MASTER SOFTWARE DEVELOPMENT AGREEMENT

This Master Software Development Agreement (this "Agreement" or "MSDA") is made and entered into this --- day of -----, 20---, by and between ---------------- (hereinafter "Customer"), with offices at ---------- --------------------, and BestIT.com, Inc. (hereinafter "BestIT"), with offices at 3724 North 3rd Street, Phoenix, Arizona 85012.

Recitals

WHEREAS, Customer desires to engage BestIT from time to time pursuant to one or more Work Statements to develop, create, test and deliver certain software development materials, and BestIT is interested in accepting such engagements, subject to the parties' further agreement on the scope and terms of each such Work Statement; and

WHEREAS, Customer and BestIT mutually desire to set forth in this Agreement certain terms applicable to all such engagements;

NOW, THEREFORE, the parties, intending to be legally bound, hereby agree as   follows:

Terms and Conditions

The terms of this Agreement shall apply (in the absence of any specific written agreement signed by both Parties) each time the Customer engages BestIT to provide Development Deliverables. All Deliverables provided will be described in one or more of the following: (i) a description of services document, including but not limited to "Application Development Agreements", "Software Development Agreements," "Assessments" or "Technical Specification Forms," (individually, the "Work Statement" and collectively, the "Work Statements"); (ii) any mutually agreed upon Statement of Work or scope of work document ("SOW"); (iii) a Customer change request form setting out Work requirements that fall outside of the previously agreed upon scope of work, as mutually agreed upon in writing by the BestIT and Customer).

In no event will the description of the works made for hire under any Development Agreement be deemed by implication or otherwise to exclude any Deliverable described in this MSDA or another Development Agreement. In the event of a conflict between the terms of the MSDA and a Work Statement, the terms of these documents will be interpreted according to the following order of precedence: (1) Work Statement and (2) the MSDA.

1. Definitions. When used in this Agreement and in each Work Statement issued hereunder,   the capitalized terms listed below shall have the following meanings:

     a. Code. Shall mean computer programming code. If not otherwise specified, Code shall include both Object Code and Source Code. Code shall include any Maintenance Modifications or Basic Enhancements thereto created by BestIT from time to time, and shall include Major Enhancements thereto when added to the Code in connection with a Work Statement issued hereunder.

          i. Object Code. Shall mean the machine-readable form of the Code.

          ii. Source Code. Shall mean the human-readable form of the Code and related system documentation, including all comments and any procedural code such as job control language.

b. <u>BestIT Code</u>. Shall mean Code developed by BestIT during the course of the Agreement and/or existing as of the date of this Agreement which is incorporated into the source code of the Software or any code that interacts with a data base or data store.

c. <u>Development Work.</u> Shall mean the Software, Documentation and all other results and items arising out of the Development Program, including without limitation, all Deliverables, programming materials, source code and binary code for the GPL portions of the code, binaries for the non-GPL portions of the code, inventions, designs, notes, records, memoranda, documentation and other materials, as well as all Enhancements, derivatives and modifications thereof, and all intellectual property rights thereto.

d. <u>Development Program</u>. Shall mean the activities undertaken by the parties hereunder for the development of the Software and Documentation satisfying the Specifications pursuant to this Agreement (may be documented in a "Project Plan").

e. <u>Deliverables</u>. Shall mean the Software, all Code, Documentation and other materials developed for or delivered to Customer by BestIT under this Agreement and under any Work Statement issued hereunder.

f. <u>Software.</u> Shall mean the computer software program(s) described in the Work Statement to be developed by BestIT pursuant to the Development Program, together with all enhancements made there under.

g. <u>Milestone.</u> Shall mean each development or delivery milestone of the Development Program or Project Plan as it pertains to the requirements and specifications.

h. <u>Derivative Work</u>. Shall mean a work which is based upon one or more preexisting works, such as a revision, modification, translation, abridgement, condensation, expansion, or any other form in which such preexisting works may be recast, transformed, or adapted, and which, if prepared without authorization of the owner of the copyright in such preexisting work, would constitute a copyright infringement. For purposes hereof, a Derivative Work shall also include any compilation that incorporates such a preexisting work.

i. <u>Documentation</u>. Shall mean user manuals and other written materials that relate to particular Code, including materials useful for design (for example, logic manuals, flow charts, and principles of operation). Documentation shall include any Maintenance Modifications or Basic Enhancements thereto created by BestIT from time to time, and shall include Major Enhancements thereto when added to the Documentation in connection with a Work Statement issued hereunder.

j. <u>Enhancements</u>. Shall mean changes or additions, other than Maintenance Modifications, to Code and related Documentation, including all new releases that improve functions, add new functions, or improve performance by changes in system design or coding.

    i. <u>Basic Enhancements</u>. Shall mean any Enhancements that are not Major Enhancements.

    ii. <u>Major Enhancements</u>. Shall mean changes or additions to Code and related Documentation that (1) have a value and utility separate from the use of the Code and Documentation, (2) as a practical matter, may be priced and offered separately from the Code and Documentation, and (3) are not made available to any of BestIT's customers without separate charge.

k. <u>Error</u>. Shall mean any error, problem, or defect resulting from (i) an incorrect functioning of Code, or (ii) an incorrect or incomplete statement or diagram in Documentation, if such error, problem or defect renders the Code inoperable, causes the Code to fail to meet the specifications thereof, causes the Documentation to be inaccurate or incomplete in any material respect, causes incorrect results, or causes incorrect functions to occur when any such materials are used.

l. <u>Maintenance Modifications</u>. Shall mean any modifications or revisions, other than Enhancements, to Code or Documentation that correct Errors.

m. <u>Software Update</u>. Shall mean applying a patch or point release. Updates are generally smaller in scope and are typically isolated to one section or component of an application. These changes are described by incrementing the digits to the right of the decimal in the release number. For example, "version 10.03" would designate the third update of version 10.

n. <u>Software Upgrade</u>. Shall mean moving from one major release of an application to another major release (i.e. upgrade from Release 4 to Release 5). Upgrades may involve major changes or additions in program processes and the addition or modification of data structures. Upgrades are typically more far-reaching in scope than updates.

o. <u>Specifications.</u> Shall mean the specifications set forth in a Work Statement for the Software or Deliverable to be developed hereunder.

p. <u>Work Statement</u>. Shall mean a purchase order of Customer, a proposal of BestIT, or another written instrument that contains a description and/or specifications of the services to be performed and/or Deliverables to be provided to Customer by BestIT, including the amount and schedule of payment.

q. <u>Issuance of Work Statements</u>. The Work Statement(s) agreed to by the parties are set forth as attachments to this Agreement. Additional Work Statements, whether or not relating to the same subject matter as the initial Work Statement(s), shall be c om e effective upon execution by authorized representatives of both parties.

2. <u>Changes</u>. Changes in any Work Statement or in any of the Specifications or Deliverables under any Work Statement shall become effective only when a written change request is executed by authorized representatives of both parties. Change requests with respect to this Agreement, any Work Statement, or any Specifications or Deliverables must be requested and/or accepted in writing by both parties' authorized representatives.

3. <u>Notice of Delay</u>. BestIT agrees to notify Customer promptly of any factor, occurrence or event coming to its attention that may affect BestIT's ability to meet the requirements of any Work Statement issued under this Agreement, or that is likely to occasion any material delay in delivery of Deliverables. Such notice shall be given in the event of any loss or reassignment of key employees, threat of strike, or major equipment failure.

4. <u>Compensation</u>.

a. <u>Amounts and modes of payment for all services to be performed and Deliverables shall be set forth in each Work Statement if not otherwise governed by separate written agreement.</u>

b. <u>Statement of Rates</u>. The hourly rates prescribed by BestIT's then-current Statement of Rates shall be in lieu of compensation or reimbursement for any costs or burden incurred by BestIT, including (without limitation) occupancy, supplies, utilities, payroll, management and overhead (excluding travel expenses as provided for in the individual Work Statements). No royalty or profit-sharing whatsoever is to be provided BestIT for the Deliverables. Rates quoted by BestIT in a Statement of Rates are subject to change upon sixty days' advance notice, provided that any such change shall have no effect upon rates or charges for work already rendered.

5. <u>Invoicing</u>. BestIT shall invoice Customer the first billing period of every month. Invoice terms are Net fifteen (15) from the date of invoice. Customer shall pay BestIT in US dollars, as invoiced by BestIT. Additional charges may apply if Customer requests Work to be performed outside of the contracted hours or is beyond the normal coverage as provided for in the Service Agreements.

   For invoices not paid within thirty (30) days of the invoice date, BestIT reserves the right to charge Customer a late penalty charge of one and a half percent (1.5%) per month applied against undisputed overdue amounts, or the maximum rate permitted by law, whichever is less. In addition, BestIT, without waiving any other rights or remedies to which it may be entitled, shall have the right to suspend or terminate the Work until such payment is received and may decide not to accept additional Work requests from Customer and/or seek collection of all amounts due, including reasonable legal fees and costs of collections. BestIT shall have no liability to Customer for any such suspension or termination of Work.

6. <u>Records and Audit</u>. BestIT shall maintain complete and accurate accounting records in accordance with sound accounting practices to substantiate BestIT's charges under each Work Statement and on each invoice. Such records shall include payroll records, job cards, attendance cards and job summaries. BestIT shall preserve such records for a period of at least two years after completion of the pertinent work. Customer shall have access to such records for purposes of audit, either through its own representatives or through an accounting firm selected and paid by Customer. Any such review of BestIT's records shall be conducted with a minimum of 14 days written notice, and no more than twice annually, during BestIT's normal business hours.

7. <u>Expenses</u>. Except as expressly agreed otherwise by Customer in a Work Statement, BestIT shall bear all of its own expenses arising from its performance of its obligations under this Agreement and each Work Statement issued hereunder. This includes (without limitation) BestIT's facilities, work space, utilities, management, clerical, reproduction services, supplies and the like.

8. <u>Delivery and Acceptance</u>. BestIT agrees to use its commercially reasonable efforts to perform its obligations under the Development Program, to achieve each Milestone and to deliver Deliverables, which satisfy the test criteria as set forth in the Specifications. Customer agrees to provide BestIT with acceptance or rejection within fifteen (15) days of receipt of Deliverables (the "Acceptance Period"). A Milestone or Deliverable shall be deemed completed upon Customer's written acceptance to BestIT. In the event of rejection of Deliverables by Customer, Customer shall provide in writing the reason for rejection in reasonable detail during the Acceptance Period. If Customer fails to provide acceptance or a rejection statement within the Acceptance Period, Deliverables shall be deemed accepted. In the event that a rejection is received in connection with Specifications and/or requirements which were appropriately provided to BestIT by Customer, BestIT shall use commercially reasonable efforts to correct any deficiencies or non-conformities as they pertain to the Specifications and resubmit the rejected items as promptly as possible. However, should the rejection be a result of Customer-modified requirements or Specifications which were not provided to Customer and agreed upon in writing, BestIT may provide additional adaptations or enhancements, which may provide for additional payments by Customer to BestIT. The fee for any such adaptations or enhancements shall be at the BestIT's then current rates.

9. <u>Ownership and Rights</u>. Portions of the BestIT Code may be open source and may be distributed under the terms of the GNU General Public License (GPL), which terms are located at http://www.gnu.org or other open source license modules and which are incorporated herein by reference. Except as may otherwise be permitted, the Software, Documentation, Enhancements, and other Development Work shall also be governed by the terms of the GPL. To the extent that the Software, Documentation, Enhancements and other Development Work or any part thereof falls outside the scope of Section 2 of the GPL,

a. <u>Ownership of Work Product by Customer</u>. Until such time as full and final payment from Customer to BestIT for the Deliverables as provided for in any Work Statement or for an individual Project included in any Work Statement hereunder is received, BestIT shall retain ownership, including all rights and licenses for all Deliverables, Software, Documentation, Enhancements and other Development Work as provide for hereunder. Upon BestIT's receipt of full and final payment from Customer for the Deliverables as provided for in any Work Statement, or for an individual Project included in any Work Statement hereunder, all ownership rights and licenses for said Deliverables shall be transferred to Customer and shall be considered work made for hire by BestIT for Customer, and Customer shall then own all United States and international copyrights in the Deliverables, subject to the terms of Section 9(c) herein.

b. <u>Vesting of Rights</u>. Upon full and final payment for Deliverables, and with the sole exception of any preexisting licensed works identified in Section 9(d) hereof, BestIT automatically assigns to Customer, its successors and assigns, ownership of all United States and international copyrights in each and every Deliverable, insofar as any such Deliverable, by operation of law, may not be considered work made for hire by BestIT for Customer, subject the terms of Section 9(c) herein. From time to time upon Customer's request, BestIT and/or its personnel shall confirm such assignment by execution and delivery of such assignments, confirmations of as s i g n m en t , or ot he r written instruments as Customer may request. Customer, its successors and assigns, shall have the right to obtain and hold in its or their own name(s) all copyright registrations and other evidence of rights that may be available for Deliverables, subject to the terms of Section 9(c) herein.

c. <u>Right to Maintain and Support</u>. BestIT retains the exclusive right to maintain and support Deliverables.

d. <u>Preexisting Works</u>. In the event that any Deliverable constitutes a Derivative Work of any preexisting work, BestIT shall ensure that the Work Statement pertaining to such Deliverable so indicates by reference to (i) the nature of such preexisting work, (ii) its owner, (iii) any restrictions or royalty terms applicable to BestIT's use of such preexisting work or Customer's exploitation of the Deliverable as a Derivative Work thereof, and (iv) the source of BestIT's authority to employ the preexisting work in the preparation of the Deliverable. Unless otherwise specifically agreed in the Work Statement pertaining to such Deliverable, before initiation of the preparation of any such Deliverable that is a Derivative of a preexisting work, BestIT shall cause Customer, its successor and assigns, to have and obtain the irrevocable, nonexclusive, worldwide, royalty-free right and license to (i) use, execute, reproduce, display, perform, distribute internally or externally, sell copies of, prepare Derivative Works based upon all preexisting works and Derivative Works thereof, and (ii) authorize or sublicense others from time to time to do any or all of the foregoing.

e. <u>Patent License</u>. In addition, BestIT hereby grants to Customer, its successors and assigns, the royalty-free, worldwide, nonexclusive right and license under any patents owned by BestIT, or with respect to which BestIT has a right to grant such rights and licenses, to the extent required by Customer to exploit the Deliverables and exercise its full rights in the Deliverables, including (without limitation) the right to make, use and sell products based on or incorporating such Deliverables.

f. <u>Confidential Information</u>. Customer shall own Confidential Information that Customer owned prior to execution of the Agreement and for which it provided under this Agreement to BestIT.

g. <u>BestIT Code</u>. Notwithstanding any provision to the contrary, specifically Section 9(a) hereof), Customer shall own and retain all rights, title and interest it may have in the BestIT Code incorporated within the Software. With respect to such BestIT Code, BestIT hereby grants to Customer a non-exclusive, world-wide right and license to use, reproduce, and distribute the BestIT Code solely as part of the Software and subject to the terms of Section 9(c) herein, unless such BestIT Code is governed by the GPL or other open source provisions. In such case, GPL provisions shall govern.

h. <u>Customer Property</u>. Customer hereby grants to BestIT a non-exclusive, royalty-free, non-transferable internal license to use the Customer Property and intellectual property embodied therein, for the sole purpose of performing BestIT's obligation under this Agreement. No Customer Property may be provided to any third party without the prior written approval by Customer, unless otherwise required by the GPL or other open source license. All Customer Property shall be returned immediately upon Customer's request.

i. <u>Preexisting Works</u>. In the event that any Deliverable constitutes a Derivative Work of any preexisting work, BestIT shall ensure that the Work Statement pertaining to such Deliverable so indicates by reference to (i) the nature of such preexisting work, (ii) its owner, (iii) any restrictions or royalty terms applicable to BestIT's use of such preexisting work or Customer's exploitation of the Deliverable as a Derivative Work thereof, and (iv) the source of BestIT's authority to employ the preexisting work in the preparation of the Deliverable. Unless otherwise specifically agreed in the Work Statement pertaining to such Deliverable, before initiation of the preparation of any such Deliverable that is a Derivative of a preexisting work, BestIT shall cause Customer, its successor and assigns, to have and obtain the irrevocable, non-exclusive, worldwide, right and license to, and (v) use, execute, display, distribute internally or externally, sell copies of, prepare Derivative Works based upon all preexisting works and Derivative Works thereof.

j. <u>Conflicting Written Agreement</u>. The ownership and rights terms as established by this Section 9 are secondary to such terms as explicitly established in writing by subsequent written agreement(s) entered between BestIT and Customer. Such subsequent written terms shall govern the Statements of Work, Customer Change Requests, or other such agreements to which they attach. The terms established by this Section 9 will continue to govern all subsequent agreements that do not contain conflicting ownership and rights terms.

10. <u>Inventions</u>.

a. <u>An "Invention"</u> shall mean any idea, design, concept, technique, invention, discovery or improvement, whether or not patentable, made solely or jointly by BestIT and/or BestIT's employees, or jointly by BestIT and/or BestIT's employees with one or more employees of Customer, during the term of this Agreement and in the performance of any work under any Work

Statement issued hereunder, provided that either the conception or reduction to practice thereof occurs during the term of this Agreement and in the performance of work under a Work Statement issued hereunder.

    b.   <u>Vesting of Rights</u>. BestIT retains all rights to all Inventions, together with the right to seek protection by obtaining patent rights therefore and to claim all rights or priority there under, and the same shall remain of the BestIT's property whether or not such protection is sought.

11. <u>Avoidance of Infringement</u>. In performing services under this Agreement, BestIT agrees to avoid designing or developing any items that infringe one or more patents or other intellectual property rights of any third party. If BestIT becomes aware of any such possible infringement in the course of performing work under any Work Statement issued hereunder, BestIT shall immediately notify Customer in writing.

12. <u>Confidential Information</u>.

    a.   <u>No Confidential Information of BestIT</u>. It is understood and agreed that Customer does not wish to receive from BestIT any confidential information of BestIT or of any third party. BestIT represents and warrants that any information provided to Customer in the course of entering into this Agreement or any Work Statement or performing work under any Work Statement issued hereunder shall not be confidential or proprietary to BestIT.

    b.   <u>Confidential Information of Customer</u>. From time to time Customer may provide its own confidential business and technical information to BestIT in connection with the work to be performed by BestIT under Work Statements is s u e d he r e unde r . Such information shall be designated as confidential upon or prior to disclosure by Customer. In addition, the preparation and specifications of the Deliverables shall in all instances be treated as confidential, unless and until disclosed publicly by Customer. All confidential written materials shall be marked with a legend "Customer -- Confidential." BestIT shall use its best efforts to prohibit any use or disclosure of Customer's confidential information, except as necessary to perform work under the Work Statements issued hereunder.

13. <u>Agreements with Employees and / or Contractors</u>. BestIT shall obtain and maintain in effect written agreements with each of its employees or contractors who participate in any of BestIT's work under any Work Statements issued hereunder. Such agreements shall contain terms sufficient for BestIT to comply with all provisions of this Agreement and to the support all grants and assignments of rights and ownership hereunder. Such agreements also shall impose an obligation of confidence on such employees or contractors with respect to Customer's confidential information.

14. <u>Representations and Warranties</u>. BestIT makes the following representations and warranties for the benefit of Customer, as a present and ongoing affirmation of facts in existence at all times when this Agreement or any Work Statement issued hereunder is in effect:

    a.   <u>No Conflict</u>. Customer represents and warrants that it is under no obligation or restriction, nor will it assume any such obligation or restriction, that does or would in any way interfere or conflict with, or that does or would present a conflict of interest concerning, the work to be performed by BestIT under this Agreement and each Work Statement issued hereunder.

b. Ownership Rights. BestIT represents and warrants (i) that, except as provided in Section 9(d) hereof with respect to certain identified preexisting works licensed to Customer, it is and will be the sole author of all works employed by BestIT in preparing any and all Deliverables, (ii) that it has and will have full and sufficient right to assign or grant the rights and/or licenses granted in the Deliverables pursuant to this Agreement, (iii) that all Deliverables, including any preexisting works addressed in Section 9(d) hereof, have not been and will not be published under circumstances which have caused a loss of copyright therein, and (iv) that all Deliverables, including all preexisting works addressed in Section 9(d) above, do not and will not infringe any patent, copyright, trademark or other intellectual property rights (including trade secrets), privacy or similar rights of any third party, nor has any claim (whether or not embodied in an action, past or present) of such infringement been threatened or asserted, or is such a claim pending, against BestIT (or, insofar as BestIT is aware, any entity from which BestIT has obtained such rights).

c. Conformity, Performance and Compliance. BestIT represents and warrants (1)that as of the time of acceptance, the Deliverables will operate in accordance with and substantially conform to the functions, documentation and test criteria stated in the Specifications, manuals and any relevant data sheet(s) provided by BestIT and approved or accepted by Customer, (ii) that all Deliverables shall be prepared in a workmanlike manner and with professional diligence and skill, (iii) that all Deliverables will function on the machines and with the then- current versions of the operating systems for which they are designed, and (iv) that BestIT will perform all work called for in each Work Statement issued hereunder in compliance with applicable law.

15. Non Solicitation. Customer shall not solicit, hire, contract or engage the employment or services of any employee or contractor of BestIT with whom Customer personnel have had contact in the course of performance of this Agreement and for a period of one year thereafter.

16. Termination.

a. Termination of Work Statements. Unless otherwise provided for in the Work Statement(s), Customer may, at its sole option, terminate this Agreement for cause, which shall be defined as a material breach of the Work Statement which BestIT has not commenced efforts to cure within five (5) days after written notice or has not cured within sixty (60) days of written notice. Upon receipt of notice of such termination, BestIT shall inform Customer of the extent to which performance has been completed through such date, and collect and deliver to Customer whatever work product then exists in a manner mutually agreed upon and at Customer's expense. BestIT shall be paid for all work performed through the date of termination, provided that such payment shall not be greater than the payment that would have become due if the work, as provided for in the Work Statement had been completed.

BestIT may terminate a Work Statement (i) in the event that Customer fails to provide BestIT with all information which may be pertinent to the subject matter of the Work Statement. Information shall be deemed to be "pertinent" if prior disclosure of such information may have prevented BestIT from agreeing to the Work Statement, or may have caused BestIT to modify the terms and/or consideration set forth in the Work Statement, (ii) in the event that Customer materially breaches any of the terms of one or more Service Agreement or Work Statement and such breach is not cured within sixty (60) days of written notice thereof.
Customer understands that if this Agreement, a Statement of Work or Work Agreement is terminated by either party, BestIT shall have no further obligation to perform any work, to return Customer's systems to their original status prior to the time any Work was performed by BestIT or agents of BestIT and no obligation for any claim resulting or arising from Customer's modification of the Work or Deliverable(s).

b. <u>Termination of Agreement</u>. BestIT may terminate this Agreement in the event that Customer fails to provide BestIT with all information which may be pertinent to the subject matter of this Agreement. Information shall be deemed to be "pertinent" if prior disclosure of such information may have prevented BestIT from entering into this Agreement, or may have caused BestIT to modify the terms and/or consideration set forth in the Agreement. BestIT may also terminate this Agreement in the event that Customer materially breaches any of the terms of this Agreement and such breach is not cured within thirty (30) days of written notice thereof. Termination of one or more Service Agreements will not terminate this MSDA. Upon termination of this MSDA, all rights and obligations of the Parties under this MSDA, unless otherwise provided for herein, will automatically terminate except for the rights of action accruing prior to termination, payment obligations that expressly or by implication are intended to survive termination.

Customer may terminate this Agreement for cause, which shall be defined as:

(i) The documented repeated failure of BestIT to supply properly skilled workers or proper materials;

(ii) BestIT's material breach of the Contract Documents that is not cured within sixty (60) days after written notice.

Customer understands that if this Agreement is terminated by Customer, BestIT shall have no further obligation to perform any Work. BestIT shall have no obligation to return Customer's systems or equipment to their original status prior to the time any Work was performed by BestIT or agents of BestIT. Upon termination, BestIT may assist in Customer's transition from Best IT to Customer or appropriate outside Vendor selected by Customer at Customer's expense.

c. <u>Survival. In the event </u>of any termination of this Agreement, Sections 7 and 9 through 15 hereof shall survive and continue in effect and shall inure to the benefit of and be binding upon the parties and their legal representatives, heirs, successors and assigns.

17. <u>Miscellaneous</u>.

a. <u>Representations and Warranties</u>. The parties represent and warrant, which warranties and representations shall survive the expiration or earlier termination of this Agreement, that:
   i. Each person executing this Agreement is duly authorized to execute and deliver this Agreement on behalf of all persons or entities bound or affected by this Agreement, and that no further authorization or consent is necessary or required;
   ii. The parties hereto are corporations duly organized, existing and in good standing under the laws where said corporations are incorporated.

b. <u>Governing Law, Jurisdiction and Venue</u>. This Agreement shall be delivered in, and shall in all respects be governed by, subject to, enforced and construed in accordance with the laws of the State of Arizona including all matters of construction, validity, performance and enforcement. The parties agree that the exclusive jurisdiction and venue of any action between the parties arising out of, or in any way connected with the provisions of this Agreement, the subject matter hereof, the parties mutual rights and obligations arising heretofore or hereafter or the performance of any of the terms and conditions hereof by either of the parties hereto including any disputes that may arise following the expiration or termination of this Agreement, shall be the Superior Court of Arizona for the County of Maricopa and the United States District Court for the District of Arizona, as applicable, and each of the parties hereby submits itself to the exclusive jurisdiction and venue of such courts for purposes of any such action or proceeding.

c. Construction. Each party acknowledges that it has participated fully in the review and revision of this Agreement. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in interpreting this Agreement.

d. Survival. The representations, warranties and agreements of the parties contained or provided for in this Agreement shall survive the expiration or termination of this Agreement and shall be and continue in effect notwithstanding the fact that any party may waive compliance with any other term, provision, covenant or condition of this Agreement.

e. Entire Agreement. This Agreement constitutes the entire agreement between the parties with the respect to the subject matter thereof, and is the final, complete and exclusive expression of all terms and conditions. All prior agreements, representations, correspondence, agreements, negotiations and understandings of the parties, oral or written, expressed or implied, are superseded and merged in this Agreement. Any agreements, understandings, warranties or representations not expressly contained in this Agreement shall not bind any party. To the maximum extent permitted by law, each party expressly waives any right of rescission and all claims for damages by reason or any statement, representation, warranty, promise and/or agreement, if any, not contained in or attached to this Agreement.

f. Cooperation. Each party to this Agreement shall at its own cost and expense, upon the reasonable request of the other party, execute, acknowledge and deliver, or cause to be executed, acknowledged, and delivered, such further instruments and documents and take all actions as may be reasonably required to effectuate this Agreement.

g. Severability. The invalidity or unenforceability of any term or provision of this Agreement or the non-application of any such term or provision to any person or circumstance shall not impair or affect the remainder of this Agreement, or the same provision under other circumstances, and the remaining terms and provisions hereof shall not be invalidated but shall remain in full force and effect and shall be construed as if such invalid, unenforceable, or non-applicable provision were omitted.

h. Waiver or Modification. No waiver or modification of this Agreement or of any covenant, condition, or limitation herein contained shall be valid unless in writing and duly executed by the party to be charged therewith. No evidence of any waiver or modification shall be offered or received in evidence in any proceeding, arbitration, or litigation between the parties arising out of or affecting this Agreement or the rights or obligations of any party hereunder, unless such waiver or modification is in writing and duly executed as aforesaid. The provisions of this section may not be waived except as herein set forth.

i. Consent. The consent by one party to any act by the other for which such consent was required shall not be deemed to imply consent or waiver of the necessity of obtaining such consent for the same or any similar acts in the future. No waiver or consent shall be implied from silence or any failure of a party to act, except as otherwise specified in this Agreement.

j. Assignability. Neither party may assign its rights or obligations under this Agreement without the consent of the other party.

k. Attorneys' Fees. In the event of any litigation or arbitration of any quasi–judicial or administrative proceeding brought by either of the parties hereto to enforce any covenant, condition, representation, warranty or provision of this Agreement, to rescind this Agreement, to enforce any remedy available upon default hereunder, to interpret this Agreement, or seeking a declaration of the rights of the parties hereto, the prevailing party shall be entitled to recover all costs and expenses incurred in connection therewith, including reasonable attorneys' fees including the costs of reasonable investigation, preparation and professional or expert consultation incurred by reason of such litigation, arbitration or proceeding. Sums actually expended in the prosecution or defense of any litigation, arbitration or proceeding within the meaning of the foregoing sentence shall be prima facie evidence of reasonable attorneys' fees, costs and disbursements.

l. Notices.

i. Form. Any notice, request, demand, consent, approval or other communication (a "Notice") required or permitted under this Agreement or by law shall be (1) in writing and (2) either (A) delivered in person to an officer or duly authorized representative of the other party, (B) deposited in the United States mail, postage prepaid, duly certified or registered, return receipt requested, (C) sent by overnight delivery service such as Federal Express or (D) delivered or sent by telecopier. Notices shall be addressed as set forth below, or at such other address as either party shall designate in writing and delivered to the other party in accordance with the provisions of this Section:

If to Customer:	If to BestIT:
Attn:	BestIT.com, Inc. 3724 N. 3rd Street Phoenix, AZ 85012 Attn: Harry Curtin

m. Effective Date. All notices shall be deemed effective as provided for herein. If personally delivered, sent by overnight delivery service or telecopier, notice shall be deemed received at the time of delivery. If sent by mail, the notice shall be deemed fully delivered and received five (5) business days after being deposited in the mails, certified or registered mail receipt with appropriate postage prepaid for first–class mail. In the event of a postal strike, all notices shall be personally delivered, sent by air express service, sent by overnight delivery service, or telecopier. Rejection or other refusal to accept notice or the inability to deliver the same because of a changed address of which no notice was given shall be deemed to be receipt of the notice sent.

n. Headings. The headings used in this Agreement are for convenience of reference only and shall not modify, define or limit any terms or provisions of this Agreement.

o. Counterparts. This Agreement may be executed in one or more counterparts. All such counterparts, when taken together, shall comprise the fully executed Agreement. This Agreement may also be executed by delivery by facsimile of an executed counterpart original of this Agreement. The parties shall thereafter exchange the original documents bearing original signatures, but the failure to do so shall not affect the enforceability of this Agreement.

p. Relationship of the Parties. The relationship of the parties is that of independent contractors. This Agreement does not create an agency, partnership, joint venture or any other similar relationship between the parties. Neither party acquires any rights to use in

advertising, publicity or other marketing activities, any name, trade name, trademark, copyright or other designation of the other party.

q. <u>Parties of Interest</u>. This Agreement shall be binding upon, and inure to the benefit of the parties to this Agreement and their respective successors and assigns.

IN WITNESS WHEREOF, this Agreement shall be effective as of the date upon which both parties being fully authorized have signed below.

_____   _____
Customer Authorized Representative   BestIT Authorized Representative

_____   _____
Title   Title

_____   _____
Date   Date