

**BH TECH CONNECTION, LLC
MANAGED IT SERVICES, CONSULTING, AND SUPPORT
Terms of Service**

Last Updated: January 13, 2021

This Agreement for Managed IT Services is between BH TECH CONNECTION, LLC (“BHTC”), and Client, for BHTC’s IT Consulting and Support Services. The parties therefore agree as follows:

WHEREAS, to support, maintain, and protect their computers, data, online accounts, and/or network, Client desires BHTC’s Services as described in this Agreement.

WHEREAS, Client desires to engage BHTC for the purpose of providing certain IT support and maintenance services, as further described herein, and BHTC is willing to provide those services in accordance with the terms of this Agreement.

NOW, THEREFORE, in consideration of the mutual conditions and covenants set forth herein, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

TERMS AND CONDITIONS

1. **SERVICES**

1.1 Subject to the terms of this Agreement, BHTC will use commercially reasonable efforts to provide Client the Services in accordance with the Service Level Options chosen during online sign-up, out of the set of options detailed in and attached hereto as Schedule A.

2. **RESTRICTIONS AND RESPONSIBILITIES**

2.1 Client will not, directly or indirectly: reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas, know-how, or algorithms relevant to the Services or any software, documentation or data related to the Services (“Software”); modify, translate, or create derivative works based on the Services or any Software (except to the extent expressly permitted by BHTC or authorized within the Services); use the Services or any Software for timesharing or service bureau purposes or otherwise for the benefit of a third-party; or remove any proprietary notices or labels.

2.2 Client represents, covenants, and warrants that Client will use the Services only in compliance with all applicable laws and regulations. Although BHTC has no obligation to monitor Client’s use of the Services, BHTC may do so and may prohibit any use of the Services it believes may be (or alleged to be) in violation of this Agreement, or State and Federal law.

2.3 Client shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Services, including, without

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limitation, modems, hardware, servers, software, operating systems, networking, web servers and the like (collectively, "Equipment"). Client shall also be responsible for maintaining the security of the Equipment, third-party Client accounts, passwords (including but not limited to administrative and user passwords) and files, and for all uses of third-party Client accounts, or the Equipment with or without Client's knowledge or consent.

3. CONFIDENTIALITY; PROPRIETARY RIGHTS

3.1 Each party (the "Receiving Party") understands that the other party (the "Disclosing Party") has disclosed or may disclose business, technical, or financial information relating to the Disclosing Party's business (hereinafter referred to as "Proprietary Information" of the Disclosing Party). Proprietary Information of BHTC includes non-public information regarding features, functionality, and performance of the Service. Proprietary Information of Client includes non-public data provided by Client to BHTC to enable the provision of the Services ("Client Data"). The Receiving Party agrees: (i) to take reasonable precautions to protect such Proprietary Information, and (ii) not to use (except in the performance of the Services or as otherwise permitted herein) or divulge to any third person any such Proprietary Information. The Disclosing Party agrees that the foregoing shall not apply with respect to any information that the Receiving Party can document (a) is or becomes generally available to the public, or (b) was in its possession or known by it prior to receipt from the Disclosing Party, or (c) was rightfully disclosed to it without restriction by a third party, or (d) was independently developed without use of any Proprietary Information of the Disclosing Party or is required to be disclosed by law.

3.2 Client shall own all right, title, and interest in and to the Client Data, as well as any data that is based on or derived from the Client Data and provided to Client as part of the Services.

3.3 BHTC shall have the right to collect and analyze data and other information relating to the provision, use and performance of various aspects of the Services and related systems and technologies (including, without limitation, information concerning Client Data and data derived therefrom), and BHTC will be free (during and after the term hereof) to (i) use such information and data to improve and enhance the Services and for other development, diagnostic and corrective purposes in connection with the Services and other BHTC offerings, and (ii) disclose such data solely in aggregate or other de-identified form in connection with its business. No rights or licenses are granted except as expressly set forth herein.

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4. PAYMENT OF FEES

4.1 In consideration of the Services to be performed by BHTC, Client shall pay to BHTC fees in the amounts and according to the payment schedule set forth in Schedule A for each Service, Support Option, and Extra selected by Client during online sign-up, and all applicable sales, use or value added taxes, even if calculated or assessed subsequent to the payment schedule.

Client will pay BHTC the then applicable fees described in Schedule A for the Services and Implementation Services in accordance with the terms therein (the "Fees"). If Client's use of the Services exceeds the service capacity set forth in Schedule A or otherwise requires the payment of additional fees (per the terms of this Agreement), Client shall be billed for such usage and Client agrees to pay the additional fees in the manner provided herein.

If Client believes that BHTC has billed Client incorrectly, Client must contact BHTC no later than 30 days after the closing date on the first billing statement in which the error or problem appeared, in order to receive an adjustment or credit. Inquiries should be directed to billing@bhtechconnection.com.

4.2 BHTC may choose to bill through an invoice, in which case, invoices generated will have due dates listed by which payment is expected. A late fee will be assessed equal to 10% of the invoice total for every 15 days the invoice is overdue. Client shall be responsible for all taxes associated with Services other than U.S. taxes based on BHTC's net income.

4.3 For hourly billable events, no-shows and any cancellations or rescheduling requests made by the Client within 24 hours of the billable event will be subject to a fee equal to the intended length of the canceled or rescheduled appointment. For example, if a visit was planned for 2 hours and is cancelled or rescheduled within 24 hours, an invoice will be sent for 2 billable hours.

5. TERM AND TERMINATION

5.1 Subject to earlier termination as provided below, this Agreement is for the Initial Service Term as specified in Schedule A, and shall be automatically renewed for additional periods of the same duration as the Initial Service Term (collectively, the "Term"), unless either party requests modification or termination at least thirty (30) days prior to the end of the then-current term.

5.2 In addition to any other remedies it may have, either party may also terminate this Agreement upon thirty (30) days' notice (or without notice in the case of nonpayment), if the other party materially breaches any of the terms or conditions of this Agreement. Client will pay in full for the Services up to and including the last day of the current Service Term. All sections of this Agreement which by their nature should survive

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termination will survive termination, including, without limitation, accrued rights to payment, confidentiality obligations, warranty disclaimers, and limitations of liability.

6. WARRANTY AND DISCLAIMER

6.1 BHTC shall use reasonable efforts consistent with prevailing industry standards to maintain the Services in a manner which minimizes errors and interruptions in the Services and shall perform the Implementation Services in a professional and workmanlike manner. Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by BHTC or by third-party providers, or because of other causes beyond BHTC's reasonable control, but BHTC shall use reasonable efforts to provide advance notice in writing or by email of any scheduled service disruption. HOWEVER, BHTC DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICES. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, THE SERVICES AND IMPLEMENTATION SERVICES ARE PROVIDED "AS IS" AND BHTC DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ON-INFRINGEMENT.

7. LIMITATION OF LIABILITY

7.1 NOTWITHSTANDING ANYTHING TO THE CONTRARY, EXCEPT FOR BODILY INJURY OF A PERSON, BHTC AND ITS SUPPLIERS (INCLUDING BUT NOT LIMITED TO ALL EQUIPMENT AND TECHNOLOGY SUPPLIERS), OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS AND EMPLOYEES SHALL NOT BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR TERMS AND CONDITIONS RELATED THERETO UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER THEORY: (A) FOR ERROR OR INTERRUPTION OF USE OR FOR LOSS OR INACCURACY OR CORRUPTION OF DATA OR COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY, OR LOSS OF BUSINESS; (B) FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES; (C) FOR ANY MATTER BEYOND BHTC'S REASONABLE CONTROL; OR (D) FOR ANY AMOUNTS THAT, TOGETHER WITH AMOUNTS ASSOCIATED WITH ALL OTHER CLAIMS, EXCEED THE FEES PAID BY CLIENT TO BHTC FOR THE SERVICES UNDER THIS AGREEMENT IN THE 12 MONTHS PRIOR TO THE ACT THAT GAVE RISE TO THE LIABILITY, IN EACH CASE, WHETHER OR NOT BHTC HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

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8. INDEMNIFICATION

8.1 Client shall indemnify and hold harmless BHTC from and against any damages and costs arising from or relating to Client's, Client's vendor's, or BHTC's vendor's, affiliate's, and contractor's, failure to implement appropriate privacy and security safeguards and procedures to protect Client's data including sensitive health and financial information.

9. MISCELLANEOUS

9.1 Severability. If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable.

9.2 Assignment of Agreement. This Agreement is not assignable, transferable, or sublicensable by Client except with BHTC's prior written consent. BHTC may transfer and assign any of its rights and obligations under this Agreement without consent. This Agreement shall bind each party's heirs, successors, and assigns.

9.3 Complete Agreement. This Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements, communications, and other understandings relating to the subject matter of this Agreement, and that all waivers and modifications must be in writing signed by both parties, except as otherwise provided herein.

9.4 Relationship. No agency, partnership, joint venture, or employment is created as a result of this Agreement and Client does not have any authority of any kind to bind BHTC in any respect whatsoever. It is also the express intention of BHTC and Client that BHTC perform the Services as an independent contractor to the Client. BHTC enters into this Agreement as, and shall continue to be, an independent contractor. All Services shall be performed only by BHTC and BHTC's employees. Under no circumstances shall BHTC, or any of BHTC's employees, look to Client as his/her employer, or as a partner, agent, or principal.

9.5 Attorney's Fees. In any action or proceeding to enforce rights under this Agreement, the prevailing party will be entitled to recover costs and attorney's fees.

9.6 Notice. All notices to be given hereunder shall be transmitted in writing either by facsimile or electronic mail with return confirmation of receipt, or by certified or registered mail, return receipt requested, and shall be sent to the addresses identified below, unless notification of change of address is given in writing. Notice shall be effective upon receipt or in the case of fax or email, upon confirmation of receipt.

9.7 Governing Law and Jurisdiction, Injunctive Relief. The formation, construction, performance and enforcement of this Agreement shall be in accordance with the laws of the United States and the state of California without regard to its conflict of law

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provisions or the conflict of law provisions of any other jurisdiction. In the event of a dispute arising out of this Agreement, the parties agree to attempt to resolve any dispute by negotiation between the parties. If they are unable to resolve the dispute, either party may commence mediation and/or binding arbitration through the American Arbitration Association, or other forum mutually agreed to by the parties. The prevailing party in any dispute resolved by binding arbitration or litigation shall be entitled to recover its attorneys' fees and costs. In all other circumstances, the parties specifically consent to the local, state and federal courts located in the state of California, county of San Francisco. The parties hereby waive any jurisdictional or venue defenses available to them and further consent to service of process by mail. Client acknowledges that BHTC will have no adequate remedy at law in the event Client uses the deliverables in any way not permitted hereunder, and hereby agrees that BHTC shall be entitled to equitable relief by way of temporary and permanent injunction, and such other and further relief at law or equity as any arbitrator or court of competent jurisdiction may deem just and proper, in addition to any and all other remedies provided for herein.

9.8 Waivers and Amendments. BHTC's or Client's failure to enforce, or delay in enforcing, any provision of this Agreement will not be construed as a waiver of such provision and will not prevent either party from subsequently enforcing each and every other provision of this Agreement. The rights granted to the Parties are cumulative and will not constitute a waiver of either Party's right to assert all other legal and equitable remedies available to that Party.

9.9 Headings. The numbering and captions of the various sections are solely for convenience and reference only and shall not affect the scope, meaning, intent or interpretation of the provisions of this Agreement nor shall such headings otherwise be given any legal effect.

By their execution, the parties hereto have agreed to all the terms and conditions of this Agreement effective as of the last date of signature, and each signatory represents that it has the authority to enter into this Agreement and to bind his/her respective party to all of the terms and conditions herein.

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SCHEDULE A

SERVICE LEVEL TERMS

The list of services and their descriptions are as follows:

- **Core Managed Services:**
 - **Antivirus** - key security protection for computers that access company resources or information. Includes monitoring and same-day response to any malware infections
 - Next-gen antivirus protection on all computers with the ability to rollback changes caused by ransomware
 - Weekly monitoring of the antivirus system to ensure optimal protection from malware
 - Same-day response to any malware infections
 - **Backups** - file-level cloud backups for computers that contain unique data you don't want to risk losing. Includes same-day response to any data recovery requests.
 - Cloud backup software provided for all computers
 - Weekly monitoring of the backup system to ensure optimal protection from data loss
 - Same-day response to any data recovery requests
 - **Maintenance** - security patching, remote access software to help work from home, and maintenance scripting to keep computers running smoothly.
 - More stable and consistent performance for all computers throughout their lifespan
 - Improved Windows security update patching, reducing security risk
 - Improved Windows system update patching, improving software compatibility
 - **Passwords** - password management software to securely store and share passwords, regular security audits of shared passwords, and related support and training
 - Password Management software provided for all staff
 - Staff training in how to better manage and share passwords
 - Ongoing password recovery support for staff
 - Regular audits to identify security weaknesses in your password databases
- **Support Options:**
 - **Retainer** - a flat-fee option that replaces our hourly rates for IT projects or consults, stabilizes your budget, and focuses everyone on the support and service, not the cost
 - **24/7 phone + remote support** - a flat-fee upgrade that provides clients with an on-demand US-based help desk at any time of the day or night for remote support, whether it's for troubleshooting their printer or resetting a password online.

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- **Monthly CTO Strategy calls** - some clients want someone to help them strategically plan out and project manage multiple IT projects for their business to stay on track without having to be the one “doing it all”.
- **Extras (3rd-party vendor licensing options):**
 - Google Workspace Business Basic
 - Google Workspace Business Standard
 - Google Workspace Business Plus
 - Google Vault for Google Workspace
 - Microsoft 365 Basic (email only)
 - Microsoft 365 Apps (software only)
 - Microsoft 365 Business Standard (both)
 - Microsoft 365 E3 (high-capacity mailboxes)
 - GoDaddy domain hosting
 - Prey GPS tracking
 - NordVPN internet encryption
 - IRONSCALES email security, phishing protection, and security training

The Initial Service Term is 3 MONTHS if the quarterly billing option is chosen.

The Initial Service Term is ONE YEAR if the annual billing option is chosen.

In both situations, a Trial Term of 30 DAYS commences on the date these terms of service are accepted and initial payment is rendered for the Initial Service Term chosen at the time of purchase. Client agrees that Initial Service Term payment is due on or prior to the commencement date of the Initial Service Term, which is the same commencement date as the Trial Term.

Client may, up to and including the last day of the Trial Term, choose to cancel services and receive a full refund for any Managed Services or Support Options entered into and purchased for the Initial Service Term. Extras are considered licensing from other vendors and therefore non-refundable.

The Initial Service Term commences on the same date as the date the Trial Term commences.

Client agrees to pay for services at one of the rates detailed below, multiplied by either 1) the number of computers to be covered, 2) the number of emails to be covered, or 3) at a flat rate with no multiplier, for the Initial Service Term, which is determined by Client at the time of purchase. Client agrees that all Managed Services, Support Options, and Extras payments are due on or prior to the commencement date of the Initial Service Term.

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Managed Services Pricing table

Managed Services	Multiplier	Annual Option	Quarterly Option
Antivirus	Per Computer	\$383.51	\$106.53
Backups	Per Computer	\$530.25	\$147.29
Maintenance	Per Computer	\$543.31	\$150.92
Passwords	Per Email	\$436.78	\$121.33

Support Options Pricing table

Support Options	Multiplier	Annual Option	Quarterly Option
Retainer	Per Computer	\$756.00	\$210.00
24/7 Phone Support	Per Computer	\$378.00	\$105.00
Monthly CTO strategy calls	Flat Fee	\$1,260.00	\$350.00

Extras Pricing table

Extras	Multiplier	Amount	Billing Frequency
Google Workspace Starter	Per Email	\$6.00	Per Month
Google Workspace Business Standard	Per Email	\$12.00	Per Month
Google Workspace Business Plus	Per Email	\$18.00	Per Month
Google Vault	Per Email	\$4.50	Per Month
Microsoft 365 Basic	Per Email	\$5.00	Per Month
Microsoft 365 Apps	Per Email	\$8.25	Per Month
Microsoft 365 Standard	Per Email	\$12.50	Per Month
M365 E3	Per Email	\$20.00	Per Month
Prey	Per Device	\$5.00	Per Month
NordVPN	Per Email	\$11.95	Per Month
IRONSCALES	Per Email	\$4.00	Per Month

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Retainer Add-on

If the Client so chooses, they can choose the Retainer Support Option. If this option is chosen, then all Billable Events performed by BHTC Staff will be considered Not Applicable and no additional invoices shall be generated for IT labor accordingly.

BILLABLE EVENTS

Billable time is calculated in 15-minute increments after surpassing a category's minimum time. With the exception of calls made explicitly to negotiate future service, the following events are billable by default unless otherwise stated:

- Onsite Visits: 1 hour (+ travel Time as applicable) minimum
- Remote Session: 30 minutes minimum
- Phone Advice/Assistance: No minimum

Per the benefits of Antivirus, Backups, Maintenance, and Passwords services listed, the following exceptions to Billable Events are as follows:

- Installation, removal, troubleshooting, repairing, or upgrading of Software provided by BHTC
- Cleaning of malware infections after the commencement date of the Initial Service Term
- Restoring of data from backups
- General end-user computer support that fulfills both of the following conditions:
 - requires fewer than 15 minutes of IT support time
 - frequency of support per user is 24 or more hours between sessions
- Time spent monitoring, maintaining, troubleshooting, or configuring the centralized software consoles used by BHTC in the course of delivering upon the service benefits described above

BHTC's billable hourly rate is as follows:

- Standard Rate: 225.00/hour. BHTC will bill at this standard rate when time is scheduled through BHTC's booking system.
- Priority Rate: 337.50/hour. BHTC will bill at this priority rate when billable events occur during normal business hours and time is not scheduled through BHTC's booking system. The Priority Rate also applies if a normally-scheduled Billable Event extends after normal business hours, for the portion of billable time spent after normal business hours.

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- Emergency Rate: 450.00/hour. BHTC will bill at this emergency rate when a Billable Event is provided after normal business hours and time is not scheduled through BHTC's booking system.
- Travel Rate: 150.00/hour. BHTC's travel rate will be additionally applied to service times when travel time to the client's location exceeds 1 hour (2+ hours round trip).