



Managed Services Agreement



Management Edition

Welcome to ITGuys Managed Services

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WELCOME

We're excited you're here

PROJE We are genuinely thrilled that we have this opportunity to partner together in business.

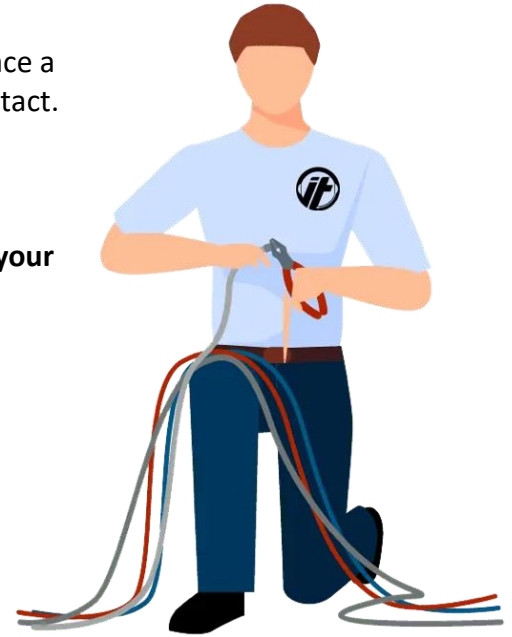
It is our commitment to provide the best possible service to you as your IT support provider, and we are dedicated to making our working partnership a success.

We put tremendous emphasis on providing reliable solutions and place a prominent level of importance on individual communication and contact.

This pack is designed to provide an overview of:

- **What has been discussed to date and our understanding of your IT needs.**
- **Hours of operation and how to request help**
- **Privacy policy**
- **Confidentiality Agreement**
- **The best ways to contact us during and after office hours.**
- **How to be a hero**
- **Terms of Service**

We look forward to working with you and are excited to see how we can help you and your team's IT needs, maintenance, repair and provide technology recommendations moving forward!



1. About ITGuys

Mission:

At ITGuys, we create IT solutions that fit your team, not the other way around.

Our dedicated team ensures your IT infrastructure is customized to meet the unique needs of your business. Whether it's managed services, data security, or anything in between, we are committed to providing solutions that align with your goals and streamline your operations.

What We Do:

ITGuys provides a broad range of IT services including, but not limited to:

- Managed IT Services
- Data Recovery & Backup Solutions
- Remote & Onsite Support
- Security and Monitoring
- Data Destruction
- Software & Hardware Support
- Website Support
- E-waste Recycling & EOL Planning
- Procurement & Asset Management
- Information Security
- Training
- Virtual CTO Services & Consulting
- Email Migration
- Monthly Projects



Helping businesses reach their potential

Our Vision is to help business owners to focus on what they love. Our Strengths are:

- Commitment to quality
- Dedication to continuous improvement
- Focus on customer goals

What we do best – Assist businesses with on-site or remote IT support, computer repair, maintenance, IT consulting, internet management, email migrations, networking, computer maintenance, virus protection, security updates, VOIP support, software systems integration, and information security.

Who we help – Medium to large businesses

How we help – Personalized, tailor-made service to reach specific goals

Our Specialties – IT Support, Information Security Services, & Intrusion Detection Management

2. Our Services

Managed IT Services

At ITGuys, we provide comprehensive Managed IT Services designed to keep your business running smoothly and securely. Our team handles everything from routine maintenance and monitoring to proactive issue resolution, ensuring minimal downtime and optimal performance. With 24/7 maintenance and customized solutions tailored to your needs, we help you focus on what matters most—growing your business.



Data Recovery & Backup Solutions

Safeguard your critical data with ITGuys' reliable Data Recovery & Backup Solutions. Our team ensures that your data is regularly backed up and securely stored, reducing the risk of data loss due to system failures, cyber-attacks, or human error. In case disaster strikes, we provide rapid data recovery services to minimize downtime and ensure business continuity.

Remote & Onsite Support

Whether you need immediate assistance from the comfort of your office or in-person support at your location, ITGuys provides both **Remote & Onsite Support** to solve any IT challenges you face. Our expert technicians are just a call away, providing quick, effective solutions to keep your business running without disruption. If you would like to book an appointment, please visit your support portal to do so.

Security & Monitoring

We conduct regular checks on critical systems such as backups, antivirus software, network security, warranty information, and domain expiration to make sure everything is running smoothly. Additionally, our Breach Watch service notifies us if any of the passwords you've shared with us have been compromised or exposed online.

Data Destruction

Protect your sensitive business information with ITGuys' **Data Destruction** services. We provide secure, certified data wiping and physical destruction of outdated or unneeded devices, ensuring that your confidential information is completely destroyed and cannot be recovered or misused.

Software & Hardware Support

ITGuys provides comprehensive **Software & Hardware Support** to keep your systems running at their best. From troubleshooting software issues and ensuring compatibility to repairing or replacing faulty hardware, our team ensures that your IT infrastructure stays functional and efficient. We're here to help with everything from OS updates to hardware repairs.

Website Support

Keep your website running smoothly and securely with ITGuys' **Website Support** services. We provide a full range of website management, troubleshooting, security monitoring, and updates to ensure your site remains up-to-date, user-friendly, and protected against cyber threats.

E-waste Recycling & EOL Planning

ITGuys is committed to responsible **E-waste Recycling & End-of-Life (EOL) Planning**. We help businesses recycle outdated technology in an eco-friendly way while ensuring compliance with environmental regulations. Our team also works with you to develop a sustainable IT lifecycle strategy, reducing e-waste and maximizing the value of your assets.

Procurement & Asset Management

Streamline your IT purchasing and lifecycle management with ITGuys' **Procurement & Asset Management** services. From selecting the right hardware and software to managing inventory and tracking assets, we partner with manufacturers to get the best prices on equipment so that we can pass those savings on to you!

Information Security

Protect your business from evolving cyber threats with ITGuys' **Information Security** services. Our team implements a multi-layered security strategy, including firewalls, encryption, threat monitoring, and vulnerability assessments, to safeguard your sensitive data, networks, and systems from potential breaches and attacks.

Training

Empower your team with the skills they need to navigate modern IT tools and systems effectively. ITGuys provides tailored **Training** sessions for your staff, covering everything from software usage to security best practices. Well-trained employees can reduce the risk of mistakes and boost productivity, all while improving your business' overall tech proficiency.

Virtual CTO Services & Consulting

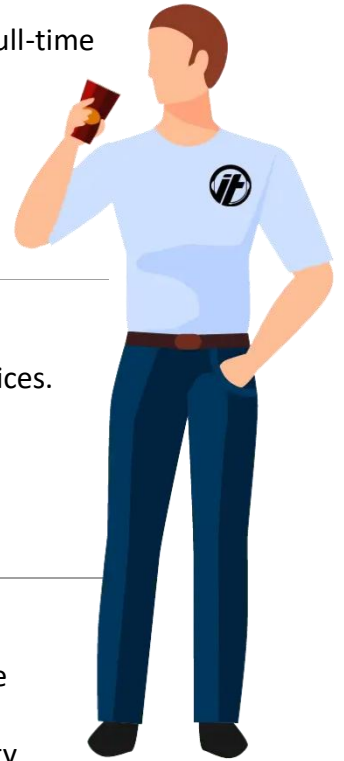
Leverage the expertise of a seasoned technology leader without the cost of a full-time executive. ITGuys' **Virtual CTO Services & Consulting** provide strategic IT guidance, project management, and executive-level decision-making support, helping you align your technology with business goals, optimize operations, and drive growth.

Email Migration

Make email transitions seamless and secure with ITGuys' **Email Migration** services. Whether you're moving from one platform to another or upgrading to a more efficient system, we ensure that your emails, contacts, and calendars migrate smoothly, with minimal disruption to your day-to-day operations.

Monthly Projects

Stay ahead of the technology curve with ITGuys' **Monthly Projects** services. We provide ongoing support for your business' technology needs, from system upgrades and software implementations to network improvements and security enhancements. Our team works with you to plan, execute, and manage monthly IT initiatives that keep your business optimized and ready for the future.



3. How We Work

Account Management

For all account-related inquiries, please reach out to accounts@itguysteam.com. It's best to email this address for quick and efficient responses.

Notifying Us of Changes

Notifying us of any changes, such as adding new devices or updating passwords, is crucial for maintaining the security and efficiency of your systems. If devices are not properly configured, they could pose risks to your entire network. Keeping us informed helps us maintain a secure environment.

Special Projects

If you have a large change or a special project coming up, such as a network upgrade or software implementation, please work with your dedicated technician to plan out the project. We'll help you outline the steps, manage the timeline, and ensure the project runs smoothly.

Who you'll be working with

The dedicated technician that will be collaborating with you is NOAH BARTLETT

The following responsibilities are assigned to your technician:

- Catalogue your network infrastructure
- Record relevant information for users and devices
- Optimize and update computers and antiviruses as requested
- Make IT recommendations based on your business needs
- Support your computers remotely and on-site as requested
- Maintain the hardware health of your systems
- Repair computers and other IT equipment as requested
- Perform project-based services as requested



4. Support & Emergency Help

How to Get Support

You can reach us for support via:

- **Email:** support@itguysteam.com
- **Phone:** 303-578-6256
- **Support Portal:** PRJ.ITGUYTEAM.COM

Emergency Support

In case of an urgent issue, please reach out directly to your dedicated technician. Emergency support should be used for mission-critical systems only.

- **Response Time:** We guarantee a response within 1 hour for emergencies. Non-emergency appointments may be delayed to prioritize urgent requests.
- **After-Hours Support:** After-hours support is available for urgent issues. For all other inquiries, our regular support hours are **9 AM to 5 PM MST, Monday to Friday**.



5. Payment Terms

Invoicing:

We invoice monthly for services. For annual payments, clients enjoy a 10% discount on support.

- Unlimited Remote services are covered under **RemoteSupport**.
- Unlimited Onsite and remote services are covered under **SmartSupport**.
- Unlimited Remote, onsite, and web services are covered under **ProSupport**.

The easy way to pay

All our rates are available online at mynewitguys.com/rates and are subject to change over time.

With your support agreement, invoices are generated monthly with your support device asset list attached.

INITIAL SETUP FEE

There is a one-time initial setup fee of \$99.00 Per computer that is good for the life of the agreement. New computers that are added to your support pool or replace existing computers in your support pool are also subject to these fees.

EQUIPMENT COSTS

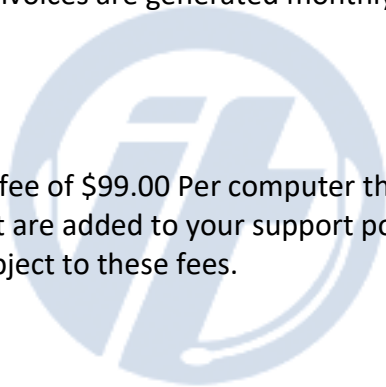
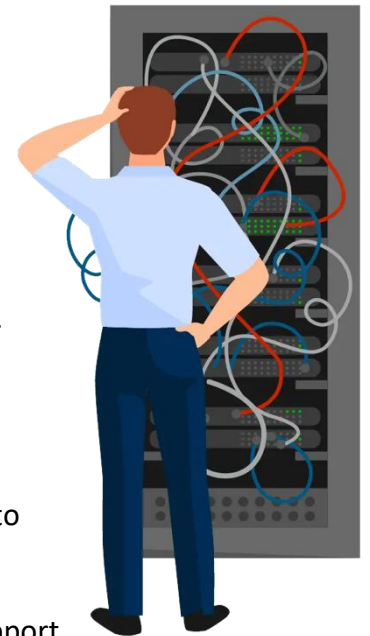
From time to time, IT equipment may become unstable and will need to be replaced. As part of our agreement, we request automatic approval to make purchases on your behalf of no more than \$100 without prior approval per billing period.

NOTE: This is a request, not a requirement. This allows us to provide the fastest solutions without interrupting your daily workflow.

INVOICES

To streamline payments, your payment billing cycle is typically monthly, and payment is automatically debited from the credit card on file during the first week of each month.

If there is a dispute on your invoice between the time the invoice is issued and payment is received, we'll await receiving payment until disputes are resolved to your satisfaction. In the unlikely event of a late payment, there is a 1.5% late fee per month or 18% per calendar year.



6. Support Portal & Troubleshooting

Support Portal:

All supported devices are tagged with an asset label, and corresponding labels are applied to power cords, network printers, and network equipment. This helps our team quickly identify devices and systems during troubleshooting.

EXAMPLE:



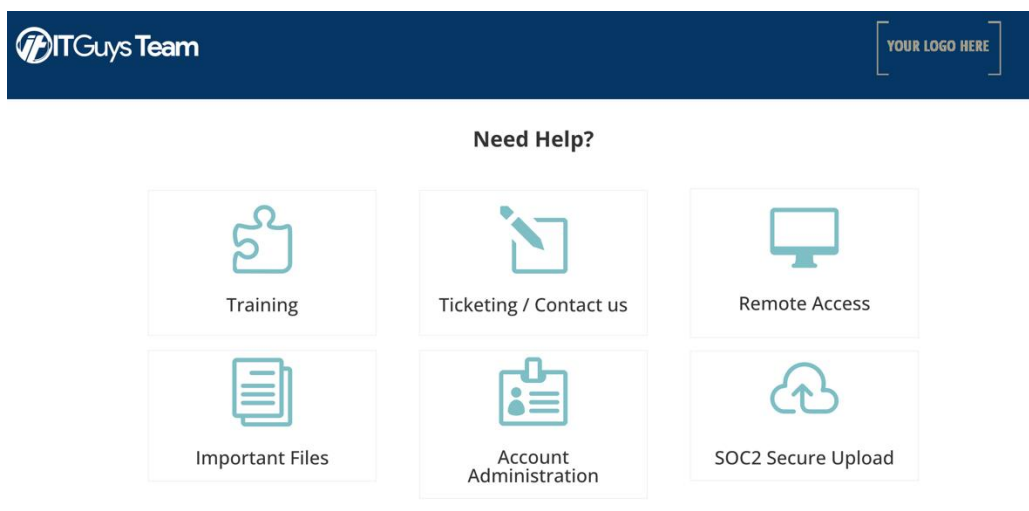
- **Trouble Tickets:** Can be submitted via the support portal or by emailing support@itguysteam.com.
- **Training Videos:** Available in the portal and can be customized upon request to suit your team's needs.

Where your team can submit tickets

The support portal can be found at

PRJ.ITGUYSTEAM.COM

Here, users can request help by filling out the appropriate fields and clicking submit. Most requests are resolved within the same business day if the requests come in before noon. Same day on-site support is also available under that same guideline.



7. Contact Points

For any questions or assistance, you can reach us through the following contact points:

- **Support Requests:** support@itguysteam.com
- **Emergency Support:** Contact Noah Bartlett
- **Billing Inquiries:** accounts@itguysteam.com
- **Main Phone:** 303.578.6256
- **Support Portal:** PRJ.ITGUYTEAM.COM

All emails are responded to within 24 hours M-F 9-5

Next Steps

To get started, please familiarize yourself with this packet and feel free to reach out to us with any questions. We're excited to work with you and ensure your systems are secure and efficient.

HOW TO REQUEST HELP

What you can expect by working with us

We will return all calls and email inquiries within 2 hours during hours of operation (expecting reasonable use of these communication channels.) Preferred communication is via email, ticket submission, remote appointment, or phone.

Official business hours are from 9 am to 5 pm, Monday through Friday, excluding holidays; however, we will make all attempts to be available outside of these hours when given enough lead in time.

Emergency services are available at all times. You will be given your dedicated support technician's cell phone number to be used in the event of emergencies only.

HOLIDAYS

We observe all public holidays and will be closed during them noted in your agreement. Your dedicated support professional will always be available by phone or email should an emergency issue arise.

CONTINUAL IMPROVEMENT

We value your feedback and act on all feedback that our clients provide to us. Please feel free to email any questions or concerns to info@itguysteam.com

8. SMART-MONITORS

The smarter way to support

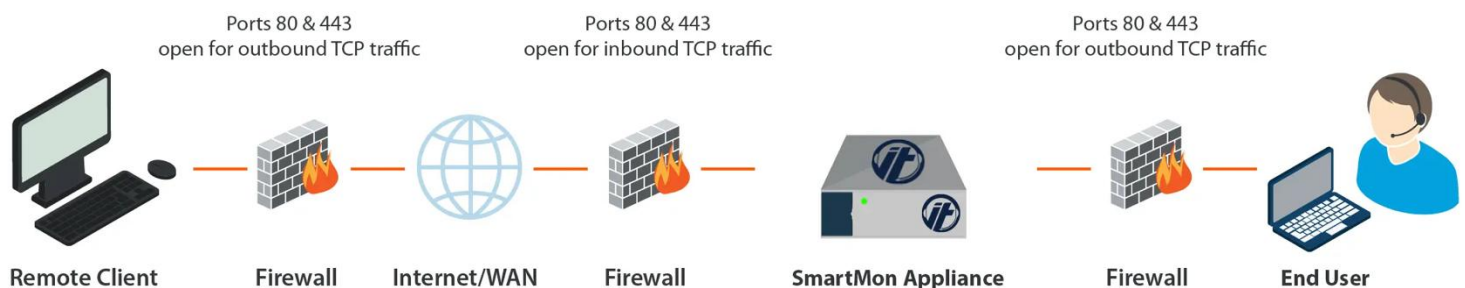
Smart Monitors are devices designed in-house at ITGuys. They're small devices we add to your network (where applicable) to both monitor intrusion activity over time and make updates and modifications to the network without interrupting your team's daily workflow.

Smart-monitors are connected directly to your modem to allow us to better perform maintenance, upgrades, and ensure the stability of your network without interrupting your workday. The remote client we utilize to access this machine is the same one that we use to support your team, AnyDesk and Atera. AnyDesk and Atera software is fully HIPAA, HITECH and SOC2 certified.

Part of our Managed support service is that we perform regular maintenance on your IT infrastructure when needed. Sometimes this is due to new updates being released, other times it's in response to new threats. We provide updates and patches to your firewalls and antivirus, as necessary. Due to recent security concerns from new forms of ransomware viruses, waiting to perform standard updates and firmware is no longer enough to ensure protection. Critical updates are needed as soon as possible for security concerns and compliance reasons. Network stability is a primary concern.



TYPICAL NETWORK SETUP



Smart monitors **do not** monitor individual user activity or retain any specific data from computers. These provide a general overview that allows us to analyze trends in usage over time.

NOTE: This program is not mandatory. You are welcome to opt out of the smart-monitor program at any time.

What are we actually monitoring?

Network stability and external threats. With these monitors, we can tell when your network goes down and makes security changes to the modem/router, as necessary. We have no interest in monitoring user activity. All terms of service still apply.

Will I be charged for this?

No, smart monitor service is part of managed support at no additional costs. They are removed at the end of a support agreement.

Can I get a copy of the security audit logs?

Certainly. A copy of the security logs is available at any time upon request. Old logs are purged after 365 days.



9. WHAT WE'LL NEED FROM YOU

Your information

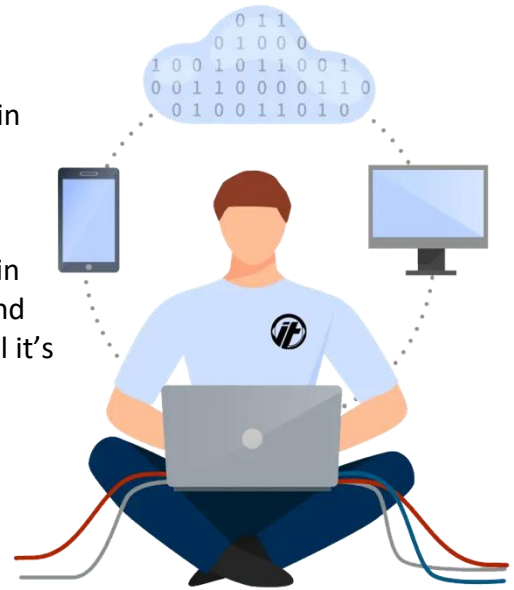
To provide the fastest support possible, we would need a list of admin passwords and account information to help resolve issues without interrupting your workday.

NOTE: This is a request, not a requirement. All information is stored in a SOC2 certified password vault from Keeper and destroyed at the end of the agreement. If you would prefer to retain that information until it's needed, that is perfectly fine too.

We'd like to request that you fill out the following form at:

mynewitguys.com/client-intake/

 mynewitguys.com/client-intake/



Start Your Journey

(If you've already filled this out, then you're in good shape)

10. GUARANTEE

Our promise

CONFIDENTIAL SERVICE

We understand that you work with personal information and have a duty of care to protect that. We in turn will protect your business and the information you share with us. (See attachment 2 for details)

ON-TIME COMPLETION

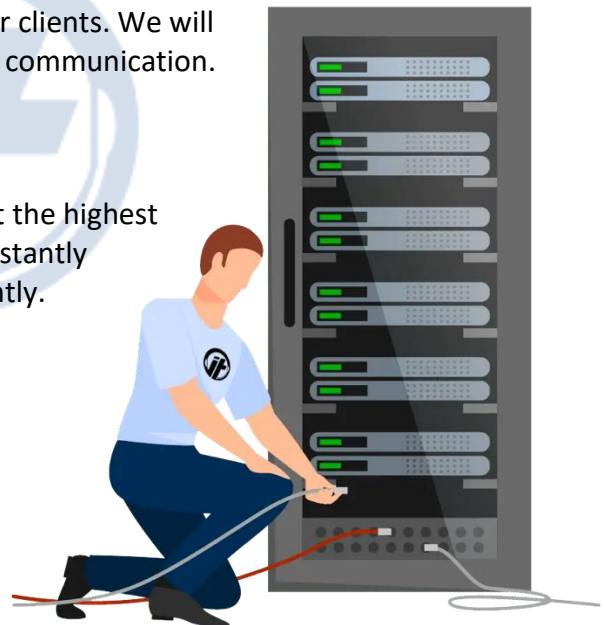
An agreed deadline will always be set before the commencement of each assignment. Small projects are generally completed within 24-48 hours. For larger projects, we will provide regular updates at agreed milestones as work progresses. Any threats to completing deadlines will be communicated promptly and a solution sought. (See terms of service for details)

COMMUNICATION

We engage in open, transparent two-way communication. ITGuys uses email, and telephone to communicate with our clients. We will do our best to accommodate any preferred style of communication.

QUALITY

We aim to complete all projects and assignments at the highest quality level and exceed your expectations. We constantly strive to Do IT Right, Do IT Better and Do IT Differently.



11. How to be a hero too!

If you're happy and you know it, tell a friend – and get rewarded!

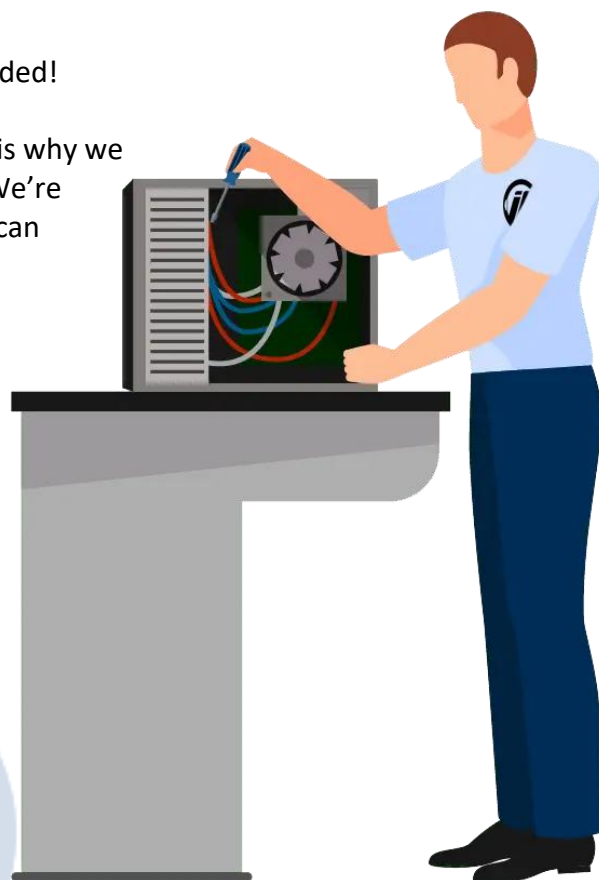
At ITGuys, we're all about creating great experiences, which is why we want to share a little love with you for spreading the word. We're excited to announce a fantastic referral program where you can earn a \$100 gift card every time you recommend our award-winning IT services to someone in your network.

It's simple: when you refer a colleague, friend, or business partner to ITGuys, and they sign up for our services, we'll send you a \$100 gift card that can be used towards your next IT service invoice or saved as credit for future use. Whether you're enjoying our network support, cloud services, or IT management, your referral rewards can help make your next service even more affordable.

Keep in mind that the \$100 gift card can be used for services only—unfortunately, it doesn't apply to hardware purchases. But don't worry, there's no limit to the number of people you can refer, and each successful referral means another \$100 in your pocket!

The best part? Referring is easy! Simply share the word about our high-quality IT support and, when your referral signs on, we'll reward you. It's a win-win: your friends get the reliable IT services they need, and you get the gift of savings!

Thank you for being part of the ITGuys family. If you're happy and you know it, now's the time to let a friend know—and get rewarded!



12. Terms of Service & Confidentiality

Terms of Service

Please review our full **Terms of Service** below for a comprehensive understanding of our policies. This document is also available on every invoice.

Confidentiality

We take confidentiality seriously. Your sensitive data and information are always kept secure, and we adhere to strict confidentiality practices in line with industry standards.

TERMS OF SERVICE AGREEMENT

CONFIDENTIAL – this document should not be forwarded, duplicated, or replicated in any way without the express written authority of ITGuys.

A copy of our terms of service can be found at www.mynewitguys.com/terms-of-service



TERMS AND CONDITIONS

1. SALE AND PURCHASE OF GOODS/SERVICE

ITGuys (“Seller”) hereby agrees to sell, and You (“Buyer”) hereby agree to purchase services, and or goods (“Goods”) of the description and quantity described at the time of checkout or the end of the service session (“Checkout”) and incorporated herein by this reference on the terms and conditions outlined in this Agreement.

ITGuys reserves the right to terminate this Agreement for any reason or no reason. ITGuys reserves the right to refuse service to anyone.

2. PURCHASE PRICE

Buyer agrees to pay the purchase price of the goods as posted on our website and or the quote given prior to service. All fees are non-refundable. Seller may change the fees then in effect, or add new fees or charges, by giving Buyer notice.

3. PAYMENT TERMS

The total amount of the Purchase Price or Quote shall be payable in full by the Buyer according to the payment due date stated at Checkout. On-demand Services are due upon receipt. Business support clients are subject to thirty (30)-days' terms from the invoice date. Any portion of the Purchase Price or Quote unpaid past thirty (30) days shall be considered overdue. All amounts past due are subject to a late charge of the lesser of one and one-half percent (1 1/2%) per month (being eighteen percent (18%) per annum) or the highest lawful rate. In addition, Seller shall have the right to pursue any remedies available at law or as provided herein and shall be entitled to reimbursement from Buyer for Seller's costs of collection, including attorney fees, legal fees, and costs and disbursements.

4. DELIVERY

Unless otherwise agreed in writing, delivery shall be made in accordance with Seller's shipping policy in effect on the date of shipment. Delivery dates provided by Seller are estimates only. Seller will make reasonable efforts to deliver in accordance with such dates; however, Seller will not be liable for failure to deliver as estimated. Unless otherwise agreed in writing by Seller, goods shall be packaged according to Seller's standards and practices.

5. GUARANTEE

Seller supplies as its sole guarantee the following:

All goods are satisfaction guaranteed for thirty (30) calendar days from the sale date. If within thirty (30) days you suspect you have an instance of a virus or malware returning, please call ITGuys: 303-578-6256 immediately. There is no guarantee that a virus will never get through any product either purchased by ITGuys or any other brand you purchase online or off the shelf. If within 30 days you suspect that ITGuys was unable to solve your diagnosed problem or complete the technical service requested, you may contact ITGuys and request the service to be repeated. ITGuys will provide at no-charge, phone, and remote support. ITGuys reserves the right to request additional information from you or reject the request to repeat the service if ITGuys reasonably believes that a request to repeat service is abusive.

6. DISCLAIMER OF WARRANTY/LIMITATION OF LIABILITY

Seller (including its subsidiaries, affiliates, officers, directors, employees, agents, or subcontractors, all of which are referred to herein collectively as the "seller affiliates") shall not be liable under any circumstance to buyer or any other party for any special, consequential, incidental or exemplary damages arising out of or in any way connected with the goods or otherwise, including but not limited to damages for lost profits, loss of the goods or any associated equipment, cost of capital, cost of substitute or replacement equipment, facilities or services, downtime, buyer's time, lost data, injury to property or any damages or

sums paid by buyer to third parties, even if seller or any of the seller affiliates has been advised of the possibility of such damages. The foregoing limitation of liability shall apply whether any claim is based upon principles of contract, warranty, negligence, or other tort, breach of any statutory duty, principles of indemnity or contribution, the failure of any limited or exclusive remedy to achieve its essential purpose, or otherwise.

Buyer expressly agrees that use of the goods is at the buyer's sole risk. The goods are provided on an "as is" and "as available" basis. Seller expressly disclaims all warranties of any kind, whether express or implied. Seller makes no warranty that the goods will meet the buyer's requirements, or that the goods will be uninterrupted, timely, secure, or error-free; nor does the seller make any warranty as to the results that may be obtained from the use of the goods or as to the accuracy or reliability of any information obtained through the goods. The buyer understands and agrees that any material and/or data downloaded or otherwise obtained through the use of the goods is done at the buyer's discretion and risk and that buyer will be solely responsible for any damage to the buyer's computer/system or loss of data that results from the download of such material and/or data. No advice or information, whether oral or written, obtained by the buyer from the seller or through the goods shall create any warranty not expressly made herein.

In no event shall the seller or any seller affiliate be liable for any direct, indirect, incidental, special, or consequential damages, resulting from the use or the inability to use the goods or for the cost of procurement of substitute goods and services or resulting from any goods purchased or obtained or messages received or transactions entered into through the service or resulting from unauthorized access to or alteration of buyer's transmissions or data, including but not limited to, damages for loss of profits, use, data or other intangible, even if ITGuys has been advised of the possibility of such damages.

Seller disclaims any warranties of non-infringement with respect to the goods and none of the seller or any seller affiliate shall have any duty to defend, indemnify, or hold harmless buyer from and against any or all damages or costs incurred by buyer arising from the infringement of patents or trademarks or violation of copyrights by any of the goods.

7. FORCE MAJEURE

Seller shall not be held responsible for any failure of performance to make timely delivery of all or any part of the Goods in the event such failure was due, in whole or in part, to federal, provincial, or municipal action, statute, ordinance or regulation, strike or other labor trouble, fire or other damage to or destruction of, in whole or in part, the Goods or the manufacturing facility for the goods, the lack of or inability to obtain raw materials, labor, fuel, electrical power, water/supplies, an act of God, contingency or circumstances not subject to the reasonable control of Seller, which causes delays or hinders the manufacture or delivery of

Goods. Seller shall determine in good faith the extent to which it can reasonably control a cause, contingency, or circumstance that affects the performance of its obligations.

8. GENERAL

Seller reserves the right to amend its goods offerings and add, delete, suspend, or modify the Goods and Service fees at any time at its sole discretion, and reserves the right to determine whether and when any such changes apply to both existing and future buyers.

Buyer may not assign this Agreement without Seller's written consent. Seller is the sole intended beneficiary of this Agreement. If there is any inconsistency between this Agreement and any other agreement included with or relating to the Goods, this Agreement shall govern. This Agreement may not be modified, altered, or amended without the written agreement of the Seller. Any additional or altered terms attached to any order submitted by Buyer shall be null and void unless expressly agreed to in writing by Seller. If any term of this Agreement is illegal or unenforceable, the legality and enforceability of the remaining provisions shall not be affected or impaired. This Agreement shall be interpreted under the laws of the State of Colorado, without giving effect to conflicts-of-law rules; and in the event of a dispute under this Agreement; the Buyer submits to the exclusive jurisdiction and venue of the courts of the Commonwealth of Colorado and hereby waives any objection to such jurisdiction and venue.

ITGuys reserves the right to modify these terms and conditions from time to time. Upon any such change, ITGuys will notify the Buyer by posting the changes to the site from which the Goods and Service were purchased. ITGuys reserves the right to modify or discontinue the Goods and Service with or without notice to the Buyer. Buyer's use of the Goods and Service constitutes an affirmative agreement by the Buyer to abide and be bound by these Terms and Conditions with its modifications.

ATTACHMENT 1: TECHNOLOGY

FILE BACKUP:

Carbonite

ANTI-VIRUS:

Webroot Security

PASSWORDS:

Keeper is used to store all passwords securely

REMOTE ACCESS:

We use AnyDesk and Atera for remote access.



ATTACHMENT 2: CONFIDENTIALITY

CONFIDENTIALITY AND NONDISCLOSURE AGREEMENT

JANUARY 1, 2025 (the “Effective Date”)

The parties (collectively, the “Parties” and each individually, a “Party”) to this Confidentiality and Nondisclosure Agreement (this “Agreement”) and their addresses are:

ITGUYS, LLC
PO BOX 7272
BOULDER, CO 80306

PROJE
6942 FM 1960 RD. STE E
HUMBLE, TX 77346

RECITALS

WHEREAS PROJE desires to provide to ITGUYS certain confidential information in connection with one or more potential business arrangements between the Parties (the “Business Arrangements”); and

WHEREAS, in connection with the Business Arrangements, PROJE (the “Disclosing Party”) has and/or may in the future provide to ITGUYS (the “Receiving Party”), through delivery to its employees, officers, directors, agents, and/or representatives (collectively, its “Agents”), certain nonpublic information to be used in connection with evaluating and/or conducting the Business Arrangements.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

CONFIDENTIAL INFORMATION

1. As used in this Agreement, “Confidential Information” means nonpublic information that the Disclosing Party designates as being confidential or which, under the circumstances surrounding disclosure, reasonably ought to be treated as confidential whether furnished prior to, on, or after the date hereof and regardless of the format (written, oral, electronic or other) in which the information is provided. Confidential Information includes, without limitation, details relating to released or unreleased Disclosing Party services or products, formation of, a formula for and ingredients of Disclosing Party’s products, the marketing or promotion of any Disclosing Party product, Disclosing Party’s business policies, services or practices, Disclosing Party’s organizational structure, personnel, ownership, affiliates, and relationships, Disclosing Party’s business relationships, customer and supplier lists, business plans and trade secrets, production methods, processes, know-how, recipes, manufacturing processes and procedures, and information received from others that

Disclosing Party is obligated to treat as confidential. Confidential Information shall not include any information which: (i) is or becomes generally available to the public without Receiving Party's breach of any obligation owed to Disclosing Party; (ii) became rightfully known to Receiving Party prior to Disclosing Party's disclosure of such information to Receiving Party; (iii) is or becomes available to Receiving Party from a source that was not prohibited from disclosing such information by a contractual, legal or fiduciary duty; or (iv) is independently developed by Receiving Party without the use of or access to any of the Confidential Information of the Disclosing Party.

2. Receiving Party covenants and agrees that it shall: (i) use the Confidential Information solely to evaluate and/or conduct the Business Arrangements; (ii) not, directly or indirectly, disseminate, publish, disclose or reveal any Confidential Information; (iii) not use any Confidential Information to, directly or indirectly, compete with Disclosing Party in any commercial activity or to solicit any employees, customers or affiliates of Disclosing Party; and (iv) not otherwise use the Confidential Information, and will treat and maintain in full and strict confidence all Confidential Information. Notwithstanding the foregoing, Receiving Party shall be permitted to disclose such information on a "need-to-know" basis to its employees, officers, directors, and advisors engaged in the Business Arrangements; provided that Receiving Party shall: (A) enter into confidentiality agreements with any such employees, officers and directors at least as protective of the Confidential Information as this Agreement; and (B) advise such employees, officers, directors, and advisors of the confidential nature of such information and shall, in any event, be liable for any failure of any such employee, officer, director or advisor to: (a) maintain such confidentiality; or (b) otherwise comply with the terms of this Agreement to the same extent as Receiving Party is obligated to do so. Receiving Party understands and agrees that it is liable for any failure of any such officer, director, employee, or advisor to: (a) maintain such confidentiality; or (b) otherwise comply with the terms of this Agreement to the same extent as Receiving Party is obligated to do so.

3. Receiving Party shall take all reasonable precautions, including the establishment of appropriate procedures and disciplines, to safeguard the confidential nature of the Confidential Information. These precautions shall be at least as great as the precautions Receiving Party takes to protect its confidential information.

4. The foregoing restrictions on any disclosure shall not apply to the extent disclosure is required by applicable law or court order, provided that if Receiving Party or any third party to whom a Receiving Party furnishes Confidential Information pursuant to Section 1.2 of this Agreement is required to make such disclosure, Receiving Party shall, to the extent permitted by applicable law or such court order, promptly notify Disclosing Party in writing prior to making such disclosure and shall, to the extent practicable, permit Disclosing Party a reasonable opportunity to seek a protective order or to take other appropriate actions and shall reasonably cooperate in Receiving Party's efforts to maintain the confidentiality of the Confidential Information, and provided further that any such disclosure shall be limited solely to the information required by applicable law or court order.

5. Receiving Party agrees that Disclosing Party shall own all rights, including all trade secrets and copyrights, in and to the following works, whether created on Disclosing Party's premises or some other location, and whether created by Receiving Party alone or in conjunction with others: (i) works which relate to or are derived from the Confidential Information of Disclosing Party; and (ii) works which result from or are derived from work performed by Receiving Party for Disclosing Party (collectively, the "Works"). Disclosing Party shall own all such Works, such Works being works-made-for-hire by Disclosing Party for the benefit of Receiving Party. This Agreement will constitute an irrevocable assignment by Receiving Party to Disclosing Party of the ownership of, and all rights of copyright in, such Works. Receiving Party agrees to give Disclosing Party or its designees all assistance reasonably required to perfect such rights.

6. If Receiving Party makes or conceives of any invention, technique, process, or other knowhow, whether patentable or not, which relates in any manner to the Confidential Information of Disclosing Party or results from any work performed by Receiving Party for Disclosing Party (collectively, "Inventions"), Receiving Party will and hereby does assign to Disclosing Party its entire right, title, and interest in such Inventions, such Inventions being works-made-for-hire by Disclosing Party for the benefit of Receiving Party. Receiving Party will disclose any such Inventions to an officer of Disclosing Party and will, upon request, promptly sign a specific assignment of title to Disclosing Party and do anything else reasonably necessary to enable Disclosing Party to secure patent, trade secret, or any other proprietary rights in the United States or foreign countries.

RIGHTS AND REMEDIES

7. Receiving Party shall immediately notify Disclosing Party in writing upon discovery of any unauthorized use or disclosure of Confidential Information, or any other breach of this Agreement by Receiving Party and will cooperate with Disclosing Party in every reasonable way to help Disclosing Party regain possession of the Confidential Information and prevent its further unauthorized use or disclosure. Receiving Party agrees that upon receipt of a written request of Disclosing Party, Receiving Party shall: (i) promptly deliver to Disclosing Party all originals, copies, electronic versions, reproductions, notes, and summaries of Confidential Information, together with an affidavit from the president of Receiving Party certifying that all Confidential Information has been returned; or (ii) destroy all Confidential Information, all originals, copies, electronic versions, reproductions, notes and summaries of Confidential Information, and deliver to Disclosing Party an affidavit from the president of Receiving Party certifying that all Confidential Information has been destroyed. Receiving Party agrees that it will not retain any copies, extracts, or reproductions, in whole or in part, of any Confidential Information. Receiving Party agrees that it has no right to disclose or to use any residual information resulting from access to or work with Confidential Information.

8. Receiving Party acknowledges that money damages would not be a sufficient remedy for any breach of this Agreement by it or any of its Agents and that Disclosing Party

shall be entitled, in addition to any other rights or remedies, to equitable relief, including injunction and specific performance, as a remedy for any such breach, in each case without the necessity of posting a bond or other security. If any action at law or in equity is brought to enforce or interpret the provisions of this Agreement, the prevailing party in such action shall be entitled to reasonable attorneys' fees.

NO TRANSACTION OR BUSINESS ARRANGEMENT

9. Nothing set forth herein shall obligate either of the Parties to enter a transaction or business arrangement, and any transaction or business arrangement to be entered into between the Parties shall be subject to the negotiation and execution of definitive documentation.

MISCELLANEOUS

10. All Confidential Information is and shall remain the property of the Disclosing Party. By disclosing information to the Receiving Party, the Disclosing Party does not grant any express or implied right to Receiving Party to or under Disclosing Party patents, copyrights, trademarks, trade secrets, or other intellectual property.

11. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Colorado without regard to any conflict of law provision which may cause the application of any law other than the internal laws of the State of Colorado and both parties further consent to jurisdiction by the state and federal courts sitting in the State of Colorado.

12. This Agreement may be signed by the Parties in one or more counterparts, each of which so signed shall be deemed to be an original, and all such counterparts together shall constitute one and the same instrument. Delivery of an executed signature page to this Agreement by electronic transmission shall be as effective as delivery of a manually signed counterpart of this Agreement

13. All obligations created by this Agreement shall survive the termination of this Agreement and/or the termination or expiration of any transaction between the Parties.

14. This Agreement is the final, complete, and exclusive agreement of the Parties with respect to the subject matter hereof and supersedes and merges all prior and contemporaneous understandings and agreements relating to the subject matter. This Agreement may not be changed, modified, amended, or supplemented except by a written instrument signed by both Parties.

15. Any notices required or permitted hereunder will be in writing and will be delivered as follows with the notice deemed given as indicated: (a) by personal delivery when delivered personally; (b) by overnight courier upon written verification of receipt; or (c) by

certified or registered mail, return receipt requested, upon verification of receipt. Notice will be sent to the addresses set forth above or such other address as either party may specify in writing.

16. ALL CONFIDENTIAL INFORMATION IS PROVIDED "AS IS." THE DISCLOSING PARTY MAKES NO WARRANTIES, EXPRESS, IMPLIED, OR OTHERWISE, REGARDING ITS ACCURACY OR COMPLETENESS.

17. If any provision of this Agreement will be held by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remaining provisions will remain in full force and effect and the illegal, invalid, or unenforceable provisions shall be reformed by such court to result in a provision that is closest to the provision which was held illegal, invalid or unenforceable.

