such revisions in detail and (ii) a request for a price quote for such change (collectively, the "Change Order"). Simpleview shall promptly evaluate the Change Order and submit to Client for its written acceptance a proposal for undertaking the applicable tasks and a price quote reflecting all associated fees associated with Client's Change Order. Client shall have ten (10) business days from receipt of such proposal to accept or reject Simpleview's proposal in writing. If Client accepts Simpleview's proposal to undertake the

work necessitated by the Change Order, then the Change Order, as supplemented and/or modified by Simpleview's proposal, shall amend and become a part of Exhibit A and Exhibit C hereto (Fee Schedule). Routine updates and "fixes" shall be performed according to the Fee Schedule in Exhibit C.

### 2.3 Hosting

Unless otherwise indicated in the Exhibits hereto, the Site shall be accessible to third parties via the World Wide Web portion of the Internet twenty-four (24) hours a day, seven (7) days a week following launch of the Site, except for scheduled maintenance and required repairs, and except for any loss or interruption due to causes beyond the control of Simpleview. Client's exclusive remedy for any unscheduled downtime exceeding twenty-four hours shall be a prorated credit towards future hosting services. Simpleview shall provide client with a system and the necessary software to allow Client to transmit revisions, updates, deletions, enhancements or modifications (the "Updates") to the Site. Simpleview shall incorporate Updates according to a written schedule and security policies agreed upon by the Parties.

### 3. Service Fees

Client shall pay the fees set forth in the Fee Schedule in Exhibit C hereto. Simpleview expressly reserves the right to change the rates charged hereunder for the Services during any Renewal Term. Client shall pay, or promptly reimburse Simpleview for, any out-of-pocket expenses, including, without limitation, travel and travel-related expenses, incurred by Simpleview in connection with the performance of the Services, provided however, that the travel and related expenses shall be approved in advance by an officer of Client's company. Client shall pay to Simpleview all fees within thirty (30) days of the date of the applicable Simpleview invoice. Implementation of certain applications may require two or three days of onsite training.

### 4. Proprietary Rights

#### 4.1 Proprietary Rights of Client

Client Content, Work Product, Client Data and User Information shall remain the sole and exclusive property of Client subject to section 4.2 of this Agreement. Nothing in this Agreement shall be construed to grant Simpleview any ownership right in the Client Content, Work Product, Client Data or User Information. Subject to section 5.1 of this Agreement, to the extent, if any, that ownership of Client Content, Work Product, Client Data and User Information does not automatically vest in Client by virtue of this Agreement or otherwise, Simpleview hereby transfers and assigns to Client all rights, title and interest which Simpleview may have in and to Client Content, Work Product, Client Data and User Information.

"Client Content" includes, without limitation, all copyrights, domain names, designs, images, text, trademarks, patents, trade secrets, and any other proprietary rights.

"Work Product" means all elements of the Site and documentation prepared specifically for Client by Simpleview in accordance with the terms of this Agreement including but not limited to HTML files, XML files, graphics files, animation files, data files, scripts and programs, in object code, source code or other programming code.

"Client Data" means all data and information about Client's businesses, customers (current, former or prospective), employees, operations, facilities, products, markets, assets or finances that Simpleview obtains, creates, generates, collects or processes in connection with this Agreement, and all intellectual property rights in that data and information.

"User Information" means all information about users, and Client members and personnel and Internet browsers (whether or not users), that Client provides to Simpleview hereunder, or that Simpleview otherwise collects, compiles, creates or stores in connection with this Agreement and, including without limitation (i) name, address, email address,



password information, account numbers, financial information, demographic data, marketing data, credit data, any other identification data; (ii) any other user data submitted in the course of the access or use of Simpleview Products; and (iii) any information about an identifiable individual that constitutes "personal information" under applicable law.

On Client's written request or upon termination of this Agreement for any reason, Simpleview will, within 30 days, provide Client or their vendor(s) backups of Client Content, Work Product, Client Data and User Information such that Client and/or their vendor(s) can use the backups to migrate to different CRM or CMS platforms.

#### 4.2 Proprietary Rights of Simpleview

Subject to Client's ownership interest in Client Content, Work Product, Client Data and User Information, all materials related to CRM or CMS, programming code and materials previously developed by Simpleview, and any trade secrets, know-how, methodologies and processes related to Simpleview's products and services, shall remain the sole and exclusive property of Simpleview or its suppliers, including, without limitation, all copyrights, trademarks, patents, trade secrets, and any other proprietary rights inherent therein and appurtenant thereto (collectively "Simpleview Materials"). Subject to section 5.2 of this Agreement, to the extent, if any, that ownership of the Simpleview Materials does not automatically vest in Simpleview by virtue of this Agreement or otherwise, Client hereby transfers and assigns to Simpleview all rights, title and interest which Client may have in and to the Simpleview Materials. Client acknowledges and agrees that Simpleview is in the business of designing and hosting Web sites, that they offer a licensed CRM and CMS product, and that Simpleview shall have the right to provide to third parties services which are the same or similar to the Services, and to use or otherwise exploit any Simpleview Materials in providing such services.

#### 4.3 Simpleview Notices

Unless otherwise agreed to in writing by the Parties, Simpleview shall have the right to place proprietary notices of Simpleview and its suppliers (including hypertext links related thereto) on the Simpleview Materials and on the Site, including developer attribution and hypertext links to Simpleview's web site, and to change or update such notices from time to time upon notice to Client. In no event may client remove or alter any Simpleview proprietary notice from the Simpleview Materials or the Site without Simpleview's prior written consent. Simpleview may use the name of and identify Client as a Simpleview client, in advertising, publicity, or similar materials distributed or displayed to prospective clients.

### 5. License

#### 5.1 Grant of License - Client

Client hereby grants to Simpleview a non-exclusive, worldwide, royalty free license for the Initial Term and any Renewal Term (as those terms are hereinafter defined) to edit, modify, adapt, translate, exhibit, publish, transmit, participate in the transfer of, reproduce, create derivative works from, distribute, perform, display, and otherwise use Client Content and Work Product as necessary to render the Services to Client under this Agreement. Simpleview shall not, without first obtaining permission from Client, edit, modify, adapt, translate, exhibit, publish, transmit, participate in the transfer of, reproduce, create derivative works from, distribute, perform, display, and otherwise use Client Data and User Information except as necessary to render the Services to Client under this Agreement.

#### 5.2 Grant of License - Simpleview

Simpleview hereby grants to Client a non-exclusive nontransferable worldwide irrevocable royalty free license to make use of Simpleview Materials that are incorporated in the Site and that are required for the operation of the Site. Client cannot use the Simpleview Materials for any other purpose, including selling, copying or transferring any portions

to third parties, or providing Web site development or hosting services for others. Simpleview hereby reserves for itself all rights in and to the Simpleview Materials not expressly granted to Client in the immediately foregoing sentence.

## **6. Warranties**

### **6.1 Simpleview Warranties**

Simpleview warrants: (i) that Simpleview has the right and authority to enter into and perform its obligations under this Agreement; (ii) that Simpleview shall perform the Services in a professional and workmanlike manner; (iii) that nothing in the Simpleview Material infringes or violates any right of any third party; and (iv) that Simpleview will take reasonable measures to protect the Site from viruses, trojans, worms, or other malicious code and will take at least those measures that it takes to protect its own computer systems, but in no case less than reasonable care.

### **6.2 Client Warranties**

Client warrants that: (a) it has all authorization(s) necessary for hypertext links to third party Web Site; and (b) that the materials provided to Simpleview, including, without limitation, Client Content, descriptive claims, warranties, guarantees, nature of business, are true and accurate; and (c) that the Client Content does not infringe or violate any right of any third party. Client shall provide all necessary Client Content, including database files, reports and other materials for implementation of the Content Management Systems application.

## **7. Indemnification**

### **7.1 Indemnification by Client**

Client agrees to indemnify, defend, and hold harmless Simpleview, its directors, officers, employees and agents, and defend any action brought against same with respect to any claim, demand, cause of action, debt or liability, including reasonable attorneys' fees, to the extent that such action is based upon a claim that: (i) would constitute a breach of any of Client's representations, warranties, or agreements hereunder; (ii) arises out of the gross negligence or willful misconduct of Client; or (iii) any of the Client Content to be provided by Client hereunder infringes or violates any rights of third parties, including, without limitation, rights of publicity, rights of privacy, patents, copyrights, trademarks, trade secrets and/or licenses.

### **7.2 Indemnification by Simpleview**

Simpleview agrees to indemnify, defend, and hold harmless Client, its directors, officers, employees and agents, and defend any action brought against same with respect to any claim, demand, cause of action, debt or liability, including reasonable attorneys' fees, to the extent that such action is based upon a claim that: (i) would constitute a breach of any of Simpleview's representations, warranties, or agreements hereunder; or (ii) arises out of the gross negligence or willful misconduct of Simpleview; or (iii) any of the Simpleview Materials to be provided by Simpleview hereunder infringes or violates any rights of third parties, including, without limitation, rights of publicity, rights of privacy, patents, copyrights, trademarks, trade secrets and/or licenses.

## **8. Warranty Disclaimer and Limitation of Liability**

EXCEPT FOR THE LIMITED WARRANTY SET FORTH IN SECTION 6, Simpleview MAKES NO WARRANTIES HEREUNDER, AND Simpleview EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

THE TOTAL LIABILITY OF Simpleview HEREUNDER FOR ANY SERVICES NOT PROPERLY PERFORMED (INCLUDING ANY LIABILITY FOR NEGLIGENCE) SHALL BE LIMITED, AT THE SOLE DISCRETION OF Simpleview, TO (a) PERFORMING THOSE SERVICES CORRECTLY, OR (b) IF SUCH PERFORMANCE IS IMPOSSIBLE, TO THE AMOUNT'S PAID TO Simpleview



FOR THE SERVICES THAT WERE IMPROPERLY PERFORMED. IN NO EVENT SHALL Simpleview BE LIABLE FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, RELIANCE OR SPECIAL DAMAGES, INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS, ADVANTAGE, SAVINGS OR REVENUES OF ANY KIND OR INCREASED COST OF OPERATIONS, EVEN IF Simpleview HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN ANY EVENT, THE LIABILITY OF Simpleview TO CLIENT FOR ANY REASON AND UPON ANY CAUSE OF ACTION SHALL BE LIMITED TO THE AMOUNT ACTUALLY PAID TO Simpleview BY CLIENT UNDER THIS AGREEMENT. THIS LIMITATION APPLIES TO ALL CAUSES OF ACTION IN THE AGGREGATE, INCLUDING, WITHOUT LIMITATION, BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, STRICT LIABILITY, MISREPRESENTATIONS, AND OTHER TORTS, EXCEPT FOR LIABILITIES RELATED TO INFRINGEMENT ON THIRD PARTY RIGHTS DUE TO NEGLIGENCE ON THE PART OF Simpleview, IN WHICH CASE NO LIMITATION ON LIABILITY SHALL EXIST.

#### 9. Term and Termination

The Initial Term of the Agreement shall begin on the Effective Date of the Agreement and end on March 31, 2027. This Agreement shall automatically renew for additional periods equal to three (3) years unless either Party gives the other written notice at least 60 days prior to the end of the expiring term. Simpleview shall have the right to change pricing upon each renewal at its discretion, with written notice at least 60 days prior to the end of an expiring term, at up to a plus five percent (+5%) per annum growth rate from the effective date of the expiring term.

In the event Client chooses not to automatically renew but does not terminate service, this Agreement will continue on a month-to-month basis, at a plus ten percent (+10%) per annum growth rate from the effective date of the expiring term, billed monthly for up to six months, at which time services will cease.

Either party may terminate this Agreement if the other party materially breaches any of its representations, warranties or obligations under this Agreement, and such breach is not cured within thirty (30) days of receipt of notice.

#### 10. Confidentiality

Each party agrees that during the course of this Agreement, information that is identified as confidential or proprietary may be disclosed to the other party, including, but not limited to software, technical processes and formulas, source codes, product designs, sales, cost and other unpublished financial information, product and business plans, advertising revenues, usage rates, advertising relationships, projections, and marketing data ("Confidential Information"). Confidential Information shall not include information that the receiving party can demonstrate (a) is, as of the time of its disclosure, or thereafter becomes part of the public domain through a source other than the receiving party, (b) was known to the receiving party as of the time of its disclosure, (c) is independently developed by individuals of the receiving party without access to the Confidential Information, or (d) is subsequently learned from a third party not under a confidentiality obligation to the providing party. Except as provided for in this Agreement, each party shall not make any disclosure of the Confidential Information to anyone other than its employees who have a need to know in connection with this Agreement. Each party shall notify its employees of their confidentiality obligations with respect to the Confidential Information and shall require its employees to comply with these obligations. The confidentiality obligations of each party and its employees shall survive the expiration or termination of this Agreement.

Each of the Parties shall use at least those precautions to protect such information and other property that it uses to protect its own information and other property, in no event less than those precautions generally required by industry standards.

If either party or its respective directors, officers, employees, consultants or agents is requested or required by legal process to disclose any of the Confidential Information of the other party, the party required to make such disclosure shall give prompt notice so that the other party may seek a protective order or other appropriate relief. If such a protective order is not obtained, the party required to make such disclosure shall disclose only that portion of that Confidential Information that such party's counsel advises is legally required to be disclosed.

#### 11. Limit on Statute of Limitations

Notwithstanding any other provision of this Agreement or of applicable law, neither party shall be permitted to bring a cause of action for breach, or otherwise arising out of this Agreement more than two years after the party seeking to bring the action discovered or should have discovered the facts forming the basis for the cause of action.

#### 12. Miscellaneous

##### 12.1 Entire Agreement

This Agreement and attached Exhibits constitute the entire agreement between Client and Simpleview with respect to the subject matter hereof and there are no representations, understandings or agreements which are not fully expressed in this Agreement. No amendment, change, waiver, or discharge hereof shall be valid unless in writing and signed by the party against which such amendment, change, waiver, or discharge is sought to be enforced.

##### 12.2 Governing Law

This Agreement shall be construed in accordance with the laws of the State of Nebraska.

##### 12.3 Independent Contractors

The Parties agree that Simpleview and its personnel, in performance of this Agreement, are acting as independent contractors and that this Agreement shall not create any agency between the Parties.

##### 12.4 Arbitration

Any claim, controversy or dispute among the parties to this Agreement will be resolved by binding arbitration, following the Rules and Procedures of the American Arbitration Association, by a mutually acceptable arbitration organization in Nebraska. The arbitrator's award will be final and binding and may be entered in any court having jurisdiction thereof. The prevailing party shall be awarded all its costs, including but not limited to any filing fees, the fees of the arbitrator, reasonable attorneys' fees, travel expenses, and/or any other costs incurred relating to the dispute.

##### 12.5 Force Majeure

Neither party shall be liable for delays or failure in performance thereunder caused by acts of God, war, strike, riot, labor dispute, work stoppage, fire, judicial or governmental action, or any other cause, whether similar or dissimilar, beyond reasonable control of that party.

##### 12.6 Waiver

The waiver or failure of either party to exercise any right in any respect provided for herein shall not be deemed a waiver of any further right hereunder.

##### 12.7 Severability

If any provision of this Agreement is determined to be invalid under any applicable statute or rule of law, it is to that extent to be deemed omitted, and the balance of the Agreement shall remain enforceable.

##### 12.8 Survival

All provisions of this Agreement relating to warranties, confidentiality, non-disclosure, proprietary rights, limitation of liability, indemnification obligations and payment obligations shall survive the termination or expiration of this Agreement.



#### 12.9 Taxes

All payments due under this Agreement are exclusive of taxes. Client agrees to bear and be responsible for the payment of all such taxes (except for taxes on Simpleview's net income or capital), including, without limitation, all sales, use, rental receipt, personal property, royalty, value added or other taxes which may be levied or assessed in connection with this Agreement.

#### 12.10 Data

Notwithstanding anything to the contrary contained in previous Agreements, Aggregated Data shall be a defined term and Client accepts as acknowledgment that Simpleview collects, logs, and aggregates data derived from Client's usage as part of the normal operation of the products and services ("Aggregated Data"). Aggregated Data is anonymized and as such is not considered customer data. Simpleview shall own sole rights to use of the Aggregated Data for any business purpose during or after the term of the Agreements, subject to compliance with applicable data protection and privacy law.

#### 12.11 Accessibility

While Simpleview will encourage and support clients in their efforts to meet guidelines, website accessibility implementation completed by Simpleview does not cover accessibility issues introduced by third party scripts or forms, and client generated content. Simpleview provides no warranties or indemnities on website accessibility and recommends review of any implementation with appropriate legal representatives.

IN WITNESS WHEREOF, the Parties have caused this agreement to be executed by their respective duly authorized officers on the date written below.

#### *Authorized Signature*

Simpleview, LLC  
8950 N. Oracle Road  
Tucson, AZ 85704

By: Scott Meredith Date: 12/31/23  
Head of Contracts & Procurement.

#### *Authorized Signature*

Keith County Board of Commissioners  
511 North Spruce St., Room 101  
Ogallala, NE 69153

By: [Signature] Date: 12/31/23  
Title: Chairman

#### Exhibits

- A – Simpleview Services
- B – Additional Services
- C – Fee Schedule

EXHIBIT A  
WEBSITE SERVICES

Website Design Services	One-Time Cost	Annual Licensing Fee
Mobile-First Sitemap Research, Consultation, Findings Report & Presentation, Content Roadmap/Content Needs Plan and Advanced Sitemap Preparation and Implementation	Included	-
Mobile-First Design Strategy, Usability & Design Development	Included	-
Strategic Planning	Included	-
Discovery Session	Included	-
Research & Findings Presentation	Included	-
Digital Style Guide	Included	-
High-Fidelity Prototypes	Included	-
CMS Development Assets	Included	-
Existing Website Content Collection & Data Migration and New Website Page Creation	Included	-
SEO Site Transition Program (301 redirects, Google Analytics, Tag Manager & Search Console configuration & implementation, XML Sitemap Implementation, etc.)	Included	-
Website Development Core Engagement		
Simpleview CMS Content Management System	-	Included
Homepage Slideshow & Interior Header Management	-	Included
Image & Video Display via Vimeo Pro (Recommended) & YouTube	-	Included
Ongoing CMS Platform Point Updates and Version Upgrades	-	Included
Media Asset Management Library (Images, Videos, Documents & Includes Toast UI Image Editing Integration)	-	Included
Metatag Management	-	Included
Redirect Module	-	Included
Articles Module	-	Included
RSS Feeds	-	Included
Microsite Management via Template Generator	-	Included
Landing Pages, Vanity URLs	-	Included
Site Search via SOLR	-	Included
User Permissioning Content Ownership Extension	-	Included
Hosting and Sitewide SSL Certificate	-	Included
Verizon Edgecast CDN (Content Delivery Network)	-	Included
Code Editor (CSS, Template & Javascript Code Overwrite Capabilities)	-	Included
Responsive GEO Triggers (Listings, Coupons, Events)	-	Included
App Smart Banner	-	Included
In-Page Social Sharing	-	Included
Schema.org and Open Graph Tagging Capabilities	-	Included
Cookie / Privacy Policy Consent Banner	-	Included
Quality Assurance Testing	-	Included
Website Build Project Management & Staff Training	-	Included
Access to Client Portal (Ticketing System, Documentation, Webinars, User Forum)	-	Included
Additional CMS Modules & Integrations		
Form Builder	-	Included
Business Listings/Directories with Advanced Filtering and Landing Pages	-	Included



Calendar of Events Directory with Advanced Filtering and Event Detail Pages	-	Included
Blog Module	-	Included
Announcements Module (Crisis/Emergency Banner, Weather/Traffic Alerts, Promotions)	-	Included
Google Maps Integration (listings & events)	-	Included
Language Translate Integration	-	Included
Weather Feed Widget	-	Included
Website Database		
Simpleview CRM Base-Level Licensing	-	Included
Member/Partner (Local Businesses, e.g. hotels, restaurants, attractions) Accounts, Contacts, Listings and Leisure Events Database	-	Included
Member/Partner Extranet/Online Portal	-	Included
Consumer/Visitor Inquiries Database	-	Included
Total	\$25,875	\$22,320

Our hourly fee for change requests and training is \$150 per hour. Upon launch of the live site, Client will have thirty (30) days to review the site and provide a written change list to Simpleview for minor modifications within the scope of the original proposal. Any change requests or training requested after the 30-day period will be billed in quarter hour increments on a monthly basis.

EXHIBIT B

ADDITIONAL SERVICES

No additional services related to CMS as of the Effective Date of Agreement



EXHIBIT C  
FEE SCHEDULE

PAYMENT SCHEDULE	
Initial Portion of One-Time Fees Invoiced on January 1, 2024,, and Due in Thirty Days.	\$12,937.50
Remaining Portion of One-Time Fees Invoiced on April 1, 2024, and Due in Thirty Days.	\$12,937.50
Initial Annual Licensing Fees Invoiced on April 1, 2024, and Due in Thirty Days of Creation	\$22,320.00
CMS Licensing Fees Invoiced on Each Subsequent April 1 <sup>st</sup> for Duration of Agreement. Each Respective Invoice is Due in Thirty Days of Creation.	\$22,320.00 per Year