LICENSE AGREEMENT

THIS LICENSE AGREEMENT (this "Agreement") is made and shall be effective on the latest date found with the signatures below (the "Effective Date"), by and between **A.D.A.M., Inc.**, a Georgia corporation located at 10 10th Street NE, Suite 500, Atlanta, GA 30309 ("Adam") and The Metropolitan School District of Washington Township located at 8550 Woodfield Crossing Boulevard, Indianapolis, Indiana 46240 ("Licensee").

BACKGROUND

Adam owns the proprietary application identified herein. Licensee desires to obtain a license from Adam to use such proprietary application in accordance with the terms and conditions of this Agreement.

AGREEMENT

1. <u>DEFINITIONS</u>. In addition to terms defined elsewhere in this Agreement, the following terms shall have the meanings described below:

"<u>Adam System</u>" means the web-based applications for online benefits communication marketed by Adam and intended for implementation and use by End Users (as further defined in Exhibit A).

"<u>Data Center</u>" means the physical facility in which the servers, computer equipment and ancillary hardware used to run the Hosting Web Site reside.

"<u>Documentation</u>" means documents pertaining to the use of the Adam System provided to Licensee whether in written or electronic form, including, without limitation, any and all user manuals.

"<u>Employee</u>" means the number of employees as of the last day of each calendar month and shall include (1) all active full or part-time employees, (2) employees on leave of absence, and (3) terminated employees in the last six months while the Adam System was being utilized.

"<u>End User</u>" means an employer that has entered into a license agreement in the form required by this Agreement authorizing the use of the Adam System by such employer and its individual employees. The term "End User" refers to both the employer and its employees.

"<u>Hosting Services</u>" means the services provided by Adam to enable Licensee and its End Users using the Internet to access and use the Adam System, as such services are further described in <u>Exhibit B</u> to this Agreement.

"<u>Hosting Web Site</u>" means an Internet web site operated by Adam in connection with its Hosting Services, which is identified by a unique uniform resource locator.

"<u>Intellectual Property Rights</u>" means any and all present or future tangible and intangible (i) rights associated with works of authorship, including but not limited to copyrights and moral rights, (ii) trademark and trade name rights and similar rights, (iii) trade secret rights, (iv) patents, designs, algorithms and other intellectual property rights of every kind and nature, whether arising by operation of law, contract, license or otherwise, and (v) all registrations, applications, renewals, extensions, continuations, divisions or reissues of the foregoing.

"<u>Launch Date</u>" means the date that the Adam System becomes available for use by End Users which shall in no case be later than 6 (six) months after the Effective Date.

"Licensee Data" means any information and data that is input or otherwise received by Adam in connection with the use of the Adam System or the Hosting Web Site by Licensee or its End Users.

"Term" means collectively the Initial Term and any Renewal Term.

2. LICENSE RIGHTS.

2.1. Subject to compliance by Licensee with the terms hereof, including payment of the fees set forth on Exhibit B to this Agreement, Adam hereby grants to Licensee a non-exclusive, nontransferable, non-assignable and limited license: (a) to access and use the Adam System via Internet connection; and (b) to authorize End Users to access and use the Adam System via Internet connection, in each case solely in support of the internal activities of End Users. Licensee may use the Documentation in connection with such rights.

2.2. Each End User using the Adam System must agree to the terms and conditions of use included on or incorporated into the Adam System and the Hosting Web Site.

2.3. Notwithstanding the license granted in Section 2.1, no license, express or implied, is granted to Licensee to copy, reproduce or modify the application or data comprising the Adam System, or to adapt, transcribe, or merge the Adam System or any portion thereof. Except as expressly provided herein, Licensee does not have any right, express or implied, to market, sell, sublicense, disseminate, distribute or otherwise transfer the Adam System or any portion thereof. Licensee shall not modify, remove or obscure any copyright notice or trademark notice or other proprietary rights legends placed on or embedded in the Adam System. Licensee shall not decompile, disassemble or reverse engineer the Adam System, or attempt to do so. Licensee acknowledges that it does not have any right to use or possess any source code associated with the Adam System. The Adam System may not be used for commercial timesharing, service bureau or other rental or sharing arrangements.

3. HOSTING AND OTHER ADAM SERVICES.

3.1. Adam shall establish and maintain one or more production versions of the Adam System for use by Licensee and its employees, as specified in this Agreement. Adam shall be responsible for the operation and maintenance of the Adam System. Licensee and its employees shall be responsible for providing their own Internet access (including all equipment, software and services required to obtain and maintain such access) and in no case shall they be provided with direct access to Adam's server or Adam's other computer systems. Adam shall use commercially reasonable efforts to maintain the Adam System so that it is available for access by Licensee and its employees as specified in Exhibit D.

3.2. Adam will provide or make available at no charge to Licensee, as requested, a download containing any or all of the Licensee Data in the Adam System. This information will be downloaded in a mutually agreed upon format.

4. OWNERSHIP OF THE ADAM SYSTEM.

4.1. Licensee acknowledges and agrees that nothing contained herein gives it any right, title or interest in the Adam System except for Licensee's limited express license pursuant to Section 2 of this Agreement, which license is revocable in accordance with the terms of this Agreement. Furthermore, Licensee acknowledges that Adam is the owner of the Adam System, and all portions thereof, including all modifications, changes, enhancements, additions and upgrades.

4.2.   Licensee acknowledges and agrees that it has no right, title and interest in any Intellectual Property Rights relating to or arising from the Adam System.

4.3.   Licensee agrees at all times hereafter to keep the Adam System free of all security interests, liens, encumbrances, mortgages and claims whatsoever, and Licensee agrees that neither it nor anyone at its direction shall file a financing statement, mortgage, notice of lien, deed of trust, security agreement or any other agreement or instrument creating or giving notice of an encumbrance or charge against the Adam System. Licensee further acknowledges that certain program logic will from time to time be physically located on, run on and be cached by Licensee's hardware in order to facilitate the functionality of the Adam System and Hosting Web Site, and that Licensee will not have any right, title or interest in or to such program logic.

5.   NONDISCLOSURE AND CONFIDENTIALITY.

5.1.   For purposes of this Agreement, "Proprietary Information" shall mean all ideas, concepts, techniques, know-how, technical information, End User information, or other information or material, in whatever form, received by one party from the other. "Proprietary Information" shall include the Adam System and all associated documentation.

5.2.   The party receiving the Proprietary Information agrees to hold such Proprietary Information in strictest confidence and not to copy, reproduce, distribute, remanufacture, duplicate, reveal, publish, report, disclose, cause to be disclosed, or otherwise transfer any such Proprietary Information to any third party, or utilize any such Proprietary Information for any purpose whatsoever other than as specifically authorized by this Agreement. This obligation shall last for the term of this Agreement and for a period of five (5) years thereafter, except to the extent that the Proprietary Information disclosed rises to the level of a trade secret under applicable law, in which case the obligations hereunder shall continue for as long as such Proprietary Information remains a trade secret under applicable law. In the event of termination or expiration of this Agreement for any reason, each party shall return all Proprietary Information of the other party in its possession, and any permitted copies thereof, promptly to the other party.

5.3.   The obligations in Section 5.2 shall not apply if and to the extent that: (a) the receiving party establishes that the information communicated was already known to the receiving party, without obligations to keep such information confidential, as evidenced by documents in the possession of the receiving party prepared or received prior to disclosure of such information; (b) the receiving party establishes that the information communicated was received by it in good faith from a third party lawfully in possession thereof and having no obligation to keep such information confidential; (c) the receiving party establishes that the information communicated was publicly known at the time of its receipt or has become publicly known other than by a breach of this Agreement; or (d) the receiving party establishes that the information was independently developed.

5.4.   All right, title and interest including, without limitation, all Intellectual Property Rights in and to a party's Proprietary Information is reserved for such party.

6.   INDEMNIFICATION.

6.1.   Licensee shall indemnify, defend and hold Adam and its directors, officers, shareholders, employees and agents (collectively, the "Adam Indemnified Parties") harmless from and against any claim asserted or any claim, suit or proceeding brought against the Adam Indemnified Parties arising from or related to (i) any materials, data or Intellectual Property Rights of Licensee or its End Users, (ii) any changes made to the Adam System by Licensee, or (iii) any breach of this Agreement. Adam shall

promptly notify Licensee of any such claim (provided that the failure to provide Licensee prompt notice thereof shall not relieve Licensee of its indemnification obligations, unless such failure materially and adversely affects Licensee's ability to defend such claim), and shall, subject to the following sentence, permit Licensee to exercise sole control over the defense and settlement of such claim and shall cooperate with Licensee in the defense of such claim (at the expense of Licensee). Licensee will have the sole right to defend or settle any claim subject to indemnification by Licensee under this Section 6, provided that: (i) counsel appointed by Licensee to defend Adam will not take any position which, if sustained, would cause Adam not to be indemnified by Licensee and (ii) Licensee may control the settlement of such action in its sole discretion so long as any such settlement imposes no obligations or liabilities on Adam. Adam will have the right to participate with Licensee in the defense or appeal of any such claim or judgment, at Adam's option and expense (such expense not being indemnified by Licensee), but Licensee will have sole control and authority with respect to any such defense or appeal, subject to the preceding sentence.

6.2. Adam shall indemnify, defend and hold Licensee and its directors, officers, shareholders, employees and agents (collectively, the "Licensee Indemnified Parties") harmless from and against any claim asserted or any claim, suit or proceeding brought against Licensee alleging that the Adam System or Licensee's use of the Adam System in accordance with this Agreement constitutes a misappropriation or infringement upon any U.S. patent, trademark, copyright, trade secret or other intellectual property or proprietary right of any third party. Adam shall defend against, and hold the Licensee Indemnified Parties harmless from, any such claims and pay all litigation costs, all reasonable attorneys' fees, settlement payments and any and all damages finally awarded from any such claim; provided, however, that after receiving notice thereof, Licensee shall promptly advise Adam of any such claim, suit or proceeding and provide Adam with reasonable assistance at Adam's expense in connection with such defense. Adam shall have sole control of the defense and all related settlement negotiations relating to any such claims; provided, however, the Licensee Indemnified Parties shall be entitled to participate in defense of such claim and to employ counsel at their own expense to assist in the handling of such claim and Adam shall obtain the prior written approval of an Licensee Indemnified Party before entering into any settlement of such claim, which settlement imposes any material obligations or restrictions on such Licensee Indemnified Party, which approval should not be unreasonably withheld, delayed or conditioned. If the Adam System or any part thereof is held to infringe upon any U.S. patent, trademark, copyright, trade secret or other intellectual property or proprietary right of any third party, and Licensee's use of the Adam System, or any part thereof, is enjoined or interfered with in any manner, Adam shall, at its option and sole expense, either: (a) procure for Licensee the right to continue using the Adam System free of any liability for infringement or violation; or (b) replace or modify the Adam System with a non-infringing product of substantially equivalent functionality; or (c) in the event Adam is unable, after exercising commercially reasonable efforts to implement one of the options set forth in subsection (a) or (b) above, accept cessation of usage of the Adam System at Adam's sole cost and expense and refund to Licensee an amount equal to the amounts paid by Licensee to Adam for the Adam System at the time of such cessation. Adam shall not have any liability to Licensee for any claim that any third party computer program within the Adam System infringes any copyright, patent, trade secret, trademark or other intellectual property or proprietary right anywhere in the world. Licensee's sole recourse will be against the manufacturer of any third party computer programs to the extent that the manufacturer assumes any responsibility for copyright, patent, trade secret, trademark or other intellectual property or proprietary right infringement. Adam will have no responsibility or obligations under this Section 6.2 for: (w) claims of End Users; (x) any use of the Adam System after Adam has notified Licensee to discontinue use; (y) the combination, operation or use of the Adam System with content, technology, data or computer programs not provided, formally approved or manufactured by Adam; or (z) alteration, misuse or unauthorized use of the Adam System. **THIS IS ADAM'S ENTIRE OBLIGATION AND LIABILITY REGARDING INFRINGEMENT, MISAPPROPRIATION OR VIOLATION OR CLAIMS OF INFRINGEMENT, MISAPPROPRIATION OR VIOLATION.**

7. LIMITED WARRANTY AND DISCLAIMER. Adam warrants to Licensee that the Adam System will materially conform to the specifications and Documentation for the Adam System, provided that the Adam System is used in accordance with the Documentation. If Licensee reasonably and in good faith believes that there is a material defect in the Adam System such that it or they do not conform to this limited warranty, Adam must be notified immediately, but no later than ninety (90) days following the first use of the Adam System by Licensee. Licensee agrees that its sole remedy for such non-conformities in the Adam System shall be the repair or replacement of the Adam System, with such replacement to be substantially equivalent in functionality to the item replaced as determined by Adam in its sole discretion. Adam shall have no obligation under this Section 7 should the Adam System be modified, altered, merged or subjected to misuse, neglect, accident or improper use by Licensee or any third party. Adam does not warrant that the Adam System will operate in conjunction with hardware or software that is neither provided by nor formally approved by Adam. THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES FROM ADAM, WHETHER ORAL OR WRITTEN, EXPRESS OR IMPLIED, REGARDING THE ADAM SYSTEM AND THE HOSTING SERVICES PROVIDED BY ADAM, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. ADAM DOES NOT WARRANT THAT THE USE OF THE ADAM SYSTEM WILL BE UNINTERRUPTED OR ERROR-FREE. LICENSEE UNDERSTANDS AND AGREES THAT USE OF OR CONNECTION TO THE INTERNET IS INHERENTLY INSECURE AND THAT CONNECTION TO THE INTERNET PROVIDES OPPORTUNITY FOR UNAUTHORIZED ACCESS BY A THIRD PARTY TO LICENSEE'S OR ADAM'S COMPUTER SYSTEMS, NETWORKS AND ANY AND ALL INFORMATION STORED THEREIN. INFORMATION TRANSMITTED AND RECEIVED THROUGH THE INTERNET MAY NOT BE SECURE AND ADAM DOES NOT GUARANTEE AND SHALL NOT BE RESPONSIBLE FOR, THE PRIVACY, SECURITY, AUTHENTICITY AND NON-CORRUPTION OF ANY INFORMATION DURING INTERNET TRANSMISSION OUTSIDE OF THE SYSTEM, NETWORKS AND STORAGE FACILITIES PROVIDED BY ADAM.

8. LIMITATION OF LIABILITY AND DAMAGES. IN NO EVENT SHALL ADAM, ITS AFFILIATES OR ANY OFFICERS, DIRECTORS, EMPLOYEES, SHAREHOLDERS, OR REPRESENTATIVES OF ADAM OR ITS AFFILIATES, BE LIABLE TO LICENSEE OR ANY END USERS FOR ANY SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGE OR LOSS OF ANY NATURE INCLUDING, BUT NOT LIMITED TO, DAMAGES RESULTING FROM DELAY, LOSS OF PROFITS, INJURY TO PERSON, OR LOSS OF GOODWILL WHICH MAY ARISE IN CONNECTION WITH THE ADAM SYSTEM, OR OTHERWISE PERTAINING TO THIS AGREEMENT (INCLUDING THE HOSTING SERVICES), EVEN IF LICENSEE OR ITS END USERS HAVE BEEN NOTIFIED OF THE POSSIBILITY OR LIKELIHOOD OF SUCH DAMAGES OCCURRING. THE PARTIES AGREE THAT THIS LIMITATION OF LIABILITY SHALL SURVIVE IN FULL FORCE AND EFFECT DESPITE ANY FAILURE OF AN EXCLUSIVE REMEDY. IN ADDITION, IN NO EVENT SHALL ADAM'S CUMULATIVE LIABILITY FOR ANY DIRECT DAMAGES TO LICENSEE OR ANY END USERS EXCEED AN AMOUNT EQUAL TO THE AMOUNT OF FEES PAID BY LICENSEE HEREUNDER, REGARDLESS OF THE FORM OF ACTION, WHETHER BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, PRODUCTS LIABILITY OR OTHERWISE. ADAM SHALL NOT BE HELD LIABLE OR RESPONSIBLE FOR EXTERNAL ENVIRONMENTAL CONDITIONS THAT MAY AFFECT THE PERFORMANCE OF THE ADAM SYSTEM OR HOSTING SERVICES INCLUDING, BUT NOT LIMITED TO, LOSS OR INTERRUPTION OF POWER.

9. LICENSEE RESPONSIBILITIES.

9.1.   Licensee shall be solely responsible for the selection of the Adam System to achieve Licensee's and its End Users' intended results; the evaluation of the Adam System relating to

Licensee's and its End Users' specific business requirements and technical environment; and the results obtained from use and operation of the Adam System.

9.2.   Unless otherwise specified in this Agreement or in a separate Implementation Services Agreement signed by Adam, Licensee and its End Users shall be responsible for inputting all Licensee Data into the Adam System (including without limitation all information concerning employee benefit plans and employee enrollment information). Subject to Adam's obligations under Section 5, Licensee hereby grants to Adam an irrevocable, non-exclusive, worldwide, paid up license to use, reproduce, duplicate, compile, aggregate and copy Licensee Data, but solely in connection with Adam's performance of the Hosting Services for Licensee.

10. FEES AND PAYMENT.

10.1.   Licensee shall remit to Adam the amounts indicated in Exhibit B.

10.2.   The fees and expenses payable by Licensee hereunder are net amounts payable hereunder, exclusive of all sales, use, withholding, excise, value added, and ad valorem taxes incurred by Licensee or imposed on Adam in the performance of this Agreement or otherwise due as a result of this Agreement. Licensee shall pay any and all such taxes and duties, customs fees and similar charges, whether directly to the appropriate taxing authority or by reimbursing Adam for payments it made on Licensee's behalf. The foregoing shall not apply to taxes based solely on Adam's income.

10.3.   If relevant in determining the fees to be paid, Adam reserves the right to verify the number of End Users of Licensee by requesting internal documents such as insurance quotations, Federal or State payroll information or use other means, subject to compliance with applicable Privacy Laws.

10.4.   Adam reserves the right to withhold performance of any obligation, whether arising under this Agreement or otherwise, in the event of Licensee's non-payment when due of any undisputed amounts owed to Adam. Adam shall provide notice of discontinuation of service and customer shall have ten (10) days to supply payment. The withholding of services shall not reduce the minimum contractual amounts due under the Agreement.

11. TERM AND TERMINATION.

11.1.   This Agreement is effective on the Effective Date and, unless earlier terminated in accordance with the Agreement, will remain in effect until the 3rd anniversary of the Launch Date (the "Initial Term"). The Agreement shall automatically renew for additional twelve (12) month periods (each a "Renewal Term"), unless either party provides written notice (as specified in Section 20) at least sixty (60) days prior to the end of the then current Term.

11.2.   Either party may terminate this Agreement upon the occurrence of a material breach hereof by the other party, when such breach has not been cured within thirty (30) days after the date of written notice thereof to the breaching party

11.3.   Upon expiration or termination of this Agreement for any reason, all rights and licenses granted by Adam hereunder shall immediately cease. Adam shall cease providing the Hosting Services and may disable Licensee's and its End Users access to the Hosting Web Site and the Adam System, and Licensee shall immediately return to Adam all copies of the Documentation as well as any and all of Adam's Proprietary Information. Upon written request from Licensee, Adam will return to Licensee all of Licensee's Proprietary Information that Adam may have in its possession. Upon the

termination of this Agreement, Licensee shall immediately pay Adam all amounts due to Adam, including all outstanding invoices. Upon termination or expiration of this Agreement, the provisions of Sections 4, 5, 6, 7, 8, 11.3, 12, 13, 14 and 20 shall continue and survive in full force and effect.

12. <u>EQUITABLE REMEDIES AND SPECIFIC PERFORMANCE</u>. Licensee acknowledges that each provision in this Agreement providing for the protection of the copyrights, patents, Proprietary Information, trade secrets and other proprietary rights of Adam is material to this Agreement. The parties acknowledge that any threatened or actual breach of such provisions shall constitute immediate and irreparable harm to Adam, for which equitable remedies may be awarded by court of competent jurisdiction.

13. <u>GOVERNING LAW</u>.   This Agreement shall be governed, construed and interpreted in accordance with the internal laws of the State of Georgia.

14. <u>DISPUTE RESOLUTION</u>. The parties will attempt to settle any dispute, controversy or claim arising out of or relating to this Agreement through good faith negotiations. Any dispute not so resolved within thirty (30) days or such other period as the parties agree will be settled by final and binding arbitration conducted at a mutually agreed location (or in the absence of such agreement, in Atlanta, Georgia) by one neutral arbitrator in accordance with the then current Commercial Arbitration Rules of the American Arbitration Association. Each party will bear its own expenses and the parties will equally share the fees and the expenses of the arbitration. An award may be confirmed and judgment entered in any court having competent jurisdiction.

15. <u>ASSIGNMENT</u>. Licensee may not assign its rights or obligations under this Agreement except with the prior written consent of Adam.

16. <u>SEVERABILITY / WAIVER</u>. No delay or failure in exercising any right hereunder and no partial or single exercise thereof shall be deemed to constitute a waiver of such right or any other rights hereunder. No consent to a breach of any express or implied term of this Agreement shall constitute a consent to any prior or subsequent breach. If any provision herein is declared invalid by a court of competent jurisdiction, such provision shall be ineffective only to the extent of such invalidity so that the remainder of that provision and all remaining provisions of this Agreement will continue in full force and effect and will be enforced to the maximum extent permitted by applicable law.

17. <u>AMENDMENTS</u>. This Agreement can only be amended or supplemented by an instrument in writing signed by authorized representatives of both parties.

18. <u>ENTIRE AGREEMENT</u>.   Each of the parties hereto acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms. The parties further agree that this Agreement is the complete and exclusive statement of agreement between the parties and supersedes and cancels all previous understandings and agreements between the parties relating to the subject matter of this Agreement (including without limitation the Previous Agreement(s) listed on Exhibit A.

19. <u>INDEPENDENT PRINCIPALS</u>. Adam and Licensee are independent principals in all actions contemplated by this Agreement. This Agreement shall not be construed to create or authorize any partnership, joint venture or agency relationship, nor to authorize either party to make any commitment or agreement binding on the other party, without such other party's prior written consent.

20. <u>NOTICES</u>. Any notices required to be given hereunder by either party may be effected by (a) personal delivery thereof, (b) U.S. certified or registered mail, postage prepaid, (c) recognized overnight

commercial carrier, or (d) facsimile. Notices will be sent to the parties at the addresses appearing beneath their signatures hereafter or to such other place as the respective parties may designate in writing.

21. <u>PRESS RELEASES</u>. Either party may issue an initial press release announcing this relationship within ninety (90) days of execution of the Agreement. The party writing the press release will provide the other party with a proposed copy of the press release at least ten (10) days prior to release for review. If the submitting party does not receive written comments within ten (10) days, the press release will be deemed approved. After such initial press release, neither party shall make any public statements or issue any press releases relating to this Agreement without the prior approval of the other party.

22. <u>NO THIRD PARTY BENEFICIARIES</u>. This Agreement is not intended to benefit, confer rights upon or be enforceable by any third party (including without limitation any End User), other than Adam Indemnified Parties or Licensee Indemnified Parties.

[signatures appear on the following page]

IN WITNESS WHEREOF, Adam and Licensee have caused this Agreement to be executed by their respective duly authorized representatives as of the date first above written.

A.D.A.M., INC.	Metropolitan School District of Washington Township

By: _____   By: _____

Name: _____   Name: _____

Title: _____   Title: _____

Date: _____   Date: _____

10 10th Street NE
Suite 525
Atlanta, GA 30309

Fax: (404) 418-9879
Telephone: (404) 604-2757

with a copy to:

Michael Rubinger
Partner
DLA Piper US LLP
1201 West Peachtree Street
Suite 2800
Atlanta, GA 30309
Fax: 404.736.7815
michael.rubinger@dlapiper.com

Attachments:

Exhibit A: Adam System Products
Exhibit B: Fees and Payment
Exhibit C: Implementation Fee Specifications
Exhibit D: Hosting Services

EXHIBIT A

ADAM SYSTEM PRODUCTS

Benergy is an employee portal for employee communications and education. Employees have access to the following Centers:

- Benefits Center
- Health & Wellness Center,
- Human Resources Center,
- Synergy newsletter, and
- My Info Center including a Personal Health Record.

Also included is the Benergy Control Center which provides administrators with the ability to activate product features and add/edit information specific to the employer.

Enrollment is Benergy's online benefits management system. It provides Employees with a self-service mechanism for electing benefits and includes:

- Information on the benefits available,
- Decision tools that help employees make their benefit elections,
- Data Management for plan data and employee elections, and
- Reporting that includes standardized reports.

EXHIBIT B
FEES AND PAYMENT

1. <u>Monthly License Fee</u>. Licensee shall pay Adam a monthly license fee (the "Monthly Fee") calculated as follows: the number of Employees multiplied by $1.73 (One dollar and seventy three cents) Per Employee Per Month (the "PEPM Rate") subject to a monthly Minimum License Fee of $2,076 (Two thousand seventy six dollars).

2. <u>Set-up Fee.</u> Licensee shall pay Adam a one-time set-up (the "Set-up Fee") of $8,000 (Eight thousand dollars) based upon the specifications in Exhibit C.

3. <u>Fee Payment.</u> Adam will invoice Licensee on the first day of each calendar month during the Term of the Agreement. Invoices for all fees and services billed are payable upon receipt. Adam shall charge a late fee on fees and charges not paid to Adam when due at the lesser of a maximum amount chargeable by law or 1.5% per month commencing with the date payment became overdue. Adam shall be reimbursed all reasonable costs associated with the collection of any overdue fees.

4. <u>Rate Increases.</u> Adam shall have the right to increase any annual fixed fees or costs in the Renewal Term by the rate of increase of the medical component of the Consumer Price Index as published by the Office of Management and Budget for the preceding year.

5. <u>Additional Fees.</u> Any additional services that are provided beyond those that are included in this Agreement will be provided as a professional service and will be billed at Adam's then current professional services rate. Such professional services must be authorized by Licensee in writing prior to any work being begun.

Exhibit C

Set-Up Fee Specifications

1. Licensee shall pay Adam a one-time Set-Up Fee as described in Section 2 of Exhibit B which is based upon the following parameters:

Number of Employees:	1,200
Number of carrier feeds: • Medical • Dental • Vision • Long Term Disability • Life Insurance	5
Number of HRIS/payroll interfaces (one way direction):	1

2. The Set-Up Fee includes the following:

   a. Base Set-Up components include:
      - Benergy portal which includes the following modules: Benefits, HR, Health & Wellness, Personal Health Record, and Newsletter,
      - Benefit types,
      - Eligibility groups,
      - Site setup and testing
      - Initial employee demographic census and personalization file load[1],
      - Dependent demographics load[2],
      - Current elections load[2],
      - Consultative assistance to Licensee's staff on the formatting and testing of the file[3],
      - Weekly status calls,
      - Test plan and training for acceptance testing,
      - Census load training for ongoing updates,
      - Personalization training for ongoing updates,
      - HR training for ongoing administration, and
      - Changes required for subsequent open enrollment periods[4].
   b. Selected Optional Set-Up Items include:
      - One (1) File feed to Payroll (Software System)[5]
      - Five (5) Carrier feeds (Medical, Dental, Vision, Long Term Disability, Life Insurance) [6]

      Footnotes:
      [1] Licensee is responsible for subsequent employee census and personalization file updates. Additional fees may apply if Adam performs processing.
      [2] Data must be in standard enrollment load format. Additional fees may apply if significant conversion is required or multiple files must be processes. (This process will extend the implementation timeline.)
      [3] Additional fees to write the extract from the customer's HR or Payroll system
      [4] Changes to existing carrier feeds will be included, however, any new feeds will be processed at the standard price of $2,500 (Two thousand five hundred dollars) per feed.

[5] Assumes full file feed. Changes only formats have additional fees. HR feeds requiring multiple files will be scoped and a custom estimate will be provided. Feeds to HR or Payroll system do not include the actual process to load the data to those systems.

[6] Assumes full file feed. Changes only formats have additional fees. Feed will be available approximately 10 -12 weeks after start of implementation.

EXHIBIT D

HOSTING SERVICES

A.   DESCRIPTION OF HOSTING SERVICES.

         LICENSEE acknowledges and agrees that Adam may contract with one or more third parties to perform all or any portion of the Hosting Services; provided, however, that Adam shall remain responsible for the performance of the Hosting Services consistent with the terms of this Agreement. For purposes hereof, any such third party shall be referred to as a "Hosting Provider". LICENSEE agrees to communicate only with Adam (and not such Hosting Provider) regarding the Hosting Services hereunder. Adam shall supply all hardware and software necessary to host and make the Software available to LICENSEE via Internet access consistent with the terms of the Agreement (the "System"). Unless otherwise indicated, the performance standards specified herein, if any, will be measured on a monthly basis. The following services shall be provided in accordance with the written hosting policies and procedures adopted by Adam or the Hosting Provider and provided or made available to LICENSEE; provided if there is a conflict between such hosting policies and procedures and the Agreement, the Agreement shall govern and control:

         1.   Purchase and maintain one or more Data Centers for the System, the number to be determined by Adam.

         2.   Regularly backup critical data and perform recovery services as required and in accordance with the objectives set forth in Attachment A to this Exhibit D

         3.   Implement appropriate security processes and infrastructure in order to meet the requirements outlined in Attachment B to this Exhibit D.

         4.   Maintain disaster recovery capabilities in accordance with the requirements outlined in Attachment C to this Exhibit D.

B.   DEFINITIONS.

         For purposes hereof, the capitalized terms used in this Exhibit D and not otherwise defined shall have the following meanings:

         1.   "Extreme Service Interruption Event" means an event outside the reasonable control of Adam or its agents or subcontractors, including without limitation the Hosting Provider, that causes a System outage of significant enough nature to trigger the disaster recovery plan. Events of this type include, but are not limited to, acts of government agency, war, riot, civil unrest, work stoppages, strikes, flood, extreme weather, fire or other natural calamity or other events of force majeure.

         2.   "Scheduled Downtime" means any System Downtime occurring within a planned system maintenance window as provided to LICENSEE according to the guidelines outlined in Attachment D to this Exhibit D.

         3.   "System Availability Monitoring Mechanism" shall mean the methodology and tools for measuring and monitoring occurrences of service interruptions.

         4.   "System Downtime" means any interruption of access to the Hosting Web Site as measured by the System Availability Monitoring Mechanism. System Downtime specifically excludes (i) any Scheduled Downtime; (ii) inability to access the System resulting from failure in the Internet backbone or networks not managed by Adam or the Hosting Provider or their subcontractors or agents;

(iii) erroneous System monitoring, in which Adam or the Hosting Provider establishes that the incorrect reporting of the inability to access the System was due to failure in the monitoring mechanism rather than a failure in the System; or (iv) an Extreme Service Interruption Event.

C.   CUSTOMER OBLIGATIONS.

To facilitate Adam providing Hosting Services in accordance with this Exhibit D, LICENSEE agrees to undertake the following:

(i)   maintain LICENSEE-owned equipment, LICENSEE-managed networks, and LICENSEE-managed systems and systems interfaces to appropriate minimum standards;

(ii)   abide by the security procedures specified by Adam and perform reasonable and customary security practices to preclude attempts to circumvent any security procedures or utilize any unauthorized systems in an attempt to access the data of another customer;

(iii)   provide timely notification of any issues and give appropriate lead time to Adam for any special requests; and

(iv)   make all reasonable efforts to assist Adam in identifying, isolating and replicating issues found in the System.

(v)   be responsible for maintenance of account access that surround application logons, including maintaining usernames and passwords for LICENSEE and LICENSEE's users.

D.   PERFORMANCE REQUIREMENTS.

Adam agrees to maintain the performance requirements listed in this subsection D, subject to the disclaimers, limitations and exceptions listed in subsection E provided that LICENSEE has not been instructed to take such action by Adam. In connection therewith, Adam shall measure and report, on a monthly basis, the System Uptime percentage according to the following formula: (i) the sum of (1) number of minutes in the month less (2) the total number of minutes of System Downtime in the month, (ii) divided by the number of minutes in the month. Adam agrees that the monthly System Uptime percentage shall be greater than or equal to 98.0%.

E.   DISCLAIMERS, EXCLUSIONS AND LIMITATIONS.

1.   Adam is not responsible for acts or omissions of LICENSEE or its agents or representatives that result in failure of or disruption to the Hosting Services.

2.   LICENSEE agrees that neither LICENSEE nor its agents or representatives shall attempt in any way to circumvent or otherwise interfere with any security precautions or measures of Adam relating to the Hosting Services. Any such attempts may, among other things, cause failure of, or disruption to, the Hosting Services. Any failure of or disruption to the Hosting Services resulting from a violation of this subsection E shall not be considered Scheduled Downtime.

3.   LICENSEE will be responsible for, and will indemnify Adam and any Hosting Provider for, any damage or service interruptions caused by LICENSEE or its agents or representatives in violation

of this subsection E including, without limitation, any damage to any Adam or such Hosting Provider equipment or equipment managed for Adam or such Hosting Provider by another third party in connection with the Hosting Services. LICENSEE shall indemnify and hold Adam harmless from any damages incurred by Adam resulting from improper or unauthorized account access using LICENSEE's user ID or password unless such damages arise from the gross negligence or willful misconduct of Adam.

4. LICENSEE agrees to compensate Adam and the Hosting Provider, at its then-current professional services rates, for all remedial services or losses resulting from any violations of this subsection E.

5. Neither Adam nor any Hosting Provider controls the flow of data to or from the network and other portions of the Internet. Such flow depends in large part on the performance of Internet services provided or controlled by third parties. At times, actions or inactions of such third parties can impair or disrupt LICENSEE's connections to the Internet (or portions thereof). Although Adam and any Hosting Provider will use commercially reasonable efforts to take the action it deems appropriate to remedy and avoid such events, Adam and any Hosting Provider cannot guarantee that such events will not occur. Accordingly, Adam on its behalf, and on behalf of any Hosting Provider, disclaims any and all liability resulting from or related to such events to the extent such events are not directly caused by the gross negligence or willful misconduct of Adam, Hosting Provider or any of their agents or subcontractors.

6. Neither Adam nor any Hosting Provider is responsible for unauthorized access to the Programs through LICENSEE maintained usernames and passwords provided such unauthorized access was not directly caused by Adam, Hosting Provider or any of their agents or subcontractors.

7. Adam's and any Hosting Provider's performance standards under subsection D specifically excludes the following:

> (i) non-production or test web sites or systems;
>
> (ii) performance of public or private Internet backbones or networks not directly managed by Adam;
>
> (iii) outages or issues caused by LICENSEE's gross negligence, or by LICENSEE's misuse or misconfiguration of the Programs, or by LICENSEE's failure to follow documented procedures for Programs use;
>
> (iv) outages or issues resulting from LICENSEE-managed equipment;
>
> (v) any professional or supplemental services outside the scope of the Hosting Services, including but not limited to:
>
>> (a) content management;
>>
>> (b) implementation, management and support of non-standard interfaces;
>>
>> (c) custom data conversion services;
>>
>> (d) system configuration services;
>>
>> (e) application data maintenance (such as, but not limited to, pricebook, vendor, site, and product information maintenance);

(f)   custom reporting requirements outside of those offered in the Programs; and

(g)   hosting of Software functionality other than that specified with the Programs.

8.   Neither Adam nor any Hosting Provider is responsible for LICENSEE's failure to adhere to and fully comply with the applicable hosting policies and procedures that LICENSEE has been informed of or that have been made available to LICENSEE.

9.   The Hosting Web Site may contain hyperlinks to external Internet sites, which are not under the control of Adam or any Hosting Provider. Adam assumes no responsibility for the content or accuracy of information contained within such Internet sites and the appearance of such hyperlinks does not constitute endorsement or sponsorship of, nor affiliation with, the owners of such Internet sites nor the information, products, services and trademarks contained therein.

10.   The specifications and other aspects of the Hosting Services are listed in Adam's hosting policies and procedures. Other services associated with the Hosting Services are available from Adam for a separate charge based on Adam's professional services fees.

11.   In order to maintain reasonable production data storage requirements and to ensure proper performance of the System, Adam shall establish standard procedures for data archival and data purging of the System. LICENSEE will be responsible for any and all retention of data, records or information required by law.

ATTACHMENT A
Backup and Restore Objectives

Adam will create and maintain processes to ensure the regular and timely backup of the Programs. Adam will use commercially reasonable efforts to meet the following capabilities: (i) in the event of a major System failure in a primary database server involving total loss of System functionality or availability, to restore to a new server within no more than six hours after failure, with a loss of no more than 90 minutes of System data from the point of System failure or of unrecoverable data corruption; (ii) via proper configuration of off-site media storage procedures, maintain the ability to meet the requirements of the disaster recovery plan designated by Adam; (iii) in the event of failure in the backup process, automated notification procedures will be constructed to alert Adam personnel of such failure so that appropriate corrective measures may be taken.

Adam shall use commercially reasonable efforts to fulfill LICENSEE requests to restore System data for purposes other than to recover from a production System failure within 5 days of the initial LICENSEE request. Fulfillment of such requests may subject the requester to payment of additional fees.

Adam will employ a system of tape rotation that allows for daily backups to be archived for thirty days, and monthly backups to be archived for a year. LICENSEE may pay an additional fee for any additional backup or archival requirements or to maintain any backups for more than one year.

Adam reserves the right upon prior written notice to LICENSEE to make changes to these objectives in order to improve the reliability or efficacy of the process.

ATTACHMENT B
Security

Adam shall use commercially reasonable efforts to protect the System from unauthorized access, including the use of firewall and data encryption technologies.

ATTACHMENT C
Disaster Recovery

If an Extreme Service Interruption Event occurs, Adam shall use commercially reasonable efforts to restore full operations to the System within a reasonable period of time after the Extreme Service Interruption Event occurs. At its option, LICENSEE may pay an additional fee to Adam and agree with Adam on a pre-defined time period for recovery referred to as the "Disaster Recovery Window" (the "Window").

ATTACHMENT D
Scheduled Downtime

A published "Routine System Maintenance" calendar shall periodically be provided to LICENSEE. The calendar will outline anticipated scheduled System Downtime requirements. Adam shall notify LICENSEE of any additions or subtractions to the Routine System Maintenance calendar no less than ten (10) business days prior to the downtime event, unless shorter timelines are agreed upon by both LICENSEE and Adam. For purposes hereof, "Scheduled Downtime" means any System Downtime occurring within a planned System maintenance window as communicated to the LICENSEE in the Routine System Maintenance calendar.