

The term **"Simpatico"** as used herein shall be deemed to refer to SIMPATICO SYSTEMS, LLC.

The term **"Purchaser"** refers to the firm purchasing the service work from Simpatico.

**INCORPORATION:** These Project Terms and Conditions are hereby incorporated into Purchaser's inquiry, request for quotation, letter of intent, purchase order, change order, etc., and any resultant contract (collectively referred to herein as the **"Agreement"**). No deviation herewith shall be binding on Simpatico unless agreed to in writing and signed by an authorized representative of Simpatico.

**SERVICE RATES:** Simpatico will be bill at rates below (all in U.S. dollars) unless otherwise specified:

Rate	Field Technician	Desktop Technician	Server Technician
On Site Per Hour Rate	\$115.00	\$150.00	\$250.00
On Site Per Day Rate	\$920.00	\$1200.00	\$2500.00
Off Peak Rate	\$172.50	\$225.00	\$375.00
Emergency Same-Day	\$230.00	\$300.00	\$500.00
Emergency Truck Roll	\$250.00/one-time	\$250/one-time	\$250/one-time

**WORKDAY DEFINED:** Our team likes to work hard. Just to make sure that you, the Purchaser, are on the same page with Simpatico, here are a few items that define when we can work and what rate applies.

- a. Emergency Same-Day applies to all work/travel performed on Sundays, Holidays, and work expressly requested by a customer. Holidays are Simpatico-observed U.S. holidays listed in the following table:

New Year's Day	Independence Day
Memorial Day	Labor Day
President's Day	Thanksgiving – (Thursday and Friday)
Christmas Eve	Christmas Day**

- b. Christmas Holidays are subject to change depending upon the specific days Christmas Eve & Day occur.
- c. Off Peak applies to all work / travel performed after 40 hours per week, after hours or on Saturday.
- d. Simpatico personnel are not required to work more than 12 hours in any 24-hour period.
- e. Hazardous Duty work are subject to an additional charge of \$220 per day above standard rates.
- f. Work requests to be delivered in a country or territory identified as a Travel Warning or Travel Alert destination by the United States Department of State and/or Simpatico Systems, LLC, may be sub-contracted, and/or subject to additional charges, delays, or cancellations.
- g. Field Service time, if put on "hold" at jobsite or hotel, will be charged at the regular per day rate.

**TIME SHEETS:** Before the work commences, satisfactory arrangements must be made with Simpatico to review time sheet, if necessary. It is suggested that Purchaser submit a written document to Simpatico stating whether the Purchaser or its authorized representative will review the time sheets. Disputes of any nature should be immediately reported in writing to Simpatico. Approval and acceptance of the work will be assumed that if no arrangements have been made to review the time sheets and invoicing will be submitted accordingly. Once

reviewed, the time sheet is considered as acceptance of the work performed.

**WHAT'S NOT INCLUDED:** All delivery, travel, expenses, training or consulting services to be billed at published rates for each activity involved unless specifically included in the proposal. Additional parts, labor, modifications to scope due to unforeseen circumstances not specifically defined in the accepted proposal or scope of work are not included in this Agreement and will be billed separately from original proposal. Any additional work can be approved by change order or email to a Simpatico representative with approval instructions.

### **TRAVEL AND LIVING EXPENSES** (per resource when applicable):

Airfare	At Cost +10%
Auto Rental	At Cost +10%
Field Services Mileage	\$1.50/mile after 50 miles (Round Trip)
IT Support Mileage	\$1.50/mile after 15 miles (Round Trip)
Tolls	At Cost +10%
Parking	At Cost +10%
Lodging	\$150/per night
Per Diem	\$45/per day

**BILLING AND PAYMENT:** Simpatico sends regular invoices for services rendered and expenses incurred. Full payment on all invoices is due and payable upon receipt. In the event that any amounts remain unpaid for longer than thirty (30) days after the date of an invoice, (a) Client agrees to pay Simpatico a \$50 Late Payment Fee plus a finance charge in an amount equal to the lesser of (i) 1.5% per month (18% per year) compounded daily or (ii) the highest interest rate permitted by applicable law; and (b) Simpatico may suspend performance of the Services after (i) giving written notice to Client of Simpatico's intent to suspend the Services and (ii) any amounts remain unpaid for three (3) days after such notice. Client agrees to be responsible for all costs of collection, including without limitation reasonable attorneys' fees, expenses and court costs.

**TAXES:** The prices provided for herein are exclusive of any present or future sales or use taxes, duties, tariffs and levies, with respect to any service covered hereby and of any other present or future tax upon or measured by the gross receipts from this transaction or any allocated portion thereof. If Simpatico is required by applicable law or regulation to pay or collect any such tax on account of this transaction or services covered hereby, then such amount of tax shall be paid by the Purchaser in addition to the prices herein provided for, or the Purchaser shall reimburse to Simpatico the amount of any taxes which Simpatico is obligated to pay.

**INSURANCE:** Simpatico will supply an insurance certificate evidencing the insurance carried by Simpatico conditioned on the understanding that it represents full compliance with all insurance requirements applying to Simpatico on this project. Coverage will be on an occurrence basis and at the coverage limits stated in the insurance certificate. Simpatico does not provide copies of its insurance policies, certified or otherwise nor does it name other parties as additional insured or agree to waive its or its insurer's rights of subrogation.

**FORCE MAJEURE:** Simpatico shall not be liable for any loss or damage resulting from delay in furnishing field service or technical assistance if such delay is caused by Acts of God, Acts of Purchaser, Acts of Government, fires, floods, strikes, riots, way embargo, transportation shortage, acts of any third party, unavailability of labor or materials, acts of suppliers, disputes with workmen, thefts, accidents or any other cause beyond the reasonable control of Simpatico which may delay or prevent completion of the work. Any costs incurred by Simpatico as a result of delays caused by the Purchaser/Engineer/Owner shall be paid by Purchaser.

**INDEMNIFICATION:** Simpatico agrees to indemnify Purchaser only for losses due to personal injury, or property damage to the extent directly caused by our negligent acts or omissions, or the negligent acts or omissions of our employees and agents during the performance of this Agreement, but not to the extent caused by others.

**RIGHT TO SUBCONTRACT:** Simpatico shall have the right to delegate or subcontract any of the Services, provided that (a) no such delegation or subcontracting shall relieve Simpatico of its responsibility for the performance of the Services hereunder and (b) Simpatico shall not disclose any Confidential Information of Client to a subcontractor unless and until such subcontractor has agreed to protect the confidentiality of such Confidential Information in a manner substantially required under this Agreement.

**TRAVEL WARNING/ALERT DESTINATIONS:** Any services included within our proposal/quote requiring onsite work to be performed in a country or territory identified as a Travel Warning or Travel Alert destination by the United States Department of State may be relocated, sub-contracted, delayed, or cancelled depending upon the specific circumstances of the warning/alert and the specific project requirements or upon Simpatico or Simpatico' personnel's reasonable opinion that the location is unsafe or unfit to perform such services. In addition, hazardous duty service rate adder may be applied for work to be performed in areas or environments deemed to be hazardous (offshore platforms, dangerous chemical exposure, during acts of Gods, political unrest, etc.) at an additional charge of \$220 per day above the standard daily rate.

**LIMITATION OF LIABILITY:** In no event shall Simpatico or its subcontractors or vendors be liable in contract, tort, strict liability, warranty, or otherwise, for any special, indirect, incidental or consequential damages, such as, but not limited to, loss of anticipated profits or revenue, loss of use of system, non-operation or increased expense of operation of other equipment, cost of capital, cost of purchased or replacement product or power, or claims of customers of Purchaser for any costs whatsoever.

The remedies of the Purchaser set forth in this Agreement are exclusive.

The liability of Simpatico, its subcontractors or vendors with respect to any contract, or anything done in connection therewith, or from the manufacture, sale, delivery, resale, installation, repair, replacement or use of any service or equipment covered by or furnished under this Agreement, whether in contract (including the indemnity provisions hereof), in tort, in warranty, in strict liability, or otherwise, shall not exceed the original purchase price paid in the Agreement.

In the event the Purchaser and the final owner/user of the service (the "End User") are different parties, the following shall apply:

Purchaser shall obtain from the End User, in favor of Simpatico, an agreement that End User will be bound by the remedies extended herein, or Purchaser in lieu thereof, will indemnify Simpatico from liability, damages, costs, losses, or expenses, in excess of those provided for herein. Purchaser shall obtain from the End User, in favor of Simpatico, or its subcontractors or vendors, a release from consequential damages to the extent stated in the first paragraph: or in lieu thereof, the Purchaser will indemnify and hold harmless Simpatico from and against liability damages, costs, losses, and expenses resulting from End User's consequential losses of any nature.

**WARRANTY:** Simpatico agrees to correct any services it has performed, and which are shown to Simpatico's satisfaction to have been performed in a faulty manner, provided notice of such faulty service is given at the conclusion of the work to be performed hereunder. Simpatico shall correct such defective work on an eight (8) hour per day, forty (40) hour per week basis. The cost of overtime shall be paid by the Purchaser at the applicable overtime rates in force at the time of the work. The foregoing shall constitute the sole remedy of Purchaser and the sole liability of Simpatico for defective or faulty services whether in contract, in tort, in warranty, in strict liability, or otherwise.

THE FOREGOING WARRANTIES ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, EXCEPT THAT OF TITLE, WHETHER WRITTEN, ORAL OR IMPLIED, IN FACT, OR IN LAW (INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR PURPOSE).

**MATERIALS FURNISHED:** A minimum 25% restocking fee with original packaging on all products ordered but returned or not delivered. In the event additional parts or materials are required in conjunction with service or supplied by the service representative, the Purchaser's authorized representative shall authorize said parts or material by signing the Service Representative's Work Order, sending an email to Simpatico or signing a change order.

**WAIVER:** Waiver by Simpatico of any one or more articles within this Project Terms and Conditions shall not constitute a waiver of any other articles herein.

**EXCEPTIONS:** Any exceptions or Amendments to this Agreement must be approved in a signed writing by an authorized representative of Simpatico.

**ATTORNEY'S FEES AND COSTS:** If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reasonable attorney fees, costs and necessary disbursements in addition to any other relief to which such party may be entitled.

**GOVERNING LAW:** This Agreement shall be governed and interpreted in accordance with the laws of the State of Texas. The State Court of Lubbock County Texas shall have exclusive jurisdiction with respect to claims made hereunder.

**ACCEPTANCE:** This Agreement constitutes an offer to sell products or services. Acceptance of a quotation by Purchaser constitutes Acceptance of all the terms and conditions set forth herein.