



Virtual Office Tech Services Agreement

This Managed Services Agreement (“Agreement”) is made and entered into as of the date the client purchases a subscription from Service Provider (“Effective Date”), by:

SERVICE PROVIDER
TEAMLOGIC IT – ATLANTA MIDTOWN
2260 Peachtree Road NW, Suite A4
Atlanta, GA 30309

1. Term and Termination.

1.1 This Agreement will commence on the Effective Date and have an Initial Term of one (1) year, unless earlier terminated as provided herein. This Agreement automatically renews for successive one (1) year terms on the same terms and conditions, subject to adjustments and exceptions as described in this Agreement, beginning on the day immediately following the end of the Initial Term or renewal term, unless either party gives the other thirty (30) days prior written notice before the end of the term of its intent not to renew this Agreement. The Initial Term and any renewals terms constitute the “Term”.

1.2 This Agreement may be terminated annually by the Service Provider or Client for any reason upon thirty (30) days written notice to the other party.

1.3 If either party terminates this Agreement, Service Provider will assist Client upon request in the orderly termination of services, including timely transfer of the services to another designated provider. Client agrees to pay Service Provider its then current fees and costs for such termination assistance.

1.4 Upon termination or expiration of this Agreement, Client will pay Service Provider for all fees for services completed or in process through the entire month in which the termination or expiration occurs, and any other expenses, charges, or costs reasonably incurred or committed by Service provider for Client’s benefit through the entire month in which the termination or expiration occurs. If the Client has prepaid for any service, the Service Provider will refund the portion of the prepayment that falls into the month(s) after the agreement has been terminated.

2. Fees and Payment Schedule.

2.1 Fees are described on the ITMidtown.com website. Fees are charged to Client on a monthly basis and will become due and payable on the first day of each month. Client agrees to pay all monthly fees one month in advance. If Client does not pay its fees in full within 15 days of the due date, or if Client at any time otherwise fails, neglects or refuses to make timely payment for the services, Service Provider has the right to suspend the services with 30 days written notice, in its sole discretion if payment is not received by the suspension date, and such suspension shall not constitute a breach of this Agreement. If Service Provider agrees to reconnect services, Client may be charged reasonable fees for reconnecting and reinstalling services and Client agrees to pay Service Provider for such fees.

2.2 If there are any changes in services that in Service Provider’s discretion warrant a change in the fees, Service Provider will notify Client and the fee adjustment will take effect immediately upon notification to Client.

2.3 Client acknowledges and understands that any and all services requested by Client that fall outside of the terms of this Agreement will be considered Projects, and will be quoted and billed as separate, individual services.

3. Invoice Terms; Interest; Attorney’s Fees.

All amounts which are 30 days past due shall bear interest at the rate of 1.5% per month or the maximum permitted by law until paid in full. Client agrees to pay all reasonable collection costs, and attorney's fees and costs incurred by Service Provider to collect any amounts due under this Agreement. Service Provider will also charge and Client agrees to pay a \$50 service fee, or the maximum permitted by law, for all returned checks and bank card or charge card charge backs. Client understands and agrees that in the case of late payment or nonpayment for any services ordered by Client, Service Provider may report such late payment or nonpayment to credit reporting agencies. If there are billing errors or other requests for credit, Client must contact the Service Provider by telephone or in writing within twenty (20) days after the date Client receives the billing statement for which it is seeking corrections. Failure to timely notify Service Provider of a dispute shall constitute Client's acceptance of the corresponding bill. Undisputed portions of a billing statement must be paid before the next billing statement is issued or Client agrees to pay an administrative fee for late payment. All payments for services must be made directly by Client to Service Provider. For example, Service Provider shall have no obligation to provide services for which payment is made by Client to a third party or payment is made by a third party on Client's behalf.

4. Taxes.

It is understood that any applicable Federal, State or Local Taxes shall be added to each invoice for services or materials rendered under this Agreement. Client shall pay any such taxes unless an appropriate valid exemption certificate is furnished to Service Provider.

5. Coverage.

5.1 Help Desk and Management of Client's IT networks will be provided to the Client by Service Provider through remote means between the hours of 8:00 am – 5:00 pm Monday through Friday, excluding Federal public holidays ("holidays"). Network Monitoring Services will be provided 24/7/365. Hardware costs are not covered under the terms of this Agreement.

5.2 Support and Escalation

Service Provider will respond to Client's Trouble Tickets with best effort after hours or on holidays. Trouble Tickets must be opened by Client's designated I.T. Contact Person, by email to Service Provider's Help Desk, or by phone if email is unavailable. Each call will be assigned a Trouble Ticket number for tracking.

5.3 Service outside Normal Working Hours

Emergency services performed outside of the hours of 8:00 am – 5:00 pm Monday through Friday, excluding holidays, shall be delivered on a best efforts basis.

5.4 Service Calls Where No Trouble is found

If Client requests onsite service and no problem is found or reproduced, there will be no additional fee for the service.

5.5 Disclaimer; Limitation of Liability

Under no circumstances shall Service Provider be liable either in contract, tort or otherwise, to Client, its employees, agents or any third party, for any injury or damages, including without limitation, any direct, indirect, special or consequential damages, expenses, costs, profits, lost savings or earnings, interruption to business activity, lost or corrupted data, or other liability arising out of or related to the services provided by Service Provider or out of the installation, de-installation, use of, or inability to use the Client's computer equipment, hardware, software or peripherals, or resulting from malware, virus and data theft. The Client will, upon demand, indemnify Service Provider in respect of any loss, damage or injury arising from the provision of the services except for gross negligence or willful misconduct. For the avoidance of doubt, Service Provider has no liability to Client data. Service Provider and its contractors' liability to Client for any claim arising under this Agreement, if any, whether based on breach of contract, tort or otherwise will not exceed the amounts paid by Client for the defective portion of the services that is the subject of the claim, and in no event will Service Provider's or its contractors' aggregate liability for all claims under this Agreement exceed the total fees paid by Client for the specific portion of services in dispute.

5.6 Software Updates & Patch Management

Service Provider accepts no responsibility for problems associated with Client equipment and/or software when patches, hot fixes, service packs, or any other form of vendor software updates are installed on Client systems. Software updates are an integral part of the software development lifecycle and are necessary to the secure operation of systems and networks. It is Client's responsibility to backup all critical data prior to the installation of software upgrades and Client understands and agrees that Service Provider has no responsibility for problems associated with software updates on Client systems. In rare cases, software updates have been known

to cause systems to crash and lose data. There is no way to know in advance how a software update will interact with a Client system prior to the installation, based on Client software and hardware configurations.

5.7 **Software Licenses**

Client understands and agrees that Client is solely responsible for purchasing and maintaining all applicable software licenses not provided by Service Provider. Without valid product keys, Client understands Client may lose functionality of services or access to a product. Service Provider accepts no responsibility for problems associated with Client product keys. Issues with product keys are between Client and the software/hardware vendor(s). If Client's workstation(s) or server(s) fail Microsoft's® software validation, Service Provider is not responsible for the product keys or resolution of the potential loss of functionality. Client is responsible for purchasing valid licenses, regardless of their original purchase source unless provided by Service Provider. Any work performed by Service Provider for Client to resolve issues relating to software licenses will be charged as billable labor to Client.

5.8 **Hardware and Software Upgrade Policy**

It is Service Provider's policy to advise Client that it may be more cost effective to perform a complete system upgrade, rather than do individual hardware or software upgrades. This includes, but is not limited to, operating system upgrades, application upgrades, and hardware upgrades. If equipment is greater than 3 years old, there is a greater likelihood that any hardware or software upgrade may run into unexpected problems, to the point of rendering the equipment unusable in the upgraded state. If an upgrade is performed, Service Provider will take due care do everything possible to avoid complications. However, if the upgrade does encounter unforeseen problems, the additional labor and/or hardware costs will be billed to Client as an additional cost.

5.9 **Unauthorized Access, Malware.**

5.9.1 **Unauthorized Access.** Service Provider is not responsible for any unauthorized access to the data, files, transmissions, communications sent to or from Client or for unauthorized access to Client's computer. Service Provider does not warrant any security system it may employ, either hardware or software, for the purpose of preventing unauthorized access to Client's computer. Any security systems employed by Service Provider maintains only a minimal level of protection. Service Provider is not responsible for damages resulting from the use of any such security system except for gross negligence or willful misconduct. Client understands and agrees that Client is solely responsible for the security of any computer or other device(s) with which Client connect to the services, and any data, programs or information stored on such devices. Client is responsible for taking measures to ensure the security of Client's computer system(s) to prevent unauthorized access to it by others.

5.9.2 **Malware.** Client understands and agrees that Service Provider is not responsible for Malicious Software (MALWARE) that gains access to Client's computers or any damage resulting therefrom. Service Provider will provide and will make all reasonable efforts to maintain up-to-date anti-virus and anti-spyware software on Client's computer, however Service Provider does not guarantee that such software will always prevent infection. Client is responsible for taking measures to prevent infection of Client's computers due to user introduction of same through downloading and/or installing MALWARE whether intentional or unintentional.

6. **Additional Maintenance Services.**

6.1 **Hardware/System Support.** Service Provider shall provide support of all hardware and systems specified as part of this agreement, provided that all Hardware is covered under a currently active Vendor Support Contract; replaceable parts are readily available, and all Software be Genuine, Currently Licensed and Vendor-Supported. Should any hardware or systems fail to meet these provisions, they will be excluded from this Service Agreement. Should 3rd Party Vendor Support Charges be required in order to resolve any issues, these will be passed on to the Client after first receiving the Client's authorization to incur them.

6.2 **Monitoring Services.** Service Provider will provide ongoing monitoring and security services of all agreed-to devices. Service Provider will provide regular reports as well as document critical alerts, scans and event resolutions to Client. Should a problem be discovered during monitoring, Service Provider shall make every attempt to rectify the condition in a timely manner through remote means.

7. **Excluded Services.**

7.1 Service under this Agreement does not include:

- (a) Parts, equipment or software not covered by this agreement, vendor/manufacturer warranty or support.

- (b) The cost of any parts, equipment, or shipping charges of any kind not covered by this agreement.
- (c) The cost of any Software, Licensing, or Software Renewal or Upgrade Fees of any kind not covered by this agreement.
- (d) The cost of any 3rd Party Vendor or Manufacturer Support or Incident Fees of any kind.
- (e) The cost to bring Client's environment up to minimum standards required for Services.
- (f) Service and repair made necessary by the alteration or modification of equipment other than that authorized by Service Provider, including alterations, software installations, installation of APPS, or modifications of equipment made by Client's employees or anyone other than Service Provider.
- (g) Maintenance of Applications software packages, whether acquired from Service Provider or any other source.
- (h) Programming (modification of software code) and program (software) maintenance.
- (i) Training Services of any kind.

8. Theft of Service.

Client may not use any services offered by Service Provider for which Client does not have an active account or for which Client has not paid the appropriate fee and all past fees due and owing to Service Provider. Client understands and agrees that Service Provider may monitor the Service Provider network for any such theft of service, and if such activity is discovered, Service Provider may pursue, in its sole discretion, all available remedies, including, without limitation, charging for the entire period of such use, and/or termination of service to Client.

9. Software License and Equipment Ownership.

Software provided by Service Provider is the property of Service Provider and its suppliers and licensors. Service Provider hereby grants to Client a nonexclusive, nontransferable license to use and to install on Client's computer system, but not to modify or otherwise change in any way, the software for use solely in connection with services. Client's license to use any software provided by Service Provider and its suppliers and licensors is contingent upon Client's compliance with all use and other restrictions and requirements contained in this Agreement. Client may not copy the software (except as necessary to use it in Client's computer as provided herein). Ownership of any such copies shall remain with Service Provider. Upon any termination or expiration of this Agreement or the disconnection of services, this license will terminate and Client agrees to return to Service Provider all copies of any software that was provided to Client or made by Client hereunder and to erase and delete the software from Client's computer systems.

10. Privacy Policy. Commitment to Confidentiality.

10.1 Service Provider wants Client to have confidence in Client's use of the services. This privacy policy is designed to explain Service Provider's commitment to Client's privacy and Service Provider's monitoring activities. Service Provider agrees that as a result of its relationship with Client, it may have access to and come into possession and obtain knowledge of certain proprietary information regarding the business of Client and its methods of operation ("Trade Secrets"). Service Provider covenants and agrees (all of which covenants and agreements shall survive termination of this Contract) not to use for personal gain, disclose or otherwise reveal any of the trade secrets or other confidential information relating to Client's business to any person, partnership, corporation or other entity, except to its employees, agents and other representatives on a need-to-know basis, who shall be informed of the confidential nature of the disclosure and of this Contract, and who shall each agree not to divulge such confidential information and to be bound by this Contract in the same manner as Service Provider is bound. Service Provider may be required by law to disclose Client's personally identifiable information to government entities, without advance notice to Client.

11. Force Majeure.

Service Provider shall be excused from performance hereunder, and shall not be liable for damages or otherwise, if and to the extent that Service Provider is unable to perform due to any act, event, cause or condition that is beyond its reasonable control, including but not limited to accidents, acts of God, acts of any government, failure of third-party communications networks, war, terrorist



activity, industrial or labor disputes, fire, flood, explosion, civil disorder, power failure, equipment failure, acts of civil or military authorities, theft, vandalism, misuse, insurrection, inability to obtain the necessary supplies, and the like. Service Provider will make all reasonable efforts to notify Client of the occurrence of any such event.

12. Independent Contractor.

Nothing contained in this Agreement shall constitute or create or be construed to constitute or create an employer-employee relationship, partnership or joint venture between the parties. In entering into this Agreement and performing hereunder, Service Provider is at all times acting and performing solely as an independent contractor and will hold itself out as being an independent contractor.

13. Assignment.

This Agreement constitutes a personal contract, and no party hereto shall assign or transfer this Agreement or any part hereof without the prior written consent of the other except that Service Provider may assign this Agreement to a successor who acquires substantially all of the assets of Service Provider. Service Provider may also employ, at its own expense, such subcontractors as it may deem necessary to perform the services under this Agreement but Service Provider shall remain responsible under the terms of this Agreement for the Services performed by any subcontractors. This Agreement shall be binding on, and shall inure to the benefit of, the parties and their respective permitted successors and assigns.

14. Non-Solicitation.

During the term of this Agreement and for two (2) years thereafter, the Client shall not encourage or solicit any current employee of Provider to leave the Provider's employ for any reason. In the event that client hires any employee (or any former employee of Provider who worked for Provider during the period of twelve months preceding the hire) prior to the expiration of said two (2) year period, Client agrees to pay Provider a finder's fee equal to one hundred and fifty percent (150%) of Provider's employee's gross annual salary.

15. Governing Law.

This Agreement shall be governed by the laws of the State where Service Provider is located, and the parties agree to submit to the jurisdiction and venue of any court of general jurisdiction in the County where the main office of Service Provider is located.

16. Arbitration.

The parties agree that any dispute or disagreement between the parties relating to this Agreement or any breach of this Agreement (including any claim that all or some of this Agreement is invalid, illegal or otherwise voidable or void) shall be submitted to and determined in binding arbitration under the Rules for Commercial Arbitration of the American Arbitration Association. The parties agree that punitive damages shall not be available as a remedy for any breach of this or any dispute relating to this Agreement. This arbitration provision shall survive the expiration or earlier termination of this Agreement. The party seeking arbitration shall institute the proceeding in the county in which the local office of Service Provider is located and such arbitration shall be held at such venue. The arbitration shall be governed by the Federal Arbitration Act, 9 U.S.C. 1 et seq. The parties waive any right to trial by Jury. The arbitration shall be conducted by a single neutral arbitrator. The arbitrator shall be appointed by the American Arbitration Association under the Rules for Commercial Arbitration of the American Arbitration Association. The decision rendered by the arbitrator shall be final and binding upon the parties and may be entered as a judgment in, and enforced by, any court of competent jurisdiction. The parties agree that a demand for arbitration or action of any kind or nature arising out of this Agreement or out of any use of services by Client must be brought within one year after the date on which the cause of action first arises.

17. Miscellaneous.

This Agreement constitutes the entire Agreement between Client and Service Provider for monitoring/maintenance/service of all equipment. Its terms and conditions shall supersede any variance with the terms and conditions of any order submitted by Client. This Agreement may not be otherwise altered, amended or modified except by written instrument signed by the parties hereto, except for adjustments and exceptions described in this Agreement. If any provision of this Agreement is invalid or contravenes the law of the State where the Service Provider is located, such provision shall be deemed not to be a part of this Agreement and shall not affect the validity or enforceability of its remaining provisions.

18. Acceptance of Service Agreement.

This Service Agreement covers only those services listed on the ITMidtown.com website.