



1. Terms and Conditions

2. Definitions

- In the context of this Agreement, the following terms shall have the meanings specified below:
- a. **"MSP" (Managed Service Provider):** Refers to [Your Company Name], its employees, contractors, and affiliates who provide managed IT services, consulting, and support as outlined in this Agreement.
 - b. **"Client":** Any business entity or individual who enters into this Agreement with the MSP to receive services as defined herein.
 - c. **"Services":** All activities undertaken by the MSP under this Agreement, including but not limited to network monitoring and support, system maintenance, business consulting, project management, hardware procurement and installation, and SaaS product reselling and support.
 - d. **"SaaS Products":** Software as a Service products provided or resold by the MSP to the Client, involving third-party software solutions hosted externally and accessed remotely by the Client.
 - e. **"Confidential Information":** Proprietary information exchanged between the parties during the term of this Agreement, including but not limited to customer lists, business plans, financial data, technical and non-technical data, product plans, and marketing strategies.
 - f. **"Third-Party Providers":** External entities or vendors whose products or services are resold or recommended by the MSP to the Client under this Agreement.
 - g. **"Data Backup and Recovery":** The process and methodologies employed by the MSP to back up the Client's data and restore it in the event of loss or corruption.
 - h. **"SLAs (Service Level Agreements)":** Commitments made by the MSP regarding the response time and resolution time for service requests and incidents.
 - i. **"Force Majeure":** Unforeseeable circumstances that prevent someone from fulfilling a contract, including natural disasters, war, or other acts of God.
3. **SaaS Products and Third-Party Service Terms:** This Agreement outlines the Managed Services and solutions provided by the MSP, tailored to support a wide array of IT-related needs for businesses in various stages and sectors..
- a. Our comprehensive service offerings include but are not limited to:
 - i. Network Monitoring and Support Services: Ongoing monitoring and support for your IT network to ensure optimal functionality and security.
 - ii. System Maintenance: Regularly scheduled updates and maintenance to maintain system efficiency and reliability.
 - iii. Business Consulting: Expert consulting services for businesses at any stage of development, offering strategic guidance on IT infrastructure, best practices, and technological advancements to support business growth and operational efficiency.
 - iv. Project Management: End-to-end management of IT projects, from concept through to delivery, ensuring objectives are met on time and within budget.
 - v. Hardware Procurement: Assistance with selecting and purchasing the appropriate hardware solutions for your business needs, utilizing our extensive network of suppliers to secure the best pricing and value.
 - vi. Hardware Installation: Professional installation services for a wide range of IT hardware, including but not limited to networking devices, audio/video systems, alarms, and comprehensive IT infrastructure setups, aimed at ensuring smooth and integrated business operations.
 - vii. SaaS Product Reselling and Support: Offering a broad catalog of Software as a Service (SaaS) products, including expert support to ensure these solutions are effectively integrated into your business operations. Our partnership with leading SaaS providers ensures access to cutting-edge technology and software solutions.
 - b. Our services aim to enhance operational efficiency, bolster security, and establish a reliable IT infrastructure that underpins the success of our clients' businesses. We pride ourselves on our ability to adapt to the unique needs of each client, providing a level of



service that extends well beyond traditional IT support to encompass specialized areas typically managed by in-house IT departments.

4. **Confidentiality and Data Protection:** During the term of this Agreement, and thereafter in perpetuity, neither party shall, without the prior written consent of the other, disclose to anyone any Confidential Information of the other. 'Confidential Information' for the purposes of this Agreement shall include each party's proprietary and confidential information such as, but not limited to, customer lists, business plans, marketing plans, financial information, designs, drawings, specifications, models, software, source codes, and object codes. Confidential Information shall not include any information that is made publicly available or becomes publicly available through no act of MSP or Client or is rightfully received by either party from a third party. In addition to maintaining the confidentiality of information, the MSP is committed to protecting and securing sensitive and personal data in compliance with applicable data protection laws, including GDPR and HIPAA. The MSP will implement and maintain appropriate security measures to protect such data against unauthorized access, disclosure, alteration, or destruction. The MSP will promptly notify the Client in the event of any data breach that affects the Client's data.
5. **SaaS and Third-Party Applications:**
 - a. **Third-Party Terms and Conditions:** Clients choosing to purchase or subscribe to SaaS products through the MSP agree to abide by the terms and conditions set forth by the third-party providers of these products. These terms govern the use, limitations, and service commitments associated with each SaaS product. It is the client's responsibility to review and understand these third-party terms prior to purchase or subscription, as they constitute a separate agreement between the client and the third-party provider.
 - b. **Liability and Support:** While the MSP commits to providing initial support for the integration and use of SaaS products, ongoing support and liability for the product's performance, data security, and compliance with regulatory requirements are governed by the third-party provider's terms. The MSP will assist in facilitating communication with the provider for complex support issues or claims related to the product's performance.
 - c. **Updates and Changes:** Clients acknowledge that SaaS products are subject to updates and changes at the discretion of the third-party provider. These changes may impact product pricing, functionality, system requirements, or integration capabilities. The MSP will make reasonable efforts to inform clients of significant updates or changes that could affect their use of the product.
6. **Data Backup and Recovery Policies:** MSP will conduct regular data backups and maintain a data recovery procedure as part of our commitment to data protection. The frequency of backups, data retention policies, and restoration processes are detailed in our Data Backup and Recovery Policy, accessible on our policies page.
 - a. **Client's Role in Data Backup and Recovery:** "While the MSP is responsible for conducting regular data backups and maintaining a robust data recovery procedure, the client plays a crucial role in ensuring the effectiveness of these processes. To facilitate efficient and comprehensive data backups, clients are required to:
 - i. **Data Identification:** Clearly identify and communicate to the MSP which data and systems are critical and require backup. This includes specifying any priority data that needs more frequent or specialized backup solutions.
 - ii. **Access Provision:** Provide the MSP with necessary access to systems, data, and infrastructure to perform backups. This includes any required credentials, VPN access, or physical access to servers and storage devices.
 - iii. **Data Storage Practices:** Adhere to best practices in data storage and organization as recommended by the MSP. This may involve segregating critical data, minimizing unnecessary duplication, and maintaining a clean directory structure to facilitate more efficient backups.
 - iv. **Regular Updates:** Inform the MSP of any significant changes to data volumes, types, or storage locations. Major updates to IT infrastructure or the introduction of new systems that affect data storage should be communicated promptly to ensure backup processes remain aligned with current needs.



- v. **Compliance and Legal Requirements:** Ensure that data backup practices comply with applicable legal, regulatory, and compliance requirements relevant to the client's industry. This may involve specific data retention periods, encryption standards, or geographic storage considerations.
 - vi. The client acknowledges that adherence to these responsibilities supports the MSP in providing effective data backup and recovery services. Failure to fulfill these roles may impact the completeness and reliability of backups and, consequently, the ability to recover data after an incident.
- 7. **Service Level Agreements (SLAs) and Response Times:** The MSP commits to specific response times for service requests categorized by urgency, as detailed in our Managed Services Response Times document. This document outlines our working hours, response times for various levels of service issues, and conditions for on-site support. This SLA schedule is an integral part of our commitment to maintaining high-quality service standards and is accessible on our policies page at <https://www.beardmangroup.com/policies>. The Client acknowledges that response times may be affected by factors outside the MSP's control, such as weather, traffic conditions, or Force Majeure events. For service requests outside the state of Oregon, onsite support may be provided by the MSP team or a third-party partner, with scheduling and costs agreed upon in advance by the Client.
- 8. **Client Responsibilities:** The Client is responsible for providing MSP with access to facilities, systems, and information necessary for service delivery. Clients must ensure that their systems meet specified minimum requirements and must cooperate with MSP to resolve service-related issues promptly.
- 9. **Non-Solicitation Agreement:** Client and MSP both agree that they will not solicit for hire, and it will not hire or otherwise engage any of each other's employees or contractors, either directly or indirectly during any period services are provided under this agreement or in the 24-month period immediately following termination of this agreement.
- 10. **Force Majeure and Service Adjustments:** Neither party shall be liable for any failure of or delay in the performance of its obligations under this Agreement to the extent such failure or delay is due to circumstances beyond its reasonable control, including, without limitation, acts of God, acts of a public enemy, pandemics, fires, floods, wars, civil disturbances, sabotage, accidents, insurrections, terrorism, blockades, embargoes, storms, explosions, labor disputes, acts of any governmental body, or inability to obtain labor, materials, equipment, or transportation. Each party shall use reasonable efforts to minimize the duration and consequences of any failure of or delay in performance resulting from a Force Majeure event. Furthermore, if the Client's work or the scope of services is substantially altered due to a Force Majeure event or other significant changes in the Client's needs or technology landscape, the MSP will collaborate with the Client to evaluate and agree upon necessary adjustments to the services or fees to reflect the changed circumstances.
- 11. **Requesting Changes to Service Scope:** Any requests for changes to the scope of services must be submitted in writing. MSP will assess and respond to change requests, detailing any adjustments to services, pricing, or SLAs. Approval from both parties is required for changes to take effect.
- 12. **Limitation of Liability:** MSP shall not be liable to Client or any of its affiliates for any damages, whether incidental, direct, indirect, special, consequential, or punitive damages arising out of service or equipment provided hereunder, including but not limited to loss of profits or revenue, loss of use of equipment, lost data, or loss to person or property, costs of substitute equipment or other costs even if MSP has been advised of the possibility of such damages. Regardless of the form of action, MSP's cumulative liability shall be only for loss or damage directly attributable to negligence of a MSP employee or contractor, for the cost of restoring the network to its condition prior to the negligence, but not to exceed thirty thousand Dollars. If a collection action is initiated by either party or if MSP has to defend any action by Client, MSP is entitled to its reasonable attorney fees and expenses to be paid by Client.
- 13. **Indemnification:** Each party (the 'Indemnifying Party') agrees to indemnify, defend, and hold harmless the other party and its directors, officers, employees, and agents (the 'Indemnified



Party') from and against any claims, damages, losses, liabilities, costs, and expenses (including reasonable attorneys' fees) arising out of or related to any breach of this Agreement or negligence by the Indemnifying Party. This indemnification obligation does not apply to losses or damages caused by the Indemnified Party's own negligence or willful misconduct.

14. **Warranty Disclaimer for Services and Products:** Implied Warranties are expressly disclaimed by MSP. An MSP contractor is a technician or contractor who operates on behalf of MSP, is paid by MSP, and has access to MSP's service ticket management system for making time entries and charges for their work. MSP is not responsible for the acts of other technicians, contractors or consultants providing service to Client not under its control and direction. If Client purchases equipment from MSP, it understands and agrees that it will look to the manufacturer for all remedies and warranties and agrees that MSP is not responsible for functioning of the equipment and has not made any express or implied warranties. MSP shall not be liable for any claim or demand against the Client by any third party on account of errors or omissions performed hereunder.
15. **Remote and Home Network Services:** Remote access to personal computers and/or networks. If or when Client transitions to home or alternative networks, MSP will make best effort to make connections and serviceability. However, home, or alternative networks may not have adequate internet connectivity and equipment to effectively work. MSP is not responsible for inadequacies in those home or alternative networks or to secure those connections. Home equipment will not be as secure and may not have MSP's software and security features. MSP is not responsible for the security of the home or alternative networks. Work on a home or alternative network unless otherwise included is outside the scope of this Agreement and MSP may charge the current hourly rate for work on home or alternative networks. MSP will charge for additional software installed at home or alternative networks as needed.
16. **Force Majeure and Technician Safety:** In the event of a Force Majeure, MSP is not required to have technicians work during periods or at places where their safety or health could be in jeopardy and in any event will not require technicians to go on site.
17. **Client Insurance Obligations:** Client agrees to carry liability insurance and property insurance covering any damage to its network as well as to any clients of the Client adversely affected by Client's network functioning or transmissions from its network.
18. **MSP Insurance Coverage:** The MSP maintains general liability, professional liability (errors and omissions), and cyber liability insurance to protect against various risks associated with the provision of managed services. Upon request, the MSP will provide the Client with certificates of insurance demonstrating compliance with these insurance requirements.
19. **Amendments to Terms and Conditions:** The MSP reserves the right to update, modify, or add to the terms, conditions, and provisions of this Agreement at any time. Such updates will be effective 30 days after providing clients with advance written notice via email. These notifications will detail the specific changes being made to the document. Clients are encouraged to review all updates but will not have the option to negotiate or object to these changes. It is understood that continued use of the MSP's services after the effective date of any changes constitutes acceptance of the updated Agreement. All terms, conditions, and provisions of this Agreement, as updated, will apply throughout the duration of the service and any renewal terms.
20. **Amendment Acceptance and Procedure:** Any amendments or updates made to this Agreement as described above will be binding upon the clients without requiring additional written approval from the clients. The MSP commits to maintaining the current version of the Terms and Conditions accessible on our website. Clients are responsible for reviewing the document periodically to stay informed of any changes. The Amendment Procedure, as it pertains to client-initiated changes, requires any such proposals to be in writing, but acceptance and incorporation of such amendments into the Agreement are at the sole discretion of the MSP.
21. **Payment Terms and Conditions**
 - a. **Late Payment Consequences:** If payment is not received by the first of the month for that month of service MSP reserves the right to put a hold on rendering on-site and



remote services until monthly fee has been paid, provided MSP gives a five (5) business day notice of late payment. Late fees apply, see Collection Procedures and Costs.

- b. **Tax Responsibilities:** It is understood that any Federal, State or Local Taxes applicable shall be added to each invoice for services or materials provided by MSP. Client shall pay any such taxes unless a valid exemption certificate is furnished to MSP for the jurisdiction of use, except in cases when MSP procures or sources the incorrect equipment and / or software and / or support services any incorrect items or software shall be returned to MSP.
 - c. **Collection Procedures and Costs:** If Client fails to make payment for any services or items purchased, and such failure continues for fifteen days, interest shall accrue on any amount due at the rate of 5% per annum until paid. In the event collection processes are instituted to collect any amounts due from Client, Client shall pay the costs of collection plus reasonable attorney fees.
22. **Assignment and Succession:** This Agreement is fully assignable by MSP. Immediately upon assignment the assignee's name, address and contact information shall be provided to the other party. This Agreement shall be fully binding and enforceable as against all permitted assignees and successors in interest.
23. **Termination, Renewal, and Flexible Continuation Options:**
- a. **Termination by Client:** Clients may terminate this Agreement without cause after the first 12 months by providing a written Notice of Termination at least 30 days prior to the contract's anniversary date. Upon termination, the Client is required to pay:
 - i. A Termination Fee equivalent to the remaining payments for any software requiring a term commitment, like Microsoft 365.
 - ii. All past due and currently due amounts, including late fees and costs. Clients can withhold payment for unresolved issues related to incomplete tasks, work orders, or faulty equipment if the MSP was notified within 10 days of the issue's first occurrence, with payment withheld until resolution.
 - b. **Termination by MSP:** The MSP may terminate this Agreement under the following conditions:
 - i. Failure by the Client to cure a default within 10 business days of receiving written notice from the MSP.
 - ii. Bankruptcy filings by the Client or against the Client that are not dismissed within 60 days.
 - iii. Failure by the Client to comply with its obligations under this Agreement after receiving written notice from the MSP and a failure to correct the issue.
 - iv. Upon termination or non-renewal, the Client is responsible for arranging the transfer of backups, paying associated costs. If not transferred within 30 days, backups will be terminated.
 - c. **Exit Strategy and Data Handover:** Upon termination of this Agreement, MSP will provide support in handing over services and data to the Client or a new provider. The process for data transfer, including responsibilities and costs, is detailed in our Exit Strategy and Data Handover Policy.
 - d. **Auto-Renewal and Month-to-Month Continuation:**
 - i. This Agreement automatically renews for successive one-year terms unless either party provides written notice of non-renewal at least 30 days prior to the end of the current term.
 - ii. If the Client wishes to continue services without committing to a full year, the services will proceed on a month-to-month basis at a 20% higher monthly fee than the agreed-upon rate in the annual contract. This arrangement provides flexibility to the Client while covering the MSP's administrative costs for non-annual commitments.
 - e. **General Termination Provisions:**
 - i. In the event of termination, the Client must allow MSP access to remove any MSP-owned software or tools.
 - ii. The Client is responsible for full payment for services rendered and products ordered up to the termination date.



- iii. Both parties agree to cooperate in the transfer of data and network information to a new service provider if needed. The Client covers the cost of transfer.
 - iv. Upon request, the MSP can provide up to 60 days of support post-termination, provided all due payments are made in advance for this extended support period.
24. **Resolving Agreement Conflicts:** In the event of a conflict between this Agreement and any other agreements between the MSP and the Client, the terms of this Agreement shall prevail unless otherwise stated in a subsequent agreement.
25. **Notice Delivery and Acknowledgment:** All notices under this Agreement must be sent via email or certified mail to the addresses specified herein. Notices are deemed received when sent via email or three days after mailing.
26. **Comprehensive Agreement Acknowledgment:** This Agreement constitutes the entire agreement between the parties regarding its subject matter, superseding all prior agreements or understandings, whether written or oral.
27. **Dispute Resolution Process:** All claims and disputes arising under or relating to this Agreement are to be settled by binding arbitration unless they are of an amount which can be handled within the small claims court of the jurisdiction of the MSP. The parties agree they waive the right to bring a lawsuit based on such claims or disputes other than in small claims court. Before commencing any arbitration proceedings the aggrieved party must first present the claim or dispute in writing to the other party. The parties shall have 30 days to resolve the claim or dispute. If not resolved, then the aggrieved party may commence arbitration proceedings. The arbitration shall be conducted by Arbitration Resolution Services, Inc. (ARS) or other mutually agreed upon dispute resolution service and the parties shall be bound by any and all rules of the American Arbitration Associations United States Commercial Resolution Dispute Resolution Procedures for Consumer–Related Disputes. Any decision or award as a result of any such arbitration proceeding shall be in writing and shall provide an explanation for all decisions. Arbitration shall be conducted by an arbitrator experienced in Information Technology services and experience required for arbitrator and shall include a written record of the arbitration hearing. An award of arbitration may be converted to judgment in a Court of competent jurisdiction. The location of arbitration shall be in the home city, county of MSP. The fees and expenses of the arbitrator and proceedings shall be paid by the losing party.
28. **Governing Law and Jurisdiction:** This Agreement and any amendments and its validity, construction and performance shall be governed by the laws of Oregon. Exclusive jurisdiction and venue for all matters relating to this Agreement shall be in the county and state of the MSP, and the parties agree and consent to such jurisdiction and venue.
29. **Third-Party Rights Disclaimer:** This Agreement does not create any rights in any third parties.
30. **Software and Hardware Modifications Restriction:** Client shall not modify, create any derivative work of, or incorporate any other software into the computer software programs or any portion thereof with the exception of allowing automatic updates to commence or confirming the installation of an automatically scheduled update or fully supported software for which client has purchased technical support and has scheduled such installation with MSP. Programs must be installed by an MSP technician or software technical support with an MSP technician assisting. MSP shall not be responsible for maintenance of or for repair of errors or malfunctions occasioned by any installation, modification or enhancement to the Programs made by Client or by anyone other than MSP unless MSP has agreed. Corrections of unauthorized modifications shall be at the rate of \$250 per hour and may be grounds for immediate termination by MSP of this Managed Services Agreement. Client agrees to prohibit others, including its principals, officers, and employees from installing hardware, working on the technical aspects of the operating systems on the Servers and PC's or to give anyone Domain Administrator access. Only MSP will make administrative or technical changes to the servers.