



BERTHOLD BUILDING

Membership Agreement

Last Updated:
December 7, 2016

BERTHOLD BUILDING

This CO-WORKING MEMBERSHIP AGREEMENT IS entered into by and between Berthold Building, LLC, having an address of 741 Monroe Drive, NE, Atlanta, Georgia 30308 (“Berthold Building”), and Member specified in Section 21.

Berthold Building offers office space and certain office services to persons and entities for a fee; Members seek office space and certain office services which Berthold Building offers for a fee;

The parties to this Agreement, with the intent to be mutually and legally bound, agree as follows:

TERMS OF USE (“TOU”)

1. Acceptance of Terms.

Berthold Building will provide to Member certain services (including but not limited to use of office space, access to internet and use of certain office equipment) all of which will be subject to the following Terms of Use (“TOU”). Berthold Building retains the right to update, amend and/or change the TOU at any time without prior notice to Member.

2. Description of Services.

Berthold Building will provide Member with access to office space, work stations, Internet access, office equipment, conference space, knowledge resources, and other services as Berthold Building may provide from time to time (collectively “Services”) all located on the first floor of the Berthold Building, 741 Monroe Drive, NE Atlanta, Georgia 30308 (the “Premises”).

3. Use of Services.

Member, when participating in or using the Services, will not:

- a. Disturb other Members or diminish their right to quiet enjoyment of the Premises. Member shall not listen to radios or other such equipment except with headphones; will conduct phone conversations quietly or use the conference room or visitors’ lounge, ensuring that all noise that might disturb other members be kept to a minimum. Berthold Building encourages usage of the cell phone booth when it is available.
- b. Abuse the conference room policy;
- c. Lend access keycards, keys or give codes to anyone; will not allow a nonmember to use the space unless accompanied by Member;

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- d. Bring pets into the Premises at any time;
- e. Place any signs or lettering anywhere in the Premises or the building;
- f. Keep any flammable or hazardous substances in the Premises;
- g. Spam, post or download files that Member knows or should know are illegal or that Member has no rights to; access any other device connected to the Berthold Building network or the Internet that Member does not have permission to access;
- h. Use the Services in connection with contests, pyramid schemes, chain letters, junk email, spamming, spimming or any duplicative or unsolicited messages (commercial or otherwise);
- i. Defame, abuse, harass, stalk, threaten or otherwise violate the legal rights (such as rights of privacy and publicity) of others;
- j. Publish, post, upload, distribute or disseminate any inappropriate, profane, defamatory, obscene, indecent or unlawful topic, name, material or information on or through Berthold Building servers.
- k. Use any material or information, including images or photographs, which are made available through the Services in any manner that infringes any copyright, trademark, patent, trade secret, or other proprietary right of any party;
- l. Upload files that contain viruses, Trojan Horses, Worms, Time Bombs, corrupted files, or any other similar software or programs that may damage the operation of another's computer or property of another. All laptops must have antivirus software installed.
- m. Restrict or inhibit any other Member from using and enjoying the Services.
- n. Violate any code of conduct or other guidelines which may be applicable for any particular Service;
- o. Harvest or otherwise collect information about other Members, including email addresses, without the authorization or consent of the disclosing party.
- p. Violate any applicable laws or regulations.
- q. Use the Berthold Building parking lot for non-Berthold event parking (i.e. Midtown Music Fest). Use of the parking lot is for Members and their guests only and is available on a first come/first serve basis.
- r. Bring in any chairs, furniture, furnishings, drapery, paintings, rugs or wall hangings into any office or open area without prior Berthold Building approval. The Berthold Building has created an open, light-filled aesthetic that promotes creativity and collaboration without visual distraction and has a list of approved furnishings and carpet.

4. No Unlawful or Prohibited Use.

As a condition of Member's use of the Services, Member will not use the Services for any purpose that is unlawful or prohibited by these terms, conditions and notices. Member may not use the Services in any manner that could damage, disable, overburden, or impair any Berthold Building server, or the network(s) connected to any Berthold Building server, or interfere with any other party's use and enjoyment of any Services. Member may not attempt to gain unauthorized access to any Services, accounts, computer systems or networks connected to any Berthold

Building server or to any of the Services, through hacking, password mining or any other means. Member may not obtain or attempt to obtain any materials or information through any means not intentionally made available through the Services. Member hereby represents and warrants that it has all requisite legal power and authority to enter into and abide by the terms and conditions of this Agreement and TOU and no further authorization or approval is necessary. Member further represents and warrants that its participation or use of the Services will not conflict with or result in any breach of any license, contract, agreement or other instrument or obligation to which it is a party.

5. Information disclosure

Berthold Building reserves the right at all times to disclose any information about Member and its participation in and use of the Services, as Berthold Building deems necessary, to satisfy any applicable law, regulation, legal process or governmental request, or to edit, refuse to post or to remove any information or materials, in whole or in part, in Berthold Building's sole discretion.

6. Confidentiality

- a. Member acknowledges and agrees that during its participation in and use of the Services, Member may be exposed to Confidential Information. "Confidential Information" shall mean all information, in whole or in part, that is disclosed by Berthold Building or any participant or user of the Services or any employee affiliate, or agent thereof, that is non-public, confidential or proprietary in nature. Confidential Information also includes, without limitation, information about business, sales, operations, know-how, trade secrets, business affairs, and knowledge gained through examination or observation of or access to the facilities, computer systems and/or books and records of Berthold Building, and analyses, compilations, studies or other documents prepared by Berthold Building or otherwise derived in any manner from the Confidential Information. Member is obliged to keep confidential any information Member knows or has reason to know should be treated as confidential.
- b. Member's participation in and/or use of the Services obligates it to:
 1. maintain all Confidential Information in strict confidence;
 2. not disclose Confidential Information to any third parties;
 3. not use the Confidential Information in any way directly or indirectly detrimental to Berthold Building or any participant or user of the Services.
- c. All Confidential Information remains the sole and exclusive property of Berthold Building or the respective disclosing party. Member acknowledges and agrees that nothing in this TOU or its participation or use of the Services will be construed as granting any rights to it, by license or otherwise, in or to any Confidential

Information or any patent, copyright or other intellectual property proprietary rights of Berthold Building or any participant or user of the Services.

7. Participation in or use of Services:

Member acknowledges that it is participating in or using the Services of its own free will and decision. Member acknowledge that Berthold Building does not have any liability with respect to its access to, participation in, or use of the Services, or any loss of information resulting from such access participation or use. Member will be responsible for Member's guests' actions at all times.

8. Disclaimer of Warranties.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, BERTHOLD BUILDING PROVIDES THE SERVICES "AS IS" AND WITH ALL FAULTS, AND HEREBY DISCLAIMS WITH RESPECT TO THE PREMISES AND SERVICES ALL WARRANTIES AND CONDITIONS, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, ANY (IF ANY) WARRANTIES, DUTIES OR CONDITIONS OF OR RELATED TO: MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, LACK OF VIRUSES, ACCURACY OR COMPLETENESS OF RESPONSES, RESULTS, WORKMANLIKE EFFORT AND LACK OF NEGLIGENCE. ALSO, THERE IS NO WARRANTY, DUTY OR CONDITION OF TITLE, QUIET ENJOYMENT, QUIET POSSESSION, CORRESPONDENCE TO DESCRIPTION OR NON-INFRINGEMENT. THE ENTIRE RISK AS TO THE QUALITY, OR ARISING OUT OF PARTICIPATION IN OR THE USE THE SERVICES, REMAINS WITH MEMBER.

9. Exclusion of Incidental, Consequential and Certain Other Damages.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL BERTHOLD BUILDING OR ITS SUBSIDIARIES (WHETHER OR NOT WHOLLY-OWNED), AFFILIATES, DIVISIONS, AND THEIR PAST, PRESENT AND FUTURE OFFICERS, AGENTS, SHAREHOLDERS, MEMBERS, REPRESENTATIVES, EMPLOYEES, SUCCESSORS AND ASSIGNS, JOINTLY AND INDIVIDUALLY BE LIABLE FOR ANY DIRECT, SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE, CONSEQUENTIAL OR OTHER DAMAGES WHATSOEVER (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR: LOSS OF PROFITS, LOSS OF CONFIDENTIAL OR OTHER INFORMATION, BUSINESS INTERRUPTION, PERSONAL INJURY, LOSS OF PRIVACY, FAILURE TO MEET ANY DUTY (INCLUDING OF GOOD FAITH OR OF REASONABLE CARE), NEGLIGENCE, AND ANY OTHER PECUNIARY OR OTHER LOSS WHATSOEVER) ARISING OUT OF OR IN ANY WAY RELATED TO THE PARTICIPATION IN OR INABILITY TO PARTICIPATE IN OR USE OF THE SERVICES, THE PROVISION OF OR

FAILURE TO PROVIDE SERVICES, OR OTHERWISE UNDER OR IN CONNECTION WITH ANY PROVISION OF THIS AGREEMENT, EVEN IN THE EVENT OF THE FAULT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, BREACH OF CONTRACT OR BREACH OF WARRANTY OF BERTHOLD BUILDING, AND EVEN IF BERTHOLD BUILDING HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. BECAUSE SOME STATES/ JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE ABOVE LIMITATION MAY NOT APPLY TO MEMBER.

10. Limitation of Liability and Remedies.

NOTWITHSTANDING ANY DAMAGES THAT MEMBER MIGHT INCUR FOR ANY REASON WHATSOEVER (INCLUDING, WITHOUT LIMITATION, ALL DAMAGES REFERENCED ABOVE AND ALL DIRECT OR GENERAL DAMAGES), THE ENTIRE LIABILITY OF BERTHOLD BUILDING OR ITS SUBSIDIARIES (WHETHER OR NOT WHOLLY-OWNED), AFFILIATES, DIVISIONS, AND THEIR PAST, PRESENT AND FUTURE OFFICERS, AGENTS, SHAREHOLDERS, MEMBERS, REPRESENTATIVES, EMPLOYEES, SUCCESSORS AND ASSIGNS UNDER ANY PROVISION OF THIS TOU, AND MEMBER'S EXCLUSIVE REMEDY FOR ALL OF THE FOREGOING SHALL BE LIMITED TO ACTUAL DAMAGES INCURRED BY MEMBER, BASED ON REASONABLE RELIANCE, UP TO ONE THOUSAND DOLLARS (USD \$1,000.00). THE FOREGOING LIMITATIONS, EXCLUSIONS AND DISCLAIMERS (INCLUDING SECTIONS 8 AND 9 ABOVE) SHALL APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EVEN IF ANY REMEDY FAILS ITS ESSENTIAL PURPOSE.

11. Termination.

Berthold Building reserves the right to terminate any Service at any time. Berthold Building further reserves the right to terminate Member's participation in and use of any Services, immediately and without notice, if Member fails to comply with the TOU. Either party may terminate this agreement with a 30 day written notice.

12. Non-Disparagement

Member shall, during and after the participation in and use of the Services, refrain from making any statements or comments of a defamatory or disparaging nature to any third party regarding Berthold Building, or any of Berthold Building's officers, directors, employees, personnel, agents, policies, services or products, other than to comply with the law.

13. Indemnification.

Member releases, and hereby agrees to indemnify, defend and save harmless Berthold Building and Berthold Building's subsidiaries (whether or not wholly-owned), affiliates, divisions, and their past, present and future officers, agents, shareholders, members, representatives, employees, successors and assigns, jointly and individually, from and against all claims, liabilities, losses, damages, costs, expenses, judgments, fines and penalties based upon or arising out of Member's negligent actions, errors and omissions, willful misconduct or fraud in connection with the participation in or use of the Services. Member further agrees in the event that it brings a claim or lawsuit in violation of this agreement, Member shall be liable for any attorney's fees and costs incurred by either Berthold Building, LLC or its respective officers and agents in connection with the defense of such claim or lawsuit.

14. Severability.

In the event that any provision or portion of this Agreement or TOU is determined to be invalid, illegal or unenforceable for any reason, in whole or in part, the remaining provisions of this Agreement or TOU shall be unaffected thereby and shall remain in full force and effect to the fullest extent permitted by applicable law.

15. Insurance.

As required by the owner of the Berthold Building, 741 Monroe Drive, NE, Berthold Building, LLC carries Liability and Business Personal Property insurance. As a user, Member is not required to carry insurance but it is strongly suggested that Member carry a Renter's Insurance policy to cover Member's belongings while using the Premises.

16. Invoicing and Payment

Monthly Members will pay monthly based on its membership option. Day Members will be assessed a one-time flat rate for the day's business hours of operation, Monday thru Friday 9am to 5pm. Monthly Member's payment is required in advance at the beginning of the month for that period. Day Member's payment is required upon arrival for the day. For Monthly Members any additional charges accrued will be added to the following month as line items. For Day Members any additional charges will be accrued and charged at the end of the day. All Members

must have an active major credit card on file with the Berthold Building. If payment is not made on time, Berthold Building, LLC may terminate this agreement. Prices are subject to change at any time.

For monthly members, payment is late after the 5th business day after the first day of the month. If payment is late, Member's credit card on file will be charged with an additional 5% late fee.

If a keycard is lost, the replacement cost is \$50. If an office key is lost, the replacement cost is \$150.00. If a locker is lost, the replacement cost is \$25.00.

The latest copying/printing charges are posted next to the color copier. Charges are typically billed to the Member the month after they are incurred. There is no charge for scanning, sending scans or saving scans. Only applies to printed items.

17. Agreement as License

This Agreement constitutes a License to use the Premises in accordance with the terms of this Agreement and does not in any way constitute a lease or sub-lease.

18. Member's use of the Premises

Member understands other persons and entities will have access to the Premises and therefore Member shall not interfere with other persons' or entities' use of the Premises. Member understands that Member shall not have the permanent use of any space in the Premises except under written agreement with Berthold Building.

19. Miscellaneous:

- (a) This Agreement shall inure to the benefit of and bind the parties hereto and their successors, heirs, and assigns.
- (b) This Agreement shall constitute the entire Agreement between the parties.
- (c) This Agreement shall be governed by the laws of the State of Georgia.
- (d) This Agreement may be amended or supplemented only by a written instrument signed by both parties hereto.
- (e) This Agreement may be executed in any number of identical counterparts each of which shall be considered an original but together shall constitute but one and the same Agreement.
- (f) The captions or paragraph headings are for convenience and ease of reference only and shall not be construed to limit or alter the terms of this Agreement.

20. Notices.

Any notices under this Agreement shall be delivered in person, by US mail, email, or facsimile or other such service to the Member at the address listed in Section 21. Any such notice shall be considered delivered upon delivery in person, by US mail, email, or facsimile or other such service.

21. Member Details (please fill in)

Name	
Company	
Title	
Street	
City, State, & Zip	
Cell Phone	
Social Security Number <i>(Monthly Members Only)</i>	
Date of Birth <i>(Monthly Members Only)</i>	
Email Address	
Website	
What is your preferred method of transportation? Automobile, Scooter, Bicycle, Walking?	
How frequently do you expect guests per week?	
Industry	

Please describe what your business does and who are your customers.

22. Membership Level (check a box)

- Office membership *(if available)*
 - Suite 103, \$450 / Month
 - Suite 104, \$350 / Month
 - Suite 105, \$350 / Month
 - Suite 106, \$350 / Month
 - Suite 107, \$450 / Month
 - Suite 108, \$475 / Month
 - Suite 109, \$1000 / Month
 - Suite 110, \$625 / Month
 - Suite 111, \$625 / Month
 - Suite 112, \$625 / Month
- Dedicated Desk membership *(if available)*
 - Suite 113, \$220 / Month
 - Suite 114, \$220 / Month
 - Suite 115, \$220 / Month
 - Suite 116, \$220 / Month
- Co-work membership, \$120 / Month *(if available)*
- Day membership, \$25 / Day *(if available)*
- Mailbox membership, \$25 / Month - *(if available)*

23. Consent to Background Check (Monthly Members Only)

Background Check Consent

I hereby authorize Berthold Building, LLC to investigate my background and qualifications for purposes of evaluating me for the membership for which I am applying. I understand that Berthold Building, LLC, will utilize an outside firm or firms to assist it in checking such information, and I specifically authorize such an investigation by information services and outside entities of the Berthold Building's choice. I also understand that I may withhold my permission but in that case, no such investigation will be done, and my application for membership will not be processed further.

I hereby acknowledge that I have read and understood all of the terms and conditions contained in this Membership Agreement and further agree to be bound by the TOU regarding my participation in and use of the Services. I consent to pay a \$35 application fee which is non-refundable and is due at the time of application.

Signature:	Date:
(Print) Name:	

ACCEPTED BY:

Approved Membership Level:

Signature:	Date:
(Print) Name:	
Title:	

CREDIT CARD AUTHORIZATION FORM

Name on Card	
Type of Card	<input type="checkbox"/> AMEX <input type="checkbox"/> VISA <input type="checkbox"/> MasterCard <input type="checkbox"/> Discover Card
Card Number	
Expiration Date	
Security Code	
Billing Address	
Billing City, State, Zip	
Billing Telephone Number	

I hereby authorize Berthold Building LLC to have my credit/debit card on file and to charge my participation in and use of the Services for the Membership Level for which I have been accepted.

Signature:	Date:
(Print) Name:	