

Appendix D

Software Service Agreement

B2Gnow SOFTWARE SERVICE AGREEMENT

THIS SOFTWARE SERVICE AGREEMENT ("Agreement") is entered into as of the date the Agreement is executed by all the parties (the "Effective Date"), between AskReply, Inc. d/b/a B2Gnow, an Arizona corporation of Phoenix, Arizona ("B2Gnow" or "Contractor"), and the _____ ("Customer"). In consideration of the mutual covenants and promises contained in this Agreement, the parties agree as follows:

1 DEFINITIONS

"Agreement" means this Software Service Agreement and the attached Investment Proposal and/or Statement of Work.

"B2Gnow Technology" means all of B2Gnow's proprietary technology (including software, hardware, products, processes, algorithms, user interfaces, know-how, techniques, designs and other tangible or intangible technical material or information) made available to you by B2Gnow in providing the Service.

"Confidential Information" means any and all trade secrets, proprietary or confidential information, in whatever form, that are owned by a party and/or reasonably considered by it to be confidential, that a party has disclosed to the other party prior to the Effective Date, or that a party may disclose to the other party on or after the Effective Date. Confidential Information includes, without limitation, the object and source code to the System, as defined below. Notwithstanding the foregoing, the following will not constitute Confidential Information for purposes of this Agreement: (a) information which was already in the receiving party's possession as a matter of record prior to the Effective Date and not disclosed to the receiving party by the other party to this Agreement; (b) information that is independently developed by the receiving party before disclosure by the disclosing party as a matter of record; (c) information that is obtained from a third party who, insofar as is known to the receiving party, is not prohibited from transmitting the information to the receiving party by a contractual, legal or fiduciary obligation, whether explicit or customary, to the disclosing party; and (d) information which is or which becomes generally available to the public other than as a result of disclosure by the receiving party.

"Content" means the audio and visual information, documents, software, products and services contained or made available to you in the course of using the Service.

"Deliverable(s)" means any software code or other work product developed by B2Gnow in connection with the Professional Services and provided to Customer pursuant to the requirements of the Agreement

"Derivative Work" has the meaning as defined in the Copyright Act, 17 U.S.C. § 101 (2000).

"Documentation" means the standard user manual or other documentation or explanatory material related to the System, as described in the Investment Proposal or Statement of Work attached as an exhibit to this Agreement, and any subsequent versions thereof which Customer may receive from B2Gnow.

"Intellectual Property Rights" means all intellectual property rights protected by law throughout the world, including all copyrights, copyright registrations and applications, trademark rights (including trade dress), trademark registrations and applications, patent rights (including the right to apply therefore), patent applications (including the right to claim priority under applicable international conventions) and all patents issuing thereon, industrial property rights, inventions (whether or not patentable), together with all utility and design, know-how, specifications, trade names, mask-work rights, trade secrets, moral rights, author's rights, algorithms, rights in packaging, goodwill, and other intellectual and industrial property rights, as may exist now and hereafter come into existence, and all renewals and extensions thereof, regardless of whether any of such rights arise under the laws of the United States or of any other state, country or jurisdiction.

"Statement of Work" means the document identified and attached as Exhibit A to this Agreement and that (a) specifically refers to this Agreement; and (b) defines additional rights and obligations of the parties with respect to the System, Documentation, or Professional Services. In the event of a conflict between the provisions of this Agreement and the provisions of the Statement of Work, the provisions of this Agreement will control.

"Services" means any services performed as part of the implementation and activation of the System for the Customer.

"Service" means the specific modules of B2Gnow's online hosted diversity management system and related services identified on the Investment Proposal, developed, operated, and maintained by B2Gnow, accessible via <http://www.mwdbe.com> or another designated web site or IP address, or ancillary online or offline products and services provided to you by B2Gnow, to which you are being granted access under this Agreement, including the B2Gnow Technology and Content.

"System" means the computer software programs to be delivered to the Customer via the Internet pursuant to the Agreement.

2 LICENSE GRANTS AND RESTRICTIONS.

2.1 Subject to the terms of DIR Contract No. DIR-SDD-2508 and this Agreement, B2Gnow hereby grants to Customer a non-exclusive, non-transferable, worldwide right to use the Service, solely for your own internal business purposes, subject to the terms and conditions of this Agreement. All rights not expressly granted to you are reserved by B2Gnow.

2.2 Except as expressly set forth in DIR Contract No. DIR-SDD-2508 and in this Agreement, or Statement of Work, Customer may not:

- (i) decompile, disassemble, or otherwise reverse engineer or attempt to reconstruct or discover, in any way, any source code, programming, algorithms, design structure, interoperability interfaces, concepts, construction methods underlying ideas, or file formats of the Service, for any purpose, (ii) remove any identification markings, including but not limited to logos, copyright notices, and trademarks, from the Service, or (iii) make any modification, enhancement, or Derivative Work of the Service, or incorporate the Service, or any portion thereof, into or with any other software;
- (ii) copy, sell, lease, sublicense, give, loan, assign, distribute or transfer in any manner or form, in whole or in part, the Service; or
- (iii) use the Service to develop or distribute any software product that competes in the marketplace with the System; or
- (iv) sell, lease, sublicense, give, loan, assign, distribute or transfer in any manner or form, in whole or in part, any Documentation or accompanying materials, electronic or written, to any third party.

Notwithstanding the foregoing, Customer may make copies of the Documentation, containing all legends, trademarks, trade names, copyright notices and other identifications associated with the original, to the extent reasonably necessary to permit access to and use of the Documentation by Customer's employees.

2.3 Except as specifically set forth in in DIR Contract No. DIR-SDD-2508 and this Agreement, Customer acknowledges that this Agreement does not grant Customer any use or rights to the Service, including, but not limited to, any rights to the source code for the Service.

2.4 Customer acknowledges that B2Gnow has, and will from time to time create, license, evaluate, or implement other computer software programs that may be based upon or related to the System or Deliverables and that those other programs are not licensed to Customer under this Agreement except as specifically set forth in the Agreement or the Statement of Work.

2.5 Except as specifically set forth in DIR Contract No. DIR-SDD-2508 and in the Agreement or Statement of Work, Customer acknowledges that B2Gnow has no responsibility for providing Customer with any services, support, product upgrades or other enhancements for or in connection with, and that B2Gnow is under no obligation to create any product upgrades or enhancements to, the Service.

3 FEES AND PAYMENTS

3.1 In consideration of the rights granted and services provided to Customer under this Agreement, Customer will pay B2Gnow the annual service fee and other fees (the "Fees") as detailed in DIR Contract No. DIR-SDD-2508, Appendix C Pricing Index.

3.2 Payment Terms are detailed in DIR Contract No. DIR-SDD-2508, Appendix A, Section 7. Purchase Orders, Invoices and Payments.

3.5 Customer will permit B2Gnow, once per year, to audit Customer's use of the Service, at reasonable times and with reasonable notice, for the purpose of verifying Customer's adherence to the terms and conditions of this Agreement. Any audit requested by B2Gnow will be conducted during Customer's regular business hours, will comply with Customer's normal security procedures, and will not unreasonably interfere with Customer's business operations. All out-of-pocket costs associated with an audit will be paid by B2Gnow.

4 WARRANTIES AND DISCLAIMERS

4.1 B2Gnow warrants to Customer that during the term of this Agreement, the System will perform as outlined in B2Gnow's product specification documents (user manuals and documentation available online) and this Agreement and Statement of Work. In case of conflict between these documents, this Agreement shall govern. The warranty does not cover any programs that have been altered in any way by any party other than B2Gnow or its authorized subcontractors. B2Gnow is not responsible for problems caused by the operating characteristics, whether themselves out-of-specification or not, of Customer's computer hardware, software, operating systems, or computer systems, the quality of the Customer's Internet connection to the System, nor for problems in the interaction of the System with non-B2Gnow software. If notified in writing by Customer during the warranty period, B2Gnow will, at its sole option, either (i) correct significant program errors in the System within a reasonable time, not to exceed seven (7) calendar days; or (ii) accept return of the System and Documentation and refund any unused Fees paid by Customer to B2Gnow under the Agreement.

4.2 B2Gnow warrants to Customer that the Services set forth in the Agreement, including the Investment Proposal or Statement of Work, will be performed in a professional manner, consistent with generally accepted industry standards. The sole and exclusive remedy for a breach of the limited warranty set forth in this Section 4.2 shall be to require B2Gnow to use commercially reasonable efforts to perform the Services as soon as is reasonably practicable, but in no event, later than thirty (30) days from the date Customer notifies B2Gnow of such breach. In the event B2Gnow is unable, after receiving a warranty

breach notice under this Section 4.2, to perform the Services to the Customer's reasonable satisfaction within the thirty (30) day period, Customer may terminate the Agreement and withhold payment to or receive a refund or credit from B2Gnow for the value of such services, in no case to exceed the aggregate amounts paid out to B2Gnow by Customer in the twelve months immediately preceding notification of such claim delivered to B2Gnow by Customer.

4.3 B2Gnow does NOT warrant that the operation of the System and its associated data and/or information will meet the Customer's requirements or that the operation of the System and its associated data and/or information will be uninterrupted or error-free. The Customer is responsible for the accuracy and usability of all data that Customer entered into the system, including but not limited to Customer specific reports. CUSTOMER ASSUMES ENTIRE RISK AS IT APPLIES TO THE QUALITY AND PERFORMANCE OF THE DATA AND/OR INFORMATION WHICH IS SUPPLIED AND/OR INPUT INTO THE SYSTEM BY THE CUSTOMER. SHOULD THE SYSTEM AND ITS ASSOCIATED DATA AND/OR INFORMATION PROVE DEFECTIVE DUE TO DATA INPUT BY THE CUSTOMER, THE CUSTOMER (AND NOT B2GNOW) ASSUMES THE ENTIRE COST OF ALL NECESSARY SERVICING REPAIR OR CORRECTION.

4.4 THE FOREGOING WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, GOOD TITLE, OR SATISFACTORY QUALITY REGARDLESS OF WHETHER IMPOSED BY CONTRACT, STATUTE, COURSE OF DEALING, CUSTOM OR USAGE OR OTHERWISE.

5 LIMITATION OF LIABILITY

Limitation of Liability Terms are detailed in DIR Contract No. DIR-SDD-2508, Appendix A, Section 9.K. Limitation of Liability. OR ECONOMIC LOSS OF ANY KIND. THIS SECTION DOES NOT LIMIT LIABILITY FOR BODILY INJURY.

6 INDEMNIFICATION

Indemnification Terms are detailed in DIR Contract No. DIR-SDD-2508, Appendix A, Section 9.A. Indemnification. 8 INSURANCE

7.1 Insurance Coverage. B2GNOW must procure and maintain, at its own expense, for as long as the Agreement is in effect, the insurance coverages set forth below. B2GNOW shall provide Client with certificates evidencing such coverage.

(a) Commercial General Liability

Coverage	Limit
General Aggregate Products Liability/Completed	\$2,000,000.00
Oper. Aggregate	\$1,000,000.00
Each Occurrence	\$1,000,000.00
Personal & Advertising Injury	\$1,000,000.00

If Commercial General Liability or other form with a general aggregate limit is used, the general aggregate limit shall be twice the required occurrence limit.

(b) Workers' Compensation and Employer's Liability

Coverage	Limit
Workers' Compensation Statutory Employer's Liability	\$ 500,000.00
Each Accident	
Per Employee - Disease	\$ 500,000.00
Annual Aggregate - Disease	\$ 500,000.00

(c) Automobile Liability

Coverage	Limit
Bodily Injury and Property Damage	\$1,000,000.00
Combined - Occurrence	
Uninsured/Underinsured Motorist - Occurrence	\$1,000,000.00

This Policy must provide coverage for all owned, non-owned, and hired autos.

(d) Technology E&O	\$1,000,000.00
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7.2 Additional Requirements. All insurance companies must be rated A-VIII or better by the A. M. Best Company. B2GNOW's assumption of liability is independent from, and not limited in any manner by, the B2GNOW's insurance coverage

obtained pursuant to this Agreement, or otherwise. All amounts owed by B2GNOW to the Client as a result of the liability provisions of the Agreement shall be paid on demand. Policies should be written on an occurrence basis with the exception of professional liability coverage. All policies must amend the other insurance clause to be Primary and Non Contributory.

8. TRADE SECRETS AND CONFIDENTIAL INFORMATION

8.1 B2Gnow represents and warrants that B2Gnow and its subcontractors are the owner(s) of all Intellectual Property Rights associated with the Service and except as set forth in this Agreement, B2Gnow does not grant any rights to or ownership of the Service to Customer. Customer acknowledges that B2Gnow and its subcontractors retain all right, title and interest in the Service and in all improvements, enhancements, modifications and Derivative Works of the Service including all rights to patent, copyright, trade secret and trademark, regardless of the identity of the creating party.

8.2 Customer agrees that all trademark and intellectual property notices for the Service shall be preserved unmodified. Customer further agrees to take reasonable steps to ensure that unauthorized persons will not have access to any of the Service and that all authorized persons having access will refrain from any disclosure, duplication or reproduction of the Service except to the extent permitted under this Agreement or to the extent required by law or court order. 8.3 Customer agrees to notify B2Gnow immediately and in writing of all circumstances, of which Customer is aware, surrounding the unauthorized possession or use of the Service by any person or entity. Customer agrees to cooperate as reasonably necessary with B2Gnow, at B2Gnow's expense, in any litigation relating to or arising from such unauthorized possession or use.

8.3 To the extent allowable by the Texas Public Information Act, all Confidential Information disclosed under this Agreement will remain the exclusive and confidential property of the disclosing party. The receiving party will not disclose the Confidential Information of the disclosing party and will use at least the same degree of care, discretion and diligence in protecting the Confidential Information of the disclosing party as it uses with respect to its own confidential information. The receiving party will limit access to Confidential Information to its employees with a need to know the Confidential Information and will instruct those employees to keep the information confidential. Notwithstanding the foregoing, the receiving party may disclose Confidential Information (a) to the extent necessary to comply with any law, rule, regulation or ruling applicable to the receiving party or the Confidential Information, (b) as appropriate to respond to any summons or subpoena or in connection with any litigation and (c) to the extent necessary to enforce its rights under this Agreement. Upon the request of the disclosing party, the receiving party will return or destroy all Confidential Information of the disclosing party that is in its possession. The provisions of this Section 8.5 will survive the termination of this Agreement. The Parties agree that in the event a party breaches its obligations under this Section 8.5, the non-breaching party may (a) immediately terminate this Agreement without further liability; (b) bring an appropriate legal action to enjoin any such breach of this Agreement without the need to obtain a bond or other security; and (c) recover from the breaching party reasonable attorneys' fees and costs in addition to other appropriate relief.

9. TRADEMARKS

9.1 Customer acknowledges B2Gnow's ownership of the trademark "B2Gnow," certain System names, and all related trademarks and service marks, as well as B2Gnow's subcontractors' ownership of their respective trademarks, service marks, and System names, including but not limited to B2Gnow's ownership of the trademarks "B2Gnow" and "B2Gnow Diversity Management System." Except as set forth in the Agreement, Customer further acknowledges that it will acquire no interest in such trademarks and service marks by virtue of this Agreement or the performance by Customer of its duties and obligations under this Agreement. Customer agrees not to use the name "B2Gnow" or any of the System names or marks (or any confusingly similar name or symbol), in whole or in part, as part of Customer's business or trade name.

9.2 B2Gnow acknowledges Customer's ownership of their trademarks/service marks currently in use. Except as set forth in the Agreement, B2Gnow further acknowledges that it will acquire no interest in the Customer's Marks by virtue of this Agreement or the performance by B2Gnow of its duties and obligations under this Agreement. B2Gnow agrees not to use the Customer's Marks (or any confusingly similar name or symbol), for any purpose without the prior written consent of Customer.

9.3 Each party agrees to reasonably cooperate with the other party in permitting the use of its trademarks for marketing and promotional purposes that benefit both parties. Each party must secure written approval to use the other party's trademarks, which approval will not be unreasonably withheld or delayed.

10. EXPORT

10.1 Customer agrees not to, directly or indirectly, export or re-export, or knowingly permit the export or re-export of, the Service, or any technical information about the System, Documentation or any Deliverable, to any country for which the United States Export Administration Act, any regulation thereunder, or any similar United States law or regulation, requires an export license or other United States government approval, unless the appropriate export license or approval has been obtained.

11. TERM AND TERMINATION

Termination Terms are detailed in DIR Contract No. DIR-SDD-2508, Appendix A, Section 10.B. Termination.

12. CUSTOMER RESPONSIBILITIES

13.1 Customer is responsible for all activity occurring under Customer accounts and shall abide by all applicable local, state, national and foreign laws, treaties and regulations in connection with Customer's use of the Service, including those related to data privacy, international communications and the transmission of technical or personal data. You shall: (i) notify B2Gnow immediately of any unauthorized use of any password or account or any other known or suspected breach of security; (ii) report to B2Gnow immediately and use reasonable efforts to stop immediately any copying or distribution of Content that is known or suspected by Customer; and (iii) not impersonate another B2Gnow user or provide false identity information to gain access to or use the Service.

13. ACCOUNT INFORMATION AND DATA

13.1 B2Gnow does not own any data, information or material that Customer submits to the Service in the course of using the Service ("Customer Data"). Customer shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use of all Customer Data, and B2Gnow shall not be responsible or liable for the deletion, correction, destruction, damage, loss or failure to store any Customer Data. In the event this Agreement is terminated (other than by reason of Customer's breach), B2Gnow will make available to Customer a file of the Customer Data within 30 days of termination if Customer so requests at the time of termination. B2Gnow reserves the right to withhold, remove and/or discard Customer Data without notice for any breach, including, without limitation, Customer's non-payment. Upon termination for cause, Customer's right to access or use Customer Data immediately ceases, and B2Gnow shall have no obligation to maintain or forward any Customer Data.

14. GENERAL PROVISIONS

14.1 This Agreement does not create any relationship of association, employment, partnership, joint venture or agency between the parties. Neither party will have any right or authority to assume, create or incur any liability or obligation of any kind against or in the name of the other party.

14.2 DIR Contract No. DIR-SDD-2508 and this Agreement and all documents incorporated into this agreement by reference constitute the entire agreement and understanding between the parties with respect to the subject matter in this Agreement. The Agreement merges all previous discussions and negotiations between the parties and the Agreement supersedes and replaces any and every other agreement, which may have existed between B2Gnow and Customer with respect to the contents of this Agreement. In the event of a conflict in terms, the terms of DIR Contract No. DIR-SDD-2508 will have precedence.

14.3 Except to the extent and in the manner specified in DIR Contract No. DIR-SDD-2508 and the Agreement, any modification or amendment of any provision of this Agreement must be in writing and bear the signature of the duly authorized representative of each party and, if required, the approval of the Customer's Board Members.

14.4 The failure of either party to exercise any right granted under this Agreement, or to require the performance by the other party of any provision of this Agreement, or the waiver by either party of any breach of this Agreement, will not prevent a subsequent exercise or enforcement of such provisions or be deemed a waiver of any subsequent breach of the same or any other provision of this Agreement.

14.5 Assignment Terms are detailed in DIR Contract No. DIR-SDD-2508, Appendix A, Section 4.D. Assignment.

14.6 All notices provided for or which may be given in connection with the Agreement shall be in writing and shall be delivered in person, by a nationally recognized overnight courier service, by facsimile (with electronic confirmation to sender) or by registered or certified mail with postage prepaid and return receipt requested.

If to B2Gnow: AskReply, Inc
 5025 N. Central Ave., #494
 Phoenix, AZ 85012
 Attn: Frank Begalke

If to Customer:

or to such other address as either party, by like notice, shall designate. Such notices, if sent by United States mail, shall be deemed to have been given upon three (3) business days after being deposited in the United States mail. Such notices, if sent by facsimile (with electronic confirmation to sender) or nationally recognized overnight courier service, shall be deemed to have been given one (1) day after being sent. Such notices, if delivered in person, shall be deemed to have been given upon receipt by the other party.

14.7 If any provision of the Agreement is determined by a court of competent jurisdiction to be in violation of any applicable law or otherwise invalid or unenforceable, such provision will to such extent as it is determined to be illegal, invalid or unenforceable under such law be deemed null and void, but the Agreement will otherwise remain in full force and effect. Furthermore, it is the intention of the parties that in lieu of such illegal, invalid, or unenforceable provision, there automatically be added as a part of this Agreement a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible to be legal, valid, and enforceable.

14.8 The laws of the State of Texas shall govern the construction and interpretation of the Contract. Exclusive venue for all actions will be in state court, Travis County, Texas. Nothing in the Contract or its Appendices shall be construed to waive the State's sovereign immunity.

The parties have caused this Agreement to be executed by their duly authorized representatives as of the day and year first above written.

B2Gnow/AskReply, Inc.

Signature:

Signature:

Date:

Date:

Print Name:

Print Name: Frank Begalke

Title:

Title: Chief Operating Officer

Address:

Address: B2Gnow/AskReply, Inc.

5025 North Central Avenue, #494

Phoenix, Arizona 85012

Telephone:

Telephone: 602-325-9277

Fax:

Fax: 866-892-2913

Exhibit A

B2Gnow Statement of Work