



BizCom Web Services Development Services Agreement

THIS DEVELOPMENT SERVICES AGREEMENT (this "**Agreement**") is made and entered between BizCom Web Services, Inc. (Hereinafter "**BIZCOM**") located at 5711 Six Forks Road, Suite 211, Raleigh, NC 27609 and the client named in the proposal(s), order(s) and/or quotation(s) (collectively, "**Proposal**") accompanying this Agreement (hereinafter "**CLIENT**") and shall be effective on the date of CLIENT's signed acceptance of the Proposal. BIZCOM and CLIENT are collectively referred to herein as the "parties."

CLIENT ACKNOWLEDGES AND AGREES that by signing the Proposal, CLIENT is agreeing to be bound by all of the terms and conditions contained in this Agreement, which Agreement incorporates the terms of the Proposal, and also, to the extent applicable, the BIZCOM Master Services Agreement, Service Level Agreement, Acceptable Use Policy and No-Spam Policy, all of which can be found on BIZCOM's website at www.bizcomweb.com.

NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants hereinafter set forth, the parties hereto agree as follows:

1. **Services.** BIZCOM agrees to perform and provide to CLIENT those services and deliverables as are set forth in the Proposal (which may include custom web application development, website design, and/or website or application maintenance) (together the "**Development Services**" or "**Services**") in connection with the development of a website (the "**Website**") that CLIENT desires to make available on the World Wide Web portion of the Internet. The Services shall include any additional services requested by CLIENT and accepted by BIZCOM after the date of the signing of the Proposal. BIZCOM shall use its reasonable commercial efforts to perform the Services in accordance with the specifications detailed in the Proposal or in a separate Schedule (the "**Specifications**") and within the delivery times set forth in the Proposal. The Proposal may also provide that BIZCOM will provide some or all of the following services (together "**Hosting Services**"): (i) registration or maintaining domain names for the Website, (ii) submitting and registering the Website URL with Internet search engines, directories, catalog services, indexes or any other Internet search services, and (iii) website, email and/or application and data hosting. CLIENT agrees that BIZCOM is not responsible for providing any Services or performing any tasks not specifically set forth in the Proposal or Specifications or pursuant to a separate agreement.
2. **Authorization.** The CLIENT hereby authorizes BIZCOM to access their existing domain registrar and web hosting account, and authorizes the web hosting service, if other than BIZCOM, to provide BIZCOM with "full permission" for the CLIENT's webpage directory, and any other directories or programs which need to be accessed for BIZCOM's performance of the Services.
3. **Milestones.** BIZCOM and the CLIENT must work together to complete the Website or Web Application in a timely manner. BIZCOM works with CLIENT to ensure regular milestones are met. BizCom will provide notification and Client Access when milestones are completed. If CLIENT fails to respond within two weeks of this notification, BizCom will assume everything is correct and the final payment will be due.
4. **Intellectual Property Ownership:**
 - a. CLIENT acknowledges, understands and agrees that BIZCOM may use its own and/or may purchase third party licenses for products or services that are necessary for BIZCOM to perform the Services in connection with the Website. Such products may include, but are not limited to server-side applications, clip art, "back-end" applications, music, stock images, or any other copyrighted work ("**Outside Content**") which BIZCOM deems necessary to purchase on behalf of CLIENT to perform the Services. The Website shall also incorporate the materials, if any, provided by CLIENT and expressly identified in the Proposal or a separate Exhibit or Schedule to this Agreement, including, without limitation, trade or service marks, images, illustrations, graphics, multimedia files and/or text ("**Client Content**"), provided that CLIENT delivers such Client Content to BIZCOM promptly and in such media and/or electronic file format(s) designated in the Specifications or otherwise requested by BIZCOM. CLIENT further acknowledges and understands that any Outside Content used to perform the Services is owned by BIZCOM and/or such third parties and cannot be transferred to CLIENT and is hereby specifically not transferred to CLIENT and shall remain the property of BIZCOM and/or such third parties. Outside Content which is owned and/or purchased by BIZCOM may be used in the design and/or development of other web sites and applications for other customers or clients of BIZCOM. CLIENT and BIZCOM agree that upon payment in full of the fees associated with the performance of the Services, CLIENT shall own a worldwide right, title, and interest in and to the Website and all other deliverables (other than Outside Content and Code Content, as defined below) (the "**Custom Programming**"). CLIENT and BIZCOM agree that BIZCOM shall retain a worldwide, royalty-free, non-exclusive, transferable, and perpetual right and license to the Custom Programming including, but not limited to, the right to modify, amend, create derivative works, rent, sell, assign,



lease, sublicense, or otherwise alter or transfer the Custom Programming. CLIENT and BIZCOM also agree that the performance of the Services may include source code, documentation, and/or application programs that were previously written or developed by BIZCOM and modified to meet CLIENT's specific requirements (the "**Code Content**"). BIZCOM shall own all worldwide right, title, and interest (including copyright and other proprietary or intellectual property rights) in and to the Code Content, but shall provide CLIENT (upon payment in full of the fees associated with the performance of the Services) a worldwide, royalty-free, non-exclusive, transferable and perpetual right and license to use the Code Content in connection with the Services and Website. CLIENT shall retain all right, title and interest (including copyright and other proprietary or intellectual property rights) in and to the Client Content. CLIENT grants to BIZCOM, and BIZCOM accepts from CLIENT, a non-exclusive, worldwide, royalty-free license for the term of this Agreement to edit, modify, adapt, translate, exhibit, publish, transmit, copy, prepare derivative works from, distribute, perform, display and use any Client Content in connection with the Website and/or BIZCOM's performance of the Services.

- b. Notwithstanding the foregoing, CLIENT agrees that the Custom Programming shall be delivered to CLIENT in object code form only. BIZCOM agrees upon CLIENT REQUEST one copy of the source code version of the Custom Programming and associated documentation shall be deposited with an escrow agent specializing in software escrows to be mutually agreed upon in writing by BIZCOM and CLIENT after good faith negotiation. CLIENT and BIZCOM shall enter into a supplementary escrow agreement with the escrow agent. The source code shall be delivered to the escrow agent within Sixty (60) days after delivery of the object code to CLIENT. Thereafter, the source code version of all updates, enhancements and modifications of the Custom Programming created by BIZCOM on CLIENT's behalf, if any, as well as associated documentation, shall be deposited by BIZCOM with the escrow agent. CLIENT shall pay all fees necessary to establish and maintain the escrow. BIZCOM hereby grants to CLIENT a contingent license to receive the source code from the escrow agent and to use the source code to support its use of the Custom Programming in machine-readable form if one or more of the following conditions occurs: (a) BIZCOM, whether directly or through a successor or affiliate, ceases to be in the software business; (b) BIZCOM fails to fulfill its obligations to maintain the Custom Programming as provided in this Agreement; (c) BIZCOM becomes insolvent or admits insolvency or a general inability to pay its debts as they become due; (d) BIZCOM files a petition for protection under the U.S. Bankruptcy Code, or an involuntary petition is filed against it and is not dismissed within 60 days; or (e) BIZCOM comes under the control of a competitor of CLIENT. The source code shall be used solely by CLIENT to maintain the Custom Programming and shall be subject to every restriction on use set forth in this Agreement. CLIENT agrees not to disclose the source code to third parties except on a need-to-know basis under an appropriate duty of confidentiality.
 - c. BIZCOM may place copyright and/or proprietary notices, including hypertext links within the BIZCOM Content as incorporated within and on the Website. BIZCOM may also display text similar to "Developed by (BIZCOM's Logo)" on the very bottom of the home page and subsequent pages of the Website, and to use the Website and/or its images in the advertising or any other promotions BIZCOM deems necessary including but not limited to online, print media, radio, television or by any other professional advertising means. CLIENT may not alter or remove such notices or text without BIZCOM's written permission.
 - d. CLIENT understands and agrees that BIZCOM's Content Management System is proprietary software offered on a monthly basis for a fee outlined within this proposal and delivered as a SaaS (Software as a Service) model only. The CMS may not be transferred, altered, copied or duplicated in any way or for any reason and may only be used by the CLIENT if the CLIENT continues to host the CLIENT website with BIZCOM's hosting service. Should CLIENT terminate relationship with BIZCOM, any website built with the Content Management System must be converted to HTML prior to release to the CLIENT at an additional cost to the CLIENT.
5. **Programmability, Typographical Errors and Design Adjustments:** All site content will be published "as supplied" by CLIENT. Final responsibility for accuracy of text and graphical content lies with CLIENT. In the event of a typographical error being discovered during the site production cycle, BIZCOM shall fix such errors at no charge. After the end of the 14-day debug period which commences upon site publication, any changes to text, code, programmability, browser compatibility or other design elements will be subject to BIZCOM's maintenance policies as set forth below in this Agreement.
 6. **Search Engines:** If CLIENT ordered Hosting Services that include BIZCOM's submission of the Website to search engines, CLIENT acknowledges that each search engine has its own listing schedules and protocols, and BIZCOM shall not be held responsible for the failure of any specific search engine or electronic directory to list a submitted site within an expected period, category or listing priority.
 7. **Email Virus Prevention:** If CLIENT ordered Hosting Services that include email hosting or related services, CLIENT acknowledges that BIZCOM utilizes a third party to scan inbound email and does not scan outbound email for known virus infections, and BIZCOM highly recommends that CLIENT install personal firewalls and anti-virus solutions prior to using our email service. BIZCOM makes no warranty express or implied regarding safety of any individual email or email attachment, and BIZCOM has no liability for damages including but not limited to loss of use, data corruption, system damage, or incurred bandwidth charges resulting from any type of email worm or virus, known or unknown.
 8. **Laws Affecting Electronic Commerce.** From time to time governments enact laws and levy taxes and tariffs affecting Internet electronic commerce. The CLIENT agrees that the CLIENT is solely responsible for complying



- with such laws, taxes, and tariffs, and will hold harmless, protect, and defend BIZCOM and its subcontractors from any claim, suit, penalty, tax, or tariff arising from the CLIENT's exercise of Internet electronic commerce.
9. **Hosting Services.** If one of more of the Hosting Services is included in the Proposal, BIZCOM will provide such Hosting Services as set forth in the Proposal and subject to the terms of this Agreement, as well as BIZCOM's Master Hosting Service Agreement, Service Level Agreement (SLA), Acceptable Use Policy, and No Spam Policy, which can all be found at BIZCOM's website. Hosting Services will be provided from BIZCOM's servers co-located at a secure Internet Service Provider (ISP) facility of BIZCOM's choosing. Unless CLIENT has ordered web hosting services, CLIENT is responsible for securing web hosting prior to the Website being completed. The web hosting must be on a Microsoft Windows server and utilize Microsoft SQL Server or the Website will not work. If BIZCOM hosts the Website and CLIENT already has a domain, CLIENT is responsible for pointing the domain to BIZCOM's servers. After CLIENT completes the pointing process, it can take up to 72 hours for it to regularly find BIZCOM's server. In case the CLIENT has not secured acceptable web space on a web hosting service by the time the webpages of the Website are completed, the webpages may be delivered to the CLIENT on diskette or attached to an e-mail message.
 10. **Payment of fees.** CLIENT shall pay BIZCOM for the Services and license hereunder the amounts set forth in the Proposal, and at such times provided by the payment schedule specified therein. Within fifteen (15) days of invoice, CLIENT shall pay BIZCOM for any additional services on a time and materials basis at the rate specified therein. CLIENT shall pay all taxes, duties and levies of any governmental entity, exclusive of taxes on BIZCOM's net income. If CLIENT claims exemption from any taxes resulting from this Agreement, CLIENT shall provide BIZCOM with documentation required by the taxing authority to support an exemption. CLIENT agrees that amounts of any past due invoice shall accrue interest at one and one half percent (1.5%) per month.
 11. **Maintenance.** Unless Website maintenance or optimization has been separately ordered and purchased, CLIENT will be billed at our current hourly rate for any website maintenance or content update services performed by BIZCOM. Maintenance plan holders receive priority update services as set forth in BIZCOM's Proposal. If CLIENT desires to perform its own content updates and certain other website maintenance, CLIENT may license a custom web editing tool (CWET) from BIZCOM. If CLIENT does not purchase a maintenance plan and hosts its Website elsewhere, BIZCOM will not be able to perform content updates to the Website due the difficulties in accessing server not owned by BIZCOM, and CLIENT will only be able to perform such content updates utilizing standard industry software for developing and managing websites.,
 12. **Term and Termination.** (a) The initial term of this Agreement shall be as specified in the Proposal. (b) Each party shall have the right to terminate this Agreement by written notice to the other if a party has materially breached any obligation herein and such breach remains uncured for a period of 30 days after written notice of such breach is sent to the other party (with the exception of nonpayment by CLIENT of any applicable fees, which shall not require any notice of default by BIZCOM). (b) If BIZCOM terminates this Agreement because of CLIENT's default, all of the following shall apply: (i) CLIENT shall immediately cease use of the Custom Programming; (ii) CLIENT shall, within 10 days of such termination, deliver to BIZCOM all copies and portions of the Custom Programming and related materials and documentation in its possession furnished by BIZCOM under this Agreement; (iii) All amounts payable or accrued to BIZCOM under this Agreement shall become immediately due and payable; and (iv) All rights and licenses granted to CLIENT under this Agreement shall immediately terminate. (c) This Agreement may be terminated by CLIENT for its convenience upon sixty (60) days' prior written notice to BIZCOM. Upon such termination, all amounts owed to BIZCOM under this Agreement for accepted work shall immediately become due and payable and all rights and licenses granted by BIZCOM to CLIENT under this Agreement shall immediately terminate. Any non accepted work shall be billed to the CLIENT at a rate of \$225 per hour. This Agreement will be terminated automatically, without notice: (a) upon the institution by or against BIZCOM or Client of insolvency, receivership or bankruptcy proceedings or any other proceedings for the settlement of BIZCOM 's or Client's debts; (b) upon BIZCOM or Client making an assignment for the benefit of creditors; or (c) upon BIZCOM or Client's dissolution.
 13. **Spam.** CLIENT's utilizing any of our email hosting services agree to abide by industry standards regarding unsolicited email ("spam") including: (1) all unsolicited email must include unsubscribe instructions, (2) unsubscribe requests must be acknowledged and processed within 24 hours or before the next email distribution. BIZCOM retains the right to terminate services to any client found to engage in abusive or deceptive email marketing practices, and BIZCOM reserves the right to reject distribution of any email content for any reason including but not limited to excessive message size, inappropriate content, or improper use of addressee information. CLIENT's failure to comply with this notice will result in forfeiture of fees paid to date. As stated above, CLIENT agrees to comply at all times with BIZCOM's Acceptable Use Policy and its policy on Spam, both of which can be accessed at <http://www.bizcomweb.com/spam>
 14. **Compliance with the CAN-SPAM ACT OF 2003.** CLIENT certifies that they comply will all of the regulations in the CAN-SPAM ACT of 2003 and CLIENT agrees to indemnify and hold BIZCOM harmless and to defend BIZCOM from any and all claims, losses, liabilities and damages, including reasonable attorney's fees, resulting from violations or potential violations of the CAN-SPAM ACT of 2003, connected with the services provided under this Agreement.
 15. **Publishers' Omissions.** BIZCOM shall not be held liable for any accidental misstatement due to typographical error, omission or inclusion of published information. In the event of such error, the sole remedy shall be the correction of the error and publication thereof on the original Web document.



16. **Change Orders.** Both CLIENT and BIZCOM will handle Change Order Management. If the need arises to deviate from the proposed statement of work contained in the Proposal after contract signature, then both CLIENT and BIZCOM will work together to customize a solution. The Change Order Request will be submitted by BIZCOM to CLIENT for approval and an increase or decrease of the purchase order price must be paid by CLIENT to BizCom prior to further work being performed.
17. **Network Redundancy & Security:** Network and service backup is provided by redundant servers and multiple Internet access points. Fault-tolerance is built in at all design levels, and our systems are unaffected by most service or component outages. BIZCOM employs multiple security measures to ensure that its network and site designs are secure from outside interference or manipulation. Notwithstanding this, BIZCOM makes no warranty express or implied regarding service availability and cannot be held liable for loss of service, loss of business or any other contingent loss arising from any Internet service outage or information access by outside parties and cannot be held liable for any losses or damages resulting from outside access to databases, program code or other proprietary information residing on any server connected to the Internet via BIZCOM network or Internet services. Detail information for the Master Service Agreement can be found at <http://www.bizcomweb.com/msa>. The current Service Level agreement can be found at <http://www.bizcomweb.com/sla>.
18. **Backup:** BIZCOM employs sophisticated RAID techniques to ensure the integrity of the data on its servers; the data is written to multiple disks simultaneously to prevent data loss in the event of hardware failure. Company performs routine server backups for disaster recovery purposes only. Server backup scope and scheduling is at Company's sole discretion. COMPANY SHALL NOT PERFORM BACK UP OR RESTORE THE DATA UPON YOUR REQUEST UNLESS SUCH BACK UP IS PROVIDED AS A SERVICE UNDER YOUR PURCHASED PLAN. If BIZCOM does backup the Website, a One-time backup of the Website to CD-ROM for onsite or offsite storage is available at \$25 per incident. Regular backups to CD-ROM can be arranged by special contract.
19. **Confidentiality and non-disclosure.** The parties agree to hold each other's Proprietary or Confidential Information in strict confidence. "Proprietary or Confidential Information" is confidential and valuable information which a party desires to protect against disclosure or competitive use or which is in written form and designated as proprietary or confidential or is disclosed orally and is designated either orally or in writing as being proprietary or confidential, and shall include the terms of this Agreement and the Proposal. Proprietary or Confidential Information shall not include any information which: (i) is or becomes generally known to the public by any means other than a breach of the obligations of the receiving party; (ii) was previously known to the receiving party or rightly received by the receiving party from a third party; (iii) is independently developed by the receiving party; or (iv) is subject to disclosure under court order or other lawful process. The parties agree not to make each other's Proprietary or Confidential Information available in any form to any third party or to use each other's Proprietary or Confidential Information for any purpose other than as specified in this Agreement. Each party's proprietary or confidential information shall remain the sole and exclusive property of that party. The parties agree that in the event of use or disclosure by the other party other than as specifically provided for in this Agreement, the non-disclosing party may be entitled to equitable relief. When appropriate BIZCOM will enter into an additional Business Associate Agreement (as required under the HIPPA of 1996 act).
20. **Relationship of parties.** The parties are separate and independent legal entities. BIZCOM, in rendering performance under this Agreement, shall be deemed an independent contractor. Nothing in this Agreement shall be construed to constitute any agency, employment, joint venture or partnership relationship between the parties. Neither party has the authority to bind the other or to incur any liability on behalf of the other, nor to direct the employees of the other.
21. **Arbitration.** Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, or the relationship of the parties before, during or after the term of this Agreement, shall be settled by arbitration in the state of North Carolina in Wake County pursuant to the Commercial Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the Arbitrator may be entered in any Court having jurisdiction thereof; provided, however, BIZCOM shall have the right to seek any equitable or expedited remedy in court, including, but not limited to, unlawful detainer, injunctions pending arbitration, foreclosure of security interest(s) and claims in bankruptcy. If the parties cannot agree upon an arbitrator within ten calendar days following a written demand for arbitration, each party shall select one nominee within five days thereafter. The nominees shall confer and select an arbitrator within fifteen days. Thereafter, the nominees shall be dismissed and the arbitrator so chosen shall hear the case as soon as reasonably possible, but in no event more than sixty (60) days after selection without the prior written approval of BIZCOM.
22. **Costs.** All fees and expenses of the arbitration, appeal thereof, or any other litigation with respect hereto including the parties' respective attorney's fees, shall be born by the parties in the manner determined by the arbitrator.
23. **BIZCOM Warranty:** BIZCOM warrants to CLIENT that: (i) BIZCOM has the right and authority to enter into and perform its obligations under this Agreement; and (ii) that the Development Services shall conform substantially to the Specifications. BIZCOM'S SOLE LIABILITY, AND CLIENT'S SOLE AND EXCLUSIVE REMEDY UNDER THIS AGREEMENT, WILL BE BIZCOM'S USE OF REASONABLE EFFORTS TO CAUSE THE DEVELOPMENT SERVICES TO CONFORM TO THE SPECIFICATIONS OR, IN BIZCOM'S SOLE DISCRETION, TO REFUND THE PORTION OF THE FEES APPLICABLE TO THE PORTION OF THE SERVICES WHICH DO NOT CONFORM TO THE SPECIFICATIONS. EXCEPT AS EXPRESSLY STATED HEREIN, BIZCOM MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED



WARRANTIES OF MERCHANTABILITY AND/OR FITNESS FOR A PARTICULAR PURPOSE, CONCERNING THE SERVICES OR THE SUBJECT MATTER OF THIS AGREEMENT.

24. **Limitation of Liability:** IN NO EVENT SHALL BIZCOM BE LIABLE TO CLIENT OR ANY OTHER PERSON FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING LOSS OF PROFIT OR GOODWILL, FOR ANY MATTER ARISING OUT OF OR RELATING TO THE SERVICES, THIS AGREEMENT AND/OR ITS SUBJECT MATTER, WHETHER SUCH LIABILITY IS ASSERTED ON THE BASIS OF CONTRACT, TORT OR OTHERWISE EVEN IF BIZCOM HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. BIZCOM'S TOTAL LIABILITY (INCLUDING ATTORNEYS FEES) FOR DAMAGES HEREUNDER FOR ANY CAUSE WHATSOEVER RELATING TO THE SERVICES, THE WEBSITE OR ANY APPLICATIONS THEREIN, SHALL BE LIMITED TO THE TOTAL FEES ACTUALLY PAID BY CLIENT TO BIZCOM HEREUNDER FOR SUCH SERVICES.
25. **CLIENT Warranty:** CLIENT represents and warrants to BIZCOM that: (i) CLIENT has the power and authority to enter into and perform its obligations under this Agreement; (ii) CLIENT shall not distribute on the Website any Client Content that: (a) infringes on any proprietary or intellectual property rights of any third party or any rights of publicity or privacy; (b) violates any law, statute, ordinance or regulation (including without limitation the laws and regulations governing export control, unfair competition, or antidiscrimination), (c) is defamatory, trade libelous, unlawfully threatening or unlawfully harassing; (d) is obscene, pornographic or indecent; or (e) contains any viruses, trojan horses, worms, cancelbots or other computer programming routines that are intended to damage, interfere with, surreptitiously intercept or expropriate any system, data or personal information; and (iii) CLIENT will own all Client Content and all proprietary or intellectual property rights therein, or will have the express written authorization from the owner thereof to copy, use and display the Client Content on and within the Website.
26. **Indemnification.**
 - a. **By Client.** CLIENT agrees to indemnify, hold harmless and defend BIZCOM and its directors, officers, employees and agents from and against any action, claim, cause of action, demand, liability, loss, liability, cost and expense, including reasonable attorney's fees, arising from or relating to (i) CLIENT's breach of this Agreement, including BIZCOM's Acceptable Use Policy or No Spam Policy, and (ii) any allegation or claim that the Client Content or CLIENT's use or operation of the Website infringes or violates any copyrights, trademarks, patents, trade secrets, licenses, privacy rights, or other rights (intellectual or otherwise) of any third party. CLIENT agrees that BIZCOM shall have the right to participate in and control the defense of any such claim through counsel of its own choosing.
 - b. **By BIZCOM.** BIZCOM agrees to indemnify, hold harmless and defend CLIENT and its directors, officers, employees and agents from and against any action, claim, cause of action, demand, liability, loss, liability, cost and expense, including reasonable attorney's fees, arising from or relating to any allegation that the BIZCOM Content or code infringes or violates any copyrights, trademarks, patents, trade secrets, licenses, privacy rights, or other rights (intellectual or otherwise) of any third party. BIZCOM agrees that CLIENT shall have the right to participate in and control the defense of any such claim through counsel of its own choosing.
27. **Acknowledgments.** CLIENT acknowledges that CLIENT's business involves business risks, and that its success will be largely dependent upon the actions and ability of CLIENT. BIZCOM expressly disclaims the making of, and CLIENT acknowledges that it has not received, any warranty or guarantee, express or implied, as to the potential success of CLIENT's activity. This Agreement shall be a non-exclusive agreement for the Development Services. BIZCOM shall have the right to perform similar services for other customers or clients of BIZCOM during and after the term of this Agreement.
28. **Entire Agreement.** This Agreement, together with the Proposal, the BIZCOM Master Services Agreement, Service Level Agreement, Acceptable Use Policy, No-Spam Policy, as applicable, along with any other exhibits or schedules attached hereto, constitutes the full and complete agreement between the parties hereto with respect to the subject matter hereof. There are no verbal or other agreements that affect or modify this Agreement. Any prior representations, promises, contracts or agreement are hereby fully superseded.

Miscellaneous. (a) Except as otherwise allowed in this Agreement, CLIENT shall not assign, sublicense or charge any rights, duties, and/or privileges under this Agreement to any person or entity, without the prior written consent of BIZCOM, which may be withheld in BIZCOM's sole discretion. BIZCOM will exercise reasonable consideration of such requests. BIZCOM may assign this Agreement. (b) This Agreement shall be governed by and construed in accordance with the laws of the State of North Carolina. Any term or provision of this Agreement held to be illegal or unenforceable shall be deemed amended to conform to applicable laws or regulations, or, if it cannot be so amended without materially altering the intention of the parties, it shall be deemed deleted and the remainder of this Agreement shall remain in full force and effect. (c) The waiver of one breach or default hereunder shall not constitute the waiver of any subsequent breach or default. (d) All notices and other communications required or permitted to be served on or given to either party shall be in writing and be delivered or transmitted to the intended recipient's address as specified herein or such other address as either party may notify to the other from time to time. Notices shall be treated as having been given three (3) days after deposit if sent by registered or certified mail, one (1) working day after delivery to the courier service if sent by courier, on delivery if hand-delivered, or on successful transmission as signified by the sending machine if sent by facsimile. (e) Neither party to this Agreement shall be liable to the other for failure or delay in the performance of a required obligation (other than CLIENT's obligation to pay Fees) if such failure or delay is caused by strike, riot, fire, flood, natural disaster, or other similar cause beyond such party's control, provided that such party gives prompt written notice of such condition to the other party and resumes its performance as soon as possible. (f) Headings and Section Titles in this Agreement have been inserted for convenience only and



shall not affect its interpretation. (g) CLIENT shall be responsible for BIZCOM's reasonable attorneys' fees associated with the enforcement of the terms of this Agreement or the collection of any amounts due under this Agreement. (h) This Agreement may be executed in two or more counterparts, each of which where so executed shall be deemed an original copy hereof, but together shall constitute one and the same Agreement. (k) The following provisions will survive expiration or termination of the Agreement: fees, indemnity obligations, confidentiality obligations, provisions limiting liability and disclaiming warranties, provisions regarding ownership of intellectual property, these miscellaneous provisions, and other provisions that by their nature are intended or would be expected to survive termination of the Agreement. (l) This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective stockholders, directors, officers, heirs, personal representatives, permitted successors and assigns.

CONFIDENTIAL