As confidentially submitted to the Securities and Exchange Commission May 9, 2013

Registration No. 333-

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM S-1
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

Benefitfocus, Inc.
(Exact name of registrant as specified in its charter)

Delaware	**7372**	**46-2346314**
(State or other jurisdiction of incorporation or organization)	(Primary Standard Industrial Classification Code Number)	(I.R.S. Employer Identification Number)

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Charleston, SC 29492
(843) 849-7476
(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

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Approximate date of commencement of proposed sale to the public: As soon as practicable after the effective date of this registration statement.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933 check the following box. ☐

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer ☐	Accelerated filer ☐	Non-accelerated filer ☒ (Do not check if a smaller reporting company)	Smaller reporting company ☐

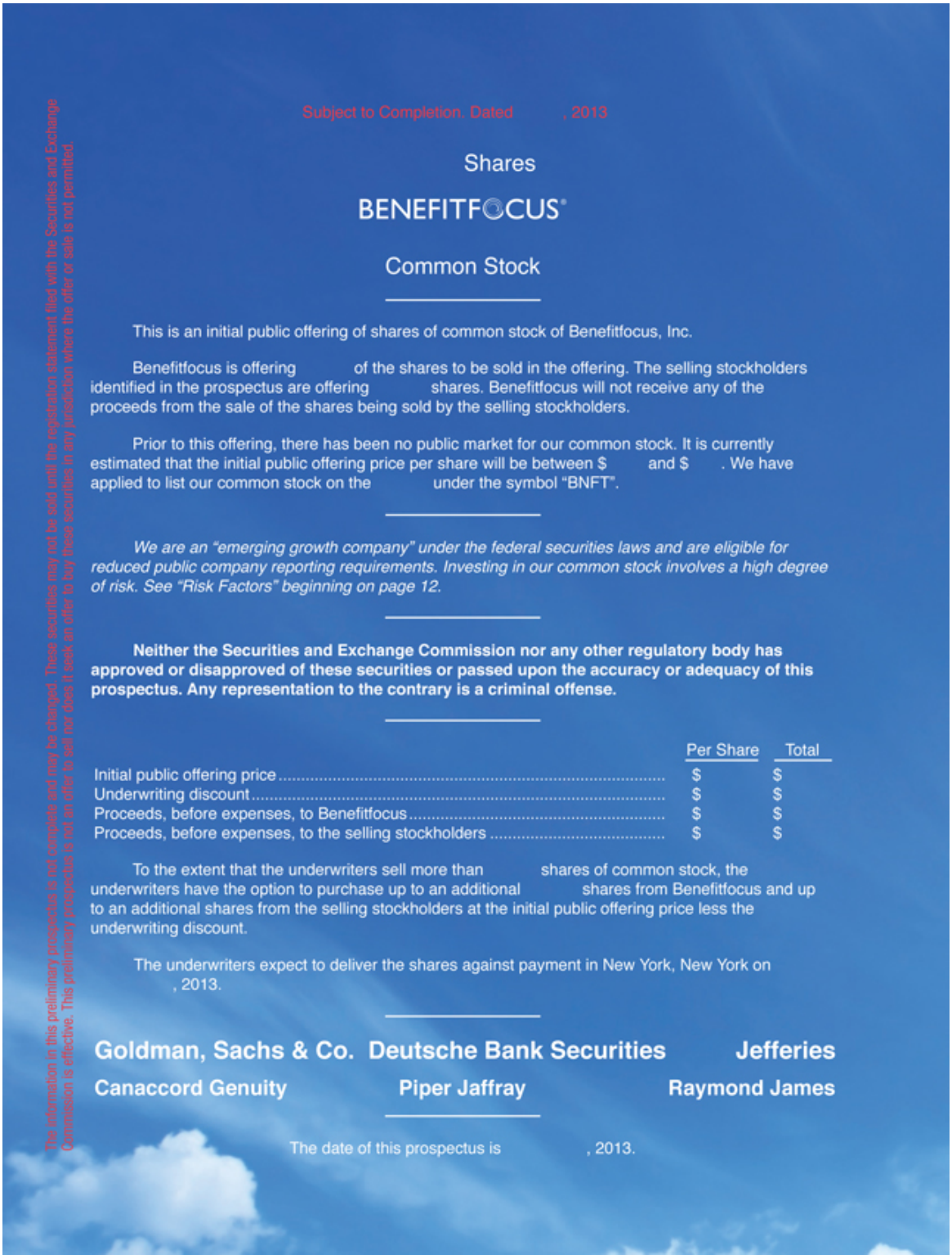
CALCULATION OF REGISTRATION FEE

Title of each Class of Security being registered	Proposed Maximum Aggregate Offering Price(1)	Amount of Registration Fee(2)
Common Stock, $0.001 par value per share	$	$

(1) Estimated solely for the purpose of calculating the registration fee in accordance with Rule 457(o) under the Securities Act of 1933, as amended, and includes shares of common stock that the underwriters have an option to purchase.

(2) Calculated pursuant to Rule 457(o) based on an estimate of the proposed maximum aggregate offering price.

The registrant hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this registration statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until the registration statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.


Subject to Completion. Dated , 2013
Shares
BENEFITFOCUS®
Common Stock
This is an initial public offering of shares of common stock of Benefitfocus, Inc.
Benefitfocus is offering of the shares to be sold in the offering. The selling stockholders identified in the prospectus are offering shares. Benefitfocus will not receive any of the proceeds from the sale of the shares being sold by the selling stockholders.
Prior to this offering, there has been no public market for our common stock. It is currently estimated that the initial public offering price per share will be between $ and $. We have applied to list our common stock on the under the symbol "BNFT".
We are an "emerging growth company" under the federal securities laws and are eligible for reduced public company reporting requirements. Investing in our common stock involves a high degree of risk. See "Risk Factors" beginning on page 12.
Neither the Securities and Exchange Commission nor any other regulatory body has approved or disapproved of these securities or passed upon the accuracy or adequacy of this prospectus. Any representation to the contrary is a criminal offense.
Per Share
Total
Initial public offering price $ $
Underwriting discount $ $
Proceeds, before expenses, to Benefitfocus $ $
Proceeds, before expenses, to the selling stockholders $ $
To the extent that the underwriters sell more than shares of common stock, the underwriters have the option to purchase up to an additional shares from Benefitfocus and up to an additional shares from the selling stockholders at the initial public offering price less the underwriting discount.
The underwriters expect to deliver the shares against payment in New York, New York on , 2013.
Goldman, Sachs & Co.
Deutsche Bank Securities
Jefferies
Canaccord Genuity
Piper Jaffray
Raymond James
The date of this prospectus is , 2013.
The information in this preliminary prospectus is not complete and may be changed. These securities may not be sold until the registration statement filed with the Securities and Exchange Commission is effective. This preliminary prospectus is not an offer to sell nor does it seek an offer to buy these securities in any jurisdiction where the offer or sale is not permitted.

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FOUNDED
2000

HEADQUARTERS
Charleston, SC

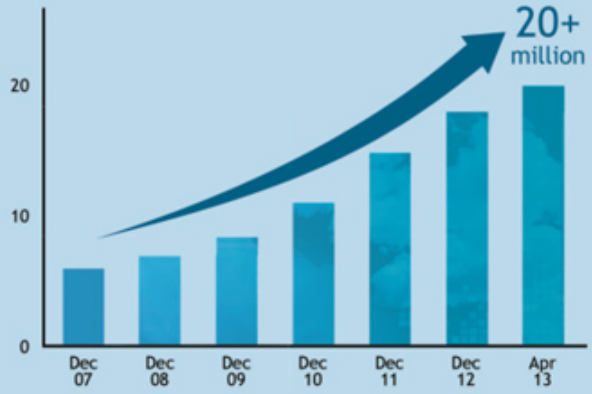
OFFICES
Greenville, SC
Tulsa, OK
San Francisco, CA

PORTFOLIO OF PRODUCTS
HR InTouch
eEnrollment
eBilling
eExchange
eSales
eDirect
Marketplace
Benefit Informatics
Media & Animation

All Your Benefits. One Place.®

The Benefitfocus platform provides an integrated suite of solutions that enables our customers to more efficiently shop, enroll, manage, and exchange benefits information. More than 20 million members manage all types of benefits on the Benefitfocus platform.

Benefitfocus Platform Members



The Benefitfocus portfolio of products supports every phase of the benefits lifecycle:

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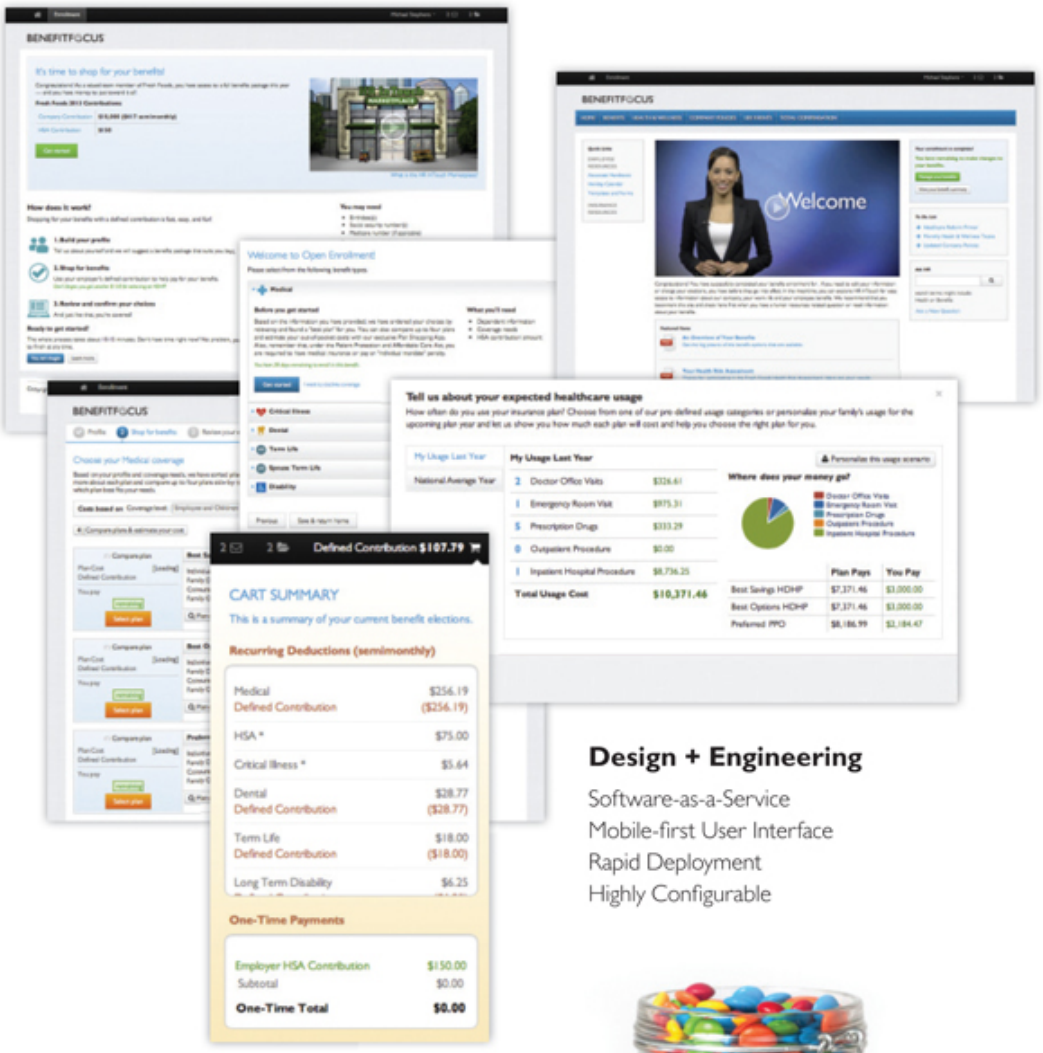
Benefitfocus Technology



Design + Engineering

Software-as-a-Service
Mobile-first User Interface
Rapid Deployment
Highly Configurable

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You should rely only on the information contained in this document and any free-writing prospectus we provide to you. We have not authorized anyone to provide you with information that is different. We are not making offers to sell or soliciting offers to buy in any jurisdiction where the offer or sale is not permitted. You should assume the information in this document is accurate on the date of this document only. Our business, financial condition, results of operations and prospects may have changed since that date.

PROSPECTUS SUMMARY

This summary highlights information appearing elsewhere in this prospectus. You should read the following summary together with the more detailed information appearing in this prospectus, including our financial statements and related notes, and the risk factors beginning on page 12, before deciding whether to purchase shares of our common stock. Unless the context otherwise requires, we use the terms "Benefitfocus," "the Company," "our company," "we," "us," and "our" in this prospectus to refer to the consolidated operations of Benefitfocus, Inc. and its consolidated subsidiaries as a whole.

Benefitfocus, Inc.

Overview

Benefitfocus is a leading provider of cloud-based benefits software solutions for consumers, employers, insurance carriers, and brokers. The Benefitfocus platform provides an integrated suite of solutions that enables our customers to more efficiently shop, enroll, manage, and exchange benefits information. Our web-based platform has a user-friendly interface designed to enable consumers to access all of their benefits in one place. Our comprehensive solutions support core benefits plans, including healthcare, dental, life, and disability insurance, and voluntary benefits plans, such as critical illness, supplemental income, and wellness programs. As the number of employer benefits plans has increased, with each plan subject to many different business rules and requirements, demand for the Benefitfocus platform has grown.

The Benefitfocus platform enables our customers to simplify the management of complex benefits processes, from sales through enrollment and implementation to ongoing administration. It provides employees with an engaging, highly intuitive, and personalized user interface for selecting and managing all of their benefits via the web or mobile devices. Employers use our solutions to streamline benefits processes, keep up with complex regulatory requirements, control costs, and offer a greater variety of plans to attract, retain, and motivate employees. Insurance carriers use our solutions to more effectively market offerings, manage billing, and improve the enrollment process. We also provide a network of over 900 benefit provider data exchange connections, which facilitates the otherwise highly fragmented interaction among employees, employers, and carriers.

We serve two separate but related market segments. Our fastest growing market segment, the employer market, consists of employers offering benefits to their employees. Within this segment, we mainly target large employers with more than 1,000 employees, of which we believe there are approximately 18,000 in the United States. In our other market segment, we sell our solutions to insurance carriers, enabling us to expand our overall footprint in the benefits marketplace by aggregating many key constituents, including consumers, employers, and brokers. We believe our presence in both the employer and insurance carrier markets gives us a strong position at the center of the benefits ecosystem. As of April 30, 2013, we served over 20 million consumers on the Benefitfocus platform. In 2012, we served 286 large employer customers, an increase from 118 in 2009, and 34 carrier customers, an increase from 28 in 2009.

We sell the Benefitfocus platform on a subscription basis, typically through annual contracts with our employer customers and multi-year contracts with our insurance carrier customers, with subscription fees paid monthly. Our software-as-a-service, or SaaS, model provides us visibility into our future operating results through increased revenue predictability, which enhances our ability to manage our business. Historically, our annual software services revenue retention rate has been in excess of 95%. Our total revenue increased from $68.8 million in 2011 to $81.7 million in 2012,

representing an 18.8% year-over-year increase. Our employer revenue increased from $15.9 million in 2011 to $23.8 million in 2012, representing a 49.0% year-over-year increase. Our carrier revenue increased from $52.8 million in 2011 to $58.0 million in 2012, representing a 9.7% year-over-year increase. We had net losses of $14.9 million in 2011 and $14.7 million in 2012. Our company was founded in 2000, and we currently employ approximately 700 associates.

Industry Background

The administration and distribution of benefits to employees is costly and complex. It requires the exchange of information, application of rules, and transfer of funds among a wide variety of constituents, including consumers, employers, insurance carriers, brokers, benefits outsourcers, payroll processors, and financial institutions. According to IBISWorld calculations, in 2012, the market for human resources, or HR, benefits administration in the United States was over $59 billion. In addition, Gartner estimates that in 2012, the U.S. insurance industry spent over $55 billion on software and related services.[1] The current system for providing benefits is changing rapidly and suffers from significant inefficiency as a result of complexity, regulation, and the involvement of multiple parties, leaving room for substantial improvement along the entire benefits value chain.

Employer Market

As of 2010, according to the United States Census Bureau, there were approximately 5.7 million employers in the United States. Currently, we believe there are over 18,000 entities that employ more than 1,000 individuals. A significant and growing portion of employers' costs is non-salary benefits, such as the health insurance that they provide to their employees. Employers recognize the importance of offering a greater variety of core and voluntary benefits as a means to attract, motivate, and retain employees. They must maintain relationships with multiple insurance carriers and many other benefits providers, placing a substantial administrative burden on their organizations.

Employers' distribution, management, and administration of employee benefits has historically consisted of error-prone, paper-based processes, and a patchwork of customized software tools, which are costly to maintain, often lack necessary functionality, and fail to address the increasing complexity of the benefits marketplace. Employers are increasingly interested in SaaS solutions that can help capture and analyze benefits data, increase efficiency and contain costs, and ultimately lead to healthier, happier, and more productive employees.

Insurance Carrier Market

The employee benefits market consists of a myriad of insurance carriers and products. According to the U.S. Bureau of Labor Statistics, the single largest benefit provided to employees in the United States is healthcare insurance, often encompassing more than 90% of all insurance benefits spending by employers. According to SNL Financial, the U.S. private healthcare insurance market consists of approximately 313 carriers covering approximately 176 million individual customers, or members. Carriers provide benefits primarily through over 5.7 million U.S. employers.

Carrier IT systems typically consist of an enterprise software platform that handles claims management, claims re-pricing, insurance premium billing, network management, and case management. Despite widespread carrier consolidation, numerous disparate systems remain in place, with many large carriers operating on multiple IT systems. The effective delivery and management of healthcare benefits depends on the timely, continuous exchange of data among carriers, their

[1] Gartner, *Forecast: Enterprise IT Spending by Vertical Industry Market, Worldwide, 1Q13 Update*, United States Insurance Market Spending on Software, IT Services, and Internal Services.

employer customers, and individual members. Legacy benefits management systems often lack important functionality such as web and mobile self-service capabilities and real-time data exchange. Critical carrier processes, including member enrollment, billing, communications, and retail marketing have often been under-optimized or neglected by legacy systems, and carriers have devoted significant internal resources to cover technology gaps.

Governmental oversight, punctuated with the passage of the Patient Protection and Affordable Care Act, or PPACA, has led to an increasingly intricate regulatory framework under which health benefits are delivered, accessed, and maintained. PPACA significantly expands insurance coverage through the individual mandate, with the goal of providing healthcare insurance to all U.S. citizens. To encourage enrollment, PPACA introduces a new distribution model in the form of healthcare exchanges—online marketplaces that allow insurance carriers to compete directly for new members. PPACA authorized the creation of publicly funded state exchanges in which individuals and small businesses can purchase health insurance directly from carriers. In addition to these federally mandated public exchanges, a number of private entities, including benefit outsourcers, carriers, and brokers are establishing their own private exchanges. We expect private exchanges will be less rigid, promoting both health and non-health benefits, with substantially fewer rules around the types of benefits offered. As insurance carriers continue to bolster their retail distribution capabilities, we believe they will require new technology solutions to attract additional members through private exchanges.

The Benefitfocus Solutions

We provide a multi-tenant cloud-based benefits platform to the employer and carrier markets. The Benefitfocus platform offers an integrated suite of software solutions that enables our customers to more efficiently shop, enroll, manage, and exchange benefits information.

We believe our solutions help employers in the following important ways:

- *Simplify Benefits Enrollment*. Our solutions reduce the complexity of benefits enrollment by integrating all plan information in one place and presenting it to employees in an organized and easy-to-understand manner. Employees shop and enroll using a highly intuitive and engaging consumer-oriented interface.

- *Transition to Defined Contribution Benefits Funding Model*. Our solutions help enable employers' ongoing shift to defined contribution plans. Both employers' interest in gaining better visibility into their benefits cost structure and employees' desire to be able to choose from a variety of benefits have driven demand for defined contribution benefit plans. Our exchange solutions provide an online shopping environment that allows employees to select personalized benefit offerings to suit their individual needs.

- *Reduce Cost and Increase ROI*. Our solutions automate the benefits management process and reduce the cost associated with clerical errors and covering ineligible employees and dependents. Our solutions also include advanced analytics that enable employers and employees to quickly gather, report, and forecast benefit costs.

- *Attract, Retain, and Motivate Employees*. Our solutions help employers attract, retain, and motivate top talent by delivering benefits information through a highly intuitive and engaging user interface. We believe that when employees understand the value of their benefits, they are more likely to be satisfied with and engaged in their jobs.

- *Streamline HR Processes.* Our solutions eliminate the time-consuming and labor-intensive, often paper-based, processes associated with managing employee benefits plans, making HR professionals more efficient. Employers and HR professionals can efficiently enroll users or update information, and communicate or make changes to plans in real-time.

- *Integrate Seamlessly with other Related Systems.* Our solutions can be easily and securely integrated with a variety of related systems, including carrier membership and billing systems, payroll and HR systems, banks, and other third-party administrators. We provide a network of over 900 benefit provider data exchange connections. Our open architecture further extends our functionality by allowing third parties to develop and offer apps and services on our platform.

We believe our solutions help insurance carriers in the following important ways:

- *Attract and Maintain Membership.* Our solutions allow carriers to maximize sales capacity and efficiency by communicating directly with their employer customers and individual members. Carriers can track leads, generate quotes, create proposals with multiple products, and quickly follow-up with potential customers.

- *Reduce Administrative Costs.* The Benefitfocus platform allows carriers to automate and simplify various aspects of the benefits administration process, such as enrollment, plan changes, eligibility updates, and billing, from one centralized location.

- *Bolster Retail Distribution Capabilities Through Private Exchanges.* Our solutions help carriers respond to an evolving marketplace in which retail distribution capabilities are increasingly important to attracting and retaining new members. Our private exchange platform offers carriers a lower cost direct sales channel to employer groups and individuals. We offer the ability to sell both healthcare and non-healthcare benefit products in an online shopping environment that serves as an alternative to government-sponsored public exchanges.

- *Facilitate Real-Time Data Exchange.* Our solutions simplify interactions and data exchange and foster collaboration among carriers and their partners, brokers, employer customers, and individual members. This allows carriers to rapidly tailor and offer new benefits packages.

Our Growth Strategy

We intend to strengthen our position as a leading provider of cloud-based benefits software solutions. Key elements of our growth strategy include the following:

- *Expand our Customer Base.* We believe that our current customer base represents a small fraction of our targeted employers and carriers that could benefit from our solutions. In order to reach new customers in our existing employer and carrier markets, we are aggressively investing in our sales and marketing resources.

- *Deepen our Relationships with our Existing Customer Base.* We are deepening our employer relationships by continuing to provide a unified platform to manage increasingly complex benefits processes and simplify the distribution and administration of employee benefits. We are expanding our carrier relationships through both the upsell of additional software products and increased adoption across our carriers' member populations.

- *Extend our Suite of Applications and Continue our Technology Leadership.* We are extending the number, range, and functionality of our benefits applications. For example, we recently launched the new Benefitfocus Plan Shopping app, which allows employees to use actual claims data when comparing available benefits plans. We have also extended the functionality of our products with various mobile applications. We intend to continue our collaboration with customers and partners, so we can respond quickly to evolving market needs with innovative applications and support our leadership position.

- *Further Develop our Partner Ecosystem.* We have established strong relationships with organizations such as SuccessFactors, Allstate Insurance Company, the Mayo Clinic, and others in a variety of industries to deliver best-in-class applications to our customers. We plan to continue to invest in our integration infrastructure to allow third parties and customers to build custom applications on the Benefitfocus platform and create deep integrations between their systems and ours.

- *Leverage our Corporate Culture.* We believe our culture benefits our associates and customers and supports our growth. We plan to continue to invest in our culture to help attract and retain top design and engineering professionals that are passionate about Benefitfocus and motivated to create superior software technology.

- *Target New Markets.* We believe substantial demand for our solutions exists in markets and geographies beyond our current focus. We intend to leverage opportunities we believe will arise from the complexities of changing government regulation and increased enrollment impacting both Medicare and Medicaid. We also plan to grow our sales capability internationally by expanding our direct sales force and collaborating with strategic partners in new, international locations.

Selected Risks Affecting Our Business

Our business is subject to a number of risks you should be aware of before making an investment decision. These risks are discussed more fully in “Risk Factors” beginning on page 12 and include:

- We have had a history of losses, and we might not be able to achieve or sustain profitability.
- Our quarterly operating results have fluctuated in the past and might continue to fluctuate, causing the value of our common stock to decline substantially.
- We operate in a highly competitive industry, and if we are not able to compete effectively, our business and operating results will be harmed.
- The market for our products and services is immature and volatile, and if it does not develop or if it develops more slowly than we expect, the growth of our business will be harmed.
- If the number of individuals covered by our employer and carrier customers decreases or the number of products or services to which our employer and carrier customers subscribe decreases, our revenue will decrease.
- If our security measures are breached or fail and unauthorized access is obtained to customers’ data, our service might be perceived as not being secure, customers might curtail or stop using our service, and we might incur significant liabilities.
- We rely on third-party service providers, computer hardware and software, and our own systems for providing services to our customers, and any failure or interruption in these services, products or systems could expose us to litigation and negatively impact our customer relationships, adversely affecting our brand and our business.

- Government regulation of the areas in which we operate creates risks and challenges with respect to our compliance efforts and our business strategies, imposes increased costs on us, delays or prevents our introduction of new service types, and could impair the function or value of our existing service types.

Corporate Restructuring

We are a Delaware corporation and a wholly owned subsidiary of Benefitfocus.com, Inc., the South Carolina corporation that conducts our business. In connection with this offering, we intend to restructure our organization by merging Benefitfocus.com, Inc. with a newly formed South Carolina corporation, which is a wholly owned subsidiary of ours. As a result of the restructuring, the common and preferred shareholders of Benefitfocus.com, Inc. will become common and preferred stockholders, respectively, of Benefitfocus, Inc. Also as a result of the restructuring, warrants that are exercisable for common shares of Benefitfocus.com, Inc. will become exercisable for common shares of Benefitfocus, Inc. Similarly, holders of options to purchase common shares of Benefitfocus.com, Inc. will become holders of options to purchase shares of common stock of Benefitfocus, Inc. Except as otherwise provided herein, this prospectus gives effect to the corporate restructuring.

Corporate Information

Our principal executive offices are located at 100 Benefitfocus Way, Charleston, South Carolina 29492. The telephone number of our principal executive offices is (843) 849-7476. Our website is *www.benefitfocus.com*. Information contained on our website is not incorporated by reference into this prospectus, and you should not consider information contained on our website to be part of this prospectus or in deciding whether to purchase shares of our common stock.

Benefitfocus, HR InTouch, Benefitfocus Marketplace, Benefitfocus eEnrollment, Benefitfocus eBilling, Benefitfocus eExchange, Benefitfocus eSales, and other trademarks or service marks of Benefitfocus appearing in this prospectus are the property of Benefitfocus. This prospectus may refer to brand names, trademarks, service marks, or trade names of other companies and organizations, and these brand names, trademarks, service marks, and trade names are the property of their respective holders.

The Offering

Common stock offered by Benefitfocus	shares
Common stock offered by the selling stockholders	shares
Common stock to be outstanding after this offering	shares
Option to purchase additional shares offered to underwriters	To the extent that the underwriters sell more than shares of common stock, the underwriters have the option to purchase up to an additional shares from us and up to an additional shares from the selling stockholders. The underwriters can exercise this option at any time within 30 days from the date of this prospectus.
Use of proceeds	We intend to use the net proceeds we receive from this offering to repay some or all of our approximately $7.0 million in debt, and for general corporate purposes, which may include financing our growth, developing new services and funding capital expenditures, acquisitions, and investments. We will not receive any proceeds from the shares sold by the selling stockholders. See “Use of Proceeds” for more information.
Proposed symbol	“BNFT”

The number of shares of our common stock to be outstanding after this offering is based on 21,289,207 shares outstanding as of December 31, 2012, after giving effect to the assumptions in the following paragraph, and excludes:

- 3,121,064 shares of common stock issuable upon exercise of stock options outstanding at a weighted-average exercise price of $6.15 per share, of which 2,327,504 shares with a weighted-average exercise price of $5.42 per share were vested and exercisable;
- 500,000 shares of common stock issuable upon exercise of a warrant at an exercise price of $5.48 per share; and
- 320,189 shares of common stock available for future issuance under our stock plans.

Except as otherwise indicated, all information in this prospectus:

- assumes no exercise by the underwriters of their option to purchase up to an additional shares from us and up to an additional shares from the selling stockholders;
- assumes that the shares to be sold in this offering are sold at the initial public offering price of $ per share, the midpoint of the estimated price range shown on the cover of this prospectus;
- gives effect to the automatic conversion of all outstanding shares of convertible preferred stock into 16,496,860 shares of common stock upon the closing of this offering; and
- gives effect to our corporate restructuring prior to the closing of this offering as described in the section entitled “Certain Relationships and Related-Party Transactions—Corporate Restructuring”.

Summary Financial Data

The following summary financial data should be read in conjunction with the sections entitled “Selected Financial Data” and “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and with our consolidated financial statements, related notes, and other financial information included elsewhere in this prospectus. Except for 2010 balance sheet data, we derived the summary financial data as of and for the years ended December 31, 2010, 2011, and 2012 from our audited financial statements included elsewhere in this prospectus. We derived the 2010 balance sheet data from audited financial statements not included in this prospectus. Our historical results for any prior period are not necessarily indicative of results to be expected in any future period.

Consolidated Statements of Operations Data

	Year Ended December 31,		
	2010	2011	2012
	(in thousands, except share and per share data)		
Revenue(1)	$ 67,122	$ 68,783	$ 81,739
Cost of revenue(2)	39,817	43,034	45,178
Gross profit	27,305	25,749	36,561
Operating expenses:			
Sales and marketing(2)	14,462	22,914	28,268
Research and development(2)	8,948	9,397	15,035
General and administrative(2)	6,144	5,921	7,577
Impairment of goodwill	—	1,670	—
Change in fair value of contingent consideration	—	503	121
Total operating expenses	29,554	40,405	51,001
Loss from operations	(2,249)	(14,656)	(14,440)
Total other expense, net	(96)	(241)	(214)
Loss before income taxes	(2,345)	(14,897)	(14,654)
Income tax expense	10	35	84
Net loss	$ (2,355)	$ (14,932)	$ (14,738)
Net loss per share—basic and diluted	$ (0.37)	$ (3.06)	$ (3.06)
Pro forma net loss per share—basic and diluted(3)			$ (0.69)
Weighted-average common shares outstanding—basic and diluted	6,405,944	4,875,157	4,812,632
Weighted-average common shares outstanding—pro forma			21,309,492
Other Financial Data:			
Adjusted gross profit(4)	$ 33,498	$ 32,163	$ 44,164
Adjusted EBITDA(5)	$ 5,245	$ (5,209)	$ (5,445)

(1) In the first quarter of 2011, we increased the estimated expected life of our customer relationships for both employer and carrier customers. This change extends the term over which we will recognize our deferred revenue. In the absence of this change, each of revenue, gross profit, and net loss would have improved by $5.8 million in 2011 and $2.8 million in 2012.

(2) Cost of revenue and operating expenses include stock-based compensation expense as follows:

	Year Ended December 31,		
	2010	2011	2012
	(in thousands)		
Cost of revenue	$ 352	$ 252	$ 195
Sales and marketing	77	102	68
Research and development	87	121	130
General and administrative	519	246	319

(3) Pro forma basic and diluted net loss per share have been calculated assuming the conversion of all outstanding shares of redeemable convertible preferred stock into an aggregate of 16,496,860 shares of common stock as of the beginning of the applicable period.

(4) We define adjusted gross profit as gross profit before depreciation and amortization expense, as well as stock-based compensation expense. Please see “Adjusted Gross Profit and Adjusted EBITDA” below for more information and for a reconciliation of adjusted gross profit to gross profit, the most directly comparable financial measure calculated and presented in accordance with GAAP.

(5) We define adjusted EBITDA as net loss before net interest and other expense, taxes, and depreciation and amortization expense, adjusted to eliminate stock-based compensation expense and expense related to the impairment of goodwill. See “Adjusted Gross Profit and Adjusted EBITDA” below for more information and for a reconciliation of adjusted EBITDA to net loss, the most directly comparable financial measure calculated and presented in accordance with GAAP.

Our Segments

	Year Ended December 31,		
	2010	2011	2012
	(in thousands)		
Revenue:			
Employer	$ 9,356	$ 15,947	$ 23,760
Carrier	57,766	52,836	57,979
Total revenue	$67,122	$ 68,783	$ 81,739
Gross profit:			
Employer	$ 2,926	$ 5,811	$ 9,499
Carrier	24,379	19,938	27,062
Total gross profit	$27,305	$ 25,749	$ 36,561
Loss from operations:			
Employer	$ (7,036)	$(20,226)	$(19,778)
Carrier	4,787	5,570	5,338
Total loss from operations	$ (2,249)	$(14,656)	$(14,440)

Consolidated Balance Sheet Data

	As of December 31,		
	2010	2011	2012
	(in thousands)		
Cash and cash equivalents	$ 18,166	$ 15,856	$ 19,703
Accounts receivable, net	7,163	9,060	13,372
Total assets	46,507	46,271	51,921
Deferred revenue, total	32,952	42,773	57,520
Total liabilities	47,502	62,012	81,691
Total redeemable convertible preferred stock	135,478	135,478	135,478
Common stock	4,078	4,923	6,109
Total stockholders' deficit	(136,475)	(151,219)	(165,248)

Adjusted Gross Profit and Adjusted EBITDA

Within this prospectus we use adjusted gross profit and adjusted EBITDA to provide investors with additional information regarding our financial results. Adjusted gross profit and adjusted EBITDA are non-GAAP financial measures. We have provided below reconciliations of these measures to the most directly comparable GAAP financial measures, which for adjusted gross profit is gross profit, and for adjusted EBITDA is net loss.

We have included adjusted gross profit and adjusted EBITDA in this prospectus because they are key measures used by our management and board of directors to understand and evaluate our core operating performance and trends, to prepare and approve our annual budget, and to develop short- and long-term operational plans. In particular, we believe that the exclusion of the expenses eliminated in calculating adjusted gross profit and adjusted EBITDA can provide a useful measure for period-to-period comparisons of our core business. Accordingly, we believe that adjusted gross profit and adjusted EBITDA provide useful information to investors and others in understanding and evaluating our operating results.

Our use of adjusted gross profit and adjusted EBITDA as analytical tools has limitations, and you should not consider them in isolation or as substitutes for analysis of our financial results as reported under GAAP. Some of these limitations are:

- Ÿ although depreciation and amortization are non-cash charges, the assets being depreciated and amortized might have to be replaced in the future, and adjusted gross profit and adjusted EBITDA do not reflect cash capital expenditure requirements for such replacements or for new capital expenditure requirements;
- Ÿ adjusted gross profit and adjusted EBITDA do not reflect changes in, or cash requirements for, our working capital needs;
- Ÿ adjusted gross profit and adjusted EBITDA do not reflect the potentially dilutive impact of stock-based compensation;
- Ÿ adjusted gross profit and adjusted EBITDA do not reflect interest or tax payments that could reduce the cash available to us; and
- Ÿ other companies, including companies in our industry, might calculate adjusted gross profit and adjusted EBITDA or similarly titled measures differently, which reduces their usefulness as comparative measures.

Because of these and other limitations, you should consider adjusted gross profit and adjusted EBITDA alongside other GAAP-based financial performance measures, including various cash flow metrics, gross profit, net income (loss) and our other GAAP financial results. The following table presents a reconciliation of adjusted gross profit to gross profit and adjusted EBITDA to net loss for each of the periods indicated:

	Year Ended December 31,		
	2010	2011	2012
	(in thousands)		
Reconciliation from Gross Profit to Adjusted Gross Profit:			
Gross profit	$27,305	$ 25,749	$ 36,561
Depreciation and amortization	5,841	6,162	7,408
Stock-based compensation expense	352	252	195
Adjusted gross profit	$33,498	$ 32,163	$ 44,164
Reconciliation from Net Loss to Adjusted EBITDA:			
Net loss	$ (2,355)	$(14,932)	$(14,738)
Depreciation and amortization	6,343	7,040	8,294
Interest expense	212	203	203
Income tax expense	10	35	84
Stock-based compensation expense	1,035	721	712
Impairment of goodwill and intangible assets	—	1,724	—
Total net adjustments	7,600	9,723	9,293
Adjusted EBITDA	$ 5,245	$ (5,209)	$ (5,445)

RISK FACTORS

Investing in our common stock involves a high degree of risk. You should consider carefully the risks and uncertainties described below, together with all of the other information in this prospectus, including the consolidated financial statements and the related notes appearing at the end of this prospectus, before deciding to invest in shares of our common stock. If any of the following risks were to materialize, our business, financial condition, results of operations, and future growth prospects could be materially and adversely affected. In that event, the market price of our common stock could decline and you could lose part or all of your investment in our common stock.

Risks Related to Our Business

We have had a history of losses, and we may be unable to achieve or sustain profitability.

We experienced a net loss of $2.4 million in 2010, $14.9 million in 2011 and $14.7 million in 2012. We cannot predict if we will achieve sustained profitability in the near future or at all. We expect to make significant future expenditures to develop and expand our business. In addition, as a public company, we will incur significant legal, accounting, and other expenses that we did not incur as a private company. These increased expenditures will make it harder for us to achieve and maintain future profitability. Our recent growth in revenue and number of customers may not be sustainable, and we might not achieve sufficient revenue to achieve or maintain profitability. We may incur significant losses in the future for a number of reasons, including the other risks described in this prospectus, and we may encounter unforeseen expenses, difficulties, complications and delays and other unknown events. Accordingly, we may not be able to achieve or maintain profitability and we may incur significant losses for the foreseeable future.

Our quarterly operating results have fluctuated in the past and might continue to fluctuate, causing the value of our common stock to decline substantially.

Our quarterly operating results might fluctuate due to a variety of factors, many of which are outside of our control. As a result, comparing our operating results on a period-to-period basis might not be meaningful. You should not rely on our past results as indicative of our future performance. Moreover, our stock price might be based on expectations of future performance that are unrealistic or that we might not meet and, if our revenue or operating results fall below the expectations of investors or securities analysts, the price of our common stock could decline substantially.

Our operating results have varied in the past. In addition to other risk factors listed in this section, some of the important factors that may cause fluctuations in our quarterly operating results include:

- the extent to which our products and services achieve or maintain market acceptance;
- our ability to introduce new products and services and enhancements to our existing products and services on a timely basis;
- new competitors and the introduction of enhanced products and services from competitors;
- the financial condition of our current and potential customers;
- changes in customer budgets and procurement policies;
- the amount and timing of our investment in research and development activities;
- technical difficulties with our products or interruptions in our services;
- our ability to hire and retain qualified personnel, including the rate of expansion of our sales force;
- changes in the regulatory environment related to benefits and healthcare;

- Ÿ regulatory compliance costs;
- Ÿ the timing, size, and integration success of potential future acquisitions; and
- Ÿ unforeseen legal expenses, including litigation and settlement costs.

In addition, a significant portion of our operating expense is relatively fixed in nature, and planned expenditures are based in part on expectations regarding future revenue. Accordingly, unexpected revenue shortfalls might decrease our gross margins and could cause significant changes in our operating results from quarter to quarter. If this occurs, the trading price of our common stock could fall substantially, either suddenly or over time.

As a result of our variable sales and implementation cycles, we might not be able to recognize revenue to offset expenditures, which could result in fluctuations in our quarterly results of operations or otherwise harm our future operating results.

The sales cycle for our products and services can be variable, averaging four months in our employer market segment and 15 months in our carrier market segment, each from initial contact to contract execution. During the sales cycle, we expend time and resources, and we do not recognize any revenue to offset such expenditures.

After a customer contract is signed, we provide an implementation process for the customer during which we establish and test appropriate integrations, connections and registrations, load data into our system, and train customer personnel. Our implementation cycle is also variable, typically ranging from four to five months for employer implementations and from eight to 10 months for complex carrier implementations, each from contract execution to completion of implementation. Some of our new customer projects are complex and require a lengthy set-up period and significant implementation work. During the implementation cycle, we expend substantial time, effort, and financial resources implementing our products and services, but accounting principles do not allow us to recognize the resulting revenue until implementation is complete and the services are available for use, at which time we begin recognition of implementation revenue over the longer of the life of the contract or the expected life of the customer relationship. Each customer’s situation is different, and unanticipated difficulties and delays might arise as a result of failure by us or by the customer to complete our respective responsibilities. If implementation periods are extended, revenue recognition could be delayed and our financial condition might be adversely affected. In addition, cancellation of any implementation after it has begun might result in lost time, effort, and expenses invested in the cancelled implementation process and lost opportunity for implementing paying clients in that same period of time.

These factors might contribute to substantial fluctuations in our quarterly operating results. As a result, in future quarters, our operating results could fall below the expectations of securities analysts or investors, in which event our stock price would likely decline.

Because we recognize revenue from monthly subscriptions and professional services over varying periods, downturns or upturns in sales are not immediately reflected in full in our operating results.

As a software-as-a-service, or SaaS, company, we recognize our subscription revenue monthly for the term of our contracts and recognize the majority of our professional services revenue ratably over the longer of the contract term or the estimated expected life of the customer relationship. As a result, a portion of the revenue we report each quarter is deferred revenue from contracts we entered during previous quarters. Consequently, a shortfall in demand for our software solutions and professional services or a decline in new or renewed contracts in any one quarter might not

significantly reduce our revenue for that quarter but could negatively affect our revenue in future quarters. Accordingly, the effect of significant downturns in new or renewed sales of our products and services is not reflected in full in our results of operations until future periods. Our revenue recognition model also makes it difficult for us to rapidly increase our revenue through additional sales in any period, because revenue from new customers must be recognized over the applicable term of the contracts.

We operate in a highly competitive industry, and if we are not able to compete effectively, our business and operating results will be harmed.

The benefits management software market is highly competitive and is likely to attract increased competition, which could make it hard for us to succeed. Small, specialized providers continue to become more sophisticated and effective. In addition, large, well-financed, and technologically sophisticated software companies might focus more on our market. The size and financial strength of these entities is increasing as a result of continued consolidation in both the IT and healthcare industries. We expect large integrated software companies to become more active in our market, both through acquisitions and internal investment. As costs fall and technology improves, increased market saturation might change the competitive landscape in favor of our competitors.

Some of our current large competitors have greater name recognition, longer operating histories, and significantly greater resources than we do. As a result, our competitors might be able to respond more quickly and effectively than we can to new or changing opportunities, technologies, standards, or customer requirements. In addition, current and potential competitors have established, and might in the future establish, cooperative relationships with vendors of complementary products, technologies, or services to increase the availability of their products in the marketplace. Accordingly, new competitors or alliances might emerge that have greater market share, a larger customer base, more widely adopted proprietary technologies, greater marketing expertise, greater financial resources, and larger sales forces than we have, which could put us at a competitive disadvantage. Further, in light of these advantages, even if our products and services are more effective than those of our competitors, current or potential customers might accept competitive offerings in lieu of purchasing our offerings. Increased competition is likely to result in pricing pressures, which could negatively impact our sales, profitability, or market share. In addition to new niche vendors, who offer stand-alone products and services, we face competition from existing enterprise vendors, including those currently focused on software solutions that have information systems in place with potential customers in our target market. These existing enterprise vendors might promise products or services that offer ease of integration with existing systems and which leverage existing vendor relationships. In addition, large insurance carriers often have internal technology staffs and proprietary software for benefits management, making them less likely to buy our solutions.

The market for our products and services is immature and volatile, and if it does not develop or if it develops more slowly than we expect, the growth of our business will be harmed.

The cloud-based benefits management software market is relatively new and unproven, and it is uncertain whether it will achieve and sustain high levels of demand and market acceptance. Our success will depend to a substantial extent on the willingness of employers, carriers, and consumers to increase their use of benefits management software. Many employers and carriers have invested substantial personnel and financial resources to integrate internally developed solutions or traditional enterprise software into their businesses for benefits management, and therefore might be reluctant or unwilling to migrate to our cloud-based solutions. If employers, carriers and consumers do not perceive the benefits of our solutions, then our market might not develop at all, or it might develop more slowly than we expect, either of which could significantly adversely affect our operating results. In addition, we have limited insight into trends that might develop and affect our business. We might make errors in

predicting and reacting to relevant business trends, which could harm our business. If any of these risks occur, it could materially adversely affect our business, financial condition or results of operations.

The SaaS pricing model is evolving and our failure to manage its evolution and demand could lead to lower than expected revenue and profit.

We derive most of our revenue growth from subscription offerings and, specifically, SaaS offerings. This business model depends heavily on achieving economies of scale because the initial upfront investment is costly and the associated revenue is recognized on a ratable basis. If we fail to achieve appropriate economies of scale or if we fail to manage or anticipate the evolution and demand of the SaaS pricing model, then our business and operating results could be adversely affected.

If we do not continue to innovate and provide products and services that are useful to consumers, employers, insurance carriers, and brokers and provide high quality support services, we might not remain competitive, and our revenue and operating results could suffer.

Our success depends in part on providing products and services that consumers, employers, insurance carriers, and brokers will use to manage benefits. We must continue to invest significant resources in research and development in order to enhance our existing products and services and introduce new high quality products and services that customers will want. If we are unable to predict user preferences or industry changes, or if we are unable to modify our products and services on a timely basis, we might lose customers. Our operating results would also suffer if our innovations are not responsive to the needs of our customers, are not appropriately timed with market opportunity, or are not effectively brought to market. As technology continues to develop, our competitors might be able to offer results that are, or that are perceived to be, substantially similar to or better than those generated by us. This would force us to compete on additional product and service attributes and to expend significant resources in order to remain competitive.

In addition, we may experience difficulties with software development, industry standards, design, or marketing that could delay or prevent our development, introduction, or implementation of new solutions and enhancements. The introduction of new solutions by competitors, the emergence of new industry standards, or the development of entirely new technologies to replace existing offerings could render our existing or future solutions obsolete.

Our success also depends on providing high quality support services to resolve any issues related to our products and services. High quality education and customer support is important for the successful marketing and sale of our products and services and for the renewal of existing customers. If we do not help our customers quickly resolve issues and provide effective ongoing support, our ability to sell additional products and services to existing customers would suffer and our reputation with existing or potential customers would be harmed.

If we are unable to retain our existing customers, our revenue and results of operations would be adversely affected.

We sell our products and services pursuant to agreements that are generally one year for employers and four to 10 years for carriers. While our employer contracts generally automatically renew on an annual basis, our carrier customers have no obligation to renew their contracts after their contract period expires, and these contracts may not be renewed on the same or on more profitable terms if at all. As a result, our ability to grow depends in part on renewals of our carrier contracts. We may not be able to accurately predict future trends in customer renewals, and our customers' renewal rates may decline or fluctuate because of several factors, including their level of satisfaction or dissatisfaction with our services, the cost of our services, the cost of services offered by our

competitors, or reductions in our customers' spending levels. If our carrier customers do not renew their contracts for our services, renew on less favorable terms, or do not purchase additional functionality or products, our revenue may grow more slowly than expected or decline, and our profitability and gross margins may be harmed.

A significant amount of our revenue is derived from our largest customers, and any reduction in revenue from any of these customers would reduce our revenue and net income.

Our ten largest customers by revenue in the past three years accounted for approximately 70.0%, 64.1%, and 58.6% of our consolidated revenue in each of 2010, 2011, and 2012, respectively. Our largest customer by revenue in the past three years accounted for approximately 11.6%, 11.7%, and 10.5% of our revenue in each of 2010, 2011, and 2012, respectively. If any of our key customers decides not to renew its contracts with us, or to renew on less favorable terms, our business, revenues, reputation, and our ability to obtain new customers could be materially and adversely affected.

If the number of individuals covered by our employer and carrier customers decreases or the number of products or services to which our employer and carrier customers subscribe decreases, our revenue will decrease.

Under most of our customer contracts, we base our fees on the number of individuals to whom our customers provide benefits and the number of products or services subscribed to by our customers. Many factors may lead to a decrease in the number of individuals covered by our customers and the number of products or services subscribed to by our customers, including:

- Ÿ failure of our customers to adopt or maintain effective business practices;
- Ÿ changes in the nature or operations of our customers;
- Ÿ government regulations; and
- Ÿ increased competition or other changes in the benefits marketplace.

If the number of individuals covered by our customers or the number of products or services subscribed to by our customers decreases for any reason, our revenue will likely decrease.

Economic uncertainties or downturns in the general economy or the industries in which our customers operate could disproportionately affect the demand for our solutions and negatively impact our results of operations.

General worldwide economic conditions have experienced a significant downturn, and market volatility and uncertainty remain widespread, making it extremely difficult for our customers and us to accurately forecast and plan future business activities. In addition, these conditions could cause our customers or prospective customers to decrease headcount, benefits, or HR budgets, which could decrease corporate spending on our products and services, resulting in delayed and lengthened sales cycles, a decrease in new customer acquisition, and/or loss of customers. Furthermore, during challenging economic times, our customers may have difficulty gaining timely access to sufficient credit or obtaining credit on reasonable terms, which could impair their ability to make timely payments to us and adversely affect our revenue. If that were to occur, our financial results could be harmed. Further, challenging economic conditions might impair the ability of our customers to pay for the products and services they already have purchased from us and, as a result, our write-offs of accounts receivable could increase. We cannot predict the timing, strength, or duration of any economic slowdown or recovery. If the condition of the general economy or markets in which we operate worsens, our business could be harmed.

Failure to manage our rapid growth effectively could increase our expenses, decrease our revenue, and prevent us from implementing our business strategy.

We have been experiencing a period of rapid growth, which puts strain on our business. To manage this and our anticipated future growth effectively, we must continue to maintain and enhance our IT infrastructure, financial and accounting systems, and controls. We also must attract, train, and retain a significant number of qualified sales and marketing personnel, customer support personnel, professional services personnel, software engineers, technical personnel, and management personnel. Failure to effectively manage our rapid growth could lead us to over-invest or under-invest in development and operations, result in weaknesses in our infrastructure, systems, or controls, give rise to operational mistakes, losses, loss of productivity or business opportunities, and result in loss of employees and reduced productivity of remaining employees. Our growth could require significant capital expenditures and might divert financial resources from other projects such as the development of new products and services. If our management is unable to effectively manage our growth, our expenses might increase more than expected, our revenue could decline or might grow more slowly than expected, and we might be unable to implement our business strategy. The quality of our products and services might suffer, which could negatively affect our reputation and harm our ability to retain and attract customers.

We depend on our senior management team, and the loss of one or more key associates or an inability to attract and retain highly skilled associates could adversely affect our business.

Our success depends largely upon the continued services of our key executive officers. We also rely on our leadership team in the areas of research and development, marketing, services, and general and administrative functions, and on mission-critical individual contributors in research and development. From time to time, there may be changes in our executive management team resulting from the hiring or departure of executives, which could disrupt our business. The loss of one or more of our executive officers or key associates could have a serious adverse effect on our business.

To continue to execute our growth strategy, we also must attract and retain highly skilled personnel. Competition is intense for engineers with high levels of experience in designing and developing software and Internet-related services. We might not be successful in maintaining our unique culture and continuing to attract and retain qualified personnel. We have from time to time in the past experienced, and we expect to continue to experience in the future, difficulty in hiring and retaining highly skilled personnel with appropriate qualifications. The pool of qualified personnel with SaaS experience and/or experience working with the benefits market is limited overall and specifically in Charleston, South Carolina, where our principal office is located. In addition, many of the companies with which we compete for experienced personnel have greater resources than we have and are located in geographic areas, like Silicon Valley, that may attract more qualified technology workers.

In addition, in making employment decisions, particularly in the Internet and high-technology industries, job candidates often consider the value of the stock options they are to receive in connection with their employment. Volatility in the price of our stock might, therefore, adversely affect our ability to attract or retain highly skilled personnel. Furthermore, the requirement to expense stock options might discourage us from granting the size or type of stock option awards that job candidates require to join our company. If we fail to attract new personnel or fail to retain and motivate our current personnel, our business and future growth prospects could be severely harmed.

If we fail to maintain awareness of our brand cost-effectively, our business might suffer.

We believe that maintaining awareness of our brand in a cost-effective manner is critical to continuing the widespread acceptance of our existing solutions and is an important element in

attracting new customers. Furthermore, we believe that the importance of brand recognition will increase as competition in our market increases. Successful promotion of our brand will depend largely on the effectiveness of our marketing efforts and on our ability to provide reliable and useful services at competitive prices. Our efforts to build and maintain our brand nationally have involved significant expenses. Brand promotion activities may not yield increased revenue, and even if they do, any increased revenue may not offset the expenses we incur in maintaining our brand. If we fail to successfully maintain our brand, or incur substantial expenses in an unsuccessful attempt to maintain our brand, we may fail to attract enough new customers or retain our existing customers to the extent necessary to realize a sufficient return on our brand-building efforts, and our business could suffer.

Our growth depends in part on the success of our strategic relationships with third parties.

In order to grow our business, we anticipate that we will continue to depend on our relationships with third parties, including our partner organizations, and technology and content providers. Identifying partners, and negotiating and documenting relationships with them, requires significant time and resources. Our competitors might be effective in providing incentives to third parties to favor their products or services or to prevent or reduce subscriptions to our products and services. In addition, acquisitions of our partners by our competitors could result in a decrease in the number of our current and potential customers, as our partners may no longer facilitate the adoption of our applications by potential customers. If we are unsuccessful in establishing or maintaining our relationships with third parties, our ability to compete in the marketplace or to grow our revenue could be impaired and our operating results may suffer. Even if we are successful, we cannot assure you that these relationships will result in increased customer use of our applications or increased revenue.

If we are required to collect sales and use taxes in additional jurisdictions, we might be subject to liability for past sales and our future sales may decrease.

We might lose sales or incur significant expenses if states successfully impose broader guidelines on state sales and use taxes. A successful assertion by one or more states requiring us to collect sales or other taxes on the licensing of our software or sale of our services could result in substantial tax liabilities for past transactions and otherwise harm our business. Each state has different rules and regulations governing sales and use taxes, and these rules and regulations are subject to varying interpretations that change over time. We review these rules and regulations periodically and, when we believe we are subject to sales and use taxes in a particular state, voluntarily engage state tax authorities in order to determine how to comply with their rules and regulations. We cannot assure you that we will not be subject to sales and use taxes or related penalties for past sales in states where we currently believe no such taxes are required.

Vendors of services, like us, are typically held responsible by taxing authorities for the collection and payment of any applicable sales and similar taxes. If one or more taxing authorities determines that taxes should have, but have not, been paid with respect to our services, we might be liable for past taxes in addition to taxes going forward. Liability for past taxes might also include substantial interest and penalty charges. Our customer contracts typically provide that our customers must pay all applicable sales and similar taxes. Nevertheless, our customers might be reluctant to pay back taxes and might refuse responsibility for interest or penalties associated with those taxes. If we are required to collect and pay back taxes and the associated interest and penalties, and if our clients fail or refuse to reimburse us for all or a portion of these amounts, we will incur unplanned expenses that may be substantial. Moreover, imposition of such taxes on us going forward will effectively increase the cost of our software and services to our customers and might adversely affect our ability to retain existing customers or to gain new customers in the areas in which such taxes are imposed.

We might not be able to utilize a significant portion of our net operating loss or other tax credit carryforwards, which could adversely affect our profitability.

As of December 31, 2012, we had federal and state net operating loss carryforwards due to prior period losses, which if not utilized will begin to expire in 2017 and 2013 for federal and state purposes, respectively. We also have South Carolina jobs tax credit and headquarters tax credit carryforwards, which if not utilized will begin to expire in 2019. These tax credit carryforwards could expire unused and be unavailable to offset future income tax liabilities, which could adversely affect our profitability.

In addition, under Section 382 of the Internal Revenue Code of 1986, as amended, or the Code, our ability to utilize net operating loss carryforwards or other tax attributes in any taxable year may be limited if we experience an “ownership change”. A Section 382 “ownership change” generally occurs if one or more stockholders or groups of stockholders who own at least 5% of our stock increase their ownership by more than 50 percentage points over their lowest ownership percentage within a rolling three-year period. Similar rules might apply under state tax laws. This offering or future issuances of our stock could cause an “ownership change”. It is possible that an ownership change, or any future ownership change, could have a material effect on the use of our net operating loss carryforwards or other tax attributes, which could adversely affect our profitability.

We might be unable to adequately protect, and we might incur significant costs in enforcing, our intellectual property and other proprietary rights.

Our success depends in part on our ability to enforce our intellectual property and other proprietary rights. We rely on a combination of trademark, trade secret, copyright, patent, and unfair competition laws, as well as license and access agreements and other contractual provisions, to protect our intellectual property and other proprietary rights. In addition, we attempt to protect our intellectual property and proprietary information by requiring employees and consultants to enter into confidentiality, noncompetition, and assignment of inventions agreements. Our attempts to protect our intellectual property might be challenged by others or invalidated through administrative process or litigation. While we have five U.S. patent applications pending, we might not be able to obtain meaningful patent protection for our software. In addition, if any patents are issued in the future, they might not provide us with any competitive advantages, or might be successfully challenged by third parties. Agreement terms that address non-competition are difficult to enforce in many jurisdictions and might not be enforceable in certain cases. To the extent that our intellectual property and other proprietary rights are not adequately protected, third parties might gain access to our proprietary information, develop and market products or services similar to ours, or use trademarks similar to ours, each of which could materially harm our business. Existing U.S. federal and state intellectual property laws offer only limited protection. Moreover, the laws of other countries in which we might in the future conduct operations or contract for services might afford little or no effective protection of our intellectual property. The failure to adequately protect our intellectual property and other proprietary rights could materially harm our business.

In addition, if we resort to legal proceedings to enforce our intellectual property rights or to determine the validity and scope of the intellectual property or other proprietary rights of others, the proceedings could be burdensome and expensive, even if we were to prevail. Any litigation that is necessary in the future could result in substantial costs and diversion of resources and could have a material adverse effect on our business, operating results or financial condition.

We might be sued by third parties for alleged infringement of their proprietary rights.

The software and Internet industries are characterized by the existence of a large number of patents, trademarks, and copyrights and by frequent litigation based on allegations of infringement or other violations of intellectual property rights. We have received in the past, and might receive in the

future, communications from third parties claiming that we have infringed the intellectual property rights of others. Our technologies might not be able to withstand any third-party claims or rights against their use. Any intellectual property claims, with or without merit, could be time-consuming and expensive to resolve, divert management attention from executing our business plan, and require us to pay monetary damages or enter into royalty or licensing agreements. In addition, many of our contracts contain warranties with respect to intellectual property rights, and most require us to indemnify our clients for third-party intellectual property infringement claims, which would increase the cost to us of an adverse ruling on such a claim.

Moreover, any settlement or adverse judgment resulting from such a claim could require us to pay substantial amounts of money or obtain a license to continue to use the software or information that is the subject of the claim, or otherwise restrict or prohibit our use of it. We might not be able to obtain a license on commercially reasonable terms, if at all, from third parties asserting an infringement claim; we might not be able to develop alternative technology on a timely basis, if at all; and we might not be able to obtain a license to use a suitable alternative technology to permit us to continue offering, and our clients to continue using, our affected services. Accordingly, an adverse determination could prevent us from offering our services to others.

Failure to adequately expand our direct sales force will impede our growth.

We believe that our future growth will depend on the continued development of our direct sales force and its ability to obtain new customers and to manage our existing customer base. Identifying and recruiting qualified personnel and training them in the use of our software requires significant time, expense, and attention. It can take six months or longer before a new sales representative is fully trained and productive. Our business may be adversely affected if our efforts to expand and train our direct sales force do not generate a corresponding increase in revenues. In particular, if we are unable to hire and develop sufficient numbers of productive direct sales personnel or if new direct sales personnel are unable to achieve desired productivity levels in a reasonable period of time, sales of our products and services will suffer and our growth will be impeded.

Any future litigation against us could be costly and time-consuming to defend.

We may become subject, from time to time, to legal proceedings and claims that arise in the ordinary course of business such as claims brought by our clients in connection with commercial disputes or employment claims made by our current or former associates. Litigation might result in substantial costs and may divert management's attention and resources, which might seriously harm our business, overall financial condition, and operating results. Insurance might not cover such claims, might not provide sufficient payments to cover all the costs to resolve one or more such claims, and might not continue to be available on terms acceptable to us. A claim brought against us that is uninsured or underinsured could result in unanticipated costs, thereby reducing our operating results and leading analysts or potential investors to reduce their expectations of our performance, which could reduce the trading price of our stock.

If we acquire companies or technologies in the future, they could prove difficult to integrate, disrupt our business, dilute stockholder value, and adversely affect our operating results and the value of our common stock.

As part of our business strategy, we might acquire, enter into joint ventures with, or make investments in complementary companies, services, and technologies in the future. For example, in 2010, we acquired 100% of the net assets of Beninform Holdings, Inc., including its wholly owned subsidiary Benefit Informatics, Inc., and the intellectual property assets of BeliefNetworks, Inc. We spent considerable time, effort, and money pursuing these companies and successfully integrating them into our business. Acquisitions and investments involve numerous risks, including:

Ÿ difficulties in identifying and acquiring products, technologies or businesses that will help our business;

- Ÿ difficulties in integrating operations, technologies, services and personnel;
- Ÿ diversion of financial and managerial resources from existing operations;
- Ÿ risk of entering new markets in which we have little to no experience; and
- Ÿ delays in customer purchases due to uncertainty and the inability to maintain relationships with customers of the acquired businesses.

If we fail to properly evaluate acquisitions or investments, we might not achieve the anticipated benefits of any such acquisitions, we might incur costs in excess of what we anticipate, and management resources and attention might be diverted from other necessary or valuable activities.

We might require additional capital to support business growth, and this capital might not be available.

We intend to continue to make investments to support our business growth and might require additional funds to respond to business challenges or opportunities, including the need to develop new products and services or enhance our existing services, enhance our operating infrastructure, and acquire complementary businesses and technologies. Accordingly, we might need to engage in equity or debt financings to secure additional funds. If we raise additional funds through further issuances of equity or convertible debt securities, our existing stockholders could suffer significant dilution, and any new equity securities we issue could have rights, preferences and privileges superior to those of holders of our common stock. Any debt financing secured by us in the future could involve restrictive covenants relating to our capital-raising activities and other financial and operational matters, which might make it more difficult for us to obtain additional capital and to pursue business opportunities, including potential acquisitions. In addition, we might not be able to obtain additional financing on terms favorable to us, if at all. If we are unable to obtain adequate financing or financing on terms satisfactory to us when we require it, our ability to continue to support our business growth and to respond to business challenges could be significantly limited.

Future sales to customers outside the United States or with international operations might expose us to risks inherent in international sales which, if realized, could adversely affect our business.

An element of our growth strategy is to expand internationally. Operating in international markets requires significant resources and management attention and will subject us to regulatory, economic, and political risks that are different from those in the United States. Because of our limited experience with international operations, our international expansion efforts might not be successful in creating demand for our products and services outside of the United States or in effectively selling our solutions in the international markets we enter. In addition, we will face risks in doing business internationally that could adversely affect our business, including:

- Ÿ the need to localize and adapt our solutions for specific countries, including translation into foreign languages and associated expenses;
- Ÿ data privacy laws which require that customer data be stored and processed in a designated territory;
- Ÿ difficulties in staffing and managing foreign operations;
- Ÿ different pricing environments, longer sales cycles and longer accounts receivable payment cycles and collections issues;
- Ÿ new and different sources of competition;

- Ÿ weaker protection for intellectual property and other legal rights than in the United States and practical difficulties in enforcing intellectual property and other rights outside of the United States;
- Ÿ laws and business practices favoring local competitors;
- Ÿ compliance challenges related to the complexity of multiple, conflicting and changing governmental laws and regulations, including employment, tax, privacy, and data protection laws and regulations;
- Ÿ increased financial accounting and reporting burdens and complexities;
- Ÿ restrictions on the transfer of funds;
- Ÿ adverse tax consequences; and
- Ÿ unstable regional economic and political conditions.

If we denominate our international contracts in local currencies, fluctuations in the value of the U.S. dollar and foreign currencies might impact our operating results when translated into U.S. dollars.

Risks Related to Our Products and Services Offerings

If our security measures are breached or fail, and unauthorized persons gain access to customers' data, our products and services might be perceived as not being secure, customers might curtail or stop using our products and services, and we might incur significant liabilities.

Our products and services involve the storage and transmission of customers' confidential information, which may include sensitive individually identifiable information that is subject to stringent legal and regulatory obligations. Because of the sensitivity of this information, security features of our software are very important. If our security measures are breached or fail and/or are bypassed as a result of third-party action, employee error, malfeasance, or otherwise, someone might be able to obtain unauthorized access to our customers' confidential information and/or patient data. As a result, our reputation could be damaged, our business might suffer, and we could face damages for contract breach, penalties for violation of applicable laws or regulations, and significant costs for remediation and remediation efforts to prevent future occurrences.

In addition, we rely on various third parties, including employers' HR departments, carriers, and other third-party service providers and consumers themselves, as users of our system for key activities to protect and promote the security of our systems and the data and information accessible within them, such as administration of enrollment, consumer status changes, claims, and billing. On occasion, people have failed to perform these activities. For example, employers sometimes have failed to terminate the login/password of former employees, or permitted current employees to share login/passwords. When we become aware of such breaches, we work with employers to terminate inappropriate access and provide additional instruction in order to avoid the reoccurrence of such problems. Although to date these breaches have not resulted in claims against us or in material harm to our business, failures to perform these activities might result in claims against us, which could expose us to significant expense, legal liability, and harm to our reputation, which might result in loss of business.

Because techniques used to obtain unauthorized access or to sabotage systems change frequently and generally are not recognized until launched against a target, we might not be able to anticipate these techniques or to implement adequate preventive measures. If an actual or perceived breach of our security occurs, the market perception of the effectiveness of our security measures could be harmed and we could lose sales and customers. In addition, our customers might authorize or enable third parties to access their information and data that is stored on our systems. Because we do not control such access, we cannot ensure the complete integrity or security of such data in our systems.

Failure by our customers to obtain proper permissions and waivers might result in claims against us or may limit or prevent our use of data, which could harm our business.

We require our customers to provide necessary notices and to obtain necessary permissions and waivers for use and disclosure of information on the Benefitfocus platform, and we require contractual assurances from them that they have done so and will do so. If, however, despite these requirements and contractual obligations, our customers do not obtain necessary permissions and waivers, then our use and disclosure of information that we receive from them or on their behalf might be limited or prohibited by state or federal privacy laws or other laws. This could impair our functions, processes and databases that reflect, contain, or are based upon such data and might prevent use of such data. In addition, this could interfere with, or prevent creation or use of, rules, analyses, or other data-driven activities that benefit us and our business. Moreover, we might be subject to claims or liability for use or disclosure of information by reason of lack of valid notices, agreements, permissions or waivers. These claims or liabilities could subject us to unexpected costs and adversely affect our operating results.

Our proprietary software might not operate properly, which could damage our reputation, give rise to claims against us, or divert application of our resources from other purposes, any of which could harm our business and operating results.

Proprietary software development is time-consuming, expensive, and complex. Unforeseen difficulties can arise. We might encounter technical obstacles, and it is possible that we discover problems that prevent our proprietary applications from operating properly. If they do not function reliably or fail to achieve customer expectations in terms of performance, customers could assert liability claims against us and/or attempt to cancel their contracts with us. This could damage our reputation and impair our ability to attract or maintain customers.

Moreover, benefits management software as complex as ours has in the past contained, and may in the future contain, or develop, undetected defects or errors. Material performance problems or defects in our products and services might arise in the future. Errors might result from the interface of our services with legacy systems and data, which we did not develop and the function of which is outside of our control. Defects or errors might arise in our existing or new software or service processes. Because changes in employer, carrier, and legal requirements and practices relating to benefits are frequent, we are continuously discovering defects and errors in our software and service processes compared against these requirements and practices. These defects and errors and any failure by us to identify and address them could result in loss of revenue or market share, liability to customers or others, failure to achieve market acceptance or expansion, diversion of development and other resources, injury to our reputation, and increased service and maintenance costs. Defects or errors in our product or service processes might discourage existing or potential customers from purchasing services from us. Correction of defects or errors could prove to be impossible or impracticable. The costs incurred in correcting any defects or errors or in responding to resulting claims or liability might be substantial and could adversely affect our operating results.

In addition, customers that rely on our products and services to collect, manage, and report benefits data might have a greater sensitivity to service errors and security vulnerabilities than customers of software products in general. We market and sell services that, among other things, provide information to assist care providers in tracking and treating ill patients. Any operational delay in or failure of our software service processes might result in the disruption of patient care and could cause harm to our business and operating results.

Our customers might assert claims against us in the future alleging that they suffered damages due to a defect, error, or other failure of our product or service processes. A product liability claim or errors or omissions claim could subject us to significant legal defense costs and adverse publicity regardless of the merits or eventual outcome of such a claim.

Various events could interrupt customers' access to the Benefitfocus platform, exposing us to significant costs.

The ability to access the Benefitfocus platform is critical to our customers. Our operations and facilities are vulnerable to interruption and/or damage from a number of sources, many of which are beyond our control, including, without limitation: (i) power loss and telecommunications failures, (ii) fire, flood, hurricane, and other natural disasters, (iii) software and hardware errors, failures or crashes in our own systems or in other systems, (iv) computer viruses, denial-of-service attacks, hacking and similar disruptive problems in our own systems and in other systems, and (v) civil unrest, war, and/or terrorism. We have implemented various measures to protect against interruptions of customers' access to our platform. If customers' access is interrupted because of problems in the operation of our facilities, we could be exposed to significant claims by customers, particularly if the access interruption is associated with problems in the timely delivery of funds due to customers or medical information relevant to patient care. Our plans for disaster recovery and business continuity rely on third-party providers of related services. If those vendors fail us at a time when our systems are not operating correctly, we could incur a loss of revenue and liability for failure to fulfill our obligations. Any significant instances of system downtime could negatively affect our reputation and ability to retain customers and sell our services, which would adversely impact our revenue.

In addition, retention and availability of patient care and physician reimbursement data are subject to federal and state laws governing record retention, accuracy, and access. Some laws impose obligations on our customers and on us to produce information for third parties and to amend or expunge data at their direction. Our failure to meet these obligations might result in liability, which could increase our costs and reduce our operating results.

We rely on data center providers, Internet infrastructure, bandwidth providers, third-party computer hardware and software, other third parties, and our own systems for providing services to our customers, and any failure or interruption in the services provided by these third parties or our own systems could expose us to litigation and negatively impact our relationships with customers, adversely affecting our brand and our business.

We serve all our customers from two data centers, one located in Raleigh, North Carolina and the other located in Charlotte, North Carolina. While we control and have access to our servers, we do not control the operation of these facilities. The owners of our data center facilities have no obligation to renew their agreements with us on commercially reasonable terms, or at all. If we are unable to renew these agreements on commercially reasonable terms, or if one of our data center operators is acquired, we may be required to transfer our servers and other infrastructure to new data center facilities, and we may incur significant costs and possible service interruption in connection with doing so. Problems faced by our third-party data center locations, with the telecommunications network providers with whom we or they contract, or with the systems by which our telecommunications providers allocate capacity among their customers, including us, could adversely affect the experience of our customers. Our third-party data centers operators could decide to close their facilities without adequate notice. In addition, any financial difficulties, such as bankruptcy faced by our third-party data centers operators or any of the service providers with whom we or they contract may have negative effects on our business, the nature and extent of which are difficult to predict.

In addition, our ability to deliver our web-based services depends on the development and maintenance of the infrastructure of the Internet by third parties. This includes maintenance of a reliable network backbone with the necessary speed, data capacity, bandwidth capacity, and security. Our services are designed to operate without interruption in accordance with our service level commitments. However, we have experienced and expect that we will experience future interruptions and delays in services and availability from time to time. We do not maintain redundant systems for all

of our services. In the event of a catastrophic event with respect to one or more of our systems, we may experience an extended period of system unavailability, which could negatively impact our relationship with customers. To operate without interruption, both we and our service providers must guard against:

- Ÿ damage from fire, power loss, natural disasters and other force majeure events outside our control;
- Ÿ communications failures;
- Ÿ software and hardware errors, failures, and crashes;
- Ÿ security breaches, computer viruses, hacking, denial-of-service attacks, and similar disruptive problems; and
- Ÿ other potential interruptions.

We also rely on computer hardware purchased or leased and software licensed from third parties in order to offer our services, including software from Oracle Corporation and Microsoft Corporation, and routers and network equipment from Cisco and Hewlett-Packard Company. These licenses are generally commercially available on varying terms. However, it is possible that this hardware and software might not continue to be available on commercially reasonable terms, or at all. Any loss of the right to use any of this hardware or software could result in delays in the provisioning of our services until equivalent technology is either developed by us, or, if available, is identified, obtained and integrated.

We exercise limited control over third-party vendors, which increases our vulnerability to problems with technology and information services they provide. Interruptions in our network access and services might in connection with third-party technology and information services reduce our revenue, cause us to issue refunds to customers for prepaid and unused subscription services, subject us to potential liability, or adversely affect our renewal rates. Although we maintain insurance for our business, the coverage under our policies might not be adequate to compensate us for all losses that may occur. In addition, we might not be able to continue to obtain adequate insurance coverage at an acceptable cost, if at all.

The use of open source software in our products and solutions may expose us to additional risks and harm our intellectual property rights.

Some of our products and solutions use or incorporate software that is subject to one or more open source licenses. Open source software is typically freely accessible, usable, and modifiable. Certain open source software licenses require a user who intends to distribute the open source software as a component of the user's software to disclose publicly part or all of the source code to the user's software. In addition, certain open source software licenses require the user of such software to make any derivative works of the open source code available to others on potentially unfavorable terms or at no cost.

The terms of many open source licenses to which we are subject have not been interpreted by U.S. or foreign courts. Accordingly, there is a risk that those licenses could be construed in a manner that imposes unanticipated conditions or restrictions on our ability to commercialize our solutions. In that event, we could be required to seek licenses from third parties in order to continue offering our products or solutions, to re-develop our products or solutions, to discontinue sales of our products or solutions, or to release our proprietary software code under the terms of an open source license, any of which could harm our business. Further, given the nature of open source software, it may be more likely that third parties might assert copyright and other intellectual property infringement claims against us based on our use of these open source software programs.

While we monitor the use of all open source software in our products, solutions, processes, and technology and try to ensure that no open source software is used in such a way as to require us to disclose the source code to the related product or solution when we do not wish to do so, it is possible that such use may have inadvertently occurred in deploying our proprietary solutions. In addition, if a third-party software provider has incorporated certain types of open source software into software we license from such third party for our products and solutions without our knowledge, we could, under certain circumstances, be required to disclose the source code to our products and solutions. This could harm our intellectual property position and our business, results of operations, and financial condition.

Risks Related to Regulation

Government regulation of the areas in which we operate creates risks and challenges with respect to our compliance efforts and our business strategies.

The employee benefits industry is highly regulated and is subject to changing political, legislative, regulatory, and other influences. Existing and new laws and regulations affecting the employee benefits industry could create unexpected liabilities for us, cause us to incur additional costs and restrict our operations. These laws and regulations are complex and their application to specific services and relationships are not clear. In particular, many existing laws and regulations affecting employee benefits, when enacted, did not anticipate the services that we provide, and these laws and regulations might be applied to our services in ways that we do not anticipate. Our failure to accurately anticipate the application of these laws and regulations, or our failure to comply, could create liability for us, result in adverse publicity, and negatively affect our business. Some of the risks we face from the regulation of employee benefits are as follows:

- *PPACA*. While many of the provisions of the Patient Protection and Affordable Care Act, or PPACA, will not be directly applicable to us, PPACA, as enacted, will affect the business of many of our customers. Numerous lawsuits have challenged the constitutionality of PPACA. On June 28, 2012, the U.S. Supreme Court upheld the constitutionality of PPACA except for provisions that would have allowed the U.S. Department of Health and Human Services, or HHS, to penalize states that did not implement the Medicaid expansion with the loss of existing federal Medicaid funding. Because states that do not implement the Medicaid expansion will forego funding established by PPACA to cover most of the expansion costs, it is unclear how many states will decline to implement the Medicaid expansion. Due to these factors, we are unable to predict with any reasonable certainty or otherwise quantify the likely impact of PPACA on our business model, financial condition, or results of operations.
- *False or Fraudulent Claim Laws*. There are numerous federal and state laws that forbid submission of false information or the failure to disclose information in connection with submission and payment of claims for reimbursement from the government. In some cases, these laws also forbid abuse of existing systems for such submission and payment. Although our business operations are generally not subject to these laws and regulations, any contract we have with a government entity requires us to comply with these laws and regulations. Any failure of our services to comply with these laws and regulations could result in substantial liability, including but not limited to criminal liability, could adversely affect demand for our services, and could force us to expend significant capital, research and development, and other resources to address the failure. Any determination by a court or regulatory agency that our services with government clients violate these laws and regulations could subject us to civil or criminal penalties, invalidate all or portions of some of our government client contracts, require us to change or terminate some portions of our business, require us to refund portions of our services fees, cause us to be disqualified from serving not only government clients but also all clients doing business with government payers, and have an adverse effect on our business.

- *HIPAA and Other Privacy and Security Requirements*. There are numerous U.S. federal and state laws and regulations related to the privacy and security of personal health information. In particular, regulations promulgated pursuant to the Health Insurance Portability and Accountability Act of 1996, or HIPAA, established privacy and security standards that limit the use and disclosure of individually identifiable health information, and require the implementation of administrative, physical, and technological safeguards to ensure the confidentiality, integrity, and availability of individually identifiable health information in electronic form. Health plans, healthcare clearinghouses, and most providers are considered by the HIPAA regulations to be "Covered Entities". With respect to our operations as a healthcare clearinghouse, we are directly subject to the privacy regulations established under HIPAA, or Privacy Standards, and the security regulations established under HIPAA, or Security Standards. In addition, our carrier customers, or payors, are considered to be Covered Entities and are required to enter into written agreements with us, known as Business Associate Agreements, under which we are considered to be a "Business Associate" and that require us to safeguard individually identifiable health information and restrict how we may use and disclose such information. Effective February 2010, the American Recovery and Reinvestment Act of 2009, or ARRA, and effective March 2013, the HIPAA Omnibus Final Rules extended the direct application of certain provisions of the Privacy Standards and Security Standards to us when we are functioning as a Business Associate of our carrier customers. ARRA and the HIPAA Omnibus Final Rule also subject Business Associates to direct oversight and audit by the HHS.

  Violations of the Privacy Standards and Security Standards might result in civil and criminal penalties, and ARRA increased the penalties for HIPAA violations and strengthened the enforcement provisions of HIPAA. For example, ARRA authorizes state attorneys general to bring civil actions seeking either injunctions or damages in response to violations of Privacy Standards and Security Standards that threaten the privacy of state residents.

  We might not be able to adequately address the business risks created by HIPAA implementation. Furthermore, we are unable to predict what changes to HIPAA or other laws or regulations might be made in the future or how those changes could affect our business or the costs of compliance.

  Some payors and clearinghouses interpret HIPAA transaction requirements differently than we do. Where payors or clearinghouses require conformity with their interpretations as a condition of a successful transaction, we seek to comply with their interpretations.

  In addition to the Privacy Standards and Security Standards, most states have enacted patient confidentiality laws that protect against the disclosure of confidential medical and/or health information, and many states have adopted or are considering further legislation in this area, including privacy safeguards, security standards, and data security breach notification requirements. Such state laws, if more stringent than HIPAA requirements, are not preempted by the federal requirements and we are required to comply with them.

  Failure by us to comply with any state standards regarding patient privacy may subject us to penalties, including civil monetary penalties and, in some circumstances, criminal penalties. Such failure may injure our reputation and adversely affect our ability to retain customers and attract new customers.

- *Medicare and Medicaid Regulatory Requirements*. We have contracts with insurance carriers who offer Medicare Managed Care (also known as Medicare Advantage or Medicare Part C) and Medicaid Managed Care benefits plans. We also have contracts with insurance carriers who offer Medicare prescription drug benefits (also known as Medicare Part D) plans. The activities of the Medicare plans are regulated by the Centers for Medicare & Medicaid Services, or CMS, the federal agency that provides oversight of the Medicare and Medicaid programs.

The Medicaid Managed Care plans are regulated by both CMS and the individual states where the plans are offered. Some of the activities that we might perform, such as the enrollment of beneficiaries, may be subject to CMS and/or state regulation, and such regulations may force us to change the way we do business or otherwise restrict our ability to provide services to such plans. Moreover, the regulatory environment with respect to these programs has become, and will likely continue to become, increasingly complex.

- *Financial Services-Related Laws and Rules*. Financial services and electronic payment processing services are subject to numerous laws, regulations and industry standards, some of which might impact our operations and subject us, our vendors, and our customers to liability as a result of the payment distribution and processing solutions we offer. Although we do not act as a bank, we offer solutions that involve banks, or vendors who contract with banks and other regulated providers of financial services. As a result, we might be impacted by banking and financial services industry laws, regulations, and industry standards, such as licensing requirements, solvency standards, requirements to maintain the privacy and security of nonpublic personal financial information, and Federal Deposit Insurance Corporation deposit insurance limits. In addition, our patient billing and payment distribution and processing solutions might be impacted by payment card association operating rules, certification requirements, and rules governing electronic funds transfers. If we fail to comply with applicable payment processing rules or requirements, we might be subject to fines and changes in transaction fees and may lose our ability to process credit and debit card transactions or facilitate other types of billing and payment solutions. Moreover, payment transactions processed using the Automated Clearing House Network, or ACH, are subject to network operating rules promulgated by the National Automated Clearing House Association and to various federal laws regarding such operations, including laws pertaining to electronic funds transfers, and these rules and laws might impact our billing and payment solutions. Further, our solutions might impact the ability of our payor customers to comply with state prompt payment laws. These laws require payors to pay healthcare claims meeting the statutory or regulatory definition of a “clean claim” within a specified time frame.
- *Insurance Broker Laws*. Insurance laws in the United States are often complex, and states have broad authority to adopt regulations regarding brokerage activities. These regulations typically include the licensing of insurance brokers and agents and govern the handling and investment of client funds held in a fiduciary capacity. Although we believe our activities do not currently constitute the provision of insurance brokerage services, regulations may change from state to state, which could require us to comply with such expanded regulations.
- *ERISA*. The Employee Retirement Income Security Act of 1974, as amended, or ERISA, regulates how employee benefits are provided to or through certain types of employer-sponsored health benefits plans. ERISA is a set of laws and regulations that is subject to periodic interpretation by the U.S. Department of Labor as well as the federal courts. In some circumstances, and under certain customer contracts, we might be deemed to have assumed duties that make us an ERISA fiduciary, and thus be required to carry out our operations in a manner that complies with ERISA in all material respects. We believe that our current operations do not render us subject to ERISA fiduciary obligations, and therefore that we are in material compliance with ERISA and that any such compliance does not currently have a material adverse effect on our operations. However, there can be no assurance that continuing ERISA compliance efforts or any future changes to ERISA will not have a material adverse effect on us.
- *Third-Party Administrator Laws*. Numerous states in which we do business have adopted regulations governing entities engaged in third-party administrator, or TPA, activities. TPA regulations typically impose requirements regarding enrollment into benefits plans, claims processing and payments, and the handling of customer funds. Although we do not believe we

are currently acting as a TPA, changes in state regulations could result in us being obligated to comply with such regulations, which might require us to obtain licenses to provide TPA services in such states.

Potential regulatory requirements placed on our software, services, and content could impose increased costs on us, delay or prevent our introduction of new service types, and impair the function or value of our existing service types.

Our products and services are and are likely to continue to be subject to increasing regulatory requirements in a number of ways. As these requirements proliferate, we must change or adapt our products and services to comply. Changing regulatory requirements might render our services obsolete or might block us from accomplishing our work or from developing new services. This might in turn impose additional costs upon us to comply or to further develop our products and services. It might also make introduction of new product or service types more costly or more time-consuming than we currently anticipate. It might even prevent introduction by us of new products or services or cause the continuation of our existing products or services to become unprofitable or impossible.

Potential government subsidy of services similar to ours, or creation of a single payor system, might reduce customer demand.

Recently, entities including brokers and U.S. federal and state governments have offered to subsidize adoption of online benefits platforms or clearinghouses. In addition, federal regulations have been changed to permit such subsidy from additional sources subject to certain limitations. To the extent that we do not qualify or participate in such subsidy programs, demand for our services might be reduced, which may decrease our revenue. In addition, prior proposals regarding healthcare reform have included the concept of creation of a single payor for healthcare insurance. This kind of consolidation of critical benefits activity could negatively impact the demand for our services.

Our services present the potential for embezzlement, identity theft, or other similar illegal behavior by our associates with respect to third parties.

Among other things, certain services offered by us involve collecting payment information from individuals, and this frequently includes check and credit card information. Even though we do not handle direct payments, our services also involve the use and disclosure of personal and business information that could be used to impersonate third parties, commit identity theft, or otherwise gain access to their data or funds. If any of our associates take, convert, or misuse such funds, documents, or data, we could be liable for damages, and our business reputation could be damaged or destroyed. Moreover, if we fail to adequately prevent third parties from accessing personal and/or business information and using that information to commit identity theft, we might face legal liabilities and other losses than can have a negative impact on our business.

Risks Related to this Offering and Ownership of Our Common Stock

An active, liquid, and orderly market for our common stock may not develop.

Prior to this offering, there was no market for shares of our common stock. An active trading market for our common stock might never develop or be sustained, which could depress the market price of our common stock and affect your ability to sell our shares. The initial public offering price will be determined through negotiations between us and the representatives of the underwriters and might bear no relationship to the price at which our common stock will trade following the completion of this offering. The trading price of our common stock following this offering is likely to be highly volatile and could be subject to wide fluctuations in response to various factors, some of which are beyond our control. These factors include:

- our operating performance and the operating performance of similar companies;
- the overall performance of the equity markets;

- announcements by us or our competitors of acquisitions, business plans, or commercial relationships;
- threatened or actual litigation;
- changes in laws or regulations relating to the sale of health insurance;
- any major change in our board of directors or management;
- publication of research reports or news stories about us, our competitors, or our industry, or positive or negative recommendations or withdrawal of research coverage by securities analysts;
- large volumes of sales of our shares of common stock by existing stockholders; and
- general political and economic conditions.

In addition, the stock market in general, and the market for Internet-related companies in particular, has experienced extreme price and volume fluctuations that have often been unrelated or disproportionate to the operating performance of those companies. These fluctuations might be even more pronounced in the trading market for our stock shortly following this offering. Securities class action litigation has often been instituted against companies following periods of volatility in the overall market and in the market price of a company's securities. This litigation, if instituted against us, could result in substantial costs, divert our management's attention and resources, and harm our business, operating results, and financial condition.

We do not currently intend to pay dividends on our common stock and, consequently, your ability to achieve a return on your investment will depend on appreciation in the price of our common stock.

We have never declared or paid any cash dividends on our common stock and do not currently intend to do so for the foreseeable future. We currently intend to invest our future earnings, if any, to fund our growth. Therefore, you are not likely to receive any dividends on your common stock for the foreseeable future, and the success of an investment in shares of our common stock will depend upon future appreciation in its value, if any. There is no guarantee that shares of our common stock will appreciate in value or even maintain the price at which our stockholders purchased their shares.

Future sales of shares of our common stock by existing stockholders could depress the market price of our common stock.

Upon completion of this offering, there will be shares of our common stock outstanding (or shares, if the underwriters exercise in full their option to purchase additional shares). The shares being sold in this offering will be freely tradeable immediately after this offering (except for shares purchased by affiliates) and of the 21,289,207 shares outstanding as of December 31, 2012 (assuming no exercise of the underwriters' option to purchase additional shares and no exercise of outstanding options or warrants after December 31, 2012), shares are freely tradable shares under Rule 144 that are not subject to a lock-up, shares may be sold upon expiration of lock-up agreements 180 days after the date of this offering (subject in some cases to volume limitations). In addition, as of December 31, 2012, there were outstanding options and a warrant to purchase 3,621,064 shares of our common stock that, if exercised, will result in these additional shares becoming available for sale upon expiration of the lock-up agreements. A large portion of these shares and options are held by a small number of persons and investment funds. Sales by these stockholders or option holders of a substantial number of shares after this offering could significantly reduce the market price of our common stock. Moreover, after this offering, some holders of shares of common stock will have rights, subject to some conditions, to require us to file registration statements covering the shares they currently hold, or to include these shares in registration statements that we might file for ourselves or other stockholders.

We also intend to register all common stock that we may issue under our stock plans. Effective upon the completion of this offering, an aggregate of shares of our common stock will be reserved for future issuance under these plans. Once we register these shares, which we plan to do shortly after the completion of this offering, they can be freely sold in the public market upon issuance, subject to the lock-up agreements referred to above. If a large number of these shares are sold in the public market, the sales could reduce the trading price of our common stock. See “Shares Eligible for Future Sale” for a more detailed description of sales that may occur in the future.

You will experience immediate and substantial dilution.

The initial public offering price will be substantially higher than the net tangible book value of each outstanding share of common stock immediately after this offering. If you purchase common stock in this offering, you will suffer immediate and substantial dilution. At an assumed initial public offering price of $ with net proceeds to the Company of $ million, after deducting estimated underwriting discounts and commissions and estimated offering expenses, investors who purchase shares in this offering will have contributed approximately % of the total amount of funding we have received to date, but will only hold approximately % of the total voting rights. The dilution will be $ per share in the net tangible book value of the common stock from the assumed initial public offering price. In addition, if outstanding options or warrants to purchase shares of our common stock are exercised, there could be further dilution. For more information refer to “Dilution”.

We have broad discretion in the use of the net proceeds from this offering and might not use them effectively.

We cannot specify with certainty the particular uses of the net proceeds we will receive from this offering. Our management will have broad discretion in the application of the net proceeds, including for any of the purposes described in “Use of Proceeds”. Accordingly, you will have to rely on the judgment of our management with respect to the use of the proceeds, with only limited information concerning management’s specific intentions. Our management might spend a portion or all of the net proceeds from this offering in ways that our stockholders do not desire or that might not yield a favorable return. The failure by our management to apply these funds effectively could harm our business. Pending their use, we might invest the net proceeds from this offering in a manner that does not produce income or that loses value.

A limited number of stockholders will have the ability to influence the outcome of director elections and other matters requiring stockholder approval.

After this offering, our directors, executive officers, and their affiliated entities will beneficially own more than % of our outstanding common stock (assuming no exercise of the underwriters’ option to purchase additional shares and no exercise of outstanding options or warrants after , 2013). These stockholders, if they act together, could exert substantial influence over matters requiring approval by our stockholders, including the election of directors, the amendment of our amended and restated certificate of incorporation and amended and restated bylaws, and the approval of mergers or other business combination transactions. This concentration of ownership might discourage, delay, or prevent a change in control of our company, which could deprive our stockholders of an opportunity to receive a premium for their stock as part of a sale of our company and might reduce our stock price. These actions may be taken even if they are opposed by other stockholders, including those who purchase shares in this offering.

Provisions in our amended and restated certificate of incorporation and amended and restated bylaws and Delaware law might discourage, delay, or prevent a change in control of our company or changes in our management and, therefore, depress the trading price of our common stock.

Provisions of our amended and restated certificate of incorporation and amended and restated bylaws and Delaware law might discourage, delay, or prevent a merger, acquisition, or other change in control that stockholders consider favorable, including transactions in which you might otherwise receive a premium for your shares of our common stock. These provisions might also prevent or frustrate attempts by our stockholders to replace or remove our management. These provisions include:

- Ÿ limitations on the removal of directors;
- Ÿ advance notice requirements for stockholder proposals and nominations;
- Ÿ the inability of stockholders to act by written consent or to call special meetings;
- Ÿ the inability of stockholders to cumulate votes at any election of directors; and
- Ÿ the ability of our board of directors to make, alter or repeal our amended and restated bylaws.

Our board of directors has the ability to designate the terms of and issue new series of preferred stock without stockholder approval. In addition, Section 203 of the Delaware General Corporation Law prohibits a publicly held Delaware corporation from engaging in a business combination with an interested stockholder, generally a person which together with its affiliates owns, or within the last three years has owned, 15% of our voting stock, for a period of three years after the date of the transaction in which the person became an interested stockholder, unless the business combination is approved in a prescribed manner.

The existence of the foregoing provisions and anti-takeover measures could limit the price that investors are willing to pay in the future for shares of our common stock. They could also deter potential acquirers of our company, thereby reducing the likelihood that you could receive a premium for your common stock in an acquisition.

Our business is subject to changing regulations regarding corporate governance, disclosure controls, internal control over financial reporting, and other compliance areas that will increase both our costs and the risk of noncompliance.

As a public company, we will be subject to the reporting requirements of the Securities Exchange Act of 1934, or the Exchange Act, the Sarbanes-Oxley Act of 2002, or the Sarbanes-Oxley Act, the Dodd-Frank Wall Street Reform and Consumer Protection Act, or the Dodd-Frank Act, and the rules and regulations of our stock exchange. The requirements of these rules and regulations will increase our legal, accounting, and financial compliance costs, will make some activities more difficult, time-consuming, and costly, and may also place undue strain on our personnel, systems, and resources.

The Sarbanes-Oxley Act requires, among other things, that we maintain effective disclosure controls and procedures and internal control over financial reporting. Commencing with our fiscal year ending December 31, 2014, we must perform system and process evaluation and testing of our internal control over financial reporting to allow management to report on the effectiveness of our internal control over financial reporting, as required by Section 404 of the Sarbanes-Oxley Act. Our compliance with Section 404 of the Sarbanes-Oxley Act will require that we incur substantial accounting expense and expend significant management efforts. Prior to this offering, we have never been required to test our internal controls within a specified period, and, as a result, we may experience difficulty in meeting these reporting requirements in a timely manner.

We will be required to disclose changes made to our internal control and procedures on a quarterly basis. However, our independent registered public accounting firm will not be required to formally attest to the effectiveness of our internal control over financial reporting pursuant to Section 404 of the Sarbanes-Oxley Act until the later of the year following our first annual report required to be filed with the Securities and Exchange Commission, or SEC, or the date we are no longer an “emerging growth company” as defined in the Jumpstart Our Business Startups Act of 2012, or the JOBS Act, if we take advantage of the exemption available under the JOBS Act to the auditor attestation requirement in Section 404(b) of the Sarbanes-Oxley Act. If we are not able to comply with the requirements of Section 404 of the Sarbanes-Oxley Act in a timely manner, the market price of our stock could decline and we could be subject to sanctions or investigations by the stock exchange on which our common stock is listed, the SEC, or other regulatory authorities, which would require additional financial and management resources.

We identified a material weakness in connection with preparation of our 2012 financial statements, and failure to develop and maintain adequate financial controls could cause us to have additional material weaknesses, which could adversely affect our operations and financial position.

In connection with the preparation of our consolidated financial statements for the years ended December 31, 2011 and 2012, we identified a material weakness in our accounting for certain deferred revenue balances and the related revenue recognition. This material weakness arose in connection with increasing the estimated expected life of our customer relationships, which results in extending the term over which we recognize deferred revenue. A material weakness is a significant deficiency, or a combination of significant deficiencies, in internal control over financial reporting such that it is reasonably possible that a material misstatement of the annual or interim financial statements will not be prevented or detected on a timely basis. Our material weakness pertained to deficiencies in our accounting documentation, lack of segregation of duties, and lack of adequate review and monitoring procedures within our accounting for certain deferred revenue balances and the related revenue recognition. Our management has taken steps to remediate this material weakness, including hiring experienced associates and external resources to assist with our revenue recognition function, enhancing the level of documentation required to support key assumptions and conclusions, and redesigning certain monitoring controls critical to ensuring the accuracy of our deferred revenue balances and the related revenue recognition. While we believe that the steps taken to date have remediated the deficiencies that gave rise to the material weakness, and we plan to hire additional experienced associates within our revenue recognition function to further enhance our procedures and controls, there can be no assurances in this regard.

The remedial policies and procedures we have implemented and the additional associates we intend to hire may be insufficient to address the identified material weakness, or we may in the future discover additional weaknesses that require remediation. In addition, an internal control system, no matter how well-designed, cannot provide absolute assurance that misstatements due to error or fraud will not occur or that all control issues and instances of fraud will be detected. If we are not able to comply with the requirements of Section 404 of the Sarbanes-Oxley Act in a timely manner, or if we are unable to maintain proper and effective internal controls, we might not be able to produce timely and accurate financial statements. If that were to happen, the market price of our stock could decline and we could be subject to sanctions or investigations by the stock exchange on which our common stock is listed, the Securities and Exchange Commission, or SEC, or other regulatory authorities.

Any failure to develop or maintain effective controls, or any difficulties encountered in their implementation or improvement, could harm our operating results or cause us to fail to meet our reporting obligations. Any failure to implement and maintain effective internal controls also could adversely affect the results of periodic management evaluations regarding the effectiveness of our

internal control over financial reporting that we will be required to include in our periodic reports filed with the SEC, beginning for our fiscal year ending December 31, 2014 under Section 404 of the Sarbanes-Oxley Act. Ineffective disclosure controls and procedures or internal control over financial reporting could also cause investors to lose confidence in our reported financial and other information, which would likely have a negative effect on the trading price of our common stock. Implementing any appropriate changes to our internal controls may require specific compliance training of our directors, officers, and employees, entail substantial costs in order to modify our existing accounting systems, and take a significant period of time to complete. Such changes may not be effective, however, in maintaining the adequacy of our internal controls, and any failure to maintain that adequacy, or consequent inability to produce accurate financial statements on a timely basis, could increase our operating costs and could materially impair our ability to operate our business. In the event that we are not able to demonstrate compliance with Section 404 of the Sarbanes-Oxley Act in a timely manner, that our internal controls are perceived as inadequate, or that we are unable to produce timely or accurate financial statements, investors may lose confidence in our operating results and our stock price could decline.

We are an emerging growth company and we cannot be certain if the reduced disclosure requirements applicable to emerging growth companies will make our common stock less attractive to investors.

We are an emerging growth company. Under the JOBS Act, emerging growth companies can delay adopting new or revised accounting standards until such time as those standards apply to private companies. We have irrevocably elected not to avail ourselves of this exemption from new or revised accounting standards and, therefore, we will be subject to the same new or revised accounting standards as other public companies that are not emerging growth companies.

For as long as we continue to be an emerging growth company, we intend to take advantage of certain other exemptions from various reporting requirements that are applicable to other public companies including, but not limited to, reduced disclosure obligations regarding executive compensation in our periodic reports and proxy statements, exemptions from the requirements of holding a nonbinding advisory vote on executive compensation and stockholder approval of any golden parachute payments not previously approved, and exemptions from the requirements of auditor attestation reports on the effectiveness of our internal control over financial reporting. We cannot predict if investors will find our common stock less attractive because we will rely on these exemptions. If some investors find our common stock less attractive as a result, there may be a less active trading market for our common stock and our stock price may be more volatile.

We will remain an emerging growth company until the earliest of (i) the end of the fiscal year in which the market value of our common stock that is held by non-affiliates exceeds $700 million as of June 30 of that fiscal year, (ii) the end of the fiscal year in which we have total annual gross revenue of $1 billion or more during such fiscal year, (iii) the date on which we issue more than $1 billion in non-convertible debt in a three-year period, or (iv) five years from the date of this prospectus.

If securities or industry analysts do not publish research or reports about our business, or publish inaccurate or unfavorable research or reports about our business, our stock price and trading volume could decline.

The trading market for our common stock will, to some extent, depend on the research and reports that securities or industry analysts publish about us and our business. We do not have any control over these analysts. If one or more of the analysts who cover us downgrade our common stock or change their opinion of our common stock, our stock price would likely decline. If one or more of these analysts cease coverage of our company or fail to regularly publish reports on us, we could lose visibility in the financial markets, which could cause our stock price or trading volume to decline.

SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

This prospectus contains forward-looking statements that involve substantial risks and uncertainties. All statements, other than statements of historical facts, included in this prospectus regarding our strategy, future operations, future financial position, future revenue, projected costs, prospects, plans, objectives of management, and expected market growth are forward-looking statements. The words “anticipate,” “believe,” “estimate,” “expect,” “intend,” “may,” “might,” “plan,” “predict,” “project,” “will,” “would,” and similar expressions are intended to identify forward-looking statements, although not all forward-looking statements contain these identifying words. These forward-looking statements include, among other things, statements about:

- Ÿ our ability to attract and retain customers;
- Ÿ our financial performance;
- Ÿ the advantages of our solutions as compared to those of others;
- Ÿ our ability to establish and maintain intellectual property rights;
- Ÿ our ability to retain and hire necessary associates and appropriately staff our operations; and
- Ÿ our estimates regarding capital requirements and needs for additional financing.

We might not actually achieve the plans, intentions, or expectations disclosed in our forward-looking statements, and you should not place undue reliance on our forward-looking statements. Actual results or events could differ materially from the plans, intentions, and expectations disclosed in the forward-looking statements we make. We have included important factors in the cautionary statements included in this prospectus, particularly in the “Risk Factors” section, which could cause actual results or events to differ materially from the forward-looking statements that we make.

You should read this prospectus and the documents that we have filed as exhibits to the registration statement, of which this prospectus is a part, completely and with the understanding that our actual future results may be materially different from what we expect. We do not assume any obligation to update any forward-looking statements, whether as a result of new information, future events or otherwise, except as required by law.

INDUSTRY AND MARKET DATA

Unless otherwise indicated, information contained in this prospectus concerning our industry and the market in which we operate, including our general expectations and market position, market opportunity, and market size, is based on information from various sources, on assumptions that we have made that are based on those data and other similar sources, and on our knowledge of the markets for our products. Some of the market data contained in this prospectus is based on independent industry publications, including those generated by IBISWorld, Gartner, Inc., SNL Financial, The Kaiser Family Foundation and Health Research & Educational Trust, and other publicly available information. These data involve a number of assumptions and limitations, and you are cautioned not to give undue weight to such estimates. We believe and act as if the third party data contained herein, and the underlying economic assumptions relied upon therein, are generally reliable. In addition, projections, assumptions, and estimates of our future performance and the future performance of the industry in which we operate are necessarily subject to a high degree of uncertainty and risk due to a variety of factors, including those described in “Risk Factors” and elsewhere in this prospectus. These and other factors could cause results to differ materially from those expressed in the estimates made by the independent parties and by us.

The Gartner Report described herein, "*Forecast: Enterprise IT Spending by Vertical Industry Market, Worldwide, 1Q13 Update*," April 18, 2013, or the Gartner Report, represents data, research opinion or viewpoints published as part of a syndicated subscription service, by Gartner, Inc., or Gartner, and is not representation of fact. The Gartner Report speaks as of its original publication date (and not as of the date of this prospectus) and the opinions expressed in the Gartner Report are subject to change without notice.

USE OF PROCEEDS

We estimate that the net proceeds to us from the sale of the shares of common stock offered by us will be approximately $ million based on an assumed initial public offering price of $ per share, the midpoint of the price range set forth on the cover of this prospectus, and after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us. If the underwriters' option to purchase additional shares in this offering is exercised in full, we estimate that our net proceeds will be approximately $ million. A $1.00 increase or decrease in the assumed initial public offering price of $ per share would increase or decrease the net proceeds to us from this offering by $ million, assuming the number of shares offered by us, as indicated on the cover page of this prospectus, remains the same and after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us. We will not receive any proceeds from the sale of common stock by the selling stockholders.

The principal purposes of this offering are to increase our financial flexibility, increase our visibility in the marketplace, and create a public market for our common stock. In addition, we intend to use up to approximately $7.0 million of the net proceeds we receive from this offering to pay off all or part of the balances outstanding under two promissory notes entered into in connection with our purchase of computer equipment, other fixed assets, and software and leasehold improvements, and three additional promissory notes entered into under a master credit facility.

We incurred indebtedness under the two promissory notes used to purchase computer equipment, other fixed assets, and software and leasehold improvements in December 2010 and August 2011. As of December 31, 2012, we had total indebtedness of $1.4 million outstanding under these two notes, which bear interest at fixed annual rates of 4.5% and 5.0% and mature in December 2013 and August 2014, respectively.

The master credit facility provides us liquidity for the purchase of fixed assets, software, and leasehold improvements. As of December 31, 2012, we had total indebtedness of $4.5 million outstanding under promissory notes entered into in November 2012 and December 2012, which each bear interest at a fixed annual rate of 3.6% and mature in January 2016 and February 2016, respectively. In March 2013, we entered into a third promissory note under the credit facility for approximately $0.9 million, which bears interest at a fixed annual rate of 3.6% and matures in May 2016.

As of the date of this prospectus, except as described above, we cannot specify with certainty all of the other particular uses for the net proceeds from this offering. However, we expect to use the remaining net proceeds to us from this offering primarily for general corporate purposes, which may include financing our growth, developing new services, and funding capital expenditures, acquisitions, and investments.

Management's plans for the remaining proceeds of this offering are subject to change due to unforeseen events and opportunities, and the amounts and timing of our actual expenditures depend on several factors. Accordingly, our management team will have broad discretion in using the remaining net proceeds from this offering. Pending the use of proceeds from this offering, we intend to invest the net proceeds in short-term, investment-grade, interest-bearing securities.

DIVIDEND POLICY

We have never declared or paid any cash dividend on our common stock. We currently intend to retain all of our future earnings, if any, generated by our operations for the development and growth of our business for the foreseeable future. The decision to pay dividends is at the discretion of our board of directors and depends upon our financial condition, results of operations, capital requirements, and other factors that our board of directors deems relevant.

CAPITALIZATION

The following table sets forth our cash and cash equivalents and our capitalization as of December 31, 2012:

- Ÿ on an actual basis;
- Ÿ on a pro forma basis to give effect to the transactions described under “Certain Relationships and Related-Party Transactions—Corporate Restructuring” that will occur prior to the closing of this offering, including the conversion of the outstanding shares of our redeemable convertible preferred stock into an aggregate of 16,496,860 shares of our common stock; and
- Ÿ on a pro forma as adjusted basis to give effect to our sale of shares of common stock in this offering at an assumed initial public offering price of $ per share, which is the midpoint of the range set forth on the cover page of this prospectus, after deducting underwriting discounts and commissions and estimated offering expenses payable by us and the application of the net proceeds as described under “Use of Proceeds”.

The following information of our cash and cash equivalents and capitalization following the completion of this offering is illustrative only and will change based on the actual public offering price and other terms of this offering determined at pricing. You should read this table together with “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and our financial statements and the related notes appearing elsewhere in this prospectus.

	As of December 31, 2012		
	Actual	Pro forma	Pro forma as adjusted
	(in thousands, except share and per share data)		
Cash and cash equivalents	$ 19,703	$ 19,703	$
Notes payable and capital lease obligations	$ 7,702	$ 7,702	$
Redeemable convertible preferred stock:			
Convertible Series A preferred stock, no par value, 14,055,851 shares authorized, issued and outstanding, actual; $0.001 par value, 14,055,851 shares authorized, no shares issued or outstanding, pro forma and pro forma as adjusted	105,505	—	
Convertible Series B preferred stock, no par value, 2,441,009 shares authorized, issued and outstanding, actual; $0.001 par value, 2,441,009 shares authorized, no shares issued or outstanding, pro forma and pro forma as adjusted	29,973	—	
Stockholders’ deficit:			
Preferred stock, par value $0.001, no shares authorized, issued and outstanding, actual; 5,000,000 shares authorized, no shares issued or outstanding, pro forma and pro forma as adjusted	—	—	
Common stock, no par value, 100,000,000 shares authorized, 20,125,063 and 4,792,347 shares issued and outstanding, respectively, actual; $0.001 par value, shares authorized, 21,289,207 shares issued and outstanding, pro forma; $0.001 par value, shares authorized, shares issued and outstanding, pro forma as adjusted	6,109	21	
Additional paid-in capital	—	141,566	
Accumulated deficit	(171,357)	(171,357)	
Total stockholders’ deficit	(165,248)	(29,770)	
Total capitalization	$ (22,068)	$ (22,068)	$

Each $1.00 increase or decrease in the assumed initial public offering price of $ per share, which is the midpoint of the range set forth on the cover page of this prospectus, would increase or decrease pro forma as adjusted cash and cash equivalents, additional paid-in capital, total stockholders' deficit and total capitalization by approximately $ million, assuming that the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same.

The number of shares of common stock outstanding in the table above does not include:

- 3,121,064 shares of common stock issuable upon exercise of stock options outstanding at a weighted-average exercise price of $6.15 per share, of which 2,327,504 shares with a weighted-average exercise price of $5.42 per share were vested and exercisable;
- 500,000 shares of common stock issuable upon exercise of a warrant at an exercise price of $5.48 per share; and
- 320,189 shares of common stock available for future issuance under our stock plans.

DILUTION

If you invest in our common stock in this offering, your interest will be diluted to the extent of the difference between the initial public offering price per share of our common stock and the pro forma as adjusted net tangible book value per share of our common stock after this offering. We calculate net tangible book value per share by dividing the net tangible book value (tangible assets less total liabilities) by the number of outstanding shares of our common stock.

Our pro forma net tangible book value as of December 31, 2012 was $(33.0) million, or $(1.55) per share of common stock, based on 21,289,207 shares of our common stock outstanding, after giving effect to the conversion of 16,496,860 shares of redeemable convertible preferred stock into an equivalent number of shares of common stock upon the closing of this offering.

After giving effect to our sale of shares of our common stock by us in this offering at an assumed initial public offering price of $ per share (which represents the midpoint of the estimated price range shown on the cover page of this prospectus), less the estimated underwriting discounts and commissions and the estimated offering expenses payable by us, our pro forma as adjusted net tangible book value as of December 31, 2012, would be $, or $ per share. This represents an immediate increase in the pro forma as adjusted net tangible book value of $ per share to existing stockholders and an immediate dilution of $ per share to investors purchasing shares in this offering. The following table illustrates this per share dilution:

Assumed initial public offering price	$
Pro forma net tangible book value per share as of December 31, 2012	$ (1.55)
Increase per share attributable to this offering	$
Pro forma as adjusted net tangible book value per share after this offering	$
Net tangible book value dilution per share to investors in this offering	$

If the underwriters exercise their option in full, the pro forma as adjusted net tangible book value per share after giving effect to this offering would be approximately $ per share, and the dilution in net tangible book value per share to investors in this offering would be approximately $ per share.

The following table shows, as of December 31, 2012, the difference between the number of shares of common stock purchased from us, the total consideration paid to us and the average price paid per share by existing stockholders and by investors purchasing shares of our common stock in this offering:

	Shares Purchased		Total Consideration		Average Price per Share
	Number	Percentage	Amount	Percentage	
Existing Stockholders		%	$	%	$
New Investors		%		%	
Total		%			

Assuming the underwriters' option is exercised in full, sales by us in this offering will reduce the percentage of shares held by existing stockholders to % and will increase the number of shares held by new investors to , or %.

Each $1.00 increase (decrease) in the assumed public offering price per share of common stock would increase (decrease) the pro forma as adjusted net tangible book value by $ per share (assuming no exercise of the underwriters' option to purchase additional shares) and the net tangible book value dilution to investors in this offering by $ per share, assuming the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same.

Assuming no exercise of the underwriters' option, sales by us and selling stockholders in this offering will reduce the number of shares of common stock held by existing stockholders to , or % of the total number of shares of our common stock outstanding after this offering, and will increase the number of shares of our common stock held by new investors to , or % of the total number of shares of our common stock outstanding after this offering. Assuming the underwriters' overallotment option is exercised in full, sales by us and selling stockholders in this offering will reduce the percentage of shares held by existing stockholders to % and will increase the number of shares held by new investors to , or %.

The above discussion is based on 21,289,207 shares of our common stock outstanding as of December 31, 2012 after giving effect to the conversion of 16,496,860 shares of redeemable convertible preferred stock into an equivalent number of shares of our common stock upon the closing of this offering, and excludes:

- 3,121,064 shares of common stock issuable upon exercise of stock options outstanding at a weighted-average exercise price of $6.15 per share, of which 2,327,504 shares with a weighted-average exercise price of $5.42 per share were vested and exercisable;
- 500,000 shares of common stock issuable upon exercise of a warrant at an exercise price of $5.48 per share; and
- 320,189 shares of common stock available for future issuance under our stock plans.

CONSOLIDATED SELECTED FINANCIAL DATA

The following selected consolidated financial data for the years ended December 31, 2010, 2011, and 2012 and the selected consolidated balance sheet data as of December 31, 2010, 2011, and 2012 are derived from our audited consolidated financial statements, which have been audited by our independent registered public accounting firm, Ernst & Young LLP. Our historical results are not necessarily indicative of the results to be expected in the future. The selected consolidated financial data should be read together with "Management's Discussion and Analysis of Financial Condition and Results of Operations," our consolidated financial statements, related notes, and other financial information included elsewhere in this prospectus.

Consolidated Statement of Operations Data

	Year Ended December 31,		
	2010	2011	2012
	(in thousands, except share and per share data)		
Revenue(1)	$ 67,122	$ 68,783	$ 81,739
Cost of revenue(2)	39,817	43,034	45,178
Gross profit	27,305	25,749	36,561
Operating expenses:			
Sales and marketing(2)	14,462	22,914	28,268
Research and development(2)	8,948	9,397	15,035
General and administrative(2)	6,144	5,921	7,577
Impairment of goodwill	—	1,670	—
Change in fair value of contingent consideration	—	503	121
Total operating expenses	29,554	40,405	51,001
Loss from operations	(2,249)	(14,656)	(14,440)
Total other expense, net	(96)	(241)	(214)
Loss before income taxes	(2,345)	(14,897)	(14,654)
Income tax expense	10	35	84
Net loss	$ (2,355)	$ (14,932)	$ (14,738)
Net loss per share—basic and diluted	$ (0.37)	$ (3.06)	$ (3.06)
Pro forma net loss per share—basic and diluted(3)			$ (0.69)
Weighted-average common shares outstanding—basic and diluted	6,405,944	4,875,157	4,812,632
Weighted-average common shares outstanding—pro forma			21,309,492
Other Financial Data:			
Adjusted gross profit(4)	$ 33,498	$ 32,163	$ 44,164
Adjusted EBITDA(5)	$ 5,245	$ (5,209)	$ (5,445)

(1) In the first quarter of 2011, we increased the estimated expected life of our customer relationships for both employer and carrier customers. This change extends the term over which we will recognize our deferred revenue. In the absence of this change, each of revenue, gross profit, and net loss would have improved by $5.8 million in 2011 and $2.8 million in 2012.

(2) Cost of revenue and operating expenses include stock-based compensation expense as follows:

	Year Ended December 31,		
	2010	2011	2012
	(in thousands)		
Cost of revenue	$ 352	$ 252	$ 195
Sales and marketing	77	102	68
Research and development	87	121	130
General and administrative	519	246	319

(3) Pro forma basic and diluted net loss per share have been calculated assuming the conversion of all outstanding shares of redeemable convertible preferred stock into an aggregate of 16,496,860 shares of common stock as of the beginning of the applicable period.

(4) We define adjusted gross profit as gross profit before depreciation and amortization expense, as well as stock-based compensation expense. Please see “Adjusted Gross Profit and Adjusted EBITDA” below for more information and for a reconciliation of adjusted gross profit to gross profit, the most directly comparable financial measure calculated and presented in accordance with GAAP.

(5) We define adjusted EBITDA as net loss before net interest and other expense, taxes, and depreciation and amortization expense, adjusted to eliminate stock-based compensation expense and expense related to the impairment of goodwill and intangible assets. See “Adjusted Gross Profit and Adjusted EBITDA” below for more information and for a reconciliation of adjusted EBITDA to net loss, the most directly comparable financial measure calculated and presented in accordance with GAAP.

Our Segments

	Year Ended December 31,		
	2010	2011	2012
	(in thousands)		
Revenue:			
Employer	$ 9,356	$ 15,947	$ 23,760
Carrier	57,766	52,836	57,979
Total revenue	$67,122	$ 68,783	$ 81,739
Gross profit:			
Employer	$ 2,926	$ 5,811	$ 9,499
Carrier	24,379	19,938	27,062
Total gross profit	$27,305	$ 25,749	$ 36,561
Loss from operations:			
Employer	$ (7,036)	$ (20,226)	$ (19,778)
Carrier	4,787	5,570	5,338
Total loss from operations	$ (2,249)	$ (14,656)	$ (14,440)

Consolidated Balance Sheet Data

	As of December 31,		
	2010	2011	2012
	(in thousands)		
Cash and cash equivalents	$ 18,166	$ 15,856	$ 19,703
Accounts receivable, net	7,163	9,060	13,372
Total assets	46,507	46,271	51,921
Deferred revenue, total	32,952	42,773	57,520
Total liabilities	47,502	62,012	81,691
Total redeemable convertible preferred stock	135,478	135,478	135,478
Common stock	4,078	4,923	6,109
Total stockholders' deficit	(136,475)	(151,219)	(165,248)

Adjusted Gross Profit and Adjusted EBITDA

Within this prospectus we use adjusted gross profit and adjusted EBITDA to provide investors with additional information regarding our financial results. Adjusted gross profit and adjusted EBITDA are non-GAAP financial measures. We have provided below reconciliations of these measures to the most directly comparable GAAP financial measures, which for adjusted gross profit is gross profit, and for adjusted EBITDA is net loss.

We have included adjusted gross profit and adjusted EBITDA in this prospectus because they are key measures used by our management and board of directors to understand and evaluate our core operating performance and trends, to prepare and approve our annual budget, and to develop short- and long-term operational plans. In particular, we believe that the exclusion of the expenses eliminated in calculating adjusted gross profit and adjusted EBITDA can provide a useful measure for period-to-period comparisons of our core business. Accordingly, we believe that adjusted gross profit and adjusted EBITDA provide useful information to investors and others in understanding and evaluating our operating results.

Our use of adjusted gross profit and adjusted EBITDA as analytical tools has limitations, and you should not consider them in isolation or as substitutes for analysis of our financial results as reported under GAAP. Some of these limitations are:

- Ÿ although depreciation and amortization are non-cash charges, the assets being depreciated and amortized might have to be replaced in the future, and adjusted gross profit and adjusted EBITDA do not reflect cash capital expenditure requirements for such replacements or for new capital expenditure requirements;
- Ÿ adjusted gross profit and adjusted EBITDA do not reflect changes in, or cash requirements for, our working capital needs;
- Ÿ adjusted gross profit and adjusted EBITDA do not reflect the potentially dilutive impact of stock-based compensation;
- Ÿ adjusted gross profit and adjusted EBITDA do not reflect interest or tax payments that could reduce the cash available to us; and
- Ÿ other companies, including companies in our industry, might calculate adjusted gross profit and adjusted EBITDA or similarly titled measures differently, which reduces their usefulness as comparative measures.

Because of these and other limitations, you should consider adjusted gross profit and adjusted EBITDA alongside other GAAP-based financial performance measures, including various cash flow

metrics, gross profit, net income (loss) and our other GAAP financial results. The following table presents a reconciliation of adjusted gross profit to gross profit and adjusted EBITDA to net loss for each of the periods indicated:

	Year Ended December 31,		
	2010	2011	2012
	(in thousands)		
Reconciliation from Gross Profit to Adjusted Gross Profit:			
Gross profit	$27,305	$ 25,749	$ 36,561
Depreciation and amortization	5,841	6,162	7,408
Stock-based compensation expense	352	252	195
Adjusted gross profit	$33,498	$ 32,163	$ 44,164
Reconciliation from Net Loss to Adjusted EBITDA:			
Net loss	$ (2,355)	$ (14,932)	$ (14,738)
Depreciation and amortization	6,343	7,040	8,294
Interest expense	212	203	203
Income tax expense	10	35	84
Stock-based compensation expense	1,035	721	712
Impairment of goodwill and intangible assets	—	1,724	—
Total net adjustments	7,600	9,723	9,293
Adjusted EBITDA	$ 5,245	$ (5,209)	$ (5,445)

MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

You should read the following discussion and analysis of our financial condition and results of operations together with our consolidated financial statements and the related notes and other financial information included elsewhere in this prospectus. Some of the information contained in this discussion and analysis or set forth elsewhere in this prospectus, including information with respect to our plans and strategy for our business, includes forward-looking statements that involve risks and uncertainties. You should review the "Risk Factors" section of this prospectus beginning on page 12 for a discussion of important factors that could cause actual results to differ materially from the results described in or implied by the forward-looking statements contained in the following discussion and analysis.

Overview

We are a leading provider of cloud-based benefits software solutions for consumers, employers, insurance carriers, and brokers. The Benefitfocus platform provides an integrated suite of solutions that enables our customers to more efficiently shop, enroll, manage, and exchange benefits information. Our web-based platform has a user-friendly interface designed to enable consumers to access all of their benefits in one place. Our comprehensive solutions support core benefits plans, including healthcare, dental, life, and disability insurance, and voluntary benefits plans, such as critical illness, supplemental income, and wellness programs. As the number of employer benefits plans has increased, with each plan subject to many different business rules and requirements, demand for the Benefitfocus platform has grown.

We serve two separate but related market segments. Our fastest growing market segment, the employer market, consists of employers offering benefits to their employees. Within this segment, we mainly target large employers with more than 1,000 employees, of which we believe there are approximately 18,000 in the United States. In our other market segment, we sell our solutions to insurance carriers, enabling us to expand our overall footprint in the benefits marketplace by aggregating many key constituents, including consumers, employers, and brokers. Our business model capitalizes on the close relationship between carriers and their members, and the carriers' ability to serve as lead generators for potential employer customers. Carriers pay for services at a rate reflective of the aggregated nature of their customer base on a per application basis. Carriers can then deploy their applications to members including large and small employer groups. As employers become direct customers through our employer segment, we provide them our platform offering that bundles many software applications into a comprehensive benefits solution through HR InTouch. We believe our presence in both the employer and insurance carrier markets gives us a strong position at the center of the benefits ecosystem.

We sell our software solutions and related services primarily through our direct sales force. We derive most of our revenue from software services fees, which primarily consist of monthly subscription fees paid to us for access to and usage of our cloud-based benefits software solutions, and related professional services. Software services fees paid to us from our employer customers are generally based on the number of employees covered by the relevant benefits plans at contracted rates for a specified period of time, which is usually one year. Software services fees paid to us from our carrier customers are based on the number of members contracted to use our solutions at contracted rates for a specified period of time, which usually ranges from three to 10 years. Software services revenue accounted for approximately 89%, 95%, and 93% of our total revenue during the years ended December 31, 2010, 2011, and 2012, respectively.

Another component of our revenue is professional services. We derive the majority of our professional services revenue from the implementation of our customers onto our platform, which

typically includes discovery, configuration and deployment, integration, testing, and training. In general, it takes from four to five months to implement a new employer customer's benefits systems and eight to 10 months to implement a new carrier customer's benefits systems. We also provide customer support services and customized media content that supports our customers' effort to educate and communicate with consumers. Professional services revenue accounted for approximately 11%, 5%, and 7% of our total revenue during the years ended December 31, 2010, 2011, and 2012, respectively.

Increasing our base of large employer customers is an important source of revenue growth for us. We actively pursue new employer customers in the U.S. market, and we have increased the number of large employer customers utilizing our solutions from 118 as of December 31, 2009 to 286 as of December 31, 2012, a 34.3% compound annual growth rate, or CAGR. We believe that our continued innovation and new solutions, such as online benefits marketplaces, also known as private exchanges, enhanced mobile offerings, and more robust data analytics capabilities will help us attract additional large employer customers and increase our revenue from existing customers.

Key Financial and Operating Performance Metrics

We regularly monitor a number of financial and operating metrics in order to measure our current performance and project our future performance. These metrics help us develop and refine our growth strategies and make strategic decisions. We discuss revenue, gross margin, and the components of operating loss, as well as segment revenue and components of segment loss from operations, in "Management's Discussion and Analysis of Financial Condition and Results of Operations—Components of Operating Results". In addition, we utilize other key metrics as described below.

Number of Large Employer and Carrier Customers

We believe the number of large employer and carrier customers is a key indicator of our market penetration, growth, and future revenue. We have aggressively invested in and intend to continue to invest in our direct sales force to grow our customer base. We generally define a customer as an entity with an active software services contract as of the measurement date. The following table sets forth the number of large employer and carrier customers for the periods indicated:

	Year Ended December 31,			
	2009	2010	2011	2012
Number of customers:				
Large employer	118	141	193	286
Carrier	28	29	30	34

Software Services Revenue Retention Rate

We believe that our ability to retain our customers and expand the revenue they generate for us over time is an important component of our growth strategy and reflects the long-term value of our customer relationships. We measure our performance on this basis using a metric we refer to as our software services revenue retention rate. We calculate this metric for a particular period by establishing the group of our customers that had active contracts for a given period. We then calculate our software services revenue retention rate by taking the amount of software services revenue we recognized for this group in the subsequent comparable period (for which we are reporting the rate) and dividing it by the software services revenue we recognized for the group in the prior period.

For the years ended December 31, 2010, 2011, and 2012, our software services revenue retention rate exceeded 95%.

Adjusted Gross Profit and Adjusted EBITDA

Adjusted gross profit represents our gross profit before depreciation and amortization, as well as stock-based compensation expense. Adjusted EBITDA represents our earnings before net interest and other expense, taxes, and depreciation and amortization expense, adjusted to eliminate stock-based compensation and impairment of goodwill and intangible assets. Adjusted gross profit and adjusted EBITDA are not measures calculated in accordance with United States generally accepted accounting principles, or GAAP. Please refer to "Selected Consolidated Financial Data—Adjusted Gross Profit and Adjusted EBITDA" in this prospectus for a discussion of the limitations of adjusted gross profit and adjusted EBITDA and reconciliations of adjusted gross profit to gross profit and adjusted EBITDA to net loss, the most comparable GAAP measurements, respectively, for the years ended December 31, 2010, 2011, and 2012.

Components of Operating Results

Revenue

We derive the majority of our revenue from software services fees, which consist primarily of monthly subscription fees paid to us by our employer and carrier customers for access to, and usage of, our cloud-based benefits software solutions for a specified contract term. We also derive revenue from professional services fees, which primarily include fees related to the implementation of our customers onto our platform. Our professional services typically include discovery, configuration and deployment, integration, testing, and training.

The following table sets forth a breakdown of our revenue between software services and professional services for the periods indicated:

	Year Ended December 31,		
	2010	2011	2012
	(in thousands)		
Revenue:			
Software services	$59,537	$65,266	$75,988
Professional services	7,585	3,517	5,751
Total revenue	$67,122	$68,783	$81,739

We generally recognize software services fees monthly based on the number of employees covered by the relevant benefits plans at contracted rates for a specified period of time, provided that an enforceable contract has been signed by both parties, access to our software has been granted to the customer and is available for their use, the fee for the software services is fixed or determinable, and collection is reasonably assured. We defer recognition of our professional services fees paid by customers in connection with implementation of our software services, or implementation fees, and recognize them, beginning once the software services have commenced, ratably over the longer of the contract term or the estimated expected life of the customer relationship.

In the first quarter of 2011, we increased the estimated expected life of our customer relationships for both employer and carrier customers. This change in estimate was a result of growing demand for our software services, reduced uncertainties in the regulatory environment, and increased confidence in customer retention. This change extends the term over which we recognize our deferred revenue. In the absence of this change, each of revenue, gross profit, and net loss would have improved by $5.8 million in 2011 and $2.8 million in 2012. Most of our deferred revenue relates to professional services performed for our carrier customers, which require a more extensive and lengthy implementation. Further, prior to 2012, we generally did not charge implementation fees to our large

employer customers. We will continue to periodically evaluate the term over which revenue is recognized for most professional services as we gain more experience with customer contract renewals.

We generally invoice our employer and carrier customers for software services in advance, in monthly installments. We invoice our employer customers for implementation fees at the inception of the arrangement. We generally invoice our carrier customers for implementation fees at various contractually defined times throughout the implementation process. Implementation fees that have been invoiced are initially recorded as deferred revenue until recognized as described above.

Overhead Allocation

Expenses associated with our facilities, IT costs, and depreciation and amortization, are allocated between cost of revenue and operating expenses based on employee headcount determined by the nature of work performed.

Cost of Revenue

Cost of revenue primarily consists of salaries and other personnel-related costs, including benefits, bonuses, and stock-based compensation, for associates providing services to our customers and supporting our SaaS platform infrastructure. Additional expenses in cost of revenue include co-location facility costs for our data centers, depreciation expense for computer equipment directly associated with generating revenue, infrastructure maintenance costs, amortization expenses associated with capitalized software development costs, allocated overhead, and other direct costs.

Our cost of revenue is expensed as we incur the costs. However, the related revenue from fees we receive for our implementation services performed before a customer is operating on our platform is deferred until the commencement of the monthly subscription and recognized as revenue ratably over the longer of the related contract term or the estimated expected life of the customer relationship. Therefore, the cost incurred in providing these services is expensed in periods prior to the recognition of the corresponding revenue. Our cost associated with providing implementation services has been significantly higher as a percentage of revenue than our cost associated with providing our monthly subscription services due to the labor associated with providing implementation services.

We plan to continue to expand our capacity to support our growth, which will result in higher cost of revenue in absolute dollars. However, we expect cost of revenue as a percentage of revenue to decline and gross margins to increase primarily from the growth of the percentage of our revenue from large employers and the realization of economies of scale driven by retention of our customer base.

Operating Expenses

Operating expenses consist of sales and marketing, research and development, and general and administrative expenses. Salaries and personnel-related costs are the most significant component of each of these expense categories. We expect to continue to hire new associates in these areas in order to support our anticipated revenue growth. As a result, we expect our operating expenses to increase in both aggregate dollars and as a percentage of revenue in the near term, but to decrease over the longer term as we achieve economies of scale.

Sales and marketing expense. Sales and marketing expense consists primarily of salaries and other personnel-related costs, including benefits, bonuses, stock-based compensation, and commissions for our sales and marketing associates. We record expense for commissions at the time of contract signing. Additional expenses include advertising, lead generation, promotional event

programs, corporate communications, travel, and allocated overhead. For instance, our most significant promotional event is One Place, which we hold annually in the second quarter. We expect our sales and marketing expense to increase in both absolute dollars and as a percentage of revenue in the foreseeable future as we further increase the number of our sales and marketing professionals and expand our marketing activities in order to continue to grow our business.

Research and development expense. Research and development expense consists primarily of salaries and other personnel-related costs, including benefits, bonuses, and stock-based compensation for our research and development associates. Additional expenses include costs related to the development, quality assurance, and testing of new technology, and enhancement of our existing platform technology, consulting, travel, and allocated overhead. We believe continuing to invest in research and development efforts is essential to maintaining our competitive position. We expect our research and development expense to increase in absolute dollars and as a percentage of revenue for the near term, but decrease as a percentage of revenue over the longer term as we achieve economies of scale.

General and administrative expense. General and administrative expense consists primarily of salaries and other personnel-related costs, including benefits, bonuses, and stock-based compensation for administrative, finance and accounting, information systems, legal, and human resource associates. Additional expenses include consulting and professional fees, insurance and other corporate expenses, and travel. We expect our general and administrative expenses to increase in absolute terms as a result of our preparation to become and operate as a public company. After the completion of this offering, these expenses will also include costs associated with compliance with the Sarbanes-Oxley Act and other regulations governing public companies, increased costs of directors' and officers' liability insurance, increased professional services expenses, and costs associated with an enhanced investor relations function.

Impairment of goodwill. On August 3, 2010, we acquired 100% of the net assets of Beninform Holdings, Inc., or Beninform, and recorded $3.3 million of goodwill in connection with the acquisition. During the year ended December 31, 2011, we recorded an impairment of goodwill of $1.7 million due to lower than expected sales forecast at the October 31, 2011 impairment testing date.

Other Income and Expense

Other income and expense consists primarily of interest income and expense, accretion of contingent consideration, and gain (loss) on disposal of fixed assets. Interest income represents interest received on our cash and cash equivalents. Interest expense consists primarily of the interest incurred on outstanding borrowings under our existing notes and credit facilities. We expect interest expense to decrease in periods subsequent to the completion of this offering as we anticipate paying down a portion of our debt with our proceeds from this offering.

Income Tax Expense

Income tax expense consists of U.S. federal and state income taxes. We incurred minimal income tax expense for the years ended December 31, 2010, 2011, and 2012. Net operating loss carryforwards for federal income tax purposes were $25.6 million at December 31, 2012. State net operating loss carryforwards were approximately $23.6 million at December 31, 2012. Federal net operating loss carryforwards will expire at various dates beginning in 2017 through 2032, if not utilized. State net operating losses will expire at various dates beginning in 2013 through 2033, if not utilized. Valuation allowances are recorded to reduce deferred tax assets to the amount we believe is more likely than not to be realized.

Results of Operations

Consolidated Statements of Operations Data

The following table sets forth our consolidated statements of operations data for each of the periods indicated.

	Year Ended December 31,		
	2010	2011	2012
	(in thousands)		
Revenue	$67,122	$ 68,783	$ 81,739
Cost of revenue(1)	39,817	43,034	45,178
Gross profit	27,305	25,749	36,561
Operating expenses:			
Sales and marketing(1)	14,462	22,914	28,268
Research and development(1)	8,948	9,397	15,035
General and administrative(1)	6,144	5,921	7,577
Impairment of goodwill	—	1,670	—
Change in fair value of contingent consideration	—	503	121
Total operating expenses	29,554	40,405	51,001
Loss from operations	(2,249)	(14,656)	(14,440)
Other income (expense):			
Interest income	364	151	53
Interest expense	(212)	(203)	(203)
Other expense	(248)	(189)	(64)
Total other expense, net	(96)	(241)	(214)
Loss before income taxes	(2,345)	(14,897)	(14,654)
Income tax expense	10	35	84
Net loss	$ (2,355)	$ (14,932)	$ (14,738)

(1) Cost of revenue and operating expenses include stock-based compensation expense as follows:

	Year Ended December 31,		
	2010	2011	2012
	(in thousands)		
Cost of revenue	$ 352	$ 252	$ 195
Sales and marketing	77	102	68
Research and development	87	121	130
General and administrative	519	246	319

The following table sets forth our consolidated statements of operations data as a percentage of revenue for each of the periods indicated.

	Year Ended December 31,		
	2010	2011	2012
	(as a percentage of revenue)		
Revenue	100.0%	100.0%	100.0%
Cost of revenue	59.3	62.6	55.3
Gross profit	40.7	37.4	44.7
Operating expenses:			
Sales and marketing	21.5	33.3	34.6
Research and development	13.3	13.7	18.4
General and administrative	9.2	8.6	9.3
Impairment of goodwill	—	2.4	—
Change in fair value of contingent consideration	—	0.7	0.1
Total operating expenses	44.0	58.7	62.4
Loss from operations	(3.4)	(21.3)	(17.7)
Other income (expense):			
Interest income	0.5	0.2	0.1
Interest expense	(0.3)	(0.3)	(0.2)
Other expense	(0.4)	(0.3)	(0.1)
Total other expense, net	(0.1)	(0.4)	(0.3)
Loss before income taxes	(3.5)	(21.7)	(17.9)
Income tax expense	0.0	0.1	0.1
Net loss	(3.5)%	(21.7)%	(18.0)%

Our Segments

The following table sets forth segment results for revenue, gross profit, and loss from operations for the periods indicated:

	Year Ended December 31,		
	2010	2011	2012
	(in thousands)		
Revenue:			
Employer	$ 9,356	$ 15,947	$ 23,760
Carrier	57,766	52,836	57,979
Total revenue	$67,122	$ 68,783	$ 81,739
Gross profit:			
Employer	$ 2,926	$ 5,811	$ 9,499
Carrier	24,379	19,938	27,062
Total gross profit	$27,305	$ 25,749	$ 36,561
Loss from operations:			
Employer	$ (7,036)	$ (20,226)	$ (19,778)
Carrier	4,787	5,570	5,338
Total loss from operations	$ (2,249)	$ (14,656)	$ (14,440)

Comparison of Years Ended December 31, 2011 and 2012

Revenue

	Year Ended December 31,					
	2011		2012		Period-to-Period Change	
	Amount	Percentage of Revenue	Amount	Percentage of Revenue	Amount	Percentage
	(dollars in thousands)					
Software services	$65,266	94.9%	$75,988	93.0%	$10,722	16.4%
Professional services	3,517	5.1	5,751	7.0	2,234	63.5%
Total revenue	$68,783	100.0%	$81,739	100.0%	$12,956	18.8%

Revenue increased by $13.0 million, or 18.8%, from $68.8 million for the year ended December 31, 2011 to $81.7 million for the year ended December 31, 2012. Our software services revenue increased $10.7 million, or 16.4%, during the year ended December 31, 2012 as compared to the year ended December 31, 2011. This growth was primarily attributable to the addition of new customers as the number of large employer and carrier customers increased from 223 as of December 31, 2011 to 320 as of December 31, 2012. Our professional services revenue increased $2.2 million, or 63.5%, for the year ended December 31, 2012 as compared to the year ended December 31, 2011. The increase in professional services revenue is primarily attributed to an increase in the number of new carrier customers requiring implementation services, as well as completion of those services during the year ended December 31, 2012 as compared to the year ended December 31, 2011.

Segment Revenue

	Year Ended December 31,					
	2011		2012		Period-to-Period Change	
	Amount	Percentage of Revenue	Amount	Percentage of Revenue	Amount	Percentage
	(dollars in thousands)					
Employer	$15,947	23.2%	$23,760	29.1%	$ 7,813	49.0%
Carrier	52,836	76.8	57,979	70.9	5,143	9.7%
Total revenue	$68,783	100.0%	$81,739	100.0%	$12,956	18.8%

Our employer revenue increased $7.8 million, or 49.0%, from the year ended December 31, 2011 to the year ended December 31, 2012. This growth was primarily attributable to a $7.8 million increase in our employer software services revenue driven primarily by a 48.2% increase in the number of large employer customers using our platform as of December 31, 2012 as compared to December 31, 2011. Our carrier revenue increased $5.1 million, or 9.7%, during the year ended December 31, 2012 as compared to the year ended December 31, 2011. This growth was primarily attributable to an increase of $3.0 million in our carrier software services revenue, driven primarily by an increase in the number of products being utilized by our carrier customers, as well as by increases in the number of members using our platform during the year ended December 31, 2012 as compared to the year ended December 31, 2011.

Cost of Revenue

	Year Ended December 31,					
	2011		2012		Period-to-Period Change	
	Amount	Percentage of Revenue	Amount	Percentage of Revenue	Amount	Percentage
	(dollars in thousands)					
Cost of revenue	$43,034	62.6%	$45,178	55.3%	$ 2,144	5.0%

Cost of revenue increased by $2.1 million, or 5.0%, from $43.0 million for the year ended December 31, 2011 to $45.2 million for the year ended December 31, 2012. The increase in cost of revenue was in part attributable to a $1.1 million increase in amortization expense associated with capitalized software development costs, primarily due to the impairment of certain internally developed software that we concluded would not produce expected cash flows for the remainder of its estimated useful life. Salaries and personnel-related costs increased by $0.6 million, as we increased the number of associates providing services to our expanded customer base and supporting our platform infrastructure. In addition, we experienced a $0.3 million increase in infrastructure maintenance costs to support our platform. As a percentage of revenue, cost of revenue declined from 62.6% for the year ended December 31, 2011 to 55.3% for the year ended December 31, 2012. The cost of revenue was higher in 2011 in part because of a large carrier customer implementation during that year.

Segment Gross Profit

	Year Ended December 31,					
	2011		2012		Period-to-Period Change	
	Amount	Percentage of Revenue	Amount	Percentage of Revenue	Amount	Percentage
	(dollars in thousands)					
Employer	$ 5,811	36.4%	$ 9,499	40.0%	$ 3,688	63.5%
Carrier	19,938	37.7	27,062	46.7	7,124	35.7%
Gross profit	$25,749	37.4%	$36,561	44.7%	$10,812	42.0%

Employer gross profit increased by $3.7 million, or 63.5%, from $5.8 million for the year ended December 31, 2011 to $9.5 million for the year ended December 31, 2012. The increase in employer gross profit was driven by a $7.8 million, or 49.0%, increase in employer revenue, partially offset by a $4.1 million, or 40.7%, increase in employer cost of revenue. Our employer gross profit included $1.5 million and $1.9 million of depreciation and amortization for the years ended December 31, 2011 and 2012, respectively, and $0.1 million of stock-based compensation expense for each of the years ended December 31, 2011 and 2012.

Carrier gross profit increased by $7.1 million, or 35.7%, from $19.9 million for the year ended December 31, 2011 to $27.1 million for the year ended December 31, 2012. The increase in carrier gross profit was driven by a $5.1 million, or 9.7%, increase in carrier revenue and a $2.0 million, or 6.0%, decrease in carrier cost of revenue. Our carrier cost of revenue was higher in 2011 in part because of a large carrier customer implementation during that year. Our carrier gross profit included $4.7 million and $5.5 million in depreciation and amortization for the years ended December 31, 2011 and 2012, respectively. In addition, our carrier gross profit included $0.2 million and $0.1 million of stock-based compensation expense for the years ended December 31, 2011 and 2012, respectively.

Sales and Marketing

	Year Ended December 31,					
	2011		2012		Period-to-Period Change	
	Amount	Percentage of Revenue	Amount	Percentage of Revenue	Amount	Percentage
	(dollars in thousands)					
Sales and marketing	$22,914	33.3%	$28,268	34.6%	$ 5,354	23.4%

Sales and marketing expense increased by $5.4 million, or 23.4%, from $22.9 million, or 33.3% of revenue, for the year ended December 31, 2011, to $28.3 million, or 34.6% of revenue, for the year ended December 31, 2012. The increase in sales and marketing expense was primarily attributable to

a $4.3 million increase in salaries and personnel-related costs, as we increased the number of sales and marketing personnel to continue driving revenue growth. The increase was also driven by a $1.2 million increase in marketing events, including the expansion of our annual One Place user and partner conference in April 2012, and additional external marketing events.

Research and Development

	Year Ended December 31,					
	2011		2012		Period-to-Period Change	
	Amount	Percentage of Revenue	Amount	Percentage of Revenue	Amount	Percentage
	(dollars in thousands)					
Research and development	$9,397	13.7%	$15,035	18.4%	$ 5,638	60.0%

Research and development expense increased by $5.6 million, or 60.0%, from $9.4 million, or 13.7% of revenue, for the year ended December 31, 2011, to $15.0 million, or 18.4% of revenue, for the year ended December 31, 2012. The increase in research and development expense was primarily attributable to a $4.1 million increase in salaries and personnel-related costs associated with additional research and development headcount, as well as a $0.4 million increase in consulting expense, to accommodate increased focus on development of our products, including the incorporation of and compliance with PPACA, the development of the Benefitfocus Marketplace product, and investment of development resources in a new electronic data interchange platform. In addition we experienced a $0.7 million increase in allocated overhead related to increased depreciation and amortization and facilities costs.

General and Administrative

	Year Ended December 31,					
	2011		2012		Period-to-Period Change	
	Amount	Percentage of Revenue	Amount	Percentage of Revenue	Amount	Percentage
	(dollars in thousands)					
General and administrative	$5,921	8.6%	$7,577	9.3%	$ 1,656	28.0%

General and administrative expense increased by $1.7 million, or 28.0%, from $5.9 million, or 8.6% of revenue, for the year ended December 31, 2011, to $7.6 million, or 9.3% of revenue, for the year ended December 31, 2012. The increase in general and administrative expense was primarily attributable to a $1.4 million increase in salaries and personnel-related costs associated with an increase in general and administrative personnel to support our growing business and to prepare for our IPO.

Segment Income (Loss) From Operations

	Year Ended December 31,					
	2011		2012		Period-to-Period Change	
	Amount	Percentage of Revenue	Amount	Percentage of Revenue	Amount	Percentage
	(dollars in thousands)					
Employer	$(20,226)	(126.8)%	$(19,778)	(83.2)%	$ 448	2.2%
Carrier	5,570	10.5	5,338	9.2	(232)	(4.2)%
Loss from operations	$(14,656)	(21.3)%	$(14,440)	(17.7)%	$ 216	1.5%

Employer loss from operations decreased by $0.4 million, or 2.2%, from $20.2 million for the year ended December 31, 2011 to $19.8 million for the year ended December 31, 2012. The decrease in loss from operations was primarily attributable to a $7.8 million increase in employer revenue during 2012. In addition, we recognized a $1.7 million goodwill impairment during the year ended December 31, 2011. These changes were partially offset by increases of $4.4 million and $4.1 million in sales and marketing expenses and cost of revenue, respectively. The increase in sales and marketing expenses was attributable to an increase in salaries and personnel-related costs of the sales associates who were hired in 2011 to market our solutions to employers and received a full year of salary in 2012. Commissions of our sales associates increased as a result of increased sales to new employer customers. The increase in sales and marketing expenses was also attributable to an increase in marketing events, including One Place, as well as increases attributable to other external marketing events during 2012. The increase in cost of revenue was primarily driven by a 40.0% increase in our employer client service associate headcount.

Carrier income from operations decreased by $0.2 million, or 4.2%, from $5.6 million for the year ended December 31, 2011 to $5.3 million for year ended December 31, 2012. The decrease in income from operations was primarily attributable to a $5.6 million increase in research and development expenses. The increase in research and development expense was attributable to efforts to develop and improve carrier segment-specific product enhancements. In addition, we experienced increases of $0.9 million and $0.8 million in sales and marketing and general and administrative expenses, respectively. The increase in sales and marketing expense was attributable to associates hired during 2011, who received a full year of salary in 2012. The increase in general and administrative expense was primarily attributable to increases in salaries and personnel-related costs. These increases were partially offset by an increase in carrier gross profit of $7.1 million during the year ended December 31, 2012 as compared to the year ended December 31, 2011.

Comparison of Years Ended December 31, 2010 and 2011

As previously mentioned, in the first quarter of 2011, we increased the estimated expected life of our customer relationships for both employer and carrier customers. This change extends the term over which we will recognize our deferred revenue. Most of our deferred revenue relates to implementation services performed for our carrier customers, which require a more extensive and lengthy implementation. In the absence of this change, each of revenue, gross profit, and segment loss from operations would have improved by $5.8 million in 2011.

Revenue

	Year Ended December 31,					
	2010		2011		Period-to-Period Change	
	Amount	Percentage of Revenue	Amount	Percentage of Revenue	Amount	Percentage
	(dollars in thousands)					
Software services	$59,537	88.7%	$65,266	94.9%	$ 5,729	9.6%
Professional services	7,585	11.3	3,517	5.1	(4,068)	(53.6)%
Total revenue	$67,122	100.0%	$68,783	100.0%	$ 1,661	2.5%

Revenue increased by $1.7 million, or 2.5%, from $67.1 million for the year ended December 31, 2010 to $68.8 million for the year ended December 31, 2011. Our software services revenue increased $5.7 million, or 9.6%, during the year ended December 31, 2011 as compared to the year ended December 31, 2010. This growth was primarily attributable to the addition of new customers as the number of large employer and carrier customers increased from 170 as of December 31, 2010 to 223

as of December 31, 2011. This growth was offset by a $4.1 million, or 53.6%, decrease in our professional services revenue during the year ended December 31, 2011 as compared to the year ended December 31, 2010. This decrease was primarily attributable to the increase in the first quarter of 2011 in the estimated expected customer relationship period over which we recognize our implementation fees.

Segment Revenue

	Year Ended December 31,					
	2010		2011		Period-to-Period Change	
	Amount	Percentage of Revenue	Amount	Percentage of Revenue	Amount	Percentage
	(dollars in thousands)					
Employer	$ 9,356	13.9%	$15,947	23.2%	$ 6,591	70.4%
Carrier	57,766	86.1	52,836	76.8	(4,930)	(8.5)%
Total revenue	$67,122	100.0%	$68,783	100.0%	$ 1,661	2.5%

Our employer revenue increased $6.6 million, or 70.4%, from the year ended December 31, 2010 to the year ended December 31, 2011. This growth was primarily attributable to a $7.0 million increase in our employer software services revenue driven primarily by a 36.9% increase in the number of large employer customers using our platform during the year ended December 31, 2011 as compared to the year ended December 31, 2010. Our carrier revenue decreased $4.9 million, or 8.5%, during the year ended December 31, 2011 as compared to the year ended December 31, 2010. This decline was attributable to decreases of $3.7 million and $1.2 million in our carrier professional services and software services revenue, respectively. The decrease in carrier professional services revenue was primarily driven by the increase in the first quarter of 2011 in the estimated expected customer relationship period over which we recognize our implementation fees. In addition, our carrier segment revenue was impacted by the uncertainty around the implementation of healthcare reform, which resulted in delayed purchasing decisions on the part of our carrier customers.

Cost of Revenue

	Year Ended December 31,					
	2010		2011		Period-to-Period Change	
	Amount	Percentage of Revenue	Amount	Percentage of Revenue	Amount	Percentage
	(dollars in thousands)					
Cost of revenue	$39,817	59.3%	$43,034	62.6%	$ 3,217	8.1%

Cost of revenue increased by $3.2 million, or 8.1%, from $39.8 million for the year ended December 31, 2010 to $43.0 million for the year ended December 31, 2011. The increase in cost of revenue was primarily attributable to a $1.4 million increase in salaries and personnel-related costs, as we increased the number of associates providing services to our expanding customer base and supporting our platform infrastructure. In addition, we experienced increased implementation costs related to a large carrier customer implementation during the year ended December 31, 2011. As a percentage of revenue, cost of revenue increased from 59.3% for the year ended December 31, 2010 to 62.6% for the year ended December 31, 2011. The increase in cost of revenue as a percentage of revenue and resulting decrease in gross margin is primarily attributable to the change in estimated life of our customer relationships during the year ended December 31, 2011. In the absence of this change, each of revenue, gross profit, and net loss would have improved by $5.8 million in 2011.

Segment Gross Profit

	Year Ended December 31,					
	2010		2011		Period-to-Period Change	
	Amount	Percentage of Revenue	Amount	Percentage of Revenue	Amount	Percentage
	(dollars in thousands)					
Employer	$ 2,926	31.3%	$ 5,811	36.4%	$ 2,885	98.6%
Carrier	24,379	42.2	19,938	37.7	(4,441)	(18.2)%
Gross profit	$27,305	40.7%	$25,749	37.4%	$ (1,556)	(5.7)%

Employer gross profit increased by $2.9 million, or 98.6%, from $2.9 million for the year ended December 31, 2010 to $5.8 million for the year ended December 31, 2011. The increase in gross profit was driven by a $6.6 million, or 70.4%, increase in employer revenue, partially offset by a $3.7 million, or 57.6%, increase in employer cost of revenue for the year ended December 31, 2011. Our employer gross profit included $0.6 million and $1.5 million of depreciation and amortization for the years ended December 31, 2010 and 2011, respectively, and $0.1 million of stock-based compensation expense for each of the years ended December 31, 2010 and 2011.

Carrier gross profit decreased by $4.4 million, or 18.2%, from $24.4 million for the year ended December 31, 2010 to $19.9 million for the year ended December 31, 2011. The decrease in gross profit was driven by a $4.9 million, or 8.5%, decrease in carrier revenue, partially offset by a $0.5 million, or 1.5%, decrease in carrier cost of revenue for the year ended December 31, 2011. The decrease in carrier revenue and gross profit was primarily attributable to the increase in the first quarter of 2011 in the estimated expected customer relationship period over which we recognize our implementation fees, which decreased the amount of professional services revenue recognized in 2011 as compared to 2010. Our carrier gross profit included $5.3 million and $4.7 million in depreciation and amortization for the years ended December 31, 2010 and 2011, respectively. In addition, our carrier gross profit included $0.3 million and $0.2 million of stock-based compensation expense for the years ended December 31, 2010 and 2011, respectively.

Sales and Marketing

	Year Ended December 31,					
	2010		2011		Period-to-Period Change	
	Amount	Percentage of Revenue	Amount	Percentage of Revenue	Amount	Percentage
	(dollars in thousands)					
Sales and marketing	$14,462	21.5%	$22,914	33.3%	$ 8,452	58.4%

Sales and marketing expense increased by $8.5 million, or 58.4%, from $14.5 million, or 21.5% of revenue, for the year ended December 31, 2010, to $22.9 million, or 33.3% of revenue, for the year ended December 31, 2011. The increase in sales and marketing expense was primarily attributable to a $5.9 million increase in salaries and personnel-related costs, as we increased the number of sales and marketing personnel to continue driving revenue growth. As a result of the increased headcount in 2011, we experienced a $0.8 million increase in overhead expenses allocated to our sales and marketing functions during the year. In addition, we experienced increases of $0.7 million and $0.3 million, respectively, in travel and recruiting costs.

Research and Development

	Year Ended December 31,					
	2010		2011		Period-to-Period Change	
	Amount	Percentage of Revenue	Amount	Percentage of Revenue	Amount	Percentage
	(dollars in thousands)					
Research and development	$8,948	13.3%	$9,397	13.7%	$ 449	5.0%

Research and development expense increased by $0.4 million, or 5.0%, from $8.9 million, or 13.3% of revenue, for the year ended December 31, 2010, to $9.4 million, or 13.7% of revenue, for the year ended December 31, 2011. The increase in research and development expense was primarily attributable to a $0.3 million increase in consulting expenses related to our product development efforts.

General and Administrative

	Year Ended December 31,					
	2010		2011		Period-to-Period Change	
	Amount	Percentage of Revenue	Amount	Percentage of Revenue	Amount	Percentage
	(dollars in thousands)					
General and administrative	$6,144	9.2%	$5,921	8.6%	$ (223)	(3.6)%

General and administrative expense decreased by $0.2 million, or 3.6%, from $6.1 million, or 9.2% of revenue, for the year ended December 31, 2010, to $5.9 million, or 8.6% of revenue, for the year ended December 31, 2011. The decrease in general and administrative expense was primarily attributable to a $0.2 million decrease in salaries and personnel-related costs during the year ended December 31, 2011 as compared to the year ended December 31, 2010.

Segment Income (Loss) From Operations

	Years Ended December 31,					
	2010		2011		Period-to-Period Change	
	Amount	Percentage of Revenue	Amount	Percentage of Revenue	Amount	Percentage
	(dollars in thousands)					
Employer	$(7,036)	(75.2)%	$(20,226)	(126.8)%	$(13,190)	*
Carrier	4,787	8.3	5,570	10.5	783	16.4%
Loss from operations	$(2,249)	(3.4)%	$(14,656)	(21.3)%	$(12,407)	*

* Not meaningful.

Employer loss from operations increased by $13.2 million from $7.0 million for the year ended December 31, 2010 to $20.2 million for year ended December 31, 2011. The increase in loss from operations was primarily attributable to a $9.0 million increase in employer sales and marketing expenses. During 2011, we increased the number of sales associates by 110.0%, resulting in a $6.1 million increase in employer sales and marketing salaries and personnel-related costs. We also experienced a $4.4 million increase in employer segment-specific research and development expenses. As a result of an increase in employer customer volume, we devoted more research and development efforts to our employer segment specific products. In addition, we recognized a goodwill impairment of $1.7 million in the year ended December 31, 2011. These changes were partially offset by a $2.9 million increase in employer gross profit, driven primarily by a $6.6 million increase in employer revenue during the year.

Carrier income from operations increased by $0.8 million, or 16.4%, from $4.8 million for the year ended December 31, 2010 to $5.6 million for the year ended December 31, 2011. The increase in income from operations was primarily attributable to decreases of $4.0 million and $0.7 million in research and development expenses and general and administrative expenses, respectively. These declines were primarily the result of the shift of our research and development efforts to products in our employer segment. Additionally, we experienced a $0.7 million decrease in marketing expenses due primarily to a realignment of promotional efforts to grow our employer business. These decreases in costs were partially offset by a decline in carrier gross profit of $4.4 million, driven by the change in estimated life of our customer relationships during the year ended December 31, 2011. In the absence of this change, each of carrier revenue, gross profit, and income from operations would have improved by $5.8 million in 2011.

Critical Accounting Policies and Significant Judgments and Estimates

Our management's discussion and analysis of our financial condition and results of operations is based on our consolidated financial statements, which have been prepared in accordance with GAAP. The preparation of these consolidated financial statements requires us to make estimates and assumptions that affect the reported amounts of assets and liabilities, disclosure of contingent assets and liabilities at the date of the consolidated financial statements, and the reported amounts of revenue and expenses. In accordance with GAAP, we base our estimates on historical experience and on various other assumptions that we believe reasonable under the circumstances. Actual results might differ from these estimates under different assumptions or conditions.

While our significant accounting policies are more fully described in Note 2 to our consolidated financial statements appearing elsewhere in this prospectus, we believe the following accounting policies are critical to the process of making significant judgments and estimates in the preparation of our consolidated financial statements.

Revenue Recognition and Deferred Revenue

We derive the majority of our revenue from software services fees, which consist primarily of monthly subscription fees paid to us by our customers for access to, and usage of, our cloud-based benefits software solutions for a specified contract term. We also derive revenue from professional services which primarily include fees related to the implementation of our customers onto our platform, which typically includes discovery, configuration and deployment, integration, testing, and training.

We recognize revenue when there is persuasive evidence of an arrangement, we have provided the service, the fees to be paid by the customer are fixed and determinable and collectability is reasonably assured. We consider that delivery of our cloud-based software services has commenced once we have granted the customer access to our platform.

We generally recognize software services fees monthly based on the number of employees covered by the relevant benefits plans at contracted rates for a specified period of time once the criteria for revenue recognition described above have been satisfied. We defer recognition of our professional services fees paid by customers in connection with our software services and begin recognizing them once the services are performed and software services have commenced, ratably over the longer of the contract term or the estimated expected life of the customer relationship.

In the first quarter of 2011, we increased the estimated expected life of our customer relationships for both employer and carrier customers. This change in estimate was a result of growing demand for our software services, reduced uncertainties in the regulatory environment, and increased confidence in customer retention. This change extends the term over which we will recognize our

deferred revenue. In the absence of this change, each of revenue, gross profit, and net loss would have improved by $5.8 million in 2011 and $2.8 million in 2012. Most of our deferred revenue relates to professional services performed for our carrier customers, which require a more extensive and lengthy implementation. We continue to evaluate the term over which revenue is recognized for our implementation fees as we gain more experience with customer contract renewals.

Accounts Receivable and Allowances for Doubtful Accounts

We state accounts receivable at realizable value, net of an allowance for doubtful accounts that we maintain for estimated losses expected to result from the inability of some customers to make payments as they become due. We base our estimated allowance on our analysis of past due amounts and ongoing credit evaluations. Historically, our actual collection experience has not varied significantly from our estimates, due primarily to our credit and collection policies and the financial strength of our customers.

Goodwill

Goodwill represents the excess of the aggregate of the fair value of consideration transferred in a business combination over the fair value of assets acquired, net of liabilities assumed. Goodwill is not amortized, but is subject to an annual impairment test. We test goodwill for impairment at the reporting unit level annually on October 31, or more frequently if events or changes in business circumstances indicate the asset might be impaired.

When testing goodwill for impairment, we first perform an assessment of qualitative factors, including but not limited to, macroeconomic conditions, industry and market conditions, company-specific events, changes in circumstances, and after-tax cash flows. If qualitative factors indicate that it is more likely than not that the fair value of the relevant reporting unit is less than its carrying amount, we test goodwill for impairment at the reporting unit level using a two-step approach. In step one, we determine if the fair value of the reporting unit exceeds the unit's carrying value. If step one indicates that the fair value of the reporting unit is less than its carrying value, we perform step two, determining the fair value of goodwill and, if the carrying value of goodwill exceeds the implied fair value, recording an impairment charge.

We have determined that we have two operating segments, employer and carrier. Further, we have identified that Benefit Informatics is part of our employer operating segment. To determine the fair value of our reporting units, we primarily use a discounted cash flow analysis, which requires significant assumptions and estimates about future operations. Significant judgments inherent in this analysis include the determination of an appropriate discount rate, estimated terminal value and the amount and timing of expected future cash flows.

Stock-Based Compensation

Stock options awarded to associates, directors, and non-associate third parties are measured at fair value at each grant date. When determining the fair market value of our common stock, we consider what we believe to be comparable publicly traded companies, discounted free cash flows, and an analysis of our enterprise value. We recognize compensation expense ratably over the requisite service period of the option award. Generally, options vest 25% on the one-year anniversary of the grant date with the balance vesting over the following 36 months. We previously granted options that vest 100% on the fifth anniversary of the grant date.

Determination of the Fair Value of Stock-Based Compensation Grants

The determination of the fair value of stock-based compensation arrangements is affected by a number of variables, including estimates of the fair value of our common stock, expected stock price volatility, risk-free interest rate, and the expected life of the award. We value stock options using the Black-Scholes option-pricing model, which was developed for use in estimating the fair value of traded options that are fully transferable and have no vesting restrictions. Black-Scholes and other option valuation models require the input of highly subjective assumptions, including the expected stock price volatility.

The following summarizes the assumptions used for estimating the fair value of stock options granted during the periods indicated (we did not grant any options in 2011):

	Year Ended December 31,		
	2010	2011	2012
Assumptions:			
Risk-free interest rate	1.9% - 3.2%	—	0.8% - 1.2%
Expected life (in years)	6.08 - 6.58	—	6.08
Expected volatility	57% - 59%	—	53% - 55%
Dividend yield	0%	—	0%
Weighted-average grant date fair value, per share	$2.43	—	$4.24

We have assumed no dividend yield because we do not expect to pay dividends in the foreseeable future, which is consistent with our past practice. The risk-free interest rate assumption is based on observed interest rates for constant maturity U.S. Treasury securities consistent with the expected life of our associate stock options. The expected life represents the period of time the stock options are expected to be outstanding and is based on the simplified method. Under the simplified method, the expected life of an option is presumed to be the midpoint between the vesting date and the end of the contractual term. We used the simplified method due to the lack of sufficient historical exercise data to provide a reasonable basis upon which to otherwise estimate the expected life of the stock options. Expected volatility is based on historical volatilities for publicly traded stock of comparable companies over the estimated expected life of the stock options. The list of comparable companies we used to determine expected volatility was consistent with those used to determine the corresponding fair value of our common stock at each grant date.

We based our estimate of pre-vesting forfeitures, or forfeiture rate, on our analysis of historical behavior by stock option holders. We apply the estimated forfeiture rate to the total estimated fair value of the awards, as derived from the Black-Scholes model, to compute the stock-based compensation expense, net of pre-vesting forfeitures, to be recognized in our consolidated statements of operations.

Based upon an assumed initial public offering price of $ per share, the midpoint of the range set forth on the cover of this prospectus, the aggregate intrinsic value of outstanding options to purchase shares of our common stock as of December 31, 2012 was $ million, of which $ million related to vested options and $ million to unvested options.

Determination of the Fair Value of Common Stock on Grant Dates

Prior to this offering, we have been a private company with no active public market for our common stock. We have periodically determined for financial reporting purposes the estimated per share fair value of our common stock at various dates using contemporaneous valuations performed in accordance with the guidance outlined in the American Institute of Certified Public Accountants Practice Aid, “Valuation of Privately Held Company Equity Securities Issued as Compensation,” or the Practice Aid. We performed these valuations as of January 1, July 1, and October 1, 2012. In conducting the valuations,

we considered all objective and subjective factors that we believed to be relevant for each valuation conducted, including management's estimate of our business condition, prospects, and operating performance at each valuation date. Within the valuations performed by our management, a range of factors, assumptions, and methodologies were used. The significant factors included:

- Ÿ independent third-party valuations performed contemporaneously or shortly before the grant date, as applicable;
- Ÿ the fact that we are a privately held technology company and our common stock is illiquid;
- Ÿ the nature and history of our business;
- Ÿ our historical financial performance;
- Ÿ our discounted future cash flows, based on our projected operating results;
- Ÿ valuations of comparable public companies;
- Ÿ the potential impact on common stock of liquidation preference rights of redeemable convertible preferred stock under different valuation scenarios;
- Ÿ general economic conditions and the specific outlook for our industry;
- Ÿ the likelihood of achieving a liquidity event for shares of our common stock such as an IPO or a sale of our company, given prevailing market conditions, or remaining a private company; and
- Ÿ the state of the IPO market for similarly situated privately held technology companies.

The dates of our contemporaneous valuations have not always coincided with the dates of our stock-based compensation grants. In such instances, management's estimates of the fair value of our common stock on the date of grant have been based on the most recent valuation of our shares of common stock and our assessment of additional objective and subjective factors we believed were relevant as of the grant date. The additional factors considered when determining any changes in fair value between the most recent valuation and the grant dates included our stage of development, our operating and financial performance, current business conditions, and the market performance of comparable publicly traded companies.

There are significant judgments and estimates inherent in these contemporaneous valuations. These judgments and estimates include assumptions regarding our future operating performance, the time to completing an IPO or other liquidity event, and the determinations of the appropriate valuation methods. If we made different assumptions, our stock-based compensation expense, net loss, and net loss per common share could have been significantly different.

Common Stock Valuation Methodology

Probability-Weighted Expected Return Method

We utilize the probability-weighted expected return method, or PWERM, approach to allocate our equity value to our common shares. The PWERM approach employs various market, income or cost approach calculations depending on the likelihood of various liquidation scenarios. For each of the various scenarios, an equity value is estimated and the rights and preferences for each shareholder class are considered to allocate the equity value to common shares. The common share value is then multiplied by a discount factor reflecting the calculated discount rate and the timing of the event. Lastly, the common share value is multiplied by an estimated probability for each scenario. The probability and timing of each scenario are based on discussions between our board of directors and our management team. Under the PWERM, the value of our common stock is based on four possible future events for our company:

- Ÿ an IPO;
- Ÿ a strategic merger or sale;

- our remaining a private company; and
- the sale of our assets and the resulting dissolution of our company.

When determining the value of any of these four possible outcomes, we use the market and income approaches to determine the equity value of our company. These valuation methodologies are described below.

Market Approach

The market approach evaluates similar companies or transactions in the marketplace. When using the guideline company method of the market approach in determining the fair value of our common stock under the IPO scenario, we identified companies similar to our business who had recently completed IPOs and used these companies as guidelines to develop relevant market multiples and ratios. We then applied these market multiples and ratios to our financial forecasts to create an indication of total equity value. In selecting the guideline companies used in our analysis, we applied several criteria, including companies in the e-commerce platform industry, companies displaying economic and financial similarity to us in certain aspects of primary importance in the eyes of the investing public, and businesses that entail a similar degree of investment risk. When using the similar transaction methodology of the market approach in determining the fair value of our common stock under the strategic merger or sale scenario, we used publicly disclosed data from arm's-length transactions involving similar companies to develop relationships or value measures between the prices paid for the target companies and the underlying financial performance of those companies. These value measures are then applied to our applicable operating data to create an indication of total equity value.

We used the market approach as the valuation method of determining the fair value of our common stock under the IPO and strategic merger or sale scenarios for all independent valuations. For each of the independent valuations, we performed an assessment of publicly traded comparable companies, including companies that recently completed IPOs or were recently acquired, to ensure that we had a current representative sample of guideline companies upon which to base each valuation.

Income Approach

For the income approach, we used the discounted free cash flow method, which is based on the premise that equity value as of the respective valuation date is equal to the projected future free cash flows and expected terminal value of the business, discounted by a required rate of return that investors would demand given the risks of ownership and the risks associated with achieving the stream of projected future free cash flows.

We used a combination of the market approach and the income approach in determining the fair value of our common stock under the remaining private scenario for each of our independent valuations.

The following table summarizes by grant date the number of shares of common stock subject to stock options granted from January 1, 2012 through the date of this prospectus, as well as the associated per share exercise price and the estimated fair value per share of our common stock on the grant date. We did not grant any stock options during the year ended December 31, 2011.

Grant Date	Number of Shares Underlying Options Granted	Exercise Price per Share	Estimated Fair Value per Share
January 31, 2012	201,844	$ 8.11	$ 6.80
April 9, 2012	10,000	$ 8.11	$ 6.80
July 1, 2012	12,115	$ 9.33	$ 8.79
October 1, 2012	368,500	$ 10.30	$ 9.88

For each of our new stock option grants during 2012, the exercise price exceeded the fair market value of our common stock on the date of grant. In determining the fair value of our common stock on the grant dates, our board of directors placed significant emphasis on the contemporaneous valuations performed by an independent third party, which did not consider the impact of completion of our revenue recognition customer relationship change as the available data had not yet been fully analyzed as of the time of these original valuations. These original valuations were retroactively updated to reflect the Company's completion of its final analysis of customer relationship data available as of each valuation date and the effect of such data on the revised projected operating results taking into account the impact of our change in estimated customer relationship period.

Significant factors contributing to the determination of common stock fair value at the date of each grant were as follows:

January and April 2012 Stock Option Grants. On January 31, 2012, our board of directors granted Mason Holland, our Executive Chairman of the Board, the authority to make grants of stock rights under our 2012 Stock Plan. Pursuant to this designated authority, Mr. Holland granted options to purchase 201,844 shares of common stock with an exercise price per share of $8.11 on January 31, 2012. In estimating the fair value of our common stock to set the exercise price of such options, we reviewed and considered a contemporaneous independent valuation report for our common stock as of January 1, 2012. The retroactively updated independent valuation report reflected a fair value for our common stock of $6.80 as of January 1, 2012.

Three months later, on April 9, 2012, when our results were similar to prior months, Mr. Holland, pursuant to his designated authority from our board, granted options to purchase 10,000 shares of common stock with an exercise price per share of $8.11. Little had changed since the last stock option grant date and, although we finished the first quarter on plan, overall market conditions had not changed significantly. Therefore, we determined that the estimated fair value of common stock had not changed since the January 31, 2012 grants.

The primary valuation considerations in the retroactively updated independent valuation report were:

- a discount rate of 22%, based on our estimated cost of capital; and
- a lack of marketability discount of 27%.

The liquidity event scenario probabilities and valuation method used for determining the fair value of our common stock were as follows:

Scenario	Probability	Valuation Method
IPO	50%	Market
Strategic merger or sale	30%	Market
Remain private	15%	Market / Income
Dissolution / technology sale	5%	N/A

The 50% probability for an IPO scenario reflects our consideration of the improvement in the IPO market during the last half of 2011, particularly within the technology sector and for companies of similar size and scale to us. In addition, it reflects our belief that if a liquidity event were to occur within the next 18 months, the most likely outcome would be an IPO.

July 2012 Stock Option Grants. Mr. Holland, pursuant to his designated authority from our board, granted options to purchase 12,115 shares of common stock with an exercise price per share of $9.33 on July 1, 2012. In estimating the fair value of our common stock to set the exercise price of such options, we reviewed and considered a contemporaneous independent valuation report for our common stock as of July 1, 2012. The retroactively updated independent valuation report reflected a fair value for our common stock of $8.79 as of July 1, 2012.

The primary valuation considerations were:

- a discount rate of 22%, based on our estimated cost of capital; and
- a lack of marketability discount of 21%.

The liquidity event scenario probabilities and valuation method used for determining the fair value of our common stock were as follows:

Scenario	Probability	Valuation Method
IPO	50%	Market
Strategic merger or sale	30%	Market
Remain private	15%	Market / Income
Dissolution / technology sale	5%	N/A

The 50% probability for an IPO scenario reflects our consideration of the continued stability in the IPO market during the first half of 2012, particularly within the technology sector and for companies of similar size and scale to us. In addition, it reflects our belief that if a liquidity event were to occur within the next 15 months, the most likely outcome would be an IPO.

The increase in the estimated fair value of our common stock from $6.80 per share as of April 9, 2012 to $8.79 per share as of July 1, 2012 was primarily due to the following:

- greater proximity of an anticipated IPO date;
- increased market valuations of the guideline companies used in determining total equity value;
- application of a higher revenue multiple used under the strategic merger scenario based on the then-current market conditions for our guideline companies to our trailing twelve-month revenue;
- our strong operating performance during the first half of 2012, primarily attributable to revenue growth from an increase in the number of customers using our cloud-based benefits software; and
- continued improvement in overall macroeconomic conditions.

October 2012 Stock Option Grants. Mr. Holland, pursuant to his designated authority from our board, granted options to purchase 368,500 shares of common stock on October 1, 2012 with an exercise price per share of $10.30. In estimating the fair value of our common stock to set the exercise price of such options as of the grant date, the board reviewed and considered a contemporaneous independent valuation report for our common stock as of October 1, 2012. The retroactively updated independent valuation report reflected a fair value for our common stock of $9.88 as of October 1, 2012.

The primary valuation considerations were:

- a discount rate of 20%, based on our estimated cost of capital; and
- a lack of marketability discount of 19%.

The liquidity event scenario probabilities and valuation method used for determining the fair value of our common stock were as follows:

Scenario	Probability	Valuation Method
IPO	50%	Market
Strategic merger or sale	30%	Market
Remain private	15%	Market / Income
Dissolution / technology sale	5%	N/A

The 50% probability for an IPO scenario reflects our consideration of the continued stability in the IPO market during the first three quarters of 2012, particularly within the technology sector and for companies of similar size and scale to us. In addition, it reflects our belief that if a liquidity event were to occur within the next three quarters, the most likely outcome would be an IPO.

The increase in the estimated fair value of our common stock from $8.79 per share as of July 1, 2012 to $9.88 per share as of October 1, 2012 was primarily due to the following:

- greater proximity of anticipated IPO date;
- increased market valuations of the guideline companies used in determining total equity value;
- our strong operating performance during the first three quarters of 2012, primarily attributable to revenue growth from an increase in the number of customers using our cloud-based benefits software; and
- continued improvement in overall macroeconomic conditions.

Income Taxes

We account for income taxes under the asset and liability method. We recognize deferred tax assets and liabilities for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases, as well as for operating loss and tax credit carryforwards. We measure deferred tax assets and liabilities using enacted tax rates expected to apply to taxable income in the years in which we expect to recover or settle those temporary differences. We recognize the effect of a change in tax rates on deferred tax assets and liabilities in the results of operations in the period that includes the enactment date. We reduce the measurement of a deferred tax asset, if necessary, by a valuation allowance if it is more likely than not that we will not realize some or all of the deferred tax asset.

We account for uncertain tax positions by recognizing the financial statement effects of a tax position only when, based upon technical merits, it is more likely than not that the position will be sustained upon examination. We recognize potential accrued interest and penalties associated with unrecognized tax positions within our global operations in income tax expense.

Liquidity and Capital Resources

Sources of Liquidity

To date, we have funded our operations primarily through cash from operating activities, bank and subordinated debt borrowings, and private placements of redeemable convertible preferred stock. We have raised $135.5 million from the sale of redeemable convertible preferred stock to third parties.

	Year Ended December 31,		
	2010	2011	2012
	(in thousands)		
Cash provided by (used in):			
Operating activities	$ 5,502	$ 4,148	$10,622
Investing activities	(9,725)	(5,747)	(6,308)
Financing activities	(3,636)	(711)	(467)

Our cash and cash equivalents at December 31, 2012 were held for working capital purposes. We do not enter into investments for trading or speculative purposes. Our policy is to invest any cash in excess of our immediate requirements in investments designed to preserve the principal balance and provide liquidity. Accordingly, our cash and cash equivalents are invested primarily in demand deposit and money market accounts that are currently providing only a minimal return.

During 2010 and 2011, we entered into various borrowing arrangements to finance purchases of computer equipment, other fixed assets, and software and leasehold improvements. These borrowing arrangements included $2.8 million from two promissory notes which bear interest at fixed annual rates of 4.5% to 5.0% and are collateralized by certain specifically identified equipment.

During 2012, we also entered into a $6.0 million master credit facility to finance purchases of fixed assets, software and leasehold improvements. The two promissory notes outstanding under the master credit facility as of December 31, 2012 each bear interest at a fixed annual rate of 3.6% and are collateralized by all of our accounts receivable and certain specifically identified equipment. As of December 31, 2012, approximately $1.5 million of the master credit facility was unused.

The following table summarizes the outstanding principal balances of our notes payable as of December 31, 2012:

	Outstanding Principal Balance (in thousands)
Hardware note	$ 286
Hardware and software note	1,156
Credit facility notes	4,535
Other notes	4
Total	$ 5,981

Cash Flows

Operating Activities

For the year ended December 31, 2010, our net cash provided by operating activities of $5.5 million consisted of a net loss of $2.4 million and $0.2 million of cash used to fund changes in working capital, offset by $8.1 million in adjustments for non-cash items. Adjustments for non-cash items primarily consisted of depreciation and amortization expense of $6.3 million, non-cash stock compensation expense of $1.0 million and change in fair value of contingent consideration of $0.2

million. The decrease in cash resulting from changes in working capital primarily consisted of a decrease in deferred revenue of $1.5 million and a $1.1 million increase in accounts receivable, primarily driven by increased revenue during the year. These decreases were partially offset by increases in operating cash flow due to a $1.5 million increase in accounts payable and accrued expenses and a $0.5 million increase in accrued compensation and benefits resulting from an increase in the number of associates.

For the year ended December 31, 2011, our net cash provided by operating activities of $4.1 million consisted of a net loss of $14.9 million, offset by $8.6 million of cash provided by changes in working capital and $10.5 million in adjustments for non-cash items. Adjustments for non-cash items primarily consisted of depreciation and amortization expense of $7.0 million, non-cash stock compensation expense of $0.7 million, the change in fair value of contingent consideration of $0.8 million and impairment of goodwill and other intangible assets of $1.7 million. The increase in cash resulting from changes in working capital primarily consisted of an increase in deferred revenue of $9.8 million as a result of an increased number of customers prepaying for software and professional services solutions. These increases were partially offset by decreases in operating cash flow due to a $2.0 million increase in accounts receivable.

For the year ended December 31, 2012, our net cash and cash equivalents provided by operating activities of $10.6 million consisted of a net loss of $14.7 million, offset by $15.6 million of cash provided by changes in working capital and $9.8 million in adjustments for non-cash items. Adjustments for non-cash items primarily consisted of depreciation and amortization expense of $8.3 million, non-cash stock compensation expense of $0.7 million and the change in fair value of contingent consideration of $0.2 million. The increase in cash resulting from changes in working capital primarily consisted of an increase in deferred revenue of $14.7 million as a result of an increased number of customers prepaying for software and professional services solutions and an increase in accrued compensation and benefits of $3.1 million as a result of increased headcount. In addition, we experienced an increase in accounts payable and accrued expenses of $1.4 million, primarily driven by increased operating costs during the period. These increases were partially offset by a decrease in operating cash flow due to a $4.4 million increase in accounts receivable, primarily driven by increased revenue during the year as we continue to expand our operations.

Investing Activities

Our investing activities have consisted primarily of purchases of property and equipment and the acquisition of 100% of the net assets of Beninform, including its wholly owned subsidiary Benefit Informatics, Inc., in 2010.

For the years ended December 31, 2010, 2011 and 2012, net cash used in investing activities was $3.3 million, $5.7 million, and $6.3 million, respectively, for the purchase of property and equipment. For the year ended December 31, 2010 we also used $6.4 million in cash to acquire the net assets of Beninform.

Financing Activities

For the year ended December 31, 2010, net cash used in financing activities was $3.6 million, consisting of $4.0 million in repayments of debt and capital leases, partially offset by $0.8 million in proceeds from notes payable borrowing.

For the year ended December 31, 2011, net cash used in financing activities was $0.7 million, consisting of $2.1 million in repayments of debt and capital leases and $0.8 million in repurchases of our common stock, partially offset by $2.0 million in proceeds from notes payable borrowing and $0.1 million in cash received upon the exercise of stock options.

For the year ended December 31, 2012, net cash used in financing activities was $0.5 million, consisting of $2.4 million in repayments of debt and capital leases and $2.1 million in payments of contingent consideration related to an acquisition during the year ended December 31, 2010. These amounts were partially offset by $4.5 million in proceeds from notes payable borrowing and $0.1 million in cash received upon the exercise of stock options.

Operating and Capital Expenditure Requirements

We believe that our existing cash and cash equivalents balances, together with the available borrowing capacity under our revolving line of credit, will be sufficient to meet our anticipated cash requirements through at least the next 12 months. During this period, we expect our capital expenditure requirements to be approximately $4.5 million to $6.5 million. If our available cash and cash equivalents balances and net proceeds from this offering are insufficient to satisfy our liquidity requirements, we may seek to sell equity or convertible debt securities or enter into an additional credit facility. The sale of equity and convertible debt securities may result in dilution to our stockholders and those securities may have rights senior to those of our common shares. If we raise additional funds through the issuance of convertible debt securities, these securities could contain covenants that would restrict our operations. We may require additional capital beyond our currently anticipated amounts. Additional capital may not be available on reasonable terms, or at all.

Contractual Obligations and Commitments

Our principal commitments consist of obligations under our outstanding debt facilities, non-cancelable leases for our office space and computer equipment and purchase commitments for our co-location and other support services. The following table summarizes these contractual obligations at December 31, 2012. Future events could cause actual payments to differ from these estimates.

	Payment due by period				
Contractual Obligations	Total	Less than 1 year	1-3 years	3-5 years	More than 5 years
			(in thousands)		
Principal payments—long-term debt	$ 5,981	$ 2,420	$ 3,553	$ 8	$ —
Interest payments—long-term debt	317	191	126	—	—
Operating lease obligations	40,803	3,751	7,635	8,012	21,405
Capital lease obligations	1,785	1,222	517	46	—
Purchase commitments	3,001	1,211	1,140	650	—
Total	$51,887	$ 8,795	$12,971	$ 8,716	$ 21,405

Off-Balance Sheet Arrangements

As of December 31, 2012, we did not have any off-balance sheet arrangements, as defined in Item 303(a)(4)(ii) of SEC Regulation S-K, such as the use of unconsolidated subsidiaries, structured finance, special purpose entities or variable interest entities.

Recent Accounting Pronouncements

In June 2011, the FASB issued Accounting Standards Update, or ASU, 2011-05, “Comprehensive Income (Topic 220): Presentation of Comprehensive Income”. ASU 2011-05 allows an entity the option to present the total of comprehensive income, the components of net income, and the components of other comprehensive income either in a single continuous statement of comprehensive income or in two separate but consecutive statements. In both choices, an entity is

required to present each component of net income along with total net income, each component of other comprehensive income along with a total for other comprehensive income, and a total amount for comprehensive income. ASU 2011-05 eliminates the option to present the components of other comprehensive income as part of the statement of changes in member's equity. ASU 2011-05 should be applied retrospectively and is effective for annual or interim periods beginning after December 15, 2011 with early adoption permitted. We adopted ASU 2011-05 effective January 1, 2011 and retrospectively applied the provisions of ASU 2011-05 for all periods presented.

In May 2011, the FASB issued ASU 2011-04, "Fair Value Measurement (Topic 820): Amendments to Achieve Common Fair Value Measurement and Disclosure Requirements in U.S. GAAP and IFRS". ASU 2011-04 represents the converged guidance of the FASB and the International Accounting Standards Board on fair value measurement and has resulted in common requirements for measuring fair value and for disclosing information about fair value measurements, including a consistent meaning of the term "fair value". ASU 2011-04 is effective for fiscal years beginning after December 15, 2011. We adopted ASU 2011-04 effective January 1, 2012 and retrospectively applied the provisions of ASU 2011-04 for all periods presented.

In September 2011, the FASB issued ASU 2011-08, "Intangibles—Goodwill and Other (Topic 350): Testing Goodwill for Impairment," which is intended to simplify how entities test goodwill for impairment. ASU 2011-08 permits an entity to first assess qualitative factors to determine whether it is "more likely than not" that the fair value of a reporting unit is less than its carrying amount as a basis for determining whether it is necessary to perform the two-step goodwill impairment test. The more-likely-than-not threshold is defined as having a likelihood of more than 50%. ASU 2011-08 is effective for fiscal years beginning after December 15, 2011. We adopted ASU 2011-08 effective for the year ended December 31, 2012. The adoption of this pronouncement did not have any impact on our results of operations, financial position or cash flows.

In July 2012, the FASB issued ASU 2012-08, "Intangibles—Goodwill and Other (Topic 350); Testing Indefinite-Lived Intangible Assets for Impairment", which is intended to reduce the cost and complexity of performing an impairment test for indefinite-lived intangible assets by providing entities an option to perform a "qualitative" assessment to determine whether further implementation testing is necessary. The Statement is effective for annual and interim impairment tests performed for fiscal years beginning after September 15, 2012. It is not expected to have a material impact on the Company's consolidated financial statements.

Quantitative and Qualitative Disclosures about Market Risk

Market risk is the risk of loss to future earnings, values or future cash flows that may result from changes in the price of a financial instrument. The value of a financial instrument might change as a result of changes in interest rates, exchange rates, commodity prices, equity prices and other market changes. We do not use derivative financial instruments for speculative, hedging or trading purposes, although in the future we might enter into exchange rate hedging arrangements to manage the risks described below.

Interest Rate Risk

We are not subject to interest rate risk in connection with any of our outstanding borrowings, because they all bear interest at fixed rates. Any debt we incur in the future might bear interest at variable rates.

Inflation Risk

We do not believe that inflation has had a material effect on our business, financial condition, or results of operations. We continue to monitor the impact of inflation in order to minimize its effects through pricing strategies, productivity improvements and cost reductions. If our costs were to become subject to significant inflationary pressures, we may not be able to fully offset such higher costs through price increases. Our inability or failure to do so could harm our business, financial condition, and results of operations.

BUSINESS

Overview

Benefitfocus is a leading provider of cloud-based benefits software solutions for consumers, employers, insurance carriers, and brokers. The Benefitfocus platform provides an integrated suite of solutions that enables our customers to more efficiently shop, enroll, manage, and exchange benefits information. Our web-based platform has a user-friendly interface designed to enable consumers to access all of their benefits in one place. Our comprehensive solutions support core benefits plans, including healthcare, dental, life, and disability insurance, and voluntary benefits plans, such as critical illness, supplemental income, and wellness programs. As the number of employer benefits plans has increased, with each plan subject to many different business rules and requirements, demand for the Benefitfocus platform has grown.

The Benefitfocus platform enables our customers to simplify the management of complex benefits processes, from sales through enrollment and implementation to ongoing administration. It provides employees with an engaging, highly intuitive, and personalized user interface for selecting and managing all of their benefits via the web or mobile devices. Employers use our solutions to streamline benefits processes, keep up with complex regulatory requirements, control costs, and offer a greater variety of plans to attract, retain, and motivate employees. Insurance carriers use our solutions to more effectively market offerings, manage billing, and improve the enrollment process. We also provide a network of over 900 benefit provider data exchange connections, which facilitates the otherwise highly fragmented interaction among employees, employers, and carriers.

We serve two separate but related market segments. Our fastest growing market segment, the employer market, consists of employers offering benefits to their employees. Within this segment, we mainly target large employers with more than 1,000 employees, of which we believe there are approximately 18,000 in the United States. In our other market segment, we sell our solutions to insurance carriers, enabling us to expand our overall footprint in the benefits marketplace by aggregating many key constituents, including consumers, employers, and brokers. We believe our presence in both the employer and insurance carrier markets gives us a strong position at the center of the benefits ecosystem. As of April 30, 2013, we served over 20 million consumers on the Benefitfocus platform. In 2012, we served 286 large employer customers, an increase from 118 in 2009, and 34 carrier customers, an increase from 28 in 2009.

We sell the Benefitfocus platform on a subscription basis, typically through annual contracts with our employer customers and multi-year contracts with our insurance carrier customers, with subscription fees paid monthly. Our SaaS model provides us visibility into our future operating results through increased revenue predictability, which enhances our ability to manage our business. Historically, our annual software services revenue retention rate has been in excess of 95%. Our total revenue increased from $68.8 million in 2011 to $81.7 million in 2012, representing an 18.8% year-over-year increase. Our employer revenue increased from $15.9 million in 2011 to $23.8 million in 2012, representing a 49.0% year-over-year increase. Our carrier revenue increased from $52.8 million in 2011 to $58.0 million in 2012, representing a 9.7% year-over-year increase. We had net losses of $14.9 million in 2011 and $14.7 million in 2012. Our company was founded in 2000, and we currently employ approximately 700 associates.

Industry Background

The administration and distribution of benefits to employees is a mainstay of the U.S. economy. Providing these benefits is costly and complex and requires the exchange of information, application of rules, and transfer of funds among a wide variety of constituents, including consumers, employers, insurance carriers, brokers, benefits outsourcers, payroll processors, and financial institutions.

According to IBISWorld calculations, in 2012, the market for HR benefits administration in the United States was over $59 billion. In addition, Gartner estimates that in 2012, the U.S. insurance industry spent over $55 billion on software and related services.[1]

The variety and complexity of core benefits plans, including healthcare, dental, life, and disability insurance continues to grow. In addition, employers are increasingly offering a range of voluntary benefits plans, such as critical illness, supplemental income, and wellness programs. The current system for providing benefits is changing rapidly and suffers from significant inefficiency as a result of complexity, regulation, and the involvement of multiple parties, leaving room for substantial improvement along the entire benefits value chain.

Employer Market

As of 2010, according to the United States Census Bureau, there were approximately 5.7 million employers in the United States. Currently, we believe there are over 18,000 entities that employ more than 1,000 individuals. A significant and growing portion of employers' costs is non-salary benefits, such as the health insurance that they provide to their employees. With healthcare and other premiums increasing, senior executives are prioritizing benefits administration in their organizations, searching for ways to contain costs without sacrificing benefits. In addition, the expense burden continues to shift to employees. Employees' contributions to premiums for health insurance have grown from approximately $318 in 1999 to approximately $951 per employee in 2012. Employers recognize the importance of offering a greater variety of core and voluntary benefits as a means to attract, motivate, and retain employees. They must maintain relationships with multiple insurance carriers and many other benefits providers, placing a substantial administrative burden on their organizations.

Employers' distribution, management, and administration of employee benefits has historically consisted of error-prone, paper-based processes, and a patchwork of customized software tools, which are costly to maintain, often lack necessary functionality, and fail to address the increasing complexity of the benefits marketplace. As benefits offerings become more complex and employees bear more of the cost of those benefits, HR software solutions that streamline information, simplify choices, and engage employees are increasingly in demand. Employees desire tailored, dynamic, and interactive communication of critical benefits information as they become accustomed to receiving personalized content through various consumer applications on a range of devices.

Legacy HR systems were generally designed as extensions of enterprise resource planning, or ERP, systems, built for back-office responsibilities like finance and accounting. As a result, these systems lack functionality and ease-of-use for employees. Many legacy HR systems were not designed to integrate with the broader benefits ecosystem, including brokers, carriers, and wellness providers. This results in expensive, error-prone, and frustrating experiences for employers and employees. Benefits outsourcers have attempted to compensate for the shortcomings of legacy HR systems, but they have generally lacked adequate technology solutions necessary to keep up with the rapidly evolving benefits landscape. As a result, employees are often not provided with the appropriate functionality and information required to select and manage their benefits effectively.

Modern technology, changing communication patterns, and a constantly evolving benefits ecosystem have changed the employee-employer relationship. HR executives continue to search for effective strategies to increase efficiency and contain costs, while increasing employee engagement and satisfaction. Employers are increasingly interested in SaaS solutions that can help capture and analyze benefits data and ultimately lead to healthier, happier, and more productive employees. In

[1] Gartner, *Forecast: Enterprise IT Spending by Vertical Industry Market, Worldwide, 1Q13 Update*, United States Insurance Market Spending on Software, IT Services, and Internal Services.

order to manage the distribution and administration of benefits effectively, employers need an integrated platform, capable of handling all benefits in one place and providing a highly personalized experience for employees.

Insurance Carrier Market

The employee benefits market consists of a myriad of insurance carriers and products. According to the U.S. Bureau of Labor Statistics, the single largest benefit provided to employees in the United States is healthcare insurance, often encompassing more than 90% of all insurance benefits spending by employers. According to SNL Financial, the U.S. private healthcare insurance market consists of approximately 313 carriers covering approximately 176 million individual customers, or members. Carriers provide benefits primarily through over 5.7 million U.S. employers.

Large, national insurance carriers also offer numerous individual health plans of different types, including health maintenance organizations, preferred provider organizations, point-of-service plans, and health savings accounts across the 50 states. Each carrier offers a complex variety of health insurance plans, with each plan requiring multiple decisions to address the specific needs of employers and their individual employees. Despite widespread carrier consolidation, numerous disparate systems remain in place, with many large carriers operating on multiple IT systems. Carriers often rely on manual processes and siloed software applications to bridge gaps in legacy administration systems. Even as carriers attempt to modernize and keep up with evolving industry practices and a changing regulatory landscape, they have difficulty connecting with the broader healthcare system.

The effective delivery and management of healthcare benefits depends on the timely, continuous exchange of data among carriers, their employer customers, and individual members. Legacy benefits management systems often lack important functionality such as web and mobile self-service capabilities and real-time data exchange. Critical carrier processes, including member enrollment, billing, communications, and retail marketing have often been under-optimized or neglected by legacy systems, and carriers have devoted significant internal resources to cover technology gaps. In addition, healthcare reform mandates and the rise of exchanges have increased focus on carriers' retail distribution capabilities, which require additional investment.

Governmental oversight, punctuated with the passage of PPACA, has led to an increasingly intricate regulatory framework under which health benefits are delivered, accessed, and maintained. PPACA significantly expands insurance coverage through the individual mandate, with the goal of providing healthcare insurance to all U.S. citizens. To encourage enrollment, PPACA introduces a new distribution model in the form of healthcare exchanges—online marketplaces that allow insurance carriers to compete directly for new members. PPACA authorized the creation of publicly funded state exchanges in which individuals and small businesses can purchase health insurance directly from carriers. In addition to these federally mandated public exchanges, a number of private entities, including benefit outsourcers, carriers, and brokers are establishing their own private exchanges. We expect private exchanges will be less rigid, promoting both health and non-health benefits, with substantially fewer rules around the types of benefits offered. As insurance carriers continue to bolster their retail distribution capabilities, we believe they will require new technology solutions to attract additional members through private exchanges.

The Benefitfocus Solutions

We provide a multi-tenant cloud-based benefit platform to the employer and carrier markets. The Benefitfocus platform offers an integrated suite of software solutions that enables our customers to more efficiently shop, enroll, manage, and exchange benefits information.

We believe our solutions help employers in the following important ways:

Simplify Benefits Enrollment. Our solutions reduce the complexity of benefits enrollment by integrating all plan information in one place and presenting it to employees in an organized and easy- to-understand manner. Employees shop and enroll using a highly intuitive and engaging consumer-oriented interface. Side-by-side comparison tools and real-time quotes enable employees to understand and compare plans and determine how much each option will cost them every month. Notifications are sent in real-time when revised plan designs or new legislation affect coverage. We create videos and use avatars to give employees straightforward explanations of plan details, limitations, changes, and cost-sharing levels.

Transition to Defined Contribution Benefits Funding Model. Our solutions help enable employers' ongoing shift to defined contribution plans. Both employers' interest in gaining better visibility into their benefits cost structure and employees' desire to be able to choose from a variety of benefits have driven demand for defined contribution benefit plans. Our exchange solutions provide an online shopping environment that allows employees to select personalized benefit offerings to suit their individual needs.

Reduce Cost and Increase ROI. Our solutions automate the benefits management process and reduce the cost associated with clerical errors and covering ineligible employees and dependents. They significantly reduce errors resulting from manual file creation, data entry, and sending enrollment materials via mail or fax. The Benefitfocus platform ensures plan information is more accurately captured and submitted in real-time. Automated audits and dependent verification functionality accurately ensure employers only pay benefits for eligible employees. Our solutions also include advanced analytics that enable employers and employees to quickly gather, report, and forecast benefit costs.

Attract, Retain, and Motivate Employees. Our solutions help employers attract, retain, and motivate top talent by delivering benefits information through a highly intuitive and engaging user interface. The Benefitfocus platform supports more than 100 types of plans and numerous third-party apps. Our solutions enable employees to have better visibility into the value of the plans available through their employers. Employees have a better understanding of their benefits and are empowered to make informed decisions. We believe that when employees understand the value of their benefits, they are more likely to be satisfied with and engaged in their jobs.

Streamline HR Processes. Our solutions eliminate the time-consuming and labor-intensive, often paper-based, processes associated with managing employee benefits plans, making HR professionals more efficient. Our solutions reduce the need to store paper forms and new hire enrollment packets, and provide one place to easily manage all benefits and related information. Employers and HR professionals can efficiently enroll users or update information, and communicate or make changes to plans in real-time. An intuitive user interface and a library of contextual online content explaining complex concepts and terms promote manager and employee self-service.

Integrate Seamlessly with other Related Systems. Our solutions can be easily and securely integrated with a variety of related systems, including carrier membership and billing systems, payroll and HR systems, banks, and other third-party administrators. We provide a network of over 900 benefit provider data exchange connections. Our solutions ensure accurate paycheck deductions and real-time enrollment in a variety of benefits plans. The Benefitfocus platform supports multiple data integration methods, including event-driven transactions, real-time web services, and XML or fixed-width file-based data exchange. In addition to convenient and flexible data exchange, the Benefitfocus platform also ensures that data is secure and accurate. Our open architecture further extends our functionality by allowing third parties to develop and offer apps and services on our platform.

We believe our solutions help insurance carriers in the following important ways:

Attract and Maintain Membership. Our solutions allow carriers to maximize sales capacity and efficiency by communicating directly with their employer customers and individual members. Carriers can track leads, generate quotes, create proposals with multiple products, and quickly follow-up with potential customers. The Benefitfocus platform also allows carriers to automate and integrate direct marketing, sales, underwriting, and enrollment to provide a high quality, efficient, and engaging online consumer shopping experience. Our solutions provide a library of customizable video content to deliver customized messages, reflect carrier branding, introduce new products, upsell ancillary consumer benefits, and enable consumers to navigate through complex healthcare processes to make informed decisions.

Reduce Administrative Costs. Our solutions improve the efficiency and effectiveness of the relationship between carriers and members. The Benefitfocus platform allows carriers to automate and simplify various aspects of the benefits administration process, such as enrollment, plan changes, eligibility updates, and billing, from one centralized location. Carriers can more easily apply complex business rules that enforce data accuracy and eliminate unnecessary costs such as coverage of ineligible employees. Members are able to view consolidated online invoices and pay electronically, eliminating the cost and inefficiencies inherent in paper-based billing and reducing time associated with bill payment and collection.

Bolster Retail Distribution Capabilities Through Private Exchanges. Our solutions help carriers respond to an evolving marketplace in which retail distribution capabilities are increasingly important to attracting and retaining new members. Our private exchange platform offers carriers a lower cost direct sales channel to employer groups and individuals. We offer the ability to sell both healthcare and non-healthcare benefit products in an online shopping environment that serves as an alternative to government-sponsored public exchanges.

Facilitate Real-Time Data Exchange. Our solutions simplify interactions and data exchange, and foster collaboration among carriers and their partners, brokers, employer customers, and individual members. This allows carriers to rapidly tailor and offer new benefits packages.

Our Growth Strategy

We intend to strengthen our position as a leading provider of cloud-based benefits software solutions. Key elements of our growth strategy include the following:

Expand our Customer Base. We believe that our current customer base represents a small fraction of our targeted employers and carriers that could benefit from our solutions. While we serve approximately 286 large employer customers, we believe that there are over 18,000 large employers in the United States. We also serve approximately 34 carrier customers, but, according to SNL Financial, the U.S. private healthcare insurance market alone consists of approximately 313 carriers. In order to reach new customers in our existing employer and carrier markets, we are aggressively investing in our sales and marketing resources.

Deepen our Relationships with our Existing Customer Base. We are deepening our employer relationships by continuing to provide a unified platform to manage increasingly complex benefits processes and simplify the distribution and administration of employee benefits. We are expanding our carrier relationships through both the upsell of additional software products and increased adoption across our carriers' member populations. We also believe our customers will use our benefits software solutions more if they are satisfied with our services. As we extend and strengthen the functionality of products, we plan to continue to invest in initiatives to increase the depth of adoption of our solutions and maintain our high levels of customer satisfaction.

Extend our Suite of Applications and Continue our Technology Leadership. We are extending the number, range, and functionality of our benefits applications. For example, we recently launched the new Benefitfocus Plan Shopping app, which allows employees to use actual claims data when comparing available benefits plans, helping them better understand the relationship among healthcare usage, available coverages options, and out-of-pocket costs. We have also extended the functionality of our products with various mobile applications. We intend to continue our collaboration with customers and partners, so we can respond quickly to evolving market needs with innovative applications and support our leadership position.

Further Develop our Partner Ecosystem. We have established strong relationships with organizations such as SuccessFactors, Allstate Insurance Company, the Mayo Clinic, and others in a variety of industries to deliver best-in-class applications to our customers. Each of these partners brings additional functionality to the Benefitfocus platform, making it more attractive to customers. This in turn creates a broader audience and makes the Benefitfocus platform more attractive to potential partners. We believe that providing third-party applications to our network of employers, carriers, and consumers will help accelerate our growth, create revenue opportunities and deepen our relationships with existing customers. In support of these and other collaborations, we plan to continue to invest in our integration infrastructure to allow third parties and customers to build custom applications on the Benefitfocus platform and create deep integrations between their systems and ours.

Leverage our Corporate Culture. We believe our culture benefits our associates and customers and supports our growth. In 2012, we published “Benefitfocus—Winning With Culture,” which includes associates’ descriptions about our culture of collaboration, commitment, opportunity, and service, and describes the environment we created to encourage technology innovation. We plan to continue to invest in our culture to help attract and retain top design and engineering professionals that are passionate about Benefitfocus and motivated to create superior software technology. With loyal and engaged associates, we believe we can provide high levels of customer satisfaction, leading to greater sales of our benefits software solutions.

Target New Markets. We believe substantial demand for our solutions exists in markets and geographies beyond our current focus. We intend to leverage opportunities we believe will arise from the complexities of changing government regulation and increased enrollment impacting both Medicare and Medicaid. We also plan to grow our sales capability internationally by expanding our direct sales force and collaborating with strategic partners in new, international locations.

The Benefitfocus Portfolio of Products

Our portfolio of products, as summarized below, provides a seamless, integrated experience for the entire life cycle of benefits enrollment and management for insurance carriers and employers. We also provide extensive applications to help carriers and employers manage their programs more effectively.

Products and Services for Insurance Carriers	Products and Services for Employers
eEnrollment	HR InTouch
eBilling	HR InTouch Marketplace
eExchange	Benefit Informatics
eSales	Implementation Services
eDirect	HR Support Center
Marketplace	Media and Animation Services
Benefit Informatics	App Development Platform
Implementation Services	Software-Enabled Services
Media and Animation Services	
App Development Platform	
Software-Enabled Services	

Products for Insurance Carriers

- *eEnrollment* is our flagship product for carriers, providing them with online enrollment for all types of benefits. We designed eEnrollment to enhance our users' experience by presenting information in a user-friendly format and integrating educational videos, and plan comparison and decision support tools to help navigate the enrollment process. In addition to helping customers find suitable plans, eEnrollment supports complex business rules, such as eligibility and rating criteria. eEnrollment facilitates the following activities:
  - *Initial Enrollment.* Employees and brokers can complete applications and health statements prior to making elections. Once the selection occurs, eEnrollment automatically calculates group numbers, finalizes benefit elections, and sends the data to the insurance carriers' membership systems.
  - *Open Enrollment.* eEnrollment simplifies open enrollment by providing tools to map employees from one plan to another, such as workflow, to-do lists, e-mail reminders, and a wide range of reports.
  - *New Hire Enrollment.* New hires can enroll in benefits anytime during their initial enrollment period. eEnrollment calculates wait periods and effective dates automatically to ensure compliance with the employers' business rules.
  - *Life Events*. Employees can make changes to their elections for specific reasons, including a birth, marriage, and military leave. eEnrollment calculates effective dates and helps employees understand what types of coverage changes are permitted with each type of life event.
- *eBilling* is an electronic invoice presentment and payment solution, or EIPP. It consolidates invoices from multiple insurance products so employers and individuals receive one invoice that can be viewed and paid electronically. eBilling automates the synchronization of billing and membership data to improve the accuracy of billing processes and provides options to simplify bill payment, such as scheduled one-time and/or recurring payments.
- *eExchange* is a solution that bridges the communication gap between carrier and employer systems, allowing a seamless exchange of data between the two. Our customers use eExchange to integrate data from multiple systems, convert data from one format to another, and manage the flow of employee data between carriers and employers.
- *eSales* gives carriers and brokers tools to organize and proactively manage accounts, track leads, generate quotes, and create proposals for multiple products. eSales allows carriers to define their own market segments and configure them with unique workflows and business rules. It also enables greater data accuracy by automatically incorporating updated products, options and pricing for the most current rates and quotes. Carriers purchase eSales to increase productivity in their sales force.
- *eDirect* provides a high quality online retail experience for carriers to sell policies directly to individuals. eDirect integrates direct marketing, pricing, sales, and enrollment into one product. eDirect provides an interactive, user-friendly experience for customers during the shopping and enrollment process and offers side-by-side comparisons, videos, and other educational materials to help customers understand the options available to them.
- *Marketplace* is an online shopping environment, sometimes referred to as an exchange, that allows customers to select from a variety of benefits plan choices to suit their individual needs. Marketplace supports the shift toward defined contribution benefits plans, which are increasing in popularity. Marketplace provides consumer-centric experiences focused on personalization, and integrates social tools to help drive informed choices while selecting benefits. It also includes features to track plans and compare pricing and features across multiple benefit plans.

- *Benefit Informatics* is our data analytics solution for use by carriers and their self-insured employer customers. Benefit Informatics is a privately-labeled analytics solution that helps carriers and their self-insured employers identify cost drivers, recognize trends, and predict future risks and costs. Additional analytical capabilities help create “what-if” scenarios to model different variables, such as co-pay, deductibles, benefits, inflation, and member populations.

Products for Employers

- *HR InTouch* supports online enrollment, employee communication, benefit education and administration for all types of benefits. The product is designed to increase participation, simplify enrollment, and improve communication between HR departments and their employees. HR InTouch provides a personalized enrollment to-do list that guides employees through each benefit decision with educational videos, avatars, cost trackers, and reminders from the HR team throughout the enrollment process. HR InTouch enables employees to review each step in the enrollment process and electronically sign-off when it is complete.
- *HR InTouch Marketplace* creates a private exchange environment for large employers who offer defined contribution plans. In one cohesive, engaging workflow, HR InTouch Marketplace presents employees with all of the plans their employers offer. Employees who need extra assistance can access avatars, animated videos, and live chat sessions as they explore their benefit options. As employees shop for the plans that best fit their individual needs, a virtual shopping cart keeps a running tally of the employers’ defined contribution in addition to the employees’ out-of-pocket costs. If employees choose to purchase more coverage on their own, they can easily view and pay their bills in the HR InTouch Marketplace.
- *Benefit Informatics* is our data analytics solution that helps employers make more informed, data-driven decisions about their benefits offerings. This product aggregates benefit cost and claims data from relevant sources and allows customers to analyze, forecast, and monitor costs. Benefit Informatics enables employers and their advisors to identify cost drivers, recognize trends, and predict future risks and costs. Additional analytical capabilities create “what-if” scenarios to model different variables, such as co-pays, deductibles, benefits, inflation, and member populations.

Professional Services and Customer Support

- *Implementation Services.* We provide implementation services to our customers in order to help ensure seamless deployment and effective utilization of our solutions. Our carrier and employer implementation teams follow a five-step approach for each implementation:
  - *Discovery,* including project planning and coordination to establish key milestones, documenting business and technical requirements, establishing a deployment strategy, and planning operational and market adoption activities.
  - *Configuration and deployment,* including configuring products to meet requirements identified during discovery, and defining needs for data exchange, payroll integration, and file transfer protocol.
  - *Integration,* including connecting the Benefitfocus platform functionality to a customer’s currently existing systems, such as carrier membership and billing, payroll and HR systems, employee communications, intranets, and others.
  - *Testing,* including testing of various scenarios and uses cases, inbound and outbound payroll integration, and regression testing.
  - *Training and technical support,* including sessions to learn how to implement and access our products.

- *HR Support Center.* We provide employers with expanded support services where our benefits specialists help customers' employees understand benefit offerings, navigate the enrollment process, and find answers to frequently asked HR questions. Our HR Support Center provides employees with personalized, guided support. Additional services, such as fulfillment, dependent verification, and HR administration, are available to meet unique organizational needs.
- *Media and Animation Services.* We create video and animated content that can be licensed within our applications or independently for distribution via client portals or websites. Benefitfocus provides a comprehensive video library and also can produce custom videos to meet specific communication requirements of its carrier and employer customers. Our staff of executive producers, project managers, writers, graphic designers, editors, and on-camera talent guide customers through the process from concept development to delivery. Benefitfocus hosts videos, eliminating the need for additional investments or internal IT resources by our customers. In addition, we incorporate our customers' unique branding to provide a seamless extension of corporate websites and messaging.

Partner Offerings

- *App Development Platform.* We allow our partners and customers to develop custom apps that integrate directly with HR InTouch. HR professionals can easily work with external data and services through the same platform they are using to manage their benefits. Apps are organized into the following categories: voluntary benefits, health and wellness, benefits administration, finance, and communication. Representative apps include the Mayo Clinic App, which provides access to customizable health assessments, disease management tools, and a 24/7 nurse line, and the LifeLock App, which allows employees to purchase identity theft protection when they are enrolling in other benefit programs.
- *Software-Enabled Services.* In addition to our app development platform, the open and flexible nature of our software architecture allows us to build deeper integrations with partner organizations and offer custom services in response to customer demand. Some examples include:
  - *SuccessFactors* provides employee performance management solutions. We partnered with them to create a full HR and benefits management suite that combines employee talent, profile, and core HR information to help drive employee onboarding, promotion, and development. The SuccessFactors suite of products provides an enterprise-class system of record, as well as powerful analytics and intuitive tools.
  - *WageWorks* supports benefits such as health savings accounts, flexible spending accounts, and health reimbursement programs, as well as commuter benefits, direct billing, and COBRA, through a single sign-on from our platform.
  - *Spectra Integration* provides print fulfillment services which enable customers to send employee information via mail to educate their workforce about benefit offerings, total compensation statements, and communication campaigns.

Customers

Our customers include employers of all sizes across a variety of industries and some of the nation's largest insurance carriers and aggregators. Following is a list of some of our significant employer and carrier customers.

Employer Customers

Bon Secours Health System, Inc.
Brooks Brothers Group, Inc.
Columbia Sportswear Company
Fender Musical Instruments Corporation
Morganite Industries Inc.
The Wet Seal, Inc.
UFCW Employers Benefit Plan of Northern California Group Administration, LLC
Vangent, Inc.

Carrier Customers

Aetna Life Insurance Company
Allstate Insurance Company
Blue Cross and Blue Shield of Kansas City
BlueCross and BlueShield of South Carolina
Tufts Associated Health Plans, Inc.
WellPoint, Inc.

During the year ended December 31, 2012, Aetna Life Insurance Company represented 10.5% of our total revenue and no other customer accounted for more than 10.0% of our total revenue.

Customer Case Studies

Following are examples of how some of our employer and carrier customers benefit from our software solutions. Each of our customers is unique, so we cannot guarantee similar results for others.

UFCW Employers Benefit Plan of Northern California Group Administration, LLC

Situation: UFCW Employers Benefit Plan of Northern California Group Administration, LLC, also known as the United Food and Commercial Workers Union, or UFCW, provides for and organizes 68,000 labor workers across various industries. With many different member populations, UFCW must administer multiple benefits plans each subject to its own strict eligibility criteria. To enroll and maintain member information, UFCW was using a paper-based, manual entry system, which increased the risk of workers receiving incorrect coverage for their eligibility profiles. This system was also time consuming and required a six-month enrollment period. In an effort to provide benefits for the many workers and retirees in various roles, UFCW needed an integrated solution for their health and welfare and pension funds enrollment and selection process.

Solution: In 2009, UFCW approached Benefitfocus to modernize its benefits administration and management with a unified web-based system to increase flexibility and efficiency. Using HR InTouch, UFCW members enter their own information and the Benefitfocus platform uses specific eligibility rules to automatically determine appropriate coverage options for each member. One of UFCW's key requirements was that its system be easy to use for its large retiree population. Upon implementing HR InTouch, member adoption of online enrollment exceeded UFCW's expectations and continues to climb, reducing the need for manual administration. We were also able to offer additional capabilities important to UFCW, such as the ability to electronically disseminate required disclosures quickly across its large user population. UFCW has enjoyed the following additional benefits from Benefitfocus:

- reduced a six-month enrollment process to 15 days;
- realized over $2 million in annual savings by converting from a paper-based process, reducing the number of temporary staff required to process enrollment and the number of follow-up mailings required, and eliminating the need to retain several third-party vendors; and
- recognized ongoing multi-million dollar efficiencies through more timely and accurate claims management and coordination of benefits.

In 2013, UFCW expanded its relationship with us and its use of our configurable tool to electronically manage specific, additional eligibility requirements of plans in accordance with more recent collective bargaining agreements.

Blue Cross and Blue Shield of Kansas City

Situation: Blue Cross and Blue Shield of Kansas City, or Blue KC, the largest not-for-profit health insurer in Missouri and the only not-for-profit commercial health insurer in Kansas City, has been part of the Kansas City community since 1938. Blue KC provides health coverage services to more than one million residents in the greater Kansas City area, including Johnson and Wyandotte counties in Kansas and 30 counties in Northwest Missouri. Blue KC's mission is to be the area's leading health insurer to provide affordable access to health care and to improve the health and wellness of its members.

Solution: In 2003, Blue KC initially subscribed to eEnrollment, and privately labeled it as Blues*Enroll*. In 2006, Blue KC adopted eBilling to reduce costs by replacing paper-based billing with electronic invoicing for their clients. In 2012, Blue KC partnered with Benefitfocus to build a private exchange marketplace to support defined contributions, offering employers and their employees a consumer-centric online-shopping experience. In 2013, Blue KC was ranked by J.D. Power and Associates as "Highest Member Satisfaction among Commercial Health Plans in the Heartland Region, Two Years in a Row". Since initial adoption of Benefitfocus technology, Blue KC and its clients have benefited in the following ways:

- automated 95% of their group enrollment activity;
- cut the application process (quote-to-card) from approximately 13 days to less than 24 hours;
- integrated direct marketing, sales, underwriting, and enrollment, allowing them to track prospects who submit an application in response to specific campaigns and which ones become Blue KC members; and
- provided members with advanced plan comparison tools that provide plan selection options, multimedia sales assistance to help simplify complex concepts, and a real-time view of their application status.

In 2013, Blue KC expanded its relationship with us by adding our eExchange solution to its suite of products.

Sales and Marketing

We sell substantially all of our software solutions through our direct sales organization. Our direct sales team comprises employer-focused and carrier-focused field sales professionals who are organized primarily by geography and account size.

We generate customer leads, accelerate sales opportunities and build brand awareness through our marketing programs and strategic relationships. Our marketing programs target HR, benefits, and finance executives, technology professionals, and senior business leaders. Our principal marketing programs include:

- use of our website to provide application and company information, as well as learning opportunities for potential customers;
- territory development representatives who respond to incoming leads and convert them into new sales opportunities;

- participation in, and sponsorship of, user conferences, executive events, trade shows and industry events, including our annual user and partner conference, One Place;
- integrated marketing campaigns, including direct email, online web advertising, blogs and webinars; and
- public relations, analyst relations and social media initiatives.

Technology Infrastructure and Operations

As an enterprise cloud software vendor, we have always deployed our solutions using a SaaS model. Our customers access our software via the web or mobile devices, rather than by installing software on their premises. Through our multi-tenant platform, our customers access a single instance of our software with multiple possible configurations enabled by our metadata-driven framework. The multi-tenant approach provides significant operating leverage and improved efficiency as it helps us to reduce our fixed cost base and minimize unused capacity on our hardware. In addition, our software architecture gives us an advantage over vendors of legacy systems, who may be using a less flexible architecture that would require significant time and expense to update.

We host our applications and serve all of our customers from two redundant data centers in separate locations. We rely on third-party vendors to operate these data centers, which are designed to host mission-critical computer systems and have industry-standard measures in place to minimize service interruptions. Our technical operations staff manages the technology stacks supporting the Benefitfocus platform and uses automated monitoring tools throughout our system to detect unusual events or malfunctions that could interfere with our customers' or partners' use of the Benefitfocus platform. We monitor application health by verifying that all applications, interfaces and supporting middleware are operational. If our monitoring tools detect a problem, they notify our technical operations staff, who responds immediately to diagnose and resolve the problem. We take the security of our data and our systems very seriously, and we focus on minimizing the risk of vulnerabilities in our system at every level of software design and system and network administration.

Compliance and Certifications

We voluntarily obtain third-party security examinations relating to security and data privacy. Statement on Standards for Attestation Engagements, or SSAE, No. 16 (Reporting on Controls at a Service Organization) replaced SAS-70 Type II examinations as the authoritative standard for reporting on service organizations. An independent third-party auditor conducts our SSAE examination every 12 months and addresses, among other areas, our physical and environmental safeguards for production data centers, data availability and integrity procedures, change management procedures, and logical security procedures.

We also obtain independent third-party audit opinions related to security and data privacy annually. Service Organization Controls, or SOC, reports are covered under SSAE No. 16. Benefitfocus obtains an SOC 1 Type II, SOC 2 Type II, and SOC 3 report. The SOC 1 report includes a third-party assessment and opinion on internal controls over financial reporting. The SOC 2 and SOC 3 reports are based on a set of standards related to security with a focus on internal controls related to unauthorized physical and logical access to systems and data.

On an annual basis, we complete an internal audit of compliance against the Payment Card Industry Data Security Standards, or PCI-DSS, applicable to Level 2 service providers. These standards focus on application and network security controls for companies that transmit and store credit card data on behalf of clients. Benefitfocus meets PCI compliance requirements as a Level 2

service provider and submits its Service Assessment Questionnaire Part D documenting this assessment to the four major credit card brands annually.

In addition to PCI-DDS, Benefitfocus meets all applicable security requirements required by the National Automated Clearinghouse Association, or NACHA, for third-party service providers, as well as all requirements for Covered Entities as required by HIPAA. We validate both NACHA and HIPAA compliance annually through internal audits.

As a response to concerns about the adequacy of data privacy laws in the United States, the U.S. Department of Commerce, in consultation with the European Commission, developed a “Safe Harbor” framework. The European Commission has agreed to consider that a self-certifying company provides “adequate” data privacy protection, as required by the European Data Protection Directive. We are in the process of self-certifying to the Safe Harbor framework on an annual basis, making it easier for our customers based in Europe or with offices or employees in Europe to store their data with us.

Competition

While we do not believe any single competitor offers similarly expansive software solutions, we face competition from various sources, many of which have greater resources than us. Competition in our employer segment includes:

- ERP software companies, including SAP, Oracle (PeopleSoft) and Infor (Lawson);
- HR outsourcing companies, including Aon/Hewitt and Towers Watson;
- payroll service providers, including ADP and Paychex; and
- various niche software vendors.

Competitors in our carrier segment include:

- insurance carriers that have invested in internally developed benefit management solutions;
- member services companies, including those providing web-based subscriber enrollment and claims adjudication services, such as Trizetto and DST Health Solutions; and
- various niche software vendors.

We believe that competition for benefits software and services is based primarily on the following factors:

- capability for customization through configuration, integration, security, scalability, and reliability of applications;
- competitive and understandable pricing;
- breadth and depth of application functionality;
- size of customer base and level of user adoption;
- extensive data exchange network;
- cloud-based delivery model;
- dynamic communication capabilities with contextual media, animation, and acknowledgement tools;
- ability to integrate with legacy enterprise infrastructures and third-party applications;

- Ÿ domain expertise in benefits and healthcare consumerism;
- Ÿ extensive base of rules and event-driven benefit eligibility and enrollment;
- Ÿ accessible on any browser or mobile device;
- Ÿ modern and adaptive technology platform;
- Ÿ access to third-party apps;
- Ÿ clearly defined implementation timeline;
- Ÿ customer-branding and styling; and
- Ÿ ability to innovate and respond to customer and legislative needs rapidly.

We believe that we compete effectively based upon all of these criteria, and that we are likely to continue to retain a high percentage of our customers. Nonetheless, we believe that the increasing acceptance of automated solutions in the healthcare marketplace and the adoption of more sophisticated technology and legislative reform will result in increased competition, including potentially from large software companies with greater resources than ours. Other companies might develop superior or more economical service offerings that our customers could find more attractive than our offerings. Moreover, the regulatory landscape might shift in a direction that is more strategically advantageous to competitors.

Research and Development

Our ability to compete depends, in large part, on our continuous commitment to rapidly introduce new applications, technologies, features, and functionality. We deliver multiple software releases per year, updating the Benefitfocus platform to leverage advances in cloud computing, mobile applications, and data management. Our research and development team is responsible for the design and development of our applications. We follow state-of-the-art practices in software development using modern programming languages, data storage systems, and other tools. We use both commercial and open source products, following a “best tool for the job” philosophy in product selection. Our software has a multi-tiered architecture that ensures flexibility to add or modify features quickly in response to changing market dynamics, customer needs, or regulatory requirements.

Our research and development expenses were $8.9 million, $9.4 million, and $15.0 million for the years ended December 31, 2010, 2011, and 2012, respectively.

Intellectual Property

We rely on a combination of patent, trade secret, copyright, and trademark laws, license agreements, confidentiality procedures, confidentiality and nondisclosure agreements, and technical measures to protect the intellectual property used in our business. We generally enter into confidentiality and nondisclosure agreements with our associates, consultants, vendors, and customers. We also seek to control access to and distribution of our software, documentation, and other proprietary information.

We use numerous trademarks for our products and services, and “Benefitfocus,” “HR InTouch,” “HR InTouch Marketplace,” “All Your Benefits. One Place.,” and “Shop. Enroll. Manage. Exchange.” are registered marks of Benefitfocus in the United States. Through claimed common law trademark protection, we also protect other Benefitfocus marks which identify our services, such as Benefitfocus eEnrollment, Benefitfocus eBilling, Benefitfocus eExchange, and Benefitfocus eSales, and we have reserved numerous domain names, including “benefitfocus.com”. We also have registered trademarks and pending trademark applications in foreign jurisdictions such as Australia, Canada, India, Ireland, New Zealand, South Africa, and the United Kingdom.

We have been granted one U.S. patent (utility patent) and have five U.S. patent applications (all for utility patents) pending. Our patent, which protects specified systems and methods for the automatic creation of agent-based systems, was issued in April 2013 and will not expire until May 2030. We also have 21 pending patent applications under foreign jurisdictions and treaties, such as Australia, Canada, China, Hong Kong, India, Japan, Taiwan, the European Patent Convention, and the Patent Cooperation Treaty.

We also rely on certain intellectual property rights that we license from third parties. Although we believe that alternative technologies are generally available to replace such licenses, these third-party technologies may not continue to be available to us on commercially reasonable terms.

Although we rely on intellectual property rights, including trade secrets, patents, copyrights, and trademarks, as well as contractual protections to establish and protect our proprietary rights, we believe that factors such as the technological and creative skills of our personnel, creation of new modules, features and functionality, and frequent enhancements to our applications are more essential to establishing and maintaining our technology leadership position.

The steps we have taken to protect our copyrights, trademarks, and other intellectual property may not be adequate, and the potential exists that third parties could infringe, misappropriate, or misuse our intellectual property. If this were to occur, it could harm our reputation and adversely affect our competitive position or operations. In addition, laws of other jurisdictions may not protect our intellectual property and proprietary rights from unauthorized use or disclosure in the same manner as the United States. The risk of unauthorized use of our proprietary and intellectual property rights may increase as our company expands outside of the United States.

Government Regulation

Introduction

The employee benefits industry is required to comply with extensive and complex U.S. laws and regulations at the federal and state levels. Although many regulatory and governmental requirements do not directly apply to our business, our customers are required to comply with a variety of U.S. laws, and we may be impacted by these laws as a result of our contractual obligations. For many of these laws, there is little history of regulatory or judicial interpretation upon which to rely. We have attempted to structure our operations to comply with applicable legal requirements, but there can be no assurance that our operations will not be challenged or impacted by enforcement initiatives.

Requirements of PPACA

Our business could be affected by changes in healthcare spending. In March 2010, the President signed into law PPACA. As enacted, PPACA will change how healthcare services are covered, delivered and reimbursed through expanded coverage of uninsured individuals, reduced Medicare program spending and insurance market reforms. By January 2014, PPACA requires states to expand Medicaid coverage significantly and establish health insurance exchanges to facilitate the purchase of health insurance by individuals and small employers and provides subsidies to states to create non-Medicaid plans for certain low-income residents.

While many of the provisions of PPACA will not be directly applicable to us, it will affect the business of many of our customers. Numerous lawsuits have challenged the constitutionality of PPACA. On June 28, 2012, the U.S. Supreme Court upheld the constitutionality of PPACA except for provisions that would have allowed HHS to penalize states that did not implement the Medicaid expansion with the loss of existing federal Medicaid funding. Because states that do not implement the

Medicaid expansion will forego funding established by PPACA to cover most of the expansion costs, it is unclear how many states will decline to implement the Medicaid expansion. Due to these factors, we are unable to predict with any reasonable certainty or otherwise quantify the likely impact of PPACA on our business model, financial condition or results of operations.

Requirements Regarding the Confidentiality, Privacy and Security of Personal Information

HIPAA and Other Privacy and Security Requirements. There are numerous U.S. federal and state laws and regulations related to the privacy and security of personal health information. In particular, regulations promulgated pursuant to HIPAA establish privacy and security standards that limit the use and disclosure of individually identifiable health information and require the implementation of administrative, physical and technological safeguards to ensure the confidentiality, integrity and availability of individually identifiable health information in electronic form. Health plans, healthcare clearinghouses and most providers are considered by the HIPAA regulations to be Covered Entities. With respect to our operations as a healthcare clearinghouse, we are directly subject to the Privacy Standards and the Security Standards. In addition, our carrier customers, or payors, are considered to be Covered Entities and are required to enter into written agreements with us, known as Business Associate Agreements, under which we are considered to be a Business Associate and that require us to safeguard individually identifiable health information and restrict how we may use and disclose such information. Effective February 2010, ARRA extended the direct application of some provisions of the Privacy Standards and Security Standards to us when we are functioning as a Business Associate of our Covered Entity customers. The Privacy Standards extensively regulate the use and disclosure of individually identifiable health information by Covered Entities and their Business Associates. For example, the Privacy Standards permit Covered Entities and their Business Associates to use and disclose individually identifiable health information for treatment and to process claims for payment, but other uses and disclosures, such as marketing communications, require written authorization from the individual or must meet an exception specified under the Privacy Standards. The Privacy Standards also provide patients with rights related to understanding and controlling how their health information is used and disclosed. Effective February 2010 or later (in the case of restrictions tied to the issuance of implementing regulations), ARRA imposed stricter limitations on certain types of uses and disclosures, such as additional restrictions on marketing communications and the sale of individually identifiable health information. To the extent permitted by the Privacy Standards, ARRA and our contracts with our customers, we may use and disclose individually identifiable health information to perform our services and for other limited purposes, such as creating de-identified information. Determining whether data has been sufficiently de-identified to comply with the Privacy Standards and our contractual obligations may require complex factual and statistical analyses and may be subject to interpretation. The Security Standards require Covered Entities and their Business Associates to implement and maintain administrative, physical and technical safeguards to protect the security of individually identifiable health information that is electronically transmitted or electronically stored.

If we are unable to properly protect the privacy and security of health information entrusted to us, we could be found to have breached our contracts with our customers. Further, if we fail to comply with the Privacy Standards and Security Standards while acting as a Covered Entity or Business Associate, we could face civil and criminal penalties. ARRA significantly increased the amount of the civil penalties to up to $50,000 per violation for a maximum civil penalty of $1.5 million in a calendar year for violations of the same requirement. Recently, the U.S. Department of Health and Human Services Office for Civil Rights, which enforces the Security Standards and Privacy Standards, appears to have increased its enforcement activities. ARRA also strengthened the enforcement provisions of HIPAA, which may result in further increases in enforcement activity. For example, as required by ARRA, HHS is completing a pilot program involving audits of up to 115 Covered Entities by the end of 2012. ARRA also authorizes state attorneys general to bring civil actions seeking either injunctions or damages in

response to violations of HIPAA privacy and security regulations that threaten the privacy of state residents. We have implemented and maintain policies and processes to assist us in complying with the Privacy Standards, the Security Standards and our contractual obligations. We cannot provide assurance regarding how these standards will be interpreted, enforced or applied to our operations.

Data Protection and Breaches. In recent years, there have been a number of well-publicized data breaches involving the improper dissemination of personal information of individuals. Many states have responded to these incidents by enacting laws requiring holders of personal information to maintain safeguards and to take certain actions in response to a data breach, such as providing prompt notification of the breach to affected individuals. In many cases, these laws are limited to electronic data, but states are increasingly enacting or considering stricter and broader requirements. Covered Entities must report breaches of unsecured protected health information to affected individuals without unreasonable delay, but not to exceed 60 days of discovery of the breach by a Covered Entity or its agents. Notification must also be made to HHS and, in certain circumstances involving large breaches, to the media. Business Associates must report breaches of unsecured protected health information to Covered Entities within 60 days of discovery of the breach by the Business Associate or its agents. The Federal Trade Commission, or FTC, has prosecuted some data breach cases as unfair and deceptive acts or practices under the Federal Trade Commission Act. Further, by regulation, the FTC requires creditors, which may include some of our customers, to implement identity theft prevention programs to detect, prevent and mitigate identity theft in connection with customer accounts. Although Congress passed legislation that restricts the definition of "creditor" and exempts many health providers from complying with this rule, we may be required to apply additional resources to our existing processes to assist our affected customers in complying with this rule. We have implemented and maintain physical, technical and administrative safeguards intended to protect all personal data and have processes in place to assist us in complying with all applicable laws and regulations regarding the protection of this data and properly responding to any security breaches or incidents. However, we cannot be sure that these safeguards are adequate to protect all personal data or assist us in complying with all applicable laws and regulations regarding the protection of personal data and responding to any security breaches or incidents.

Other Requirements. In addition to HIPAA, numerous other U.S. state and federal laws govern the collection, dissemination, use, access to and confidentiality of individually identifiable health information and healthcare provider information. Some states also are considering new laws and regulations that further protect the confidentiality, privacy and security of medical records or other types of medical information. In many cases, these state laws are not preempted by the Privacy Standards and may be subject to interpretation by various courts and other governmental authorities. Further, Congress and a number of states have considered or are considering prohibitions or limitations on the disclosure of medical or other information to individuals or entities located outside of the United States.

HIPAA Administrative Simplification

HIPAA also mandated a package of interlocking administrative simplification rules to establish standards and requirements for the electronic transmission of certain healthcare claims and payment transactions. These regulations are intended to encourage electronic commerce in the healthcare industry and apply directly to Covered Entities. Some of our businesses, including our healthcare clearinghouse operations, are considered Covered Entities under HIPAA and its implementing regulations.

Transaction Standards. The standard transaction regulations established under HIPAA, or Transaction Standards, mandate certain format and data content standards for the most common electronic healthcare transactions, using technical standards promulgated by recognized standards publishing organizations. These transactions include healthcare claims, enrollment, payment and

eligibility. The Transaction Standards are applicable to that portion of our business involving the processing of healthcare transactions among payors, providers, patients and other healthcare industry constituents. Failure to comply with the Transaction Standards may subject us to civil and potentially criminal penalties and breach of contract claims. The CMS is responsible for enforcing the Transaction Standards.

Payors who are unable to exchange data in the required standard formats can achieve Transaction Standards compliance by contracting with a clearinghouse to translate between standard and non-standard formats. As a result, use of a clearinghouse has allowed numerous payors to establish compliance with the Transaction Standards independently and at different times, reducing transition costs and risks. In addition, the standardization of formats and data standards envisioned by the Transaction Standards has only partially occurred. However, PPACA requires HHS to establish operating rules to promote uniformity in the implementation of each standardized electronic transaction. PPACA sets forth a schedule with staggered deadlines for the development of and compliance with operating rules for the other standardized electronic transactions, with all operating rules finalized and requiring compliance by December 31, 2015. On June 30, 2011, HHS released an interim final rule that would require health plans, healthcare clearinghouses, and certain healthcare providers to implement operating rules for two electronic transactions, relating to whether a patient is eligible for healthcare coverage and the status of claims submitted to an insurer, by January 1, 2013. Under PPACA, payors and service contractors of payors, including, in some cases, us, will be required to certify compliance with these standards to HHS. The compliance date for the certification requirement depends on the type of transaction, with the earliest certification required by December 31, 2013.

We cannot provide assurance regarding how the CMS will enforce the Transaction Standards. We continue to work with payors, healthcare information system vendors and other healthcare constituents to implement fully the Transaction Standards.

In January 2009, CMS published a final rule adopting updated standard code sets for diagnoses and procedures known as the ICD-10 code sets. A separate final rule also published by CMS in January 2009 resulted in changes to the formats to be used for electronic transactions, known as Version 5010. The use of Version 5010 became mandatory on January 1, 2012, but CMS delayed enforcement until July 1, 2012. The use of the ICD-10 code sets is required by October 1, 2013, but HHS has published a proposed rule that would extend this deadline by one year. We have been modifying and will continue to modify our systems and processes to prepare for and implement these changes. We may not be successful in responding to these changes, and any responsive changes we make to our transactions and software may result in errors or otherwise negatively impact our service levels. We also may experience complications related to supporting customers that are not fully compliant with the revised requirements as of the applicable compliance and/or enforcement date. In addition, the compliance dates for ICD-10 code sets may overlap with the adoption of the operating rules as mandated by PPACA, which may further burden our resources.

Health Plan and Other Entity Identifiers. HHS has promulgated regulations implementing the establishment of a unique health plan identifier, or HPID. Similar to a provider's national provider identifier, the HPID provides an identification system for health plans to use for electronic transactions. HHS has also promulgated regulations implementing another entity identifier, or OEID, that serves as an identifier for entities that are not health plans, health care providers or individuals. These other entities, which include third-party administrators, transaction vendors, and clearinghouses, are not required to obtain an OEID, but they could obtain and use one if they needed to be identified in standardized transactions. The impact of the HPID and OEID process on our business is unclear at this time.

Financial Services Related Laws and Rules

Financial services and electronic payment processing services are subject to numerous laws, regulations and industry standards, some of which might impact our operations and subject us, our vendors and our customers to liability as a result of the payment distribution and processing solutions we offer. Although we do not act as a bank, we offer solutions that involve banks, or vendors who contract with banks and other regulated providers of financial services. As a result, we might be impacted by banking and financial services industry laws, regulations and industry standards, such as licensing requirements, solvency standards, requirements to maintain the privacy and security of nonpublic personal financial information and Federal Deposit Insurance Corporation deposit insurance limits. In addition, our patient billing and payment distribution and processing solutions might be impacted by payment card association operating rules, certification requirements and rules governing electronic funds transfers. If we fail to comply with applicable payment processing rules or requirements, we might be subject to fines and changes in transaction fees and may lose our ability to process credit and debit card transactions or facilitate other types of billing and payment solutions. Moreover, payment transactions processed using the ACH are subject to network operating rules promulgated by the National Automated Clearing House Association and to various federal laws regarding such operations, including laws pertaining to electronic funds transfers, and these rules and laws might impact our billing and payment solutions. Further, our solutions might impact the ability of our payor customers to comply with state prompt payment laws. These laws require payors to pay healthcare claims meeting the statutory or regulatory definition of a “clean claim” to be paid within a specified time frame.

Legal Proceedings

From time to time, we might become involved in legal or regulatory proceedings arising in the ordinary course of our business. We are not currently a party to any material litigation or regulatory proceeding and we are not aware of any pending or threatened litigation or regulatory proceeding against us that could have a material adverse effect on our business, operating results, financial condition or cash flows.

Facilities

As of December 31, 2012, our corporate headquarters occupied approximately 65,000 square feet in a facility on the Daniel Island Executive Center campus in Charleston, South Carolina under a lease expiring in 2021, and we had a second facility on the Daniel Island Executive Center campus that occupied approximately 52,000 square feet under a lease expiring in 2024. As of December 31, 2012, we also leased facilities in Greenville, South Carolina, San Francisco, California, and Tulsa, Oklahoma.

In February 2013, we entered into an amendment to lease additional space of approximately 27,000 square feet in the second facility on the Daniel Island Executive Center campus under the lease expiring in 2024.

We believe that our current facilities are sufficient for our current needs. We intend to add new facilities or expand existing facilities as we add associates or expand our geographic markets, and we believe that suitable additional or substitute space will be available as needed to accommodate any such expansion of our operations.

Employees

As of December 31, 2012, we had approximately 630 full-time associates, or employees, including approximately 220 engaged in technology development and deployment. None of our associates is represented by a labor union and we consider our current relations with our associates to be good.

MANAGEMENT

Executive Officers and Directors

The following table sets forth information concerning our directors and executive officers as of April 30, 2013:

Name	Age	Position
Shawn A. Jenkins(1)	45	President and Chief Executive Officer, Director
Mason R. Holland, Jr.(1)(2)(3)	48	Executive Chairman, Director
Milton A. Alpern	61	Chief Financial Officer and Secretary
Andrew L. Howell	46	Chief Operating Officer
Donald Taylor	52	Chief Technology Officer
Joseph P. DiSabato	46	Director
Ann H. Lamont(2)(3)	56	Director
Francis J. Pelzer V(1)(2)(3)	42	Director
Raheel Zia	41	Director

(1) Member of the audit committee.

(2) Member of the compensation committee.

(3) Member of the nominating and corporate governance committee.

The following is a biographical summary of the experience of our executive officers and directors:

Executive Officers

Shawn A. Jenkins—President, Chief Executive Officer, and Director

Shawn Jenkins, one of our founders, has been our President and Chief Executive Officer and a member of our board of directors since our founding in June 2000. Prior to founding Benefitfocus, from 1995 to 2000, he served as Vice President with American Pensions, Inc., leading sales, operations, and technology. From 1994 to 1995, Mr. Jenkins was a program analyst with Rockwell Automation, Inc. Mr. Jenkins serves on the Advisory Board for the School of Computing at Clemson University, Medical University of South Carolina Foundation Board of Directors, College of Charleston Board of Governors, and Charleston Southern University Board of Visitors. He previously served as Chairman of the Growing Forward Campaign for the Lowcountry Food Bank. Mr. Jenkins received an M.B.A. from Charleston Southern University and a B.A. from Geneva College in Beaver Falls, Pennsylvania.

Among other experience, qualifications, attributes and skills, we believe Mr. Jenkins' perspective as one of our founders and as a large stockholder, his extensive leadership and experience as our Chief Executive Officer since our founding, his knowledge of our operations, and oversight of our sales organization bring to our board critical strategic planning and operational leadership that qualify him to serve as one of our directors.

Mason R. Holland, Jr.—Executive Chairman of the Board

Mason Holland, one of our founders, has been our Executive Chairman and a member of our board of directors since our founding in June 2000. He is responsible for the coordination of strategic partnerships with industry leaders and client relations. Mr. Holland founded American Pensions, Inc. in 1988, serving as its Chairman and President from 1988 to 2003. Mr. Holland's other ventures have included establishing Holland Properties, LLC, a real estate development firm, in 1989, and acquiring Eclipse Aerospace, Inc., a jet aircraft manufacturer, in May 2009, for which he serves as Chairman and Chief Executive Officer. Mr. Holland attended Old Dominion University in Norfolk, Virginia.

We believe Mr. Holland brings to our board of directors valuable perspective and experience as our Executive Chairman and one of our founders and as a large stockholder, as well as knowledge of the benefits industry and experience managing and directing companies through various stages of development, all of which qualify him to serve as one of our directors.

Milton A. Alpern—Chief Financial Officer

Milt Alpern has served as our Chief Financial Officer since January 2012. Prior to joining Benefitfocus, from April 2008 to December 2011, he was the Chief Financial Officer for ITA Software, Inc., a software-as-a-service, or SaaS, provider of technology solutions to the travel industry, which was acquired by Google in 2011, where he was responsible for leading all financial and administrative functions for the company. Prior to ITA Software, from 2003 to 2008, Mr. Alpern served as the Chief Financial Officer for Applix, Inc., a publicly held international provider of business performance management and business intelligence software where he directed all finance, human resources, legal activities, and financial community relationships. From 1998 to 2002 Mr. Alpern served as the Chief Financial Officer at Eprise Corporation, a publicly held provider of business website content management software and solutions, where he was a member of the management team leading the company's successful initial public offering. Mr. Alpern holds a B.S. in accounting from Montclair State University.

Andrew L. Howell—Chief Operating Officer

Andy Howell has served as our Chief Operating Officer since June 2010. During his tenure at Benefitfocus, he previously served as our Senior Vice President and General Manager of the insurance carrier business unit from June 2009 to June 2010, as well as Senior Vice President and General Counsel from April 2007 to June 2009. Prior to joining Benefitfocus, Mr. Howell served from July 2002 to March 2007 as Vice President and General Counsel at Blackbaud, Inc., a publicly held SaaS company. Prior to joining Blackbaud, he was a practicing attorney with Sutherland Asbill & Brennan LLP, where he focused on corporate and technology law. Mr. Howell received a B.A. in economics from Washington & Lee University and a J.D. from Mercer University.

Donald Taylor—Chief Technology Officer

Don Taylor has served as our Chief Technology Officer since February 2008. As a software industry veteran of more than 25 years, Mr. Taylor brings expertise from his experience developing and providing advanced software solutions to the healthcare, banking, and logistics industries. Prior to joining Benefitfocus, from 2001 to 2006, Mr. Taylor was the founder and Chief Technology Officer of Boxcar Central, Inc., which developed a multi-tenant suite of SaaS applications for the third-party logistics market. Mr. Taylor received an A.S. from Charleston Southern University.

Non-Employee Directors

Joseph P. DiSabato—Director

Joe DiSabato has served on our board of directors since February 2007. Mr. DiSabato has been a Managing Director in the Principal Investment Area at Goldman Sachs Group, Merchant Banking Division, since 2000. Mr. DiSabato joined Goldman Sachs in 1988 and served as a Financial Analyst until 1991, re-joining as an Associate in 1994. He serves as a director of American Traffic Solutions Consolidated, L.L.C., NEOS GeoSolutions, Inc., Endurance International Group, Inc., SilverSky, Inc., and Backoffice Associates, LLC. Mr. DiSabato holds an M.B.A. from the Anderson Graduate School of Management at the University of California at Los Angeles and a B.S. from the Massachusetts Institute of Technology.

We believe Mr. DiSabato's experience as a director of various software and technology companies, and his experience with expansion-stage growth companies, brings to our board critical skills related to financial oversight of complex organizations, strategic planning and corporate governance and qualify him to serve as one of our directors.

Ann H. Lamont—Director

Ann Lamont has served on our board of directors since July 2010. She serves on and chairs the compensation and nominating and governance committees. Ms. Lamont has been with Oak Investment Partners, a multi-stage venture capital firm, since 1982, serving as a General Partner from 1986 to 2006 and as a Managing Partner since 2006. She currently leads the healthcare and payment services teams at Oak. Prior to joining Oak, Ms. Lamont served as a research associate with Hambrecht & Quist. Ms. Lamont serves on the board of NetSpend Holdings, Inc. (Nasdaq: NTSP) as well as the boards of several privately held companies, including Acculynk, Castlight Health, Independent Living Systems, LLC, PharMEDium Healthcare Services, Inc., Precision Health Holdings, Radisphere National Radiology Group and xG Health Solutions. Additionally, in March 2013, Ms. Lamont completed a five-year term on the Stanford University Board of Trustees. Ms. Lamont holds a B.A. in political science from Stanford University.

We believe Ms. Lamont's experience analyzing corporate performance as a venture capitalist and managing her firm's investments in private companies, knowledge of the healthcare and payment services industries, and service on multiple boards of directors bring to our board important skills related to corporate finance, oversight of management and strategic positioning and qualify her to serve as one of our directors.

Francis J. Pelzer V—Director

Frank Pelzer has served as a member of our board of directors since May 2013. He serves on the audit, compensation, and nominating and governance committees and is the chair of our audit committee. Since May 2010, Mr. Pelzer has served as the Chief Financial Officer of Concur Technologies, Inc., a provider of web-based and mobile, integrated travel and expense management solutions. From 2004 to May 2010, Mr. Pelzer served as a Director and Vice President in the Software Investment Banking group at Deutsche Bank. Prior to that, Mr. Pelzer was a Vice President with Credit Suisse First Boston and a management consultant with Kurt Salmon Associates. Mr. Pelzer graduated with an M.B.A. as an Edward Tuck Scholar with Distinction from the Tuck School of Business at Dartmouth and holds a B.A. from Dartmouth College.

We believe Mr. Pelzer's experience as a chief financial officer of a public company, familiarity with accounting standards and public company disclosure requirements, and his ability to serve as our audit committee financial expert, bring to our board important skills and qualify him to serve on our board.

Raheel Zia—Director

Raheel Zia has served on our board of directors since February 2007. Mr. Zia is a Managing Director in the Principal Investment Area of Goldman, Sachs & Co. where he focuses on growth-equity investments in software and services businesses. Prior to joining Goldman Sachs, Mr. Zia was a member of the investment team from 2003 to 2005 at Bessemer Venture Partners, where he focused on investments in the software sector. Mr. Zia previously worked in the Investment Banking group at Citigroup from 1997 to 1998. He has also held accounting and audit roles at Pricewaterhouse from 1993 to 1996. Mr. Zia serves as a director of Spring Mobile Solutions, Inc., Infusionsoft, Inc., and Imaging Advantage LLC. Mr. Zia received his M.B.A. from the Harvard Business School, an M.S. in Computing from London University (England), and a B.Eng (Hons) in Microelectronic Systems Engineering from the University of Manchester. He is also a U.K. qualified chartered accountant.

We believe Mr. Zia's financial and accounting acumen, technological background, and experience investing in and managing software companies bring important perspectives to our board and qualify him to serve as one of directors.

Director Independence

Our board of directors has established an audit committee, compensation committee, and nominating and governance committee. Our audit committee consists of independent director Frank Pelzer (Chair), Mason Holland, and Shawn Jenkins. Our compensation and nominating and governance committees consist of independent directors Ann Lamont (Chair) and Frank Pelzer, along with Mason Holland. The audit committee, compensation committee, and nominating and governance committee were established in May 2013 in anticipation of this offering.

Our board has undertaken a review of the independence of our directors and has determined that all directors except Mason Holland and Shawn Jenkins are independent within the meaning of of the listing rules and that Ms. Lamont and Mr. Pelzer meet the additional test for independence for audit committee members imposed by SEC regulation and of the listing rules. Ms. Lamont and Mr. Pelzer also meets the additional test for independence for compensation committee members imposed by of the listing rules. The listing rules require that each committee of our board of directors has at least one independent director on the listing date of our common stock, has a majority of independent directors 90 days after that date, and be fully independent within one year after that date. The composition of our audit, compensation, and nominating and governance committees will satisfy these independence requirements in accordance with this phase-in schedule.

Family Relationships

There is no family relationship between any director, executive officer or person nominated to become a director or executive officer.

Board of Directors

Composition of our Board of Directors upon the Closing of this Offering

Our amended and restated bylaws provide that our board of directors must consist of between three and nine directors, and such number of directors within this range may be determined from time to time by resolution of our board of directors or our stockholders. Upon the closing of this offering, we will have directors. Joseph P. DiSabato and Raheel Zia serve on our board as nominees of GS Capital Partners VI Parallel, L.P., Ann Lamont serves on our board as a nominee of Oak Investment Partners XII, L.P., and Mason Holland and Shawn Jenkins serve on our board as nominees of our common stockholders, in each case pursuant to a voting agreement among us and certain of our stockholders, described under "Certain Relationships and Related Transactions—Series B Preferred Stock Financing".

The voting agreement, including the board composition provisions, will terminate on the effective date of the registration statement of which this prospectus is a part. Upon the termination of these provisions, we will not be bound by contractual obligations regarding the election of our directors.

Our amended and restated certificate of incorporation provides that the authorized number of directors may be changed only by resolution of our board of directors. Our amended and restated certificate of incorporation and amended and restated bylaws also provide that our directors may be removed only for cause by the affirmative vote of the holders of at least a majority of the votes that all

our stockholders would be entitled to cast in an annual election of directors. An election of our director by our stockholders will be determined by a plurality of the votes cast by the stockholders entitled to vote on the election.

Our current and future executive officers and significant employees serve at the discretion of our board of directors.

Committees of our Board of Directors

Our board of directors has three permanent committees: the audit committee, the compensation committee, and the nominating and corporate governance committee. The board adopted written charters for each of these committees in 2013, all of which will be available on our website, *www.benefitfocus.com*, upon the closing of this offering. In addition, from time to time, special committees may be established under the direction of our board when necessary to address specific issues.

Audit Committee

We have an audit committee consisting of Frank Pelzer (Chair), Mason Holland, and Shawn Jenkins. Upon the closing of this offering, our audit committee will be responsible for, among other things:

- Ÿ appointing, terminating, compensating, and overseeing the work of any accounting firm engaged to prepare or issue an audit report or other audit, review or attest services;
- Ÿ reviewing and approving, in advance, all audit and non-audit services to be performed by the independent auditor, taking into consideration whether the independent auditor's provision of non-audit services to us is compatible with maintaining the independent auditor's independence;
- Ÿ reviewing and discussing the adequacy and effectiveness of our accounting and financial reporting processes and controls and the audits of our financial statements;
- Ÿ establishing and overseeing procedures for the receipt, retention, and treatment of complaints received by us regarding accounting, internal accounting controls or auditing matters, including procedures for the confidential, anonymous submission by our employees regarding questionable accounting or auditing matters;
- Ÿ investigating any matter brought to its attention within the scope of its duties and engaging independent counsel and other advisors as the audit committee deems necessary;
- Ÿ determining compensation of the independent auditors and of advisors hired by the audit committee and ordinary administrative expenses;
- Ÿ reviewing and discussing with management and the independent auditor the annual and quarterly financial statements prior to their release;
- Ÿ monitoring and evaluating the independent auditor's qualifications, performance, and independence on an ongoing basis;
- Ÿ reviewing reports to management prepared by the internal audit function, as well as management's response;
- Ÿ reviewing and assessing the adequacy of the formal written charter on an annual basis;

- Ÿ reviewing and approving related-party transactions for potential conflict of interest situations on an ongoing basis; and
- Ÿ handling such other matters that are specifically delegated to the audit committee by our board from time to time.

Our board has affirmatively determined that Mr. Pelzer is designated as the "audit committee financial expert" and that he meets the definition of an "independent director" for purposes of serving on an audit committee under Rule . As discussed above in "Management—Director Independence", Messrs. Holland and Jenkins are not independent under rules, and we will rely on the phase-in rules of the SEC with respect to the independence of the audit committee under Rule 10A-3(b)(1) of the Exchange Act.

Compensation Committee

We have a compensation committee consisting of Ann Lamont (Chair), Mason Holland, and Frank Pelzer. Upon the closing of this offering, our compensation committee will be responsible for, among other things:

- Ÿ reviewing and approving the compensation, employment agreements and severance arrangements, and other benefits of all of our executive officers and key employees;
- Ÿ reviewing and approving, on an annual basis, the corporate goals and objectives relevant to the compensation of the executive officers, and evaluating their performance in light thereof;
- Ÿ reviewing and making recommendations, on an annual basis, to the board with respect to director compensation;
- Ÿ reviewing any analysis or report on executive compensation required to be included in the annual proxy statement and periodic reports pursuant to applicable federal securities rules and regulations, and recommending the inclusion of such analysis or report in our proxy statement and period reports;
- Ÿ reviewing and assessing, periodically, the adequacy of the formal written charter; and
- Ÿ such other matters that are specifically delegated to the compensation committee by our board from time to time.

As discussed above in "Management—Director Independence", Mr. Holland is not independent under rules, and we will rely on the phase-in rules of the with respect to the independence of the compensation committee under .

Nominating and Corporate Governance Committee

Upon the effectiveness of this registration statement, our nominating and corporate governance committee will consist of Ann Lamont (Chair), Mason Holland, and Frank Pelzer. Upon completion of this offering, our nominating and corporate governance committee will be responsible for, among other things:

- Ÿ identifying and screening candidates for our board, and recommending nominees for election as directors;
- Ÿ establishing procedures to exercise oversight of the evaluation of the board and management;
- Ÿ developing and recommending to the board a set of corporate governance guidelines, as well as reviewing these guidelines and recommending any changes to the board;

- Ÿ reviewing the structure of the board's committees and recommending to the board for its approval directors to serve as members of each committee, and where appropriate, making recommendations regarding the removal of any member of any committee;
- Ÿ developing and reviewing our code of conduct, evaluating management's communication of the importance of our code of conduct, and monitoring compliance with our code of conduct;
- Ÿ reviewing and assessing the adequacy of the formal written charter on an annual basis; and
- Ÿ generally advising our board on corporate governance and related matters.

As discussed above in "Management—Director Independence", Mr. Holland is not independent under rules, and we will rely on the phase-in rules of the with respect to the independence of the nominating and corporate governance committee under .

Compensation Committee Interlocks and Insider Participation

None of our executive officers serves as a member of the board of directors or compensation committee (or other committee performing equivalent functions) of another entity that has one or more executive officers serving on our board of directors or compensation committee. No interlocking relationship exists between any member of the board of directors or any member of the compensation committee (or other committee performing equivalent functions) of any other company.

Our compensation committee was established in May 2013. Mason Holland, our Executive Chairman, has served on our compensation committee since its establishment.

We will enter into an indemnification agreement with each of our directors, including Ms. Lamont and Messrs. Holland and Pelzer, who comprise our compensation committee. See "Certain Relationships and Related-Party Transactions—Indemnification Agreements with our Directors and Officers". We have entered into employment agreements with each of Mr. Holland. See "Executive Compensation—Employment Agreements".

Code of Conduct

In connection with this offering, we adopted a revised code of ethics relating to the conduct of our business by all of our employees, officers, and directors, as well as a code of conduct specifically for our principal executive officer and senior financial officers. We also adopted a corporate communications policy for our employees and directors establishing guidelines for the disclosure of information related to our company to the investing public, market analysts, brokers, dealers, investment advisors, the media, and any persons who are not our employees or directors. Additionally, we adopted an insider trading policy to establish guidelines for our employees, officers, directors, and consultants regarding transactions in our securities and the disclosure of material nonpublic information related to our company. Each of these policies will be posted on our website, *www.benefitfocus.com*, upon completion of this offering.

Director Compensation

We did not pay any of our directors any compensation for serving on our board during 2012. The compensation earned by Mr. Jenkins as an employee in 2012 is included in the "Summary Compensation Table" below. Mr. Holland is an executive officer (but not a named executive officer) who serves as a director and did not receive additional compensation for service provided as a director.

EXECUTIVE COMPENSATION

The following discussion and analysis of compensation arrangements of our named executive officers for 2012 should be read together with the compensation tables and related disclosures on our current plans, considerations, expectations and determinations regarding future compensation programs. Actual compensation programs that we may adopt in the future might differ materially from currently planned programs summarized in this discussion.

The discussion below includes a review of our compensation decisions with respect to 2012 for our "named executive officers," including our principal executive officer and our two other most highly compensated executive officers. Our named executive officers for 2012 were:

- Shawn A. Jenkins, who serves as our President and Chief Executive Officer, or CEO, and is our principal executive officer;
- Andrew L. Howell, who serves as our Chief Operating Officer; and
- Milton A. Alpern, who serves as our Chief Financial Officer, and is our principal financial and accounting officer.

Key Elements of Our Compensation Program for 2012

In 2012, we compensated our named executive officers through a combination of base salary, annual cash bonus payments, and long-term equity incentives in the form of stock options. Our executive officers are also eligible for our standard benefits programs, which include:

- health, vision and dental insurance;
- life insurance;
- short- and long-term disability insurance;
- health savings account contributions; and
- a 401(k) plan with a defined matching of contributions.

We do not use specific formulas or weightings in determining the allocation of the various compensation elements. Instead, the compensation for each of our named executive officers has been designed to provide a combination of fixed and at-risk compensation that is tied to achievement of our short- and long-term objectives. We believe that this approach achieves the primary objectives of our compensation program.

Management Incentive Bonus Program

Our named executive officers and other members of our management team participate in the Management Incentive Bonus Program. The foundation of the bonus program is achievement by our Company of consolidated revenues. For 2012, the bonus earned was a function of a percentage of bonus earned, or PBE, based on achieving annual revenue targets, the executive's annual base salary and a designated bonus target percent, or BTP. The annual bonus is determined by multiplying the annual base compensation by the designated BTP, multiplied by the PBE. In 2012, Shawn Jenkins, Andy Howell and Milt Alpern earned bonuses under this program of $357,359, $112,730, and $91,402, respectively, based on achieving our annual revenue target, and BTPs of 100%, 50%, and 50%, respectively.

Summary Compensation Table

The following table sets forth summary compensation information for our named executive officers for the fiscal year ended December 31, 2012:

Name and principal position	Year	Salary ($)(1)	Option awards ($)(2)	Non-equity incentive plan compensation($)	All other compensation ($)	Total ($)
Shawn A. Jenkins *President and CEO*	2012	$510,513	$ —	$ 357,359	$ 13,061(3)	$ 880,933
Andrew L. Howell *Chief Operating Officer*	2012	318,253	153,789	112,730	13,129(4)	597,901
Milton A. Alpern *Chief Financial Officer*	2012	261,009	718,413	91,402	10,968(5)	1,081,792

(1) Reflects base salary earned during the fiscal year covered.

(2) Represents the aggregate grant date fair value of the option awards computed in accordance with FASB ASC Topic 718. These values have been determined based on the assumptions set forth in Note 10 to our consolidated financial statements included elsewhere in this prospectus.

(3) Includes $4,737 in medical insurance premiums, $99 in life insurance premiums, $365 in disability insurance premiums, $360 in health savings account contributions, and $7,500 in 401(k) plan matching contributions.

(4) Includes $4,805 in medical insurance premiums, $99 in life insurance premiums, $365 in disability insurance premiums, $360 in health savings account contributions, and $7,500 in 401(k) plan matching contributions.

(5) Includes $2,719 in medical insurance premiums, $98 in life insurance premiums, $354 in disability insurance premiums, $300 in health savings account contributions, and $7,497 in 401(k) plan matching contributions.

Employment Agreements

Employment Agreements with Shawn Jenkins and Mason Holland

In January 2007, we entered into employment agreements with Shawn Jenkins, our President and Chief Executive Officer, and Mason Holland, our Executive Chairman, which set forth the terms and conditions of their employment. Pursuant to the agreements, we granted Mr. Jenkins and Mr. Holland, each of whom we refer to as an Executive, options to acquire 847,458 shares of our common stock and 423,729 shares of our common stock, respectively. Each agreement continues for terms of three years, which will be extended automatically each day, for an additional day, so that the remaining term continues to be three years in length. Either we or the Executive may at any time fix the term to a finite term of three years. Under the terms of each agreement, we must pay Messrs. Jenkins and Holland salaries at rates of not less than $400,000 and $200,000 per year, respectively. The board will review each Executive's salary at least annually and must increase each Executive's salary by at least 5% per year. Any increase in excess of 5% in any given year must be approved by the board members designated by GS Capital Partners VI Parallel, L.P., or the Goldman Board Designees, currently Raheel Zia and Joe DiSabato. We may not decrease either Executive's base salary under these agreements.

Each Executive is eligible to participate in any management incentive programs we establish, and each Executive may receive incentive compensation based upon achievement of targeted levels of performance and other criteria established by the board or compensation committee (which in each case requires the approval of at least one of the Goldman Board Designees). In the event we achieve the annual financial targets approved by the board (which approval must include at least one Goldman Board Designee), each of Messrs. Jenkins and Holland will be entitled to an annual bonus in an amount at least equal to his then-current base salary. If we exceed our financial targets by 10% for the year, Mr. Jenkins will earn an additional bonus amount equal to 50% of his then-current base salary.

If we terminate an Executive's employment due to his death or disability, we must pay to him, or his estate, his accrued compensation and, in the case of Mr. Jenkins, an amount equal to the average of the annual bonuses paid or payable to him during the three full fiscal years preceding the date of termination, pro-rated for the number of days the Executive was employed in the fiscal year in which his employment was terminated, which amount we refer to as the Prorated Bonus Amount. If we terminate an Executive's employment for cause (as defined below) or an Executive resigns for any reason other than adequate justification, we must pay such Executive all accrued compensation.

If an Executive resigns for adequate justification (as defined below), or if we terminate an Executive's employment for any reason other than (i) due to his death or disability, or (ii) for cause, including in connection with a change in control of our company, we must pay such Executive his accrued compensation and a pro rata share of his annual bonus, if such bonus is awarded. Additionally, we must pay such Executive each month, for a period of 36 months, one-twelfth of the sum of, (i) his then-current base salary, and (ii) a pro rata share of his annual bonus, if such bonus is awarded. Furthermore, we must continue providing life insurance, disability, medical, dental, and hospitalization benefits to the Executive (which amount will be reduced to the extent the Executive receives these benefits from a subsequent employer). Finally, the restrictions on any outstanding incentive awards held by the Executive, including stock options, will lapse and such awards will become fully vested and immediately exercisable.

Under each agreement, adequate justification is defined as: (a) an uncured material failure of the Company to comply with the agreement; (b) any non-voluntary, Company-imposed relocation of the Executive outside Charleston, South Carolina; (c) a change in control of our company that results in a material diminution in the Executive's responsibilities; or (d) the removal of the Executive, in the case of Mr. Jenkins, from the position of President and Chief Executive Officer or, in the case of Mr. Holland, from the position of Chairman of the Board of Directors, in each case except as otherwise provided in the respective agreement. Under each agreement, termination for cause is defined as: (i) a conviction of the Executive of, or entering a plea of no contest by the Executive with respect to, having committed a felony; (ii) abuse of controlled substances or alcohol, or acts of dishonesty or moral turpitude by the Executive that are detrimental to the Company; (iii) acts or omissions by the Executive that he knew, or should reasonably have known, would substantially damage the business of the Company; (iv) negligence by the Executive in the performance of, or disregard by the Executive of, his obligations under the agreement or otherwise relating to his employment, or a breach by the Executive of the agreement, which negligence, disregard or breach continues uncured after receiving notice from the Company; or (v) failure by the Executive to obey the reasonable and lawful orders and policies of the board that are consistent with the provisions of the agreement.

In the event the Executive, during the 24 months following the termination of his employment, becomes employed by a company that engages, in whole or part, in the same or substantially the same business as ours, the Executive will forfeit any remaining severance payments.

Employment Agreement with Andy Howell

In March 2007, we entered into an employment agreement with Andy Howell, our Chief Operating Officer. Under the agreement, we originally agreed to pay Mr. Howell a base salary of $225,000 for his service as our Senior Vice President and General Counsel. Mr. Howell has served as our Chief Operating Officer since June 2010, and his base salary as of December 31, 2012 was $322,088. Annual compensation reviews and adjustments to Mr. Howell's compensation will occur on or around the time we perform our annual budget process. Mr. Howell is eligible to participate in our bonus plans. The amount of his potential bonus, and the formula we use to calculate that amount, are both subject to modification by us to match our future goals and objectives. In connection with his employment agreement, we granted Mr. Howell an option to purchase 78,606 shares of our common stock.

Employment Agreement with Milt Alpern

In November 2011, we entered into an employment agreement with Milt Alpern, our Chief Financial Officer. Under the agreement, we agreed to pay Mr. Alpern a base salary of $267,000 per year. Annual compensation reviews and adjustments to Mr. Alpern's compensation will occur on or around the time we perform our annual budget process. We also agreed to pay Mr. Alpern a bonus amount of 50% of his then-current base pay upon the Company's achievement of its annual targets. In connection with his employment agreement, we granted Mr. Alpern an option to purchase 213,959 shares of common stock.

In the event we terminate Mr. Alpern's employment without cause at any time prior to a change in control, we will provide Mr. Alpern: (i) severance payments at a rate equal to his base salary then in effect for a period of 12 months following his termination date, (ii) a portion of his targeted annual bonus, (iii) an insurance premium in an amount equal to that which was paid on his behalf prior to the termination of his employment, and (iv) with six months during which his outstanding stock options will continue to vest.

In the event we or our acquirer terminates Mr. Alpern's employment without cause at the time of, or within 12 months following, a change in control of our company, we or our acquirer will provide Mr. Alpern: (i) severance payments at a rate equal to his base salary then in effect for a period of 12 months following his termination date, (ii) a portion of his targeted annual bonus as described below, (iii) immediate acceleration and full vesting of his outstanding stock options, and (iv) specified insurance premiums during the period he receives severance payments. If he resigns due to a decrease in his base salary or targeted annual bonus, a change in his position as Chief Financial Officer, or a change in his duties and responsibilities to the Company, and provided he resigns within three months of the occurrence of, and without having consented to, such event, Mr. Alpern will be entitled to receive the same severance benefits he would have been eligible to receive were his employment terminated by us without cause.

If we terminate his employment with or without cause, after completion of any period during which his eligibility for a bonus is to be determined, or a Bonus Period, but prior to the date when such bonus is to be paid, Mr. Alpern will be entitled to receive such bonus at the time it would have been paid but for the termination of his employment. If we terminate Mr. Alpern's employment without cause prior to the completion of a Bonus Period, he will be entitled to receive a portion of the bonus at the time it would have been paid but for the termination of his employment, prorated for the portion of the Bonus Period that he was employed by the Company.

Under the employment agreement, cause is defined as any determination by our board of any of the following: (i) Mr. Alpern's violation of any applicable material law or regulation respecting the business of the Company, (ii) Mr. Alpern's commission of a felony or a crime involving moral turpitude,

(iii) any act of dishonesty, fraud or misrepresentation in relation to his duties to the Company, (iv) Mr. Alpern's uncured failure to perform in any material respect his duties under the agreement, (v) Mr. Alpern's failure to attempt in good faith to implement a clear and reasonable directive from our board or to comply with any of our policies and procedures which failure is material and occurs after written notice from our board, (vi) any act of gross misconduct that is materially and demonstrably injurious to the Company, or (vii) Mr. Alpern's breach of his fiduciary responsibility.

Equity Incentive Plans

Our board has adopted and our stockholders have approved a 2012 Stock Plan and an Amended and Restated 2000 Stock Option Plan. The number of shares reserved for issuance, number of shares issued, number of shares underlying outstanding stock options and number of shares remaining available for future issuance under each plan, as of April 30, 2013, are as follows:

Plan	Number of Shares Reserved for Issuance	Number of Shares Issued	Number of Shares Underlying Outstanding Options or Warrant	Number of Shares Remaining Available for Future Issuance
2012 Stock Plan	908,389	—	590,459	317,930
Amended and Restated 2000 Stock Option Plan	3,020,607	473,776	3,020,607	—

The following description of each of our equity compensation plans is qualified by reference to the full text of those plans, which are filed as exhibits to the registration statement of which this prospectus forms a part. Our equity incentive plans are designed to continue to give our company flexibility to make a wide variety of equity awards to reflect what the compensation committee and management believe at the time of such award will best motivate and reward our employees, directors, consultants and other service providers.

2012 Stock Plan

Our board adopted the Benefitfocus.com, Inc. 2012 Stock Plan, or the 2012 Plan, on January 31, 2012, and our stockholders approved the 2012 Plan on November 8, 2012. We adopted the 2012 Plan to promote the success and enhance the value of the Company by linking the individual interests of employees, consultants, and non-employee directors to those of our stockholders and by providing those individuals with an incentive for outstanding performance in generating superior returns to our stockholders. The 2012 Plan provides flexibility to the Company in its ability to motivate, attract, and retain the services of employees, consultants, and non-employee directors upon whose judgment, interest and special efforts the successful conduct of the Company's operation is largely dependent.

Stock Awards. The 2012 Plan provides for the grant of incentive stock options, as defined in Section 422 of the Internal Revenue Code of 1986, as amended, or the Code, non-statutory stock options, stock bonuses, stock purchase rights, and stock appreciation rights, or collectively, stock rights. Incentive stock options may be granted only to employees of the Company, or our parent company (if any) and any of our subsidiaries, or Related Corporations. All other awards may be granted to employees (including officers and employee directors), consultants and non-employee directors.

Share Reserve. As of April 30, 2013, no shares of our common stock have been issued under the 2012 Plan, 590,459 shares are subject to outstanding stock right awards under the 2012 Plan, and 317,930 shares remain available for future stock right awards under the 2012 Plan.

If any stock right granted under the 2012 Plan or the 2000 Plan expires or terminates for any reason prior to its full exercise, or if the Company reacquires any shares issued pursuant to stock rights, then the shares subject to such stock right or any shares so reacquired by the Company will again be available for grants of stock rights under the 2012 Plan. Shares of common stock which are withheld to pay the exercise price of a stock right or any related withholding obligations will not be available for issuance under the 2012 Plan.

Administration. The 2012 Plan provides for administration by our board of directors or a committee of the board, and after the completion of this offering will be administered by our compensation committee. The board may increase the size of the committee and appoint additional members, remove members of the committee and appoint new members, fill vacancies on the committee, or remove all members of the committee and directly administer the 2012 Plan. We refer to the board or the committee appointed to administer the 2012 Plan in this summary as the "Committee". Subject to the restrictions of the 2012 Plan, the Committee determines to whom we grant incentive awards under the 2012 Plan, the terms of the award, including the exercise or purchase price, the number of shares subject to the stock right and the exercisability of the award. All questions of interpretation are determined by the Committee, and its decisions are final and binding upon all participants, unless otherwise determined by the board.

Stock Options. The 2012 Plan provides for the grant of incentive stock options within the meaning of Section 422 of the Code, solely to employees and for the grant of non-statutory stock options to employees, consultants and non-employee directors.

The Committee determines the exercise price of options granted under the 2012 Plan on the date of grant, and in the case of incentive stock options the exercise price must be at least 100% of the fair market value per share at the time of grant. The exercise price of any incentive stock option granted to an employee who owns stock possessing more than 10% of the voting power of our outstanding capital stock must equal at least 110% of the fair market value of the common stock on the date of grant. The aggregate fair market value of common stock (determined as of the date of the option grant) for which incentive stock options may for the first time become exercisable by any individual in any calendar year may not exceed $100,000. Payment of the exercise price may be made by delivery of cash or a check, or, in the discretion of the Committee, the exercise price may be paid through any other form of consideration and method of payment permitted by law and the 2012 Plan, including the delivery of already-owned shares of our common stock and the surrender of shares subject to the stock option.

Options granted to employees, directors, and consultants under the 2012 Plan generally become exercisable in increments, based on the optionee's continued employment or service with us. The term of an incentive stock option may not exceed 10 years. Options granted under the 2012 Plan, whether incentive stock options or non-statutory options, generally expire 10 years from the date of grant, except that incentive stock options granted to an employee who owns stock possessing more than 10% of the voting power of our outstanding capital stock are not exercisable for longer than five years after the date of grant.

Stock Bonuses and Purchase Rights. The 2012 Plan provides for shares of common stock to be awarded or sold to participants as an incentive for the performance of past or future services to us. The Committee may determine the purchase price to be paid for such stock, if any, and other terms of such purchase or award.

Stock Appreciation Rights. The 2012 Plan provides for the grant of stock appreciation rights, or SARs, pursuant to an SAR agreement adopted by the Committee. An SAR may be granted in connection with a stock option or alone, without reference to any related stock option. The Committee will determine the exercise price of an SAR on the date of grant, and the exercise price may not be less than 100% of the fair market value of a share of our common stock on the date of grant.

The holder of an SAR will have the right to receive, in cash or common stock, all or a portion of the difference between the fair market value of a share of our common stock at the time of exercise of the SAR and the exercise price of the SAR established by the Committee, subject to such terms and conditions set forth in the SAR agreement.

Termination of Employment or Affiliation. The 2012 Plan provides that if a grantee ceases to be employed by the Company and all Related Corporations other than by reason of death or disability, the grantee may exercise any stock right held by him or her to the extent such stock right could have been exercised on the date of termination of employment until the stock right's specified expiration date. In the event the grantee exercises any incentive stock option after the date that is three months following the date of termination, such incentive stock option will be converted into a non-statutory stock option.

Death or Disability. The 2012 Plan provides that if a grantee ceases to be employed by the Company and all Related Corporations by reason of death, or if a grantee dies within three months of the date his or her employment or other affiliation with the Company has been terminated, then the grantee's estate, personal representative or beneficiary who acquired the stock right by will or by the laws of descent and distribution may exercise that stock right to the extent the stock right could have been exercised on the date of the grantee's death. Unless otherwise specified in the instrument granting the stock right, the acquirer of the stock right may exercise the stock right within 12 months of the date of the grantee's termination or before the stock right's specified expiration date, whichever is earlier. In the event the acquirer of the stock right exercises any incentive stock option after the date that is 12 months following the date of termination, such incentive stock option will be converted into a non-statutory stock option.

The 2012 Plan provides that if a grantee ceases to be employed by the Company and all Related Corporations by reason of disability, he or she will have the right to exercise any stock right held by him or her on the date of termination to the extent the stock right could have been exercised on the date of the grantee's termination. Unless otherwise provided by the instrument granting the stock right, the grantee may exercise such stock right within 12 months of the date of termination or before the stock right's specified expiration date, whichever is earlier.

Transferability. Except for transfers made by will or the laws of descent and distribution in the event of the holder's death, no incentive stock option may be transferred, pledged or assigned by the holder of the stock right. During a participant's lifetime, an incentive stock option may be exercised only by him or her or by his or her guardian or legal representative. Non-statutory stock options, SARs, or other awards may be transferred, pledged or assigned by the holder thereof to "family members" (as defined in the 2012 Plan), or by will or the laws of descent and distribution in the event of the holder's death. We are not required to recognize any attempted assignment of such rights by any participant that is not in compliance with the 2012 Plan.

Changes in Capitalization. In the event of a change in the number of shares of our common stock through a combination or subdivision, or if we issue shares of common stock as a stock dividend, then the number of shares deliverable upon the exercise of outstanding stock rights will be increased or decreased proportionately, and appropriate adjustments will be made in the purchase price per share to reflect such subdivision, combination, or stock dividend. Additionally, in the event of such a subdivision, combination, or stock dividend, the aggregate number of stock rights that have been or subsequently may be granted under the 2012 Plan will also be appropriately adjusted.

Corporate Transactions. The 2012 Plan provides that in the event of our consolidation or merger with or into another corporation or a sale of all or substantially all of our assets, which we refer to as an "acquisition," whereby the acquiring entity or our successor does not agree to assume the incentive awards or replace them with substantially equivalent incentive awards, all outstanding

options, stock bonuses, SARs, or other stock rights will vest and will become immediately exercisable in full and, if not exercised on the date of the acquisition, will terminate on such date regardless of whether the participant to whom such stock rights have been granted remains in our employ or service or in the employ or service of any acquiring or successor entity. In the event of an acquisition in which the acquiring entity agrees to assume the incentive awards, and, 60 days prior to the acquisition or 180 days after the acquisition, the holder of an award is terminated as an employee or consultant other than for cause or the holder terminates his or her employment for good reason, then upon such termination any incentive award held by the holder will vest and will become immediately exercisable in full.

In the event of the proposed dissolution or liquidation of the Company, each stock right will terminate immediately prior to the consummation of the proposed action, or at such other time and subject to such other conditions determined by the Committee.

Lock-up Agreement. Each recipient of securities under the 2012 Plan agreed not to sell, make any short sale of, loan, grant any option for the purchase of or otherwise dispose of any common stock of the Company for a period of time up to but not exceeding 180 days from the effective date of the first registration with the SEC of the Company's common stock for public sale, unless otherwise consented to by the Company or the underwriters.

Termination or Amendment. Our board may terminate, amend or modify the 2012 Plan at any time before its expiration. However, stockholder approval is required to increase the aggregate share limit, change the description of eligible participants, modify the exercise price of any incentive stock option such that its exercise price is lower than the fair market value of the common stock on the date of the option grant, or to the extent necessary to comply with applicable law.

The term of the 2012 Plan will expire on January 31, 2022.

2000 Stock Option Plan

Our board adopted and our stockholders approved the Amended and Restated Benefitfocus.com, Inc. 2000 Stock Option Plan, or the 2000 Plan, on February 21, 2007. The 2000 Plan provides for the grant of incentive stock options, as defined under Section 422 of the Code, to employees and for the grant of non-statutory stock options to any persons whose participation in the 2000 Plan the Committee determines to be in the best interests of the Company, including, but not limited to, employees, consultants and non-employee directors.

As of April 30, 2013, 473,776 shares of common stock have been issued, options to purchase a total of 2,520,607 shares of common stock, with a weighted exercise price of $5.40 per share, and a warrant to purchase 500,000 shares of common stock, with an exercise price of $5.48 per share, remained outstanding under the 2000 Plan. The 2000 Plan has expired and we therefore no longer issue additional awards under the 2000 Plan.

Administration. Although no future awards will be granted under this plan, all awards previously granted under the 2000 Plan will continue to be outstanding and will be governed under the terms and conditions of the 2000 Plan. Our board, or a committee of the board, will continue to administer the 2000 Plan. We refer to the board or the committee appointed to administer the 2000 Plan in this summary as the "Committee".

Corporate Transactions. In the event that outstanding shares of common stock are changed into or exchanged for a different number or kind of shares of stock of the Company by reason of a merger,

consolidation, reorganization, recapitalization, combination or exchange of shares, or stock split or stock dividend, the Committee will appropriately adjust the rights of the option holders with respect to the number of shares subject to the options and the exercise price of such options.

In the event of a corporate transaction in which we are not the surviving entity, the Committee may, but is not required to, declare that all options granted under the 2000 Plan are immediately exercisable and that all such options will terminate within thirty days after the Committee gives written notice to the option holders. The options under the 2000 Plan may be assumed by a successor corporation or substituted on an equitable basis with options issued by such successor corporation.

If the Company is to be liquidated or dissolved other than in connection with corporate transactions specified by the 2000 Plan, then the Company will cause all options outstanding under the 2000 Plan to terminate to the extent not exercised prior to the adoption of the plan of dissolution or liquidation by the stockholders, unless the Committee otherwise determines that all options granted under the 2000 Plan are exercisable at any time on or before the fifth business day following the adoption of the plan of dissolution or liquidation by the stockholders.

Outstanding Equity Awards as of December 31, 2012

The following table lists the outstanding equity awards held by our named executive officers as of December 31, 2012:

	Option awards				
Name	Vesting commencement date	Number of securities underlying unexercised options exercisable(#)	Number of securities underlying unexercised options unexercisable(#)	Option exercise price ($)	Option expiration date
Shawn A. Jenkins *President and CEO*	2/21/2007	847,458 (1)	—	$ 7.09	2/20/2017
Andrew L. Howell	7/1/2007	75,000 (1)	—	3.12	6/30/2017
Chief Operating Officer	4/30/2007	3,606 (1)	—	3.12	6/30/2017
	2/1/2008	25,000 (1)	—	3.14	2/1/2018
	7/1/2009	21,354 (2)	3,646	3.80	6/30/2019
	7/1/2010	45,312 (3)	29,688	5.38	6/30/2020
	10/1/2012	— (4)	32,000	10.30	9/30/2022
Milton A. Alpern	1/9/2012	— (5)	201,844	8.11	1/31/2022
Chief Financial Officer	1/9/2012	— (6)	12,115	9.33	6/30/2022
	10/1/2012	— (4)	2,000	10.30	9/30/2022

(1) This option is fully vested.

(2) This option was granted on July 1, 2009 and vests over a four-year period with one-fourth (1/4) of the option granted vesting on July 1, 2010, the first anniversary of the vesting commencement date, and the balance of the option granted vesting ratably on a monthly basis over the following 36 months.

(3) This option was granted on July 1, 2010 and vests over a four-year period with one-fourth (1/4) of the option granted vesting on July 1, 2011, the first anniversary of the vesting commencement date, and the balance of the option granted vesting ratably on a monthly basis over the following 36 months.

(4) This option was granted on October 1, 2012 and vests over a four-year period with one-fourth (1/4) of the option granted vesting on October 1, 2013, the first anniversary of the vesting commencement date, and the balance of the option granted vesting ratably on a monthly basis over the following 36 months.

(5) This option was granted on January 31, 2012 and vests over a four-year period with one-fourth (1/4) of the option granted vesting on January 9, 2013, the first anniversary of the vesting commencement date, and the balance of the option granted vesting ratably on a monthly basis over the following 36 months.

(6) This option was granted on July 1, 2012 and vests over a four-year period with one-fourth (1/4) of the option granted vesting on July 1, 2013, the first anniversary of the vesting commencement date, and the balance of the option granted vesting ratably on a monthly basis over the following 36 months.

CERTAIN RELATIONSHIPS AND RELATED-PARTY TRANSACTIONS

The following is a summary of each transaction or series of similar transactions since January 1, 2010, to which we were or are a party in which:

- Ÿ the amount involved exceeded or exceeds $120,000; and
- Ÿ any of our directors or executive officers, any holder of 5% of our capital stock or any member of their immediate family had or will have a direct or indirect material interest.

Series A Preferred Stock Financing

In January 2007, we completed our Series A preferred stock financing, or the Series A financing, with GS Capital Partners VI Parallel, L.P., GS Capital Partners VI Offshore Fund, L.P., GS Capital Partners VI Fund, L.P., and GS Capital Partners VI GmbH & CO. KG, which we refer to as the Goldman Funds. The Series A investors purchased an aggregate of 14,055,851 shares of our Series A preferred stock at a purchase price per share of $7.52, for an aggregate purchase price of $105.7 million. As of April 30, 2013, the Goldman Funds collectively held 66.0% of our outstanding capital stock and have the right to appoint two directors to our board of directors. Currently, Joseph P. DiSabato and Raheel Zia serve as the Goldman Funds' board appointees pursuant to a voting agreement between us and certain of our stockholders. The voting agreement and board appointment rights will terminate upon the closing of the offering contemplated by this prospectus. Additionally, we granted the Goldman Funds board observation and other management rights pursuant to a management rights agreement. We and the Goldman Funds amended this agreement in 2013 to provide for the termination of the agreement upon the closing of the offering contemplated by this prospectus.

Affiliates of The Goldman Sachs Group, Inc. are the general partner, managing general partner or other manager of each of the Goldman Funds. In addition, each of the Goldman Funds is affiliated with or managed by Goldman, Sachs & Co., which is wholly owned, directly and indirectly, by The Goldman Sachs Group, Inc. Goldman, Sachs & Co. is serving as one of the lead underwriters in this offering.

Series B Preferred Stock Financing

In August 2010, we completed our Series B preferred stock financing, or the Series B financing, with Oak Investment Partners XII, L.P., pursuant to the Series B Preferred Stock Purchase Agreement. Oak Investment Partners purchased an aggregate of 2,441,009 shares of our Series B preferred stock at a purchase price per share of $12.29, for an aggregate purchase price of $30.0 million. As of April 30, 2013, Oak Investment Partners beneficially held 11.5% of our outstanding capital stock and has the right to appoint one director, currently Ann H. Lamont, to our board. The board appointment rights terminate upon the closing of the offering contemplated by this prospectus.

In connection with the Series B financing, we entered into redemption agreements with Shawn Jenkins and the Holland Family Trust, of which Mason Holland is trustee. Under the redemption agreements, we agreed to use the proceeds from the Series B financing to redeem 1,301,871 shares of our common stock held by the Holland Family Trust and 1,139,138 shares of common stock held by Shawn Jenkins at a purchase price of $12.29 per share, or an aggregate of $30.0 million.

In connection with the Series B financing, we also entered into an Amended and Restated Voting Agreement with: our Series A investors, consisting of the Goldman Funds; our Series B investor, Oak Investment Partners; the Holland Family Trust; and Shawn Jenkins, all of which we refer to collectively as the Key Holders. Under this agreement, the parties agreed that the holders of the Series A preferred stock, voting as a separate class, are entitled to elect two directors of the Company, the holders of the

Series B preferred stock, voting as a separate class, are entitled to elect one director of the Company, and Mason Holland and Shawn Jenkins, voting their common stock as a separate class, are entitled to elect two directors of the Company. The holders of the Series A preferred stock, Series B preferred stock, and common stock, voting together as a single class, are entitled to elect the balance of the total number of directors of the Company.

In addition, each Key Holder agrees to vote his, her, or its shares such that the individuals nominated by GS Capital Partners VI Parallel, L.P., the individual nominated by Oak Investment Partners, and each of Mason Holland and Shawn Jenkins will continue to serve as board members. GS Capital Partners VI Parallel, L.P. will be entitled to designate two board members for as long as The Goldman Sachs Group, Inc. and its affiliates hold 10% or more of the fully diluted equity interest in the Company. Oak Investment Partners will be entitled to designate one board member for as long as Oak Investment Partners holds 5% or more of the fully diluted equity interest in the Company. Mason Holland and Shawn Jenkins will be designated as board members for as long as each holds shares equal to or in excess of 50% of the number of shares each beneficially held immediately after the completion of the Series B financing.

This agreement also provides for drag-along rights upon a sale of control of the Company or a transaction that qualifies as a liquidation event. We and the requisite stockholders amended this agreement in 2013, in contemplation of this offering, to provide that the agreement will terminate in its entirety on the effective date of the registration statement of which this prospectus is a part.

In addition, we granted Oak Investment Partners board observer and other management rights pursuant to a management rights agreement. We and Oak Investment Partners amended this agreement in 2013 to provide for the termination of the agreement upon the closing of the offering contemplated by this prospectus. We also amended a similar management rights agreement with the Goldman Funds, our Series A investors, to provide for the termination of the agreement upon the closing of the offering contemplated by this prospectus.

In connection with the Series B financing, we entered into the Amended and Restated Investors' Rights Agreement with the Key Holders. This agreement provides the Key Holders with registration rights, piggyback registration rights, certain information and board observation rights, and rights of first offer. These rights are described in more detail under "Description of Capital Stock—Registration Rights". All registration rights will terminate four years after the closing of the offering contemplated by this prospectus. The information and board observation rights terminate upon the closing of the offering contemplated by this prospectus, or when the Company first becomes subject to the periodic reporting requirements of Section 12(g) or 15(d) of the Exchange Act, whichever comes first. The rights of first offer do not apply to, and will terminate upon, the closing of the offering contemplated by this prospectus.

In connection with the Series B financing, we entered into the Amended and Restated Right of First Offer and Co-Sale Agreement with the Key Holders. Under the terms of this agreement, we obtained a right of first refusal if any of the Key Holders propose to transfer any of his, her, or its shares, and we granted each Key Holder a right of refusal for any remaining shares for which we do not exercise our right of first refusal. Additionally, each respective Key Holder has a right of co-sale, which permits each holder to sell any shares of stock with the selling preexisting shareholder other than shares we or other Key Holders purchase pursuant to rights of refusal, provided that if a Key Holder wishes to sell preferred stock, such preferred stock will first be converted into common stock at the applicable conversion ratio. This agreement will terminate in its entirety upon the closing of the offering contemplated by this prospectus.

Landlord—Daniel Island Executive Center, LLC

We lease real property from Daniel Island Executive Center, LLC for use as our corporate headquarters in Charleston, South Carolina pursuant to two lease agreements. Mason Holland, our Executive Chairman of the Board and a significant stockholder, is the sole member of Holland Properties, LLC, which owns a supermajority interest in Daniel Island Executive Center. Shawn Jenkins, our President and CEO, owns the remaining minority interest in Daniel Island Executive Center. Each lease agreement has a term of 15 years, with an aggregate of $48.7 million of lease payments due over the remainder of the terms as of April 30, 2013. We incurred expenses related to these agreements in the amount of $3.1 million, $3.1 million, and $3.6 million for the years ended December 31, 2010, 2011, and 2012, respectively, leasing property from Daniel Island Executive Center, LLC.

North American Jet Charter Group LLC

Mason Holland, our Executive Chairman of the board and a significant stockholder, is the supermajority owner of North American Jet Charter Group LLC, which periodically provides jet chartering services to us. For the years ended December 31, 2010, 2011, and 2012, we incurred costs of $0.2 million, $0.1 million, and $0.1 million, respectively, chartering jets from North America Jet Charter Group.

Indemnification Agreements

Our amended and restated certificate of incorporation and our amended and restated bylaws provide that we shall indemnify our directors and officers to the fullest extent permitted by law. In addition, as permitted by the laws of the State of Delaware, we intend to enter into indemnification agreements with each of our directors. Under the terms of our indemnification agreements, we will be required to indemnify each of our directors, to the fullest extent permitted by the laws of the State of Delaware, if the indemnitee acted in good faith and in a manner the indemnitee reasonably believed to be in or not opposed to the best interests of the Company, and with respect to any criminal proceeding, had no reasonable cause to believe the indemnitee's conduct was unlawful. We must indemnify our officers and directors against any and all (a) costs and expenses (including attorneys' and experts' fees, expenses and charges) actually and reasonably paid or incurred in connection with investigating, defending, being a witness in or participating in, or preparing to investigate, defend, be a witness in or participate in, and (b) judgments, fines, penalties and amounts paid in settlement in connection with, in the case of either (a) or (b), any threatened, pending or completed action, suit, arbitration, alternate dispute resolution mechanism, investigation, inquiry, administrative hearing or any other actual, threatened or completed proceeding, by reason of the fact that (x) such person is or was a director or officer, employee, agent or fiduciary of the Company or (y) such person is or was serving at our request as a director, officer, employee or agent or fiduciary of another corporation, partnership, joint venture, trust, employee benefits plan or other enterprise. The indemnification agreements will also require us, if so requested, to advance within 30 days of such request any and all costs and expenses that such director or officer incurred, provided that such person will return any such advance if it is ultimately determined that such person is not entitled to be indemnified for such costs and expenses. Our amended and restated bylaws also require that such person return any such advance if it is ultimately determined that such person is not entitled to indemnification by us as authorized by the laws of the State of Delaware.

We will not be required to provide indemnification under our indemnification agreements for certain matters, including: (1) indemnification in connection with certain proceedings or claims initiated or brought voluntarily by the indemnitee; (2) indemnification related to disgorgement of profits made from the purchase or sale of securities of our company under Section 16(b) of the Securities Exchange

Act of 1934, as amended, or similar provisions of state statutory or common law; (3) indemnification that is finally determined, under the procedures and subject to the presumptions set forth in the indemnification agreements, to be unlawful; or (4) indemnification for liabilities for which the director has received payment under any insurance policy for such person's benefit, our articles of incorporation or bylaws or any other contract or otherwise, except with respect to any excess amount beyond the amount so received by such director or officer. The indemnification agreements will require us, to the extent that we maintain an insurance policy or policies providing liability insurance for directors, officers, employees, agents or fiduciaries of our company or of any other corporation, partnership, joint venture, trust, employee benefits plan or other enterprise that such person serves at the request of our company, to cover such person by such policy or policies to the maximum extent available.

Employment Agreements

We have entered into employment agreements with certain of our executive officers that provide for salary, bonus and severance compensation. For more information regarding these employment agreements, see "Executive Compensation—Employment Agreements" and "Executive Compensation—Potential Payments Upon Termination or Change in Control".

Equity Issued to Executive Officers and Directors

We have granted stock options to our executive officers and directors, as more fully described in "Executive Compensation—Grants of Plan Based Awards" and "Executive Compensation—Non-Employee Director Compensation". In May 2013, we also sold 5,000 shares of our common stock to our director Frank Pelzer for $13.53 per share, which we deemed to be fair market value at that time.

Corporate Restructuring

In connection with this offering, we intend to change our state of incorporation from South Carolina to Delaware. We intend to effect this restructuring by merging a newly formed South Carolina corporation, which is a wholly owned subsidiary of Benefitfocus, Inc., the Delaware corporation that is conducting this offering, with Benefitfocus.com, Inc., the South Carolina corporation that conducts our business. All equity interests in Benefitfocus.com, Inc., including all outstanding shares of capital stock and rights to acquire capital stock of Benefitfocus.com, Inc., will convert into equivalent equity interests of Benefitfocus, Inc. As a result of the restructuring, Benefitfocus.com will become a wholly owned operating subsidiary of Benefitfocus, Inc.

Procedures for Approval of Related-Party Transactions

Currently, any action that results in the consummation of any transaction (other than compensation and advancement or reimbursement of expenses or other similar transactions in accordance with Company policies) with any of the Company's officers, directors, shareholders, employees or affiliates, or any family member or affiliate of any of the foregoing requires the prior approval of a majority of our board of directors and a majority of the disinterested directors (if any).

Upon completion of this offering, our Audit Committee, pursuant to its written charter, will be responsible for reviewing and approving or ratifying any related-party transaction reaching a certain threshold of significance. In the course of its review and approval or ratification of a related-party transaction, the committee will, among other things, consider, consistent with Item 404 of Regulation S-K, the following:

Ÿ the nature and amount of the related person's interest in the transaction;

- Ÿ the material terms of the transaction, including, without limitation, the amount and type of transaction; and
- Ÿ any other matters the audit committee deems appropriate.

Any member of the audit committee who is a related person with respect to a transaction under review will not be permitted to participate in the deliberations or vote respecting approval or ratification of the transaction. However, such director may be counted in determining the presence of a quorum at a meeting of the committee that considers the transaction.

PRINCIPAL AND SELLING STOCKHOLDERS

The following table sets forth certain information with respect to the beneficial ownership of our common stock, as of April 30, 2013, and immediately after completion of this offering, for:

- each of our named executive officers;
- each of our directors;
- all our current executive officers and directors as a group;
- each of our selling stockholders; and
- each person, or group of affiliated persons, known by us to be the beneficial owner of more than 5% of our outstanding shares of common stock.

For purposes of the table below, the column entitled “Shares Beneficially Owned before the Offering” is based on a total of 21,301,464 shares of our common stock outstanding as of April 30, 2013, after giving effect to the conversion of all outstanding shares of our Series A Preferred Stock and Series B Preferred Stock into an aggregate of 16,496,860 shares of our common stock. The column entitled “Shares Beneficially Owned after the Offering—No Exercise of Underwriters’ Option” is based on shares of our common stock outstanding after this offering, including the shares of our common stock that we are selling in this offering and assumes no exercise of the underwriters’ option. The column entitled “Shares Beneficially Owned after the Offering—Full Exercise of Underwriters’ Option” is based on shares of our common stock outstanding after this offering, including the shares of our common stock that we are selling in this offering and assumes the exercise in full of the underwriter’s option.

Beneficial ownership is determined in accordance with the rules of the SEC and includes voting or investment power with respect to the securities. Shares of common stock that may be acquired by an individual or group within 60 days of April 30, 2013, pursuant to the exercise of options, warrants or other rights, are deemed to be outstanding for the purpose of computing the percentage ownership of such individual or group, but are not deemed to be outstanding for the purpose of computing the percentage ownership of any other person shown in the table. The underwriters have an option to purchase up to additional shares of our common stock from us and up to additional shares of our common stock from the selling stockholders to cover overallotments.

The information in the table below with respect to each selling stockholder has been obtained from that selling stockholder.

Except as indicated in footnotes to this table, we believe that the stockholders named in this table have sole voting and investment power with respect to all shares of common stock shown to be beneficially owned by them, based on information provided to us by such stockholders. Unless otherwise indicated, the address for each director and executive officer listed is: c/o Benefitfocus, Inc., 100 Benefitfocus Way, Charleston, SC 29492.

	Shares Beneficially Owned before the Offering			Shares Beneficially Owned after the Offering—No Exercise of Underwriters' Option		Shares Beneficially Owned after the Offering—Full Exercise of Underwriters' Option	
Name of Beneficial Owner	Shares	Percentage	Number of Shares Offered	Shares	Percentage	Shares	Percentage
Directors and Named Executive Officers:							
Mason R. Holland, Jr.(1)	2,875,650	13.24%					
Shawn A. Jenkins(2)	2,960,862	13.37%					
Andrew L. Howell(3)	182,772	*					
Milton A. Alpern(4)	75,776	*					
Joseph P. DiSabato(5)	14,055,851	65.99%					
Ann H. Lamont(6)	2,441,009	11.46%					
Francis J. Pelzer V(7)	5,000	—					
Raheel Zia(5)	14,055,851	65.99%					
All directors and executive officers as a group (9 individuals)	22,756,398(8)	98.96%					
5% or Greater Stockholders:							
GS Capital Partners(5)	14,055,851	65.99%					
Oak Investment Partners XII, L.P.(6)	2,441,009	11.46%					

* less than one percent (1%).

(1) Consists of 2,451,921 shares held by the Holland Family Trust and 423,729 shares issuable upon the exercise of options exercisable within 60 days of April 30, 2013. Mr. Holland and his wife share voting and investment control over the shares held by the Holland Family Trust.

(2) Includes 847,458 shares issuable upon the exercise of options exercisable within 60 days of April 30, 2013.

(3) Consists of 182,772 shares issuable upon the exercise of options exercisable within 60 days of April 30, 2013.

(4) Consists of 75,776 shares issuable upon the exercise of options exercisable within 60 days of April 30, 2013.

(5) Consists of (i) 1,804,202 shares of Series A Preferred Stock held directly by GS Capital Partners VI Parallel, L.P., (ii) 5,457,326 shares of Series A Preferred Stock held directly by GS Capital Partners VI Offshore Fund, L.P., (iii) 6,561,140 shares of Series A Preferred Stock held directly by GS Capital Partners VI Fund, L.P., and (iv) 233,183 shares of Series A Preferred Stock held directly by GS Capital Partners VI GmbH & CO. KG (the "Goldman Funds"). Affiliates of Goldman, Sachs & Co. and The Goldman Sachs Group, Inc. are the general partner, managing general partner, managing partner, managing member or member of each of the Goldman Funds. Goldman, Sachs & Co. is a direct and indirect wholly owned subsidiary of The Goldman Sachs Group, Inc. Goldman, Sachs & Co. is the investment manager of certain of the Goldman Funds. The Goldman Sachs Group, Inc. and Goldman, Sachs & Co. each disclaim beneficial ownership of the shares of common stock owned directly or

indirectly by the Goldman Sachs Funds. Joseph P. DiSabato and Raheel Zia are managing directors of Goldman, Sachs & Co. Each of Messrs. DiSabato and Zia disclaims beneficial ownership of the shares of stock owned directly or indirectly by the Goldman Funds. The address of the Goldman Funds and Messrs. DiSabato and Zia is 555 California Street, San Francisco, CA 94104.

(6) Consists of 2,441,009 shares of Series B Preferred Stock held directly by Oak Investment Partners XII, L.P. Ms. Lamont is a Managing Partner of Oak Investment Partners.

(7) In May 2013, Mr. Pelzer purchased 5,000 shares of common stock from us.

(8) Excludes 5,000 shares Mr. Pelzer purchased from us in May 2013.

DESCRIPTION OF CAPITAL STOCK

Upon the completion of this offering, our authorized capital stock will consist of 50,000,000 shares of common stock, $0.001 par value per share, 14,055,851 shares of Series A preferred stock, par value $0.001 per share, 2,441,009 shares of Series B preferred stock, par value $0.001 per share, and 5,000,000 shares of undesignated preferred stock, par value $0.001 per share. The following description summarizes the material terms of our capital stock. Because it is only a summary, it does not contain all the information that may be important to you. For a complete description of our capital stock, you should refer to our amended and restated certificate of incorporation and our amended and restated bylaws, which are included as exhibits to the registration statement of which this prospectus forms a part, and to the provisions of applicable Delaware law.

Common Stock

As of December 31, 2012, there were 21,289,207 shares of our common stock outstanding and held by approximately 42 stockholders of record, assuming the automatic conversion upon the closing of this offering of 14,055,851 shares of Series A preferred stock into 14,055,851 shares of common stock and 2,441,009 shares of Series B preferred stock into 2,441,009 shares of common stock. After this offering, based on these assumptions, the issuance of shares of common stock in this offering and assuming no additional exercise of stock options or other convertible or exercisable securities, there will be shares of our common stock outstanding, or shares if the underwriters exercise their overallotment option in full.

- *Dividend Rights*. Subject to preferences that may apply to any shares of preferred stock outstanding at the time, the holders of outstanding shares of our common stock are entitled to receive dividends out of funds legally available at the times and in the amounts that our board of directors may determine. All dividends are non-cumulative.
- *Voting Rights*. The holders of our common stock are entitled to one vote for each share of common stock held on all matters submitted to a vote of the stockholders, including the election of directors. Our amended and restated certificate of incorporation and amended and restated bylaws do not provide for cumulative voting rights.
- *No Preemptive or Similar Rights*. The holders of our common stock have no preemptive, conversion, or subscription rights, and there are no redemption or sinking fund provisions applicable to our common stock.
- *Right to Receive Liquidation Distributions*. Upon our liquidation, dissolution, or winding-up, the assets legally available for distribution to our stockholders would be distributable ratably among the holders of our common stock and any participating preferred stock outstanding at that time after payment of liquidation preferences, if any, on any outstanding shares of preferred stock and payment of other claims of creditors.
- *Fully Paid and Non-Assessable*. All of the outstanding shares of our common stock are, and the shares of our common stock to be issued pursuant to this offering will be, fully paid and non-assessable.
- *Potential Adverse Effect of Future Preferred Stock*. The rights, preferences and privileges of the holders of common stock are subject to, and might be adversely affected by, the rights of the holders of shares of any series of our preferred stock that we may designate and issue in the future.

Preferred Stock

Immediately prior to the closing of this offering, there were 14,055,851 shares of our Series A preferred stock outstanding, held by four stockholders directly, and 2,441,009 shares of our Series B preferred stock outstanding, held by one stockholder directly. Our amended and restated certificate of incorporation provides that each share of our Series A preferred stock and Series B preferred stock will automatically convert into common stock at the applicable conversion rate, currently on a one-for-one basis, upon the closing of this offering. Once converted, the Series A preferred stock and Series B preferred stock may not be reissued.

Following this offering, our board will be authorized, subject to limitations prescribed by Delaware law, to issue up to 5,000,000 shares of preferred stock in one or more series, to establish from time to time the number of shares to be included in each series, and to fix the designation, powers, preferences, and rights of the shares of each series and any of its qualifications, limitations, or restrictions, in each case without further action by our stockholders. Our board can also increase or decrease the number of shares of any series of preferred stock, but not below the number of shares of that series then outstanding unless approved by the affirmative vote of the holders of a majority of our capital stock entitled to vote, or such other vote as may be required by the certificate of designation establishing the series. Our board may authorize the issuance of preferred stock with voting or conversion rights that could adversely affect the voting power or other rights of the holders of our common stock. The issuance of preferred stock, while providing flexibility in connection with possible acquisitions and other corporate purposes, could, among other things, have the effect of delaying, deferring, or preventing a change in our control or the removal of management and might adversely affect the market price of our common stock and the voting and other rights of the holders of our common stock. We have no current plans to issue any shares of preferred stock.

Options

As of December 31, 2012, options to purchase a total of 3,121,064 shares of common stock were outstanding. As of December 31, 2012, options to purchase a total of 320,189 shares of common stock remain available for future issuance under our stock plans.

Warrant

On November 23, 2009, we issued a warrant for the purchase of 500,000 shares of our common stock with an exercise price of $5.48 per share. The warrant terminates ten years from the date of its issuance and provides anti-dilution protections to the holder, including protection in the event that we issue shares of our common stock for less than the then-current fair market value of such common stock, as determined by our board of directors. The holder is entitled to exercise the warrant in whole or in part, provided that upon exercise the shares are subject to a market stand-off agreement that restricts the holder from selling or otherwise disposing of any of our common stock for up to 180 days from the effective date of this prospectus, unless otherwise consented to by the underwriters.

Registration Rights

Following the completion of this offering, stockholders holding approximately 21.1 million shares of our common stock, including shares issued upon conversion of our preferred stock, will have the right, subject to various conditions and limitations, to include their shares in registration statements relating to our securities. The holders of at least two-thirds, or 66 $^{2}/_{3}$%, of the shares subject to these registration rights have the right to demand that we register such shares under the Securities Act of

1933, as amended, or Securities Act, with respect to shares having an aggregate offering price of at least $5,000,000, and subject to other limitations. In addition, these holders are entitled to piggyback registration rights with respect to the registration under the Securities Act of shares of common stock. In the event that we propose to register any shares of common stock under the Securities Act either for our account or for the account of other security holders, the holders of shares having piggyback registration rights are entitled to receive notice of such registration and to include shares in any such registration, subject to limitations. Further, at any time after we become eligible to file a registration statement on Form S-3, the holders of at least 10% of the shares subject to these registration rights may require us to file registration statements under the Securities Act on Form S-3 with respect to shares of common stock having an aggregate offering price, net of selling expenses, of at least $500,000. To the extent that we qualify as a well-known seasoned issuer, or WKSI, at the time a requisite number of holders demand the registration of shares subject to these registration rights, we will file an automatic shelf registration statement covering the shares for which registration is demanded if so requested by the holders of such shares. These registration rights are subject to conditions and limitations, among them the right of the underwriters of an offering to limit the number of shares of common stock held by such security holders to be included in such registration. We are generally required to bear all of the expenses of such registrations, including reasonable fees of a single counsel acting on behalf of all selling holders, except underwriting discounts, selling commissions, and stock transfer taxes applicable to the sale. Registration of any of the shares of common stock held by security holders with registration rights would result in such shares becoming freely tradable without restriction under the Securities Act immediately upon effectiveness of such registration. All registration rights will terminate upon the expiration of four years after the closing of the offering contemplated by this prospectus.

Certain Provisions of our Amended and Restated Certificate of Incorporation and Amended and Restated Bylaws

The provisions of Delaware law, our amended and restated certificate of incorporation and our amended and restated bylaws may have the effect of delaying, deferring, or discouraging another person from acquiring control of our company.

Delaware Law. We are governed by the provisions of Section 203 of the Delaware General Corporation Law. In general, Section 203 prohibits a public Delaware corporation from engaging in a “business combination” with an “interested stockholder” for a period of three years after the date of the transaction in which the person became an interested stockholder unless:

- Ÿ prior to such time, our board of directors approved either the business combination or the transaction which resulted in the stockholder becoming an interested stockholder;
- Ÿ upon consummation of the transaction that resulted in the stockholder becoming an interested stockholder, the interested stockholder owned at least 85% of the voting stock of the corporation outstanding at the time the transaction commenced, excluding shares owned by persons who are directors and also officers and by specified employee stock plans; or
- Ÿ at or subsequent to the date of the transaction, the business combination is approved by the board of directors and authorized at an annual or special meeting of stockholders by the affirmative vote of at least 66 2/3% of the outstanding voting stock which is not owned by the interested stockholder.

A “business combination” includes mergers, asset sales, or other transactions resulting in a financial benefit to the stockholder. In general, an “interested stockholder” is a person who, together with affiliates and associates, owns, or within three years did own, 15% or more of the corporation’s outstanding voting stock. These provisions may have the effect of delaying, deferring, or preventing a change in our control.

Certificate of Incorporation and Bylaw Provisions. Various provisions of our amended and restated certificate of incorporation and amended and restated bylaws that will be in effect upon the closing of this offering could deter hostile takeovers or delay or prevent changes in control of our management team, including the following:

Board of Directors Vacancies. Our amended and restated certificate of incorporation and amended and restated bylaws will authorize only our board to fill vacant directorships. In addition, the number of directors constituting our board is permitted to be set only by a resolution adopted by a majority of our board. These provisions would prevent a stockholder from increasing the size of our board and then gaining control of our board by filling the resulting vacancies with its own nominees.

Stockholder Action; Special Meeting of Stockholders. Our amended and restated certificate of incorporation provides that our stockholders may not take action by written consent, but may only take action at annual or special meetings of our stockholders. Our amended and restated bylaws further provide that special meetings of our stockholders may be called only by a majority of our board, the chairman of our board, or by such other person the board expressly authorizes to call a special meeting.

Advance Notice Requirements for Stockholder Proposals and Director Nominations. Our amended and restated bylaws provide advance notice procedures for stockholders seeking to bring business before our annual meeting of stockholders, or to nominate candidates for election as directors at our annual meeting of stockholders. To be timely, a stockholder's notice must be delivered to, or mailed and received at, our principal executive offices not less than 120 days prior to the first anniversary of the date of our notice of annual meeting provided with respect to the previous year's annual meeting of stockholders; provided, that if no annual meeting of stockholders was held in the previous year or the date of the annual meeting of stockholders has been changed to be more than 30 calendar days earlier or later than such anniversary, notice by the stockholder, to be timely, must be received a reasonable time before the solicitation is made. Our amended and restated bylaws also specify certain requirements regarding the form and content of a stockholder's notice. These provisions might preclude our stockholders from bringing matters before our annual meeting of stockholders or from making nominations for directors at our annual meeting of stockholders.

Issuance of Undesignated Preferred Stock. Our board has the authority, without further action by our stockholders, to issue up to 5,000,000 shares of undesignated preferred stock with rights and preferences, including voting rights, designated from time to time by our board. Our board may utilize these shares for a variety of corporate purposes, including future public offerings to raise additional capital, corporate acquisitions, and employee benefits plans. The existence of authorized but unissued shares of preferred stock would enable our board to render more difficult or to discourage an attempt to obtain control of us by means of a merger, tender offer, proxy contest, or other means. If we issue such shares without stockholder approval and in violation of limitations imposed by any stock exchange on which our stock may then be trading, our stock could be delisted.

Transfer Agent and Registrar

The transfer agent and registrar for our common stock will be Computershare Limited.

Stock Exchange Listing

We intend to apply to have our common stock listed on under the symbol "BNFT".

SHARES ELIGIBLE FOR FUTURE SALE

Prior to this offering, there has been no market for our common stock, and a liquid trading market for our common stock may not develop or be sustained after this offering. Future sales of substantial amounts of our common stock in the public market, or the perception that such sales could occur, could adversely affect market prices prevailing from time to time and could impair our ability to raise capital through the sale of our equity securities. Furthermore, because only a limited number of shares will be available for sale shortly after this offering due to existing contractual and legal restrictions on resale as described below, there may be sales of substantial amounts of our common stock in the public market after the restrictions lapse. This may adversely affect the prevailing market price and our ability to raise equity capital in the future. Although we intend to apply to have our common stock approved for listing on the under the symbol "BNFT," we cannot assure you that there will be an active public market for our common stock.

Based on the number of shares outstanding as of December 31, 2012 upon completion of this offering, shares of common stock will be outstanding, assuming no exercise of the underwriters' option. Of the shares to be outstanding immediately after the closing of this offering, the shares of common stock to be sold in this offering will be freely tradable without restriction under the Securities Act unless purchased by our "affiliates," as that term is defined in Rule 144 under the Securities Act.

The remaining shares of common stock and all of the shares of our preferred stock (and the shares of common stock into which they may be converted) will be "restricted securities" under Rule 144.

Subject to the lock-up agreements described below and the provisions of Rule 144 and 701 under the Securities Act, these restricted securities will be available for sale in the public market as follows:

Date Available for Sale	Shares Eligible for Sale	Description
Date of Prospectus		Shares sold in the offering and shares saleable under Rule 144 that are not subject to a lock-up
90 Days after Date of Prospectus		Shares saleable under Rules 144 and 701 that are not subject to a lock-up
180 Days after Date of Prospectus		Lock-up released; shares saleable under Rules 144 and 701

In addition, of the 3,121,064 shares of our common stock that were issuable upon the exercise of stock options outstanding as of December 31, 2012, options to purchase 2,327,504 shares of common stock were exercisable as of that date, and upon exercise these shares will be eligible for sale subject to the lock-up agreements described below and Rules 144 and 701 under the Securities Act.

Rule 144

In general, under Rule 144 under the Securities Act, as in effect on the date of this prospectus, once we have been subject to reporting requirements for at least 90 days, a person who is not one of our affiliates at any time during the three months preceding a sale, and who has beneficially owned the shares of our common stock to be sold for at least six months, would be entitled to sell an unlimited number of shares of our common stock, provided current public information about us is available. In addition, under Rule 144, a person who is not one of our affiliates at any time during the three months preceding a sale, and who has beneficially owned the shares of our common stock proposed to be sold for at least one year, would be entitled to sell an unlimited number of shares beginning one year after this offering without regard to whether current public information about us is available.

The outstanding warrant to purchase 500,000 shares of common stock will be exercisable upon the closing of the offering contemplated by this prospectus, and upon exercise these shares will be eligible for sale subject to the lock-up arrangement described under “Description of Capital Stock—Warrant” and Rules 144 and 701 under the Securities Act.

Our affiliates who have beneficially owned shares of our common stock for at least six months are entitled to sell within any three-month period a number of shares that does not exceed the greater of:

- Ÿ 1% of the number of shares of our common stock then outstanding, which will equal approximately shares immediately after this offering; and
- Ÿ the average weekly trading volume in our common stock on the during the four calendar weeks preceding the date of filing of a Notice of Proposed Sale of Securities Pursuant to Rule 144 with respect to the sale.

Sales by affiliates under Rule 144 are also subject to manner-of-sale provisions and notice requirements and to the availability of current public information about us. Rule 144 also provides that affiliates relying on Rule 144 to sell shares of our common stock that are not restricted shares must nonetheless comply with the same restrictions applicable to restricted shares, other than the holding period requirement.

Rule 701

In general, under Rule 701 under the Securities Act, any of our employees, consultants, or advisors who purchased shares from us in connection with a qualified compensatory stock plan or other written agreement is eligible to resell those shares 90 days after the effective date of this offering in reliance on Rule 144, but without compliance with the various restrictions, including the holding period, contained in Rule 144.

Lock-up Agreements

In connection with this offering, we, our officers and directors, and certain stockholders have each entered into a lock-up agreement with the underwriters of this offering that restricts the sale of shares of our common stock by those parties for a period of 180 days after the date of this prospectus, subject to extension in certain circumstances. The representatives, on behalf of the underwriters, may, in their sole discretion, choose to release any or all of the shares of our common stock subject to these lock-up agreements at any time prior to the expiration of the lock-up period without notice. For more information, see “Underwriting”.

Registration Rights

Following the completion of this offering, stockholders holding approximately shares of our common stock, including shares issued upon conversion of our preferred stock, will have the right, subject to various conditions and limitations, to include their shares in registration statements relating to our securities. Pursuant to the lock-up agreements described above, all of our stockholders who have registration rights have agreed not to exercise those rights during the lock-up period without the prior written consent of the representatives of the underwriters of this offering. For a description of these registration rights, see “Description of Capital Stock—Registration Rights”.

Equity Plans

We intend to file one or more registration statements on Form S-8 under the Securities Act to register all shares of common stock subject to outstanding stock options and common stock issued or issuable under our stock plans. We expect to file the registration statement covering shares offered pursuant to our stock plans shortly after the date of this prospectus, permitting the resale of such shares by nonaffiliates in the public market without restriction under the Securities Act and the sale by affiliates in the public market, subject to compliance with the resale provisions of Rule 144.

CERTAIN U.S. FEDERAL TAX CONSIDERATIONS APPLICABLE TO NON-U.S. HOLDERS

The following is a summary of certain U.S. federal income and estate tax considerations related to the purchase, ownership, and disposition of our common stock that are applicable to a "non-U.S. holder" (defined below). This section does not address tax considerations applicable to other investors, such as U.S. persons (defined below). They are urged to consult their own tax advisors to determine the specific tax consequences and risks to them of purchasing, holding and disposing of the common stock.

This summary:

- Ÿ is based on the U.S. Internal Revenue Code, or the "Code", U.S. federal tax regulations promulgated or proposed under it, judicial authority, and published rulings and administrative pronouncements of the U.S. Internal Revenue Service, each as of the date of this prospectus and each of which are subject to change at any time, possibly with retroactive effect;
- Ÿ is applicable only to non-U.S. holders who hold the shares as "capital assets" within the meaning of section 1221 of the Code;
- Ÿ does not discuss the applicability of any U.S. state or local taxes, non-U.S. taxes or any other U.S. federal tax except for U.S. federal income tax and estate tax; and
- Ÿ does not address all aspects of U.S. federal income taxation that might be relevant to holders in light of their particular circumstances or who are subject to special treatment under U.S. federal income tax laws, including but not limited to:
  - Ÿ certain former citizens and long-term residents of the United States;
  - Ÿ banks, financial institutions, or "financial services entities";
  - Ÿ insurance companies;
  - Ÿ tax-exempt organizations;
  - Ÿ dealers in securities;
  - Ÿ investors holding the common stock as part of a "straddle," "hedge," "conversion transaction," or other risk-reduction transaction; and
  - Ÿ "controlled foreign corporations" and "passive foreign investment companies," as defined in the Code.

Non-U.S. Holder Defined

For purposes of this discussion, a non-U.S. holder is a beneficial owner of common stock that is neither a "U.S. person" nor a partnership or entity or arrangement treated as a partnership for U.S. federal income tax purposes. A "U.S. person" is:

- Ÿ an individual citizen or resident of the United States;
- Ÿ a corporation, or other entity taxable as a corporation for U.S. federal income tax purposes, that is created or organized in or under the laws of the United States, any state thereof or the District of Columbia;
- Ÿ an estate the income of which is subject to U.S. federal income taxation regardless of its source; or

- a trust if it (1) is subject to the primary supervision of a court within the United States and one or more U.S. persons have the authority to control all substantial decisions of the trust, or (2) has a valid election in effect under applicable Treasury Regulations to be treated as a U.S. person.

If a partnership (or an entity or arrangement treated as a partnership for U.S. federal income tax purposes) owns our common stock, then the U.S. federal income tax treatment of a partner in that partnership generally will depend on the status of the partner and the partnership's activities. Partners and partnerships should consult their own tax advisors with regard to the U.S. federal income tax treatment of an investment in our common stock.

Distributions to Non-U.S. Holders

Distributions of cash or property, if any, paid to a non-U.S. holder of the common stock will constitute "dividends" for U.S. federal income tax purposes to the extent paid out of our current or accumulated earnings and profits, as determined for U.S. federal income tax purposes. If the amount of a distribution exceeds both our current and accumulated earnings and profits, such excess will first constitute a nontaxable return of capital, which will reduce the holder's tax basis in the common stock, but not below zero, and thereafter will be treated as gain from the sale of the common stock (see "—Sale or Taxable Disposition of Common Stock by Non-U.S. Holders" below).

Subject to the following paragraphs, dividends on the common stock generally will be subject to U.S. federal withholding tax at a 30% gross rate, subject to any exemption or lower rate as may be specified by an applicable income tax treaty. We may withhold up to 30% of either (1) the gross amount of the entire distribution, even if the amount of the distribution is greater than the amount constituting a dividend, as described above, or (2) the amount of the distribution we project will be a dividend, based upon a reasonable estimate of both our current and our accumulated earnings and profits for the taxable year in which the distribution is made. If tax is withheld on the amount of a distribution in excess of the amount constituting a dividend, then you may obtain a refund of that excess amount by timely filing a claim for refund with the IRS.

To claim the benefit of a reduced rate of or an exemption from U.S. federal withholding tax under an applicable income tax treaty, a non-U.S. holder will be required (1) to satisfy certain certification requirements, which may be made by providing us or our agent with a properly executed and completed IRS Form W-8BEN (or other applicable form) certifying, under penalty of perjury, that the holder qualifies for treaty benefits and is not a U.S. person, or (2) if the common stock is held through certain non-U.S. intermediaries, to satisfy the relevant certification requirements of the applicable Treasury Regulations. Special certification and other requirements apply to certain non-U.S. holders that are pass-through entities.

Dividends that are effectively connected with the conduct of a trade or business by the non-U.S. holder within the United States (and, if required by an applicable income tax treaty, are attributable to a permanent establishment, or a fixed base in the case of an individual non-U.S. holder, that is maintained by the non-U.S. holder in the United States) ("effectively connected dividends") are not subject to the U.S. federal withholding tax, provided that the non-U.S. holder certifies, under penalty of perjury, that the dividends paid to such holder are effectively connected dividends on a properly executed and completed IRS Form W-8ECI (or other applicable form). Instead, any such dividends will be subject to U.S. federal income tax on a net income basis in a manner similar to that which would apply if the non-U.S. holder were a U.S. person.

Corporate non-U.S. holders who receive effectively connected dividends may also be subject to an additional "branch profits tax" at a gross rate of 30% on their earnings and profits for the taxable year that are effectively connected with the holder's conduct of a trade or business within the United States, subject to any exemption or reduction provided by an applicable income tax treaty.

Sale or Taxable Disposition of Common Stock by Non-U.S. Holders

Any gain realized on the sale, exchange, or other taxable disposition of the common stock generally will not be subject to U.S. federal income tax unless:

- Ÿ the gain is effectively connected with the conduct of a trade or business by the non-U.S. holder within the United States (and, if required by an applicable income tax treaty, is attributable to a permanent establishment, or fixed base in the case of an individual non-U.S. holder, that is maintained by the non-U.S. holder in the United States);
- Ÿ the non-U.S. holder is an individual who is present in the United States for 183 days or more in the taxable year of that disposition, and certain other conditions are met; or
- Ÿ we are or have been a "United States real property holding corporation" for U.S. federal income tax purposes at any time during the shorter of the five-year period ending on the date of such disposition and the non-U.S. holder's holding period in the common stock.

A non-U.S. holder described in the first bullet point above generally will be subject to U.S. federal income tax on the net gain derived from the sale or disposition under regular graduated U.S. federal income tax rates as if the holder were a U.S. person. If the non-U.S. holder is a corporation, then the gain may also, under certain circumstances, be subject to the "branch profits" tax, which is discussed above.

An individual non-U.S. holder described in the second bullet point above will be subject to a tax at a 30% gross rate, subject to any reduction or reduced rate under an applicable income tax treaty, on the net gain derived from the sale, which may be offset by U.S.-source capital losses, even though the individual is not considered a resident of the United States for U.S. federal income tax purposes.

We believe we are not, have not been and will not become a "United States real property holding corporation" for U.S. federal income tax purposes. In the event that we are or become a United States real property holding corporation at any time during the applicable period described in the third bullet point above, any gain recognized on a sale or other taxable disposition of the common stock may be subject to U.S. federal income tax, including any applicable withholding tax, if (1) the non-U.S. holder beneficially owns, or has owned, more than 5% of our common stock at any time during the applicable period, or (2) our common stock ceases to be traded on an "established securities market" within the meaning of the Code. Non-U.S. holders who intend to acquire more than 5% of our common stock are encouraged to consult their tax advisors with respect to the U.S. tax consequences of a disposition of the common stock.

Information Reporting and Backup Withholding

We must report annually to the IRS and to each non-U.S. holder the amount of dividends and other distributions paid to the holder and the tax withheld, if any, from those payments. These reporting requirements apply regardless of whether withholding was reduced or eliminated by any applicable income tax treaty. Copies of the information returns reporting such dividends and the tax withheld may also be made available to the tax authorities in the country in which the non-U.S. holder resides under the provisions of an applicable income tax treaty.

A non-U.S. holder that is not a corporation will generally be subject to backup withholding, currently at a 28% rate, for dividends paid to the holder unless the holder certifies under penalty of perjury that it is not a U.S. person on a properly executed IRS From W-8BEN or the holder otherwise establishes an exemption (provided that the payor does not have actual knowledge or reason to know that such holder is a U.S. person or that the conditions of any other exemptions are not in fact satisfied).

Information reporting and, depending on the circumstances, backup withholding will apply to the proceeds of a sale of the common stock by a non-U.S. holder within the United States or conducted through certain U.S.-related financial intermediaries, unless the holder certifies under penalty of perjury that it is not a U.S. person on a properly executed IRS Form W-8BEN or the holder otherwise establishes an exemption (provided that neither the broker nor intermediary has actual knowledge or reason to know that such holder is a U.S. person or that the conditions of any other exemptions are not in fact satisfied).

Backup withholding is not an additional tax. Any amounts withheld under the backup withholding rules may be allowed as a refund or a credit against a non-U.S. holder's U.S. federal income tax liability, if any, provided the required information is timely furnished to the IRS. Non-U.S. holders should consult their own tax advisors to determine their ability to obtain a refund or credit in the event that backup withholding applies to them.

Federal Estate Tax

Individual non-U.S. holders and entities the property of which is potentially includible in such an individual's gross estate for U.S. federal estate tax purposes (for example, a trust funded by such an individual and with respect to which the individual has retained certain interests or powers) should note that, absent an applicable treaty benefit, the common stock will be treated as U.S.-situs property subject to U.S. federal estate tax.

Withholding on Payments to Certain Foreign Entities

Sections 1471 to 1474 of the Code and the Treasury Regulations thereunder impose information reporting and withholding tax requirements for dividends and sales proceeds paid to certain non-U.S. entities that hold shares in U.S. corporations. In general, to avoid a 30% withholding tax under these provisions, (1) foreign financial institutions that hold shares in U.S. corporations will be required to identify for the IRS each U.S. account owner who is a beneficial owner of such shares and to provide certain information regarding the account, and also to agree to comply with certain other requirements, and (2) other foreign entities (aside from public companies) that are beneficial owners of shares will be required to identify U.S. persons who own a 10% or greater interest in such foreign entity. Foreign entities, and other foreign persons who plan to have their shares of our common stock held through a foreign financial institution, should consider the potential applicability of these new provisions by consulting with their own tax advisors.

The preceding discussion of material U.S. federal income tax considerations is for general information only. It is not tax or legal advice. Each prospective investor should consult its own tax advisor regarding the tax consequences of purchasing, holding, and disposing of our common stock, including the consequences of any proposed change in applicable law, as well as tax consequences arising under any state, local, non-U.S., or U.S. federal tax laws.

UNDERWRITING

We, the selling stockholders and the underwriters named below have entered into an underwriting agreement with respect to the shares being offered. Subject to certain conditions, each underwriter has severally agreed to purchase the number of shares indicated in the following table. Goldman, Sachs & Co. and Deutsche Bank Securities Inc. are the representatives of the underwriters.

Underwriters	Number of Shares
Goldman, Sachs & Co.	
Deutsche Bank Securities Inc	
Jefferies LLC	
Canaccord Genuity Inc.	
Piper Jaffray & Co.	
Raymond James Ltd.	
Total	

The underwriters are committed to take and pay for all of the shares being offered, if any are taken, other than the shares covered by the option described below unless and until this option is exercised.

The underwriters have an option to buy up to an additional shares from us and up to an additional shares from the selling stockholders to cover sales by the underwriters of a greater number of shares than the total number set forth in the table above. They may exercise that option for 30 days from the date of this prospectus. If any shares are purchased pursuant to this option, the underwriters will severally purchase shares in approximately the same proportion as set forth in the table above.

The following tables show the per share and total underwriting discounts and commissions to be paid to the underwriters by us and the selling stockholders. Such amounts are shown assuming both no exercise and full exercise of the underwriters' option to purchase additional shares of our common stock.

Paid by the Company	No Exercise	Full Exercise
Per Share	$	$
Total	$	$

Paid by the Selling Stockholders	No Exercise	Full Exercise
Per Share	$	$
Total	$	$

Shares sold by the underwriters to the public will initially be offered at the initial public offering price set forth on the cover of this prospectus. Any shares sold by the underwriters to securities dealers may be sold at a discount of up to $ per share from the initial public offering price. After the initial offering of the shares, the representatives may change the offering price and the other selling terms. The offering of the shares by the underwriters is subject to receipt and acceptance and subject to the underwriters' right to reject any order in whole or in part.

We, our officers, directors, and holders of at least % of our common stock, including the selling stockholders, have agreed with the underwriters, subject to certain exceptions, not to dispose of

or hedge any of their common stock or securities convertible into or exchangeable for shares of common stock during the period from the date of this prospectus continuing through the date 180 days after the date of this prospectus, except with the prior written consent of the representatives. This agreement does not apply to any existing employee benefits plans. See “Shares Available for Future Sale” for a discussion of certain transfer restrictions.

Prior to the offering, there has been no public market for the shares. The initial public offering price has been negotiated among us and the representatives. Among the factors to be considered in determining the initial public offering price of the shares, in addition to prevailing market conditions, will be our historical performance, estimates of the business potential and earnings prospects of the Company, an assessment of our management and the consideration of the above factors in relation to market valuation of companies in related businesses.

An application has been made to quote the common stock on the under the symbol “BNFT”.

In connection with the offering, the underwriters may purchase and sell shares of common stock in the open market. These transactions may include short sales, stabilizing transactions and purchases to cover positions created by short sales. Short sales involve the sale by the underwriters of a greater number of shares than they are required to purchase in the offering, and a short position represents the amount of such sales that have not been covered by subsequent purchases. A “covered short position” is a short position that is not greater than the amount of additional shares for which the underwriters’ option described above may be exercised. The underwriters may cover any covered short position by either exercising their option to purchase additional shares or purchasing shares in the open market. In determining the source of shares to cover the covered short position, the underwriters will consider, among other things, the price of shares available for purchase in the open market as compared to the price at which they may purchase additional shares pursuant to the option described above. “Naked” short sales are any short sales that create a short position greater than the amount of additional shares for which the option described above may be exercised. The underwriters must cover any such naked short position by purchasing shares in the open market. A naked short position is more likely to be created if the underwriters are concerned that there may be downward pressure on the price of the common stock in the open market after pricing that could adversely affect investors who purchase in the offering. Stabilizing transactions consist of various bids for or purchases of common stock made by the underwriters in the open market prior to the completion of the offering.

The underwriters may also impose a penalty bid. This occurs when a particular underwriter repays to the underwriters a portion of the underwriting discount received by it because the representatives have repurchased shares sold by or for the account of such underwriter in stabilizing or short-covering transactions.

Purchases to cover a short position and stabilizing transactions, as well as other purchases by the underwriters for their own accounts, may have the effect of preventing or retarding a decline in the market price of the Company’s stock, and together with the imposition of the penalty bid, may stabilize, maintain or otherwise affect the market price of the common stock. As a result, the price of the common stock may be higher than the price that otherwise might exist in the open market. The underwriters are not required to engage in these activities and may end any of these activities at any time. These transactions may be effected on , in the over-the-counter market or otherwise.

The underwriters do not expect sales to discretionary accounts to exceed five percent of the total number of shares offered.

We estimate that the total expenses of the offering, excluding underwriting discounts and commissions, will be approximately $.

We and the selling stockholders have agreed to indemnify the several underwriters against certain liabilities, including liabilities under the Securities Act of 1933.

Relationships

The underwriters and their respective affiliates are full service financial institutions engaged in various activities, which may include sales and trading, commercial and investment banking, advisory, investment management, investment research, principal investment, hedging, market making, brokerage and other financial and non-financial activities and services. Certain of the underwriters and their respective affiliates have provided, and may in the future provide, a variety of these services to the issuer and to persons and entities with relationships with the issuer, for which they received or will receive customary fees and expenses. In addition, Goldman Sachs & Co., an underwriter of this offering, is an affiliate of the Goldman Funds, our controlling stockholder.

In the ordinary course of their various business activities, the underwriters and their respective affiliates, officers, directors, and employees may purchase, sell, or hold a broad array of investments and actively trade securities, derivatives, loans, commodities, currencies, credit default swaps, and other financial instruments for their own account and for the accounts of their customers, and such investment and trading activities may involve or relate to our assets, securities and/or instruments (directly, as collateral securing other obligations or otherwise) and/or persons and entities with relationships with us. The underwriters and their respective affiliates may also communicate independent investment recommendations, market color, or trading ideas and/or publish or express independent research views in respect of such assets, securities, or instruments and may at any time hold, or recommend to clients that they should acquire, long and/or short positions in such assets, securities and instruments.

Selling Restrictions

European Economic Area

In relation to each Member State of the European Economic Area which has implemented the Prospectus Directive (each, a Relevant Member State), each underwriter has represented and agreed that with effect from and including the date on which the Prospectus Directive is implemented in that Relevant Member State (the Relevant Implementation Date) it has not made and will not make an offer of shares to the public in that Relevant Member State prior to the publication of a prospectus in relation to the shares which has been approved by the competent authority in that Relevant Member State or, where appropriate, approved in another Relevant Member State and notified to the competent authority in that Relevant Member State, all in accordance with the Prospectus Directive, except that it may, with effect from and including the Relevant Implementation Date, make an offer of shares to the public in that Relevant Member State at any time:

(a) to legal entities which are authorized or regulated to operate in the financial markets or, if not so authorized or regulated, whose corporate purpose is solely to invest in securities;

(b) to any legal entity which has two or more of (1) an average of at least 250 employees during the last financial year, (2) a total balance sheet of more than €43,000,000 and (3) an annual net turnover of more than €50,000,000, as shown in its last annual or consolidated accounts;

(c) to fewer than 100 natural or legal persons (other than qualified investors as defined in the Prospectus Directive) subject to obtaining the prior consent of the representatives for any such offer; or

(d) in any other circumstances which do not require the publication by the Issuer of a prospectus pursuant to Article 3 of the Prospectus Directive.

For the purposes of this provision, the expression an “offer of shares to the public” in relation to any shares in any Relevant Member State means the communication in any form and by any means of sufficient information on the terms of the offer and the shares to be offered so as to enable an investor to decide to purchase or subscribe the shares, as the same may be varied in that Relevant Member State by any measure implementing the Prospectus Directive in that Relevant Member State and the expression Prospectus Directive means Directive 2003/71/EC and includes any relevant implementing measure in each Relevant Member State.

United Kingdom

Each underwriter has represented and agreed that:

(a) it has only communicated or caused to be communicated and will only communicate or cause to be communicated an invitation or inducement to engage in investment activity (within the meaning of Section 21 of the FSMA) received by it in connection with the issue or sale of the shares in circumstances in which Section 21(1) of the FSMA does not apply to the Issuer; and

(b) it has complied and will comply with all applicable provisions of the FSMA with respect to anything done by it in relation to the shares in, from or otherwise involving the United Kingdom.

Hong Kong

The shares may not be offered or sold by means of any document other than (i) in circumstances which do not constitute an offer to the public within the meaning of the Companies Ordinance (Cap.32, Laws of Hong Kong), or (ii) to “professional investors” within the meaning of the Securities and Futures Ordinance (Cap.571, Laws of Hong Kong) and any rules made thereunder, or (iii) in other circumstances which do not result in the document being a “prospectus” within the meaning of the Companies Ordinance (Cap.32, Laws of Hong Kong), and no advertisement, invitation or document relating to the shares may be issued or may be in the possession of any person for the purpose of issue (in each case whether in Hong Kong or elsewhere), which is directed at, or the contents of which are likely to be accessed or read by, the public in Hong Kong (except if permitted to do so under the laws of Hong Kong) other than with respect to shares which are or are intended to be disposed of only to persons outside Hong Kong or only to “professional investors” within the meaning of the Securities and Futures Ordinance (Cap. 571, Laws of Hong Kong) and any rules made thereunder.

Singapore

This prospectus has not been registered as a prospectus with the Monetary Authority of Singapore. Accordingly, this prospectus and any other document or material in connection with the offer or sale, or invitation for subscription or purchase, of the shares may not be circulated or distributed, nor may the shares be offered or sold, or be made the subject of an invitation for subscription or purchase, whether directly or indirectly, to persons in Singapore other than (i) to an institutional investor under Section 274 of the Securities and Futures Act, Chapter 289 of Singapore (the “SFA”), (ii) to a relevant person, or any person pursuant to Section 275(1A), and in accordance with the conditions, specified in Section 275 of the SFA or (iii) otherwise pursuant to, and in accordance with the conditions of, any other applicable provision of the SFA.

Where the shares are subscribed or purchased under Section 275 by a relevant person which is: (a) a corporation (which is not an accredited investor) the sole business of which is to hold investments and the entire share capital of which is owned by one or more individuals, each of whom is an accredited investor; or (b) a trust (where the trustee is not an accredited investor) whose sole purpose

is to hold investments and each beneficiary is an accredited investor, shares, debentures and units of shares and debentures of that corporation or the beneficiaries' rights and interest in that trust shall not be transferable for 6 months after that corporation or that trust has acquired the shares under Section 275 except: (1) to an institutional investor under Section 274 of the SFA or to a relevant person, or any person pursuant to Section 275(1A), and in accordance with the conditions, specified in Section 275 of the SFA; (2) where no consideration is given for the transfer; or (3) by operation of law.

Japan

The securities have not been and will not be registered under the Financial Instruments and Exchange Law of Japan (the Financial Instruments and Exchange Law) and each underwriter has agreed that it will not offer or sell any securities, directly or indirectly, in Japan or to, or for the benefit of, any resident of Japan (which term as used herein means any person resident in Japan, including any corporation or other entity organized under the laws of Japan), or to others for re-offering or resale, directly or indirectly, in Japan or to a resident of Japan, except pursuant to an exemption from the registration requirements of, and otherwise in compliance with, the Financial Instruments and Exchange Law and any other applicable laws, regulations and ministerial guidelines of Japan.

Conflicts of Interest

Goldman, Sachs & Co., an underwriter of this offering, is an affiliate of the Goldman Funds, our controlling stockholder. Since the Goldman Funds beneficially own more than 10% of our outstanding common stock, a "conflict of interest" is deemed to exist under the applicable provisions of Rule 5121 of the Conduct Rules of the Financial Industry Regulatory Authority, or FINRA. Accordingly, this offering will be made in compliance with the applicable provisions of Rule 5121. Rule 5121 currently requires that a "qualified independent underwriter," as defined by the FINRA rules, participate in the preparation of the registration statement and the prospectus and exercise the usual standards of due diligence in respect thereto. Deutsche Bank Securities Inc. has agreed to act as qualified independent underwriter for the offering and to participate in the preparation of this prospectus and exercise the usual standards of due diligence with respect thereto. In addition, in accordance with Rule 5121, Goldman, Sachs & Co. will not make sales to discretionary accounts without the prior written consent of the customer.

LEGAL MATTERS

The validity of the securities offered by this prospectus is being passed upon for us by Wyrick Robbins Yates & Ponton LLP, Raleigh, North Carolina. Goodwin Procter LLP, Boston, Massachusetts is acting as counsel for the underwriters in this offering.

EXPERTS

Ernst & Young LLP, independent registered public accounting firm, has audited our consolidated financial statements and schedule at December 31, 2011 and 2012, and for each of the three years in the period ended December 31, 2012, as set forth in their report. We have included our financial statements and schedule in the prospectus and elsewhere in the registration statement in reliance on Ernst & Young LLP's report, given on their authority as experts in accounting and auditing.

WHERE YOU CAN FIND ADDITIONAL INFORMATION

We have filed with the SEC a registration statement on Form S-1, which includes exhibits, schedules and amendments, under the Securities Act with respect to this offering of our securities. Although this prospectus, which forms a part of the registration statement, contains all material information included in the registration statement, parts of the registration statement have been omitted as permitted by rules and regulations of the SEC. We refer you to the registration statement and its exhibits for further information about us, our securities, and this offering. The registration statement and its exhibits, as well as any other documents that we have filed with the SEC, may be inspected and copied at the SEC's public reference room at 100 F Street, N.E., Washington, D.C. 20549-1004. The public may obtain information about the operation of the public reference room by calling the SEC at 1-800-SEC-0330. In addition, the SEC maintains a website at *http://www.sec.gov* that contains the registration statement and other reports, proxy and information statements, and information that we file electronically with the SEC.

After we have completed this offering, we will become subject to the information and reporting requirements of the Exchange Act and will file annual, quarterly, and current reports, proxy statements, and other information with the SEC. We intend to make these filings available on our website once the offering is completed. You may read and copy any reports, statements, or other information on file at the public reference rooms. You can also request copies of these documents, for a copying fee, by writing to the SEC, or you can review these documents on the SEC's website, as described above or via our website at *www.benefitfocus.com*. In addition, we will provide electronic or paper copies of our filings free of charge upon request.

BENEFITFOCUS, INC.
INDEX TO CONSOLIDATED FINANCIAL STATEMENTS

Report of Independent Registered Public Accounting Firm

The Board of Directors and Stockholders
Benefitfocus, Inc.

We have audited the accompanying consolidated balance sheets of Benefitfocus, Inc. as of December 31, 2011 and 2012, and the related consolidated statements of operations and comprehensive loss, changes in stockholders' deficit, and cash flows for each of the three years in the period ended December 31, 2012. Our audits also included the financial statement schedule listed in the Index at Item 16(b). These financial statements and schedule are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements and schedule based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. We were not engaged to perform an audit of the Company's internal control over financial reporting. Our audits included consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the consolidated financial position of Benefitfocus, Inc at December 31, 2011 and 2012, and the consolidated results of its operations and its cash flows for each of the three years in the period ended December 31, 2012, in conformity with U.S. generally accepted accounting principles. Also, in our opinion, the related financial statement schedule, when considered in relation to the basic financial statements taken as a whole, presents fairly in all material respects the information set forth therein.

Ernst & Young LLP

Raleigh, North Carolina
May 6, 2013, except as to Note 1, as to which the date is , 2013

The foregoing report is in the form that will be signed upon the completion of the Corporate Restructuring of the Company described in Note 1 to the consolidated financial statements.

/s/ Ernst & Young LLP

Raleigh, North Carolina
May 9, 2013

BENEFITFOCUS, INC.
CONSOLIDATED BALANCE SHEETS
(in thousands, except share and per share data)

	December 31,		
	2011	2012	2012 Pro Forma (unaudited)
Assets			
Current assets:			
Cash and cash equivalents	$ 15,856	$ 19,703	$ 19,703
Accounts receivable, net	9,060	13,372	13,372
Prepaid expenses and other current assets	2,092	1,483	1,483
Total current assets	27,008	34,558	34,558
Property and equipment, net	15,716	14,150	14,150
Intangible assets, net	1,913	1,579	1,579
Goodwill	1,634	1,634	1,634
Total assets	$ 46,271	$ 51,921	$ 51,921
Liabilities, redeemable convertible preferred stock and stockholders' deficit			
Current liabilities:			
Accounts payable	$ 853	$ 1,726	$ 1,726
Accrued expenses	1,920	2,453	2,453
Accrued compensation and benefits	6,559	9,661	9,661
Deferred revenue, current portion	8,476	11,165	11,165
Capital lease obligations, current portion	1,373	1,171	1,171
Notes payable, current portion	1,074	2,420	2,420
Contingent consideration related to acquisition, current portion	2,349	328	328
Total current liabilities	22,604	28,924	28,924
Deferred revenue, net of current portion	34,297	46,355	46,355
Capital lease obligations, net of current portion	1,585	550	550
Notes payable, net of current portion	1,447	3,561	3,561
Other non-current liabilities	2,079	2,301	2,301
Total liabilities	62,012	81,691	81,691
Commitments and contingencies (Note 7)			
Redeemable convertible preferred stock:			
Convertible Series A preferred stock, no par value, 14,055,851 shares authorized, issued and outstanding, as of December 31, 2011 and 2012, respectively; no shares issued and outstanding pro forma; liquidation preference of $158,550 at December 31, 2012	105,505	105,505	—
Convertible Series B preferred stock, no par value, 2,441,009 shares authorized, issued and outstanding, as of December 31, 2011 and 2012, respectively; no shares issued and outstanding pro forma; liquidation preference of $30,000 at December 31, 2012	29,973	29,973	—
Total redeemable convertible preferred stock	135,478	135,478	—
Stockholders' deficit:			
Common stock, no par value, 100,000,000 shares authorized, 20,074,653, 20,125,063, and 36,621,923 shares issued, and 4,805,957, 4,792,347 and 21,289,207 shares outstanding at December 31, 2011, 2012 and December 31, 2012 pro forma, respectively	4,923	6,109	141,587
Accumulated deficit	(156,142)	(171,357)	(171,357)
Total stockholders' deficit	(151,219)	(165,248)	(29,770)
Total liabilities, redeemable convertible preferred stock and stockholders' deficit	$ 46,271	$ 51,921	$ 51,921

The accompanying Notes are an integral part of the Consolidated Financial Statements.

BENEFITFOCUS, INC.
CONSOLIDATED STATEMENTS OF OPERATIONS AND COMPREHENSIVE LOSS
(in thousands, except share and per share data)

	Year Ended December 31,		
	2010	2011	2012
Revenue	$ 67,122	$ 68,783	$ 81,739
Cost of revenue	39,817	43,034	45,178
Gross profit	27,305	25,749	36,561
Operating expenses:			
Sales and marketing	14,462	22,914	28,268
Research and development	8,948	9,397	15,035
General and administrative	6,144	5,921	7,577
Impairment of goodwill	—	1,670	—
Change in fair value of contingent consideration	—	503	121
Total operating expenses	29,554	40,405	51,001
Loss from operations	(2,249)	(14,656)	(14,440)
Other income (expense):			
Interest income	364	151	53
Interest expense	(212)	(203)	(203)
Other expense	(248)	(189)	(64)
Total other expense, net	(96)	(241)	(214)
Loss before income taxes	(2,345)	(14,897)	(14,654)
Income tax expense	10	35	84
Net loss	$ (2,355)	$ (14,932)	$ (14,738)
Comprehensive loss	$ (2,355)	$ (14,932)	$ (14,738)
Net loss per common share:			
Basic and diluted	$ (0.37)	$ (3.06)	$ (3.06)
Pro forma (unaudited):			
Basic and diluted			$ (0.69)
Weighted-average common shares outstanding:			
Basic and diluted	6,405,944	4,875,157	4,812,632
Pro forma (unaudited):			
Basic and diluted			21,309,492

The accompanying Notes are an integral part of the Consolidated Financial Statements.

BENEFITFOCUS, INC.
CONSOLIDATED STATEMENTS OF CHANGES IN STOCKHOLDERS' DEFICIT
(in thousands, except share data)

	Common Stock		Accumulated Deficit	Total Stockholders' Deficit
	Shares	Amount		
Balance, December 31, 2009	7,232,215	$2,748	$ (107,765)	$ (105,017)
Exercise of stock options	202,330	516	—	516
Repurchase of common stock including common stock related to issuance of Series B redeemable convertible preferred stock	(2,599,625)	(527)	(30,433)	(30,960)
Stock-based compensation expense	—	1,035	—	1,035
Accretion of warrant	—	306	—	306
Net loss	—	—	(2,355)	(2,355)
Balance, December 31, 2010	4,834,920	4,078	(140,553)	(136,475)
Exercise of stock options	77,712	140	—	140
Repurchase of common stock	(106,675)	(157)	(657)	(814)
Stock-based compensation expense	—	721	—	721
Accretion of warrant	—	141	—	141
Net loss	—	—	(14,932)	(14,932)
Balance, December 31, 2011	4,805,957	4,923	(156,142)	(151,219)
Exercise of stock options	50,410	108	—	108
Repurchase of common stock	(64,020)	(122)	(477)	(599)
Stock-based compensation expense	—	712	—	712
Accretion of warrant	—	488	—	488
Net loss	—	—	(14,738)	(14,738)
Balance, December 31, 2012	4,792,347	$6,109	$ (171,357)	$ (165,248)

The accompanying Notes are an integral part of the Consolidated Financial Statements.

BENEFITFOCUS.COM, INC.
CONSOLIDATED STATEMENTS OF CASH FLOWS
(in thousands)

	Year Ended December 31,		
	2010	2011	2012
Cash flows from operating activities			
Net loss	$ (2,355)	$(14,932)	$(14,738)
Adjustments to reconcile net loss to net cash and cash equivalents provided by operating activities:			
Depreciation and amortization	6,343	7,040	8,294
Stock-based compensation expense	1,035	721	712
Change in fair value and accretion of warrant	306	141	488
Change in fair value of contingent consideration	246	842	188
Impairment of goodwill	—	1,670	—
Impairment of intangible assets	—	54	—
Provision for doubtful accounts	130	136	98
Loss (gain) on disposal of property and equipment	9	(124)	17
Changes in operating assets and liabilities:			
Accounts receivable, net	(1,141)	(2,032)	(4,411)
Prepaid expenses and other current assets	(94)	13	639
Accounts payable	98	(704)	862
Accrued expenses	1,450	323	533
Accrued compensation and benefits	541	868	3,102
Contingent consideration related to acquisition	—	—	(320)
Deferred revenue	(1,458)	9,821	14,747
Other non-current liabilities	392	311	411
Net cash and cash equivalents provided by operating activities	5,502	4,148	10,622
Cash flows from investing activities			
Purchases of property and equipment	(3,336)	(5,747)	(6,308)
Payments for acquisition, net of cash acquired	(6,395)	—	—
Proceeds from sale of property and equipment	6	—	—
Net cash and cash equivalents used in investing activities	(9,725)	(5,747)	(6,308)
Cash flows from financing activities			
Proceeds from the sale of Series B redeemable convertible preferred stock, net of issuance costs	29,973	—	—
Proceeds from notes payable borrowing	816	2,020	4,535
Repayment of notes payable	(2,012)	(981)	(1,074)
Proceeds from exercises of stock options	516	140	108
Repurchases of common stock	(30,960)	(814)	(599)
Payments of contingent consideration	—	—	(2,078)
Payments on capital lease obligations	(1,969)	(1,076)	(1,359)
Net cash and cash equivalents used in financing activities	(3,636)	(711)	(467)
Net (decrease) increase in cash and cash equivalents	(7,859)	(2,310)	3,847
Cash and cash equivalents, beginning of year	26,025	18,166	15,856
Cash and cash equivalents, end of year	$ 18,166	$ 15,856	$ 19,703
Supplemental disclosure of non-cash investing and financing activities			
Non-monetary exchange of property and equipment	$ —	$ 1,010	$ —
Property and equipment acquired with direct financing or leases	$ 1,178	$ 3,084	$ 132
Supplemental disclosures of cash flow information			
Income taxes	$ 44	$ 51	$ 40
Interest	$ 414	$ 193	$ 200

The accompanying Notes are an integral part of the Consolidated Financial Statements.

BENEFITFOCUS, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(dollars in thousands, except share and per share data)

1. Organization and Description of Business

Benefitfocus, Inc. (the "Company") is a leading provider of cloud-based benefits software solutions for consumers, employers, insurance carriers and brokers delivered under a software-as-a-service (SaaS) model. The financial statements of the Company include the financial position and operations of its wholly owned subsidiary, Benefit Informatics, Inc. On January 1, 2013, the Company integrated the operations of Benefit Informatics, Inc. and dissolved that entity.

The Company, a Delaware corporation, is a wholly owned subsidiary of Benefitfocus.com, Inc., the South Carolina corporation that conducts the business of the Company. On March 13, 2013, the Board of Directors of each of Benefitfocus, Inc. and Benefitfocus.com, Inc. approved a corporate restructuring to be effected prior to the completion of the Company's initial public offering (the "IPO") of shares of its common stock. Prior to the IPO, the Company intends to restructure its organization by merging Benefitfocus.com, Inc. with a newly formed South Carolina corporation, which is a wholly owned subsidiary of the Company. As a result of the restructuring, the common and preferred shareholders of Benefitfocus.com, Inc. will become common and preferred stockholders, respectively, of Benefitfocus, Inc. Also as a result of the restructuring, warrants that are exercisable for common shares of Benefitfocus.com, Inc. will become exercisable for common shares of Benefitfocus, Inc. Similarly, holders of options to purchase common shares of Benefitfocus.com, Inc. will become holders of options to purchase shares of common stock of Benefitfocus, Inc.

2. Summary of Significant Accounting Policies

Unaudited Pro Forma Presentation

The Company has filed a Registration Statement on Form S-1 with the United States Securities and Exchange Commission (the "SEC") for the proposed IPO of shares of its common stock. If the Company's IPO is consummated, all of the redeemable convertible preferred stock outstanding will convert into common stock. Unaudited pro forma stockholders' deficit, as adjusted for the assumed conversion of the redeemable convertible preferred stock, is set forth on the December 31, 2012 unaudited pro forma consolidated balance sheet.

The unaudited pro forma net loss per common share for the year ended December 31, 2012 assumes completion of the IPO and the conversion of all outstanding shares of redeemable convertible preferred stock into an aggregate of 16,496,860 shares of common stock as if such shares converted as of January 1, 2012.

The Company believes that the unaudited pro forma net loss per common share provides material information to investors because the conversion of the redeemable convertible preferred stock into common stock is expected to occur upon the closing of the Company's IPO and, therefore, the disclosure of pro forma net loss per common share provides a measure of net loss per common share that is more comparable to what will be reported as a public company.

Principles of Consolidation

These consolidated financial statements have been prepared in accordance with U.S. generally accepted accounting principles (GAAP). The consolidated financial statements include the accounts of the Company and its wholly owned subsidiaries. All intercompany accounts and transactions have been eliminated in consolidation.

BENEFITFOCUS, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(dollars in thousands, except share and per share data)

Use of Estimates

The preparation of financial statements in conformity with GAAP requires the Company to make estimates and assumptions that affect the reported amounts in the consolidated financial statements and accompanying notes. Such estimates include revenue recognition, including the customer relationship period, allowances for doubtful accounts and returns, valuations of deferred income taxes, long-lived assets, and warrants, the useful lives of assets, capitalizable software development costs and the related amortization, contingent consideration, stock-based compensation, annual bonus attainment, acquired intangibles, and goodwill. Determination of these transactions and account balances are based on the Company's estimates and judgments. These estimates are based on the Company's knowledge of current events and actions it may undertake in the future as well as on various other assumptions that it believes to be reasonable. Actual results could differ from these estimates.

Revenue and Deferred Revenue

The Company derives the majority of its revenue from software services fees, which consist primarily of monthly subscription fees paid by customers for access to and usage of the Company's cloud-based benefits software solutions for a specified contract term. The Company also derives revenue from professional services which primarily include fees related to the integration of customers' systems with the Company's platform, which typically includes discovery, configuration, deployment, testing, and training.

The Company recognizes revenue when there is persuasive evidence of an arrangement, the service has been provided, the fees to be paid by the customer are fixed and determinable and collectability is reasonably assured. The Company considers that delivery of its cloud-based software services has commenced once it has granted the customer access to its platform.

The Company's arrangements generally contain multiple elements comprised of software services and professional services. The Company evaluates each element in an arrangement to determine whether it represents a separate unit of accounting. An element constitutes a separate unit of accounting when the delivered item has standalone value and delivery of the undelivered element is probable and within the Company's control. The Company's professional services are not sold separately from the software services and there is no alternative use for them. As such, the Company has determined that the professional services do not have standalone value. Accordingly, software services and professional services are combined and recognized as a single unit of accounting.

The Company generally recognizes software services fees monthly based on the number of employees covered by the relevant benefits plans at contracted rates for a specified period of time, once the criteria for revenue recognition described above have been satisfied. The Company defers recognition of revenue for professional services fees paid by customers in connection with its software services, and begins recognizing such revenue once the services are performed and the software services have commenced, ratably over the longer of the contract term or the estimated expected life of the customer relationship. Costs incurred by the Company in connection with providing such professional services are charged to expense as incurred.

In the first quarter of 2011, the Company increased the estimated expected life of its customer relationships. This change in estimate was a result of growing demand for the Company's software services, reduced uncertainties in the regulatory environment, and increased confidence in customer

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retention. This change extends the term over which deferred revenue will be recognized and has been applied prospectively. In the absence of this change, each of revenue, gross profit, and net loss would have improved by $5,792 in 2011 and $2,763 in 2012. Net loss per common share would have improved by $1.19 and $0.57 for the years ended December 31, 2011 and 2012, respectively.

Cost of Revenue

Cost of revenue primarily consists of employee compensation, professional services, data center co-location costs, networking expenses, depreciation expense for computer equipment directly associated with generating revenue, amortization expense for capitalized software development costs, and infrastructure maintenance costs. In addition, the Company allocates a portion of overhead, such as rent, additional depreciation and amortization expense, and employee benefit costs, to cost of revenue based on headcount.

Cash and Cash Equivalents

Cash and cash equivalents consist of bank checking accounts and money market accounts. The Company considers all highly liquid investments with original maturities of three months or less at the time of purchase to be cash equivalents.

Concentrations of Credit Risk

The Company's financial instruments that are exposed to concentrations of credit risk consist primarily of cash equivalents and accounts receivable. All of the Company's cash and cash equivalents are held at financial institutions that management believes to be of high credit quality. The bank deposits of the Company might, at times, exceed federally insured limits and are generally uninsured and uncollateralized. The Company has not experienced any losses on cash and cash equivalents to date. To manage accounts receivable risk, the Company evaluates the creditworthiness of its customers and maintains an allowance for doubtful accounts.

Accounts receivable were unsecured and were derived from revenue earned from customers located in the United States. Accounts receivable from one customer, Aetna, represented 26.0% and 18.2% of the total accounts receivable at December 31, 2011 and 2012, respectively. Accounts receivable from a second customer, CareFirst, represented 12.9% of the total accounts receivable at December 31, 2011.

Revenue from two affiliated customers, BlueCross BlueShield of South Carolina and BlueChoice HealthPlan, represented 11.9% and 11.1% of total revenue for the years ended December 31, 2010 and 2011, respectively. Revenue from a third customer, Aetna, represented 11.6%, 11.7% and 10.5% of total revenue for the years ended December 31, 2010, 2011 and 2012, respectively. Revenue from a fourth customer, Blue Cross and Blue Shield of North Carolina, represented 10.1% of total revenue for the year ended December 31, 2010. Revenue from these customers is reported in the Company's Carrier segment.

Accounts Receivable and Allowance for Doubtful Accounts and Returns

Accounts receivable is stated at realizable value, net of allowances for doubtful accounts and returns. The Company utilizes the allowance method to provide for doubtful accounts based on

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management's evaluation of the collectability of amounts due, and other relevant factors. Bad debt expense is recorded in general and administrative expense on the consolidated statements of operations and comprehensive loss. The Company's estimate is based on historical collection experience and a review of the current status of accounts receivable. Historically, actual write-offs for uncollectible accounts have not significantly differed from the Company's estimates. The Company removes recorded receivables and the associated allowances when they are deemed permanently uncollectible. However, higher than expected bad debts may result in future write-offs that are greater than the Company's estimates. The allowance for doubtful accounts was $103 and $130 as of December 31, 2011 and 2012, respectively.

The allowances for returns are accounted for as reductions of revenue and are estimated based on the Company's periodic assessment of historical experience and trends. The Company considers factors such as the time lag since the initiation of revenue recognition, historical reasons for adjustments, new customer volume, complexity of billing arrangements, timing of software availability, and past due customer billings. The allowance for returns was $254 and $770 as of December 31, 2011 and 2012, respectively.

Property and Equipment

Property and equipment, including capitalized software development costs, are stated at cost less accumulated depreciation and amortization. Expenditures for major additions and improvements are capitalized. Depreciation and amortization is recognized over the estimated useful lives of the related assets using the straight-line method.

The estimated useful lives for significant property and equipment categories are generally as follows:

Computers and related equipment	3-7 years
Furniture and fixtures	7 years
Other equipment	5-12 years
Purchased software and licenses	3-7 years
Software developed	3 years
Vehicles	5 years
Leasehold improvements	Lesser of estimated useful life of asset or lease term

Useful lives of significant assets are periodically reviewed and adjusted prospectively to reflect the Company's current estimates of the respective assets' expected utility. Costs associated with maintenance and repairs are expensed as incurred.

Capitalized Software Development Costs

The Company capitalizes certain costs related to its software developed or obtained for internal use. Costs related to preliminary project activities and post-implementation activities are expensed as incurred. Internal and external costs incurred during the application development stage, including upgrades and enhancements representing modifications that will result in significant additional functionality, are capitalized. Software maintenance and training costs are expensed as incurred. Capitalized costs are recorded as part of property and equipment and are amortized on a straight-line

basis over the software's estimated useful life. The Company evaluates the useful lives of these assets on at least an annual basis and tests for impairment whenever events or changes in circumstances occur that could impact the recoverability of these assets.

Identifiable Intangible Assets

In connection with its business combinations (see Note 4), the Company records purchased identifiable intangible assets consisting of trademarks, customer agreements, and non-compete agreements. Identifiable intangible assets with finite lives are recorded at their fair values at the date of acquisition and are amortized on a straight-line basis over their respective estimated useful lives, which is the period over which the asset is expected to contribute directly or indirectly to future cash flows. The estimated remaining useful lives used in computing amortization range from 3 to 6 years.

Impairment of Long-Lived Assets and Goodwill

The Company reviews long-lived assets and definite-lived intangible assets for impairment whenever events or changes in circumstances indicate the carrying amount of an asset may not be recoverable. Recoverability of the long-lived asset is measured by a comparison of the carrying amount of the asset or asset group to future undiscounted net cash flows expected to be generated. If such assets are not recoverable, the impairment to be recognized, if any, is measured as the amount by which the carrying amount of the assets exceeds the estimated fair value (discounted cash flow) of the assets or asset group. Assets held for sale are reported at the lower of the carrying amount or fair value, less costs to sell.

Goodwill represents the excess of the aggregate of the fair value of consideration transferred in a business combination over the fair value of assets acquired, net of liabilities assumed. Goodwill is not amortized; rather, goodwill is tested for impairment at the reporting unit level as of October 31 of each year, or more frequently if an event occurs or circumstances change that would more likely than not reduce the fair value of a reporting unit below its carrying value.

The Company performs a qualitative assessment to determine whether it is more likely than not that the fair value of a reporting unit is less than its carrying value before performing a two-step approach to testing goodwill for impairment for each reporting unit. The reporting units are determined by the components of the Company's operating segments that constitute a business for which both (1) discrete financial information is available and (2) segment management regularly reviews the operating results of that component. The Company performs the impairment test at least annually by applying a fair-value-based test. The first step measures for impairment by applying fair-value-based tests at the reporting unit level. The second step (if necessary) measures the amount of impairment by applying fair-value-based tests to the individual assets and liabilities within each reporting unit.

As part of determining its reporting units, the Company has identified two operating segments, Employer and Carrier. Further, the Company has identified the reporting unit, Benefit Informatics, as part of the Employer operating segment. To determine the fair value of the Company's reporting units, the Company primarily uses a discounted cash flow analysis, which requires significant assumptions and estimates about future operations. Significant judgments inherent in this analysis include the determination of an appropriate discount rate, estimated terminal value and the amount and timing of expected future cash flows. The Company may also determine fair value of its reporting units using a market approach by applying multiples of earnings of peer companies to its operating results.

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Sales Commissions

Sales commissions are expensed when the sales contract is executed by the customer.

Advertising

The Company expenses advertising costs as they are incurred. Direct advertising costs for 2010, 2011 and 2012 were $172, $138 and $257, respectively.

Comprehensive Loss

The Company's net loss equals comprehensive loss for all periods presented.

Stock-Based Employee Compensation

Stock-based employee compensation is measured based on the grant-date fair value of the awards and recognized in the consolidated statements of operations and comprehensive loss over the period during which the optionholder is required to perform services in exchange for the award, which is the vesting period. Compensation expense is recognized over the vesting period of the applicable award using the straight-line method. The Company uses the Black-Scholes option pricing model for estimating the fair value of stock options. The use of the option valuation model requires the input of subjective assumptions, including the fair value of the Company's common stock, the expected life of the option and the expected stock price volatility based on peer companies. Additionally, the recognition of stock-based compensation expense requires the estimation of the number of options that will ultimately vest and the number of options that will ultimately be forfeited.

Income Taxes

The Company uses the asset and liability method for income tax accounting. This method requires the recognition of deferred tax assets and liabilities for the expected future tax consequences of temporary differences between the financial reporting and tax basis of assets and liabilities, as well as for operating loss and tax credit carryforwards. Deferred tax assets and liabilities are measured using the tax rates that are expected to apply to taxable income for the years in which those tax assets and liabilities are expected to be realized or settled. Valuation allowances are recorded to reduce deferred tax assets to the amount the Company believes is more likely than not to be realized. The tax benefits of uncertain tax positions are recognized only when the Company believes it is more likely than not that the tax position will be upheld on examination by the taxing authorities based on the merits of the position. The Company recognizes interest and penalties, if any, related to unrecognized income tax benefits in income tax expense.

Basic and Diluted Net Loss per Common Share

The Company uses the two-class method to compute net loss per common share because the Company has issued securities, other than common stock, that contractually entitle the holders to participate in dividends and earnings of the Company. The two-class method requires earnings for the period to be allocated between common stock and participating securities based upon their respective rights to receive distributed and undistributed earnings. Holders of each series of the Company's

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redeemable convertible preferred stock are entitled to participate in distributions, when and if declared by the board of directors that are made to common stockholders, and as a result are considered participating securities.

Under the two-class method, for periods with net income, basic net income per common share is computed by dividing the net income attributable to common stockholders by the weighted-average number of shares of common stock outstanding during the period. Net income attributable to common stockholders is computed by subtracting from net income the portion of current year earnings that the participating securities would have been entitled to receive pursuant to their dividend rights had all of the year's earnings been distributed. No such adjustment to earnings is made during periods with a net loss, as the holders of the participating securities have no obligation to fund losses. Diluted net loss per common share is computed under the two-class method by using the weighted-average number of shares of common stock outstanding plus, for periods with net income attributable to common stockholders, the potential dilutive effects of stock options and warrants. In addition, the Company analyzes the potential dilutive effect of the outstanding participating securities under the "if-converted" method when calculating diluted earnings per share, in which it is assumed that the outstanding participating securities convert into common stock at the beginning of the period. The Company reports the more dilutive of the approaches (two-class or "if-converted") as its diluted net income per share during the period. Due to net losses for the years ended December 31, 2010, 2011 and 2012, basic and diluted loss per share were the same, as the effect of potentially dilutive securities would have been anti-dilutive.

Recently Adopted Accounting Pronouncements

In June 2011, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") 2011-05, "Comprehensive Income (Topic 220): Presentation of Comprehensive Income." ASU 2011-05 allows an entity the option to present the total of comprehensive income, the components of net income, and the components of other comprehensive income either in a single continuous statement of comprehensive income or in two separate but consecutive statements. The Statement eliminates the option to present the components of other comprehensive income as part of the statement of changes in stockholders' equity. The Company adopted this Statement effective January 1, 2012 and has retrospectively applied its provisions for all periods presented.

In May 2011, the FASB issued ASU 2011-04, "Fair Value Measurement (Topic 820): Amendments to Achieve Common Fair Value Measurement and Disclosure Requirements in U.S. GAAP and IFRS", which represents the converged guidance of the FASB and the International Accounting Standards Board ("IASB") on fair value measurement and has resulted in common requirements for measuring fair value and for disclosing information about fair value measurements, including a consistent meaning of the term "fair value." The Company adopted this Statement effective January 1, 2012 and has retrospectively applied its provisions for all periods presented.

In September 2011, the FASB issued ASU 2011-08, "Intangibles—Goodwill and Other (Topic 350): Testing Goodwill for Impairment," which is intended to simplify how entities test goodwill for impairment. The Statement permits an entity to first assess qualitative factors to determine whether it is "more likely than not" that the fair value of a reporting unit is less than its carrying amount as a basis for determining whether it is necessary to perform the two-step goodwill impairment test. The Company's adoption of this Statement effective January 1, 2012 did not have any impact on the Company's consolidated financial statements.

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Recent Accounting Pronouncements Not Yet Adopted

In July 2012, the FASB issued ASU 2012-02, "Intangibles—Goodwill and Other (Topic 350): Testing Indefinite-Lived Intangible Assets for Impairment", which is intended to reduce the cost and complexity of performing an impairment test for indefinite-lived intangible assets by providing entities an option to perform a "qualitative" assessment to determine whether further impairment testing is necessary. This Statement is effective for annual and interim impairment tests performed for fiscal years beginning after September 15, 2012. It is not expected to have a material impact on the Company's consolidated financial statements.

3. Net Loss Per Common Share

Diluted loss per common share is the same as basic loss per common share for all periods presented because the effects of potentially dilutive items were anti-dilutive given the Company's net loss. The following common share equivalent securities have been excluded from the calculation of weighted-average common shares outstanding because the effect is anti-dilutive for the periods presented:

Anti-Dilutive Common Share Equivalents	Year Ended December 31, 2010	2011	2012
Redeemable convertible preferred stock:			
Series A	14,055,851	14,055,851	14,055,851
Series B	2,441,009	2,441,009	2,441,009
Stock options	2,906,741	2,712,808	3,121,064
Warrant to purchase common stock	500,000	500,000	500,000
Total anti-dilutive common share equivalents	19,903,601	19,709,668	20,117,924

Basic and diluted net loss per common share is calculated as follows:

	Year Ended December 31, 2010	2011	2012
Numerator:			
Net loss	$ (2,355)	$ (14,932)	$ (14,738)
Net loss attributable to common stockholders	$ (2,355)	$ (14,932)	$ (14,738)
Denominator:			
Weighted-average common shares outstanding, basic and diluted	6,405,944	4,875,157	4,812,632
Net loss per common share, basic and diluted	$ (0.37)	$ (3.06)	$ (3.06)

Pro Forma Net Loss Per Common Share (unaudited)

The numerator and denominator used in computing the unaudited pro forma net loss per common share for the year ended December 31, 2012 have been adjusted to assume the conversion of all outstanding shares of redeemable convertible preferred stock into common stock as of the beginning of the period presented or at the time of issuance, if later. Pro forma net loss per share does not give effect to potential dilutive securities where the impact would be anti-dilutive.

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	Year Ended December 31, 2012 (unaudited)
Numerator:	
Net loss	$ (14,738)
Net loss attributable to common stockholders	$ (14,738)
Denominator:	
Historical denominator for basic and diluted net loss per common share—weighted- average common shares	4,812,632
Plus: assumed conversion of redeemable convertible preferred stock to common stock	16,496,860
Denominator for pro forma basic and diluted loss per common share	21,309,492
Pro forma basic and diluted net loss per common share	$ (0.69)

4. Business Combinations

On August 3, 2010, the Company entered into an Asset Purchase Agreement to acquire 100% of the net assets of Beninform Holdings, Inc., including all of the stock of Benefit Informatics, Inc., a wholly owned subsidiary of Beninform Holdings, Inc. Benefit Informatics is a SaaS company that integrates healthcare data to provide analysis, forecasting and cost management to payers, employers, brokers and others. The acquisition was completed to broaden the relationship base in the Company's Employer operating segment. The Company incurred de minimis acquisition expenses, which were expensed as part of operating expenses for the year ended December 31, 2010.

Consideration for the acquisition included $5,100 in cash less cash acquired of $155 and subsequent contingent consideration with an acquisition date fair value of $1,450 (net of discount of $994) to be paid during the fourth quarters of 2011, 2012 and 2013. The contingent consideration was based on Benefit Informatics, Inc. achieving targeted recurring revenue beginning in the month of September 2011, and increases in annual recurring revenue for the twelve-months ending July 31, 2012 and July 31, 2013. The contingent consideration was recorded as a liability on the date of acquisition. The Company made the first contingent consideration payment of $2,020 in March 2012 and the second payment of $378 in October 2012.

The Company estimated the fair value of the contingent consideration at the date of acquisition using a probability weighted discounted cash flow model. This fair value measurement is based on significant inputs not observable in the market and thus represents a Level 3 financial instrument. The key assumptions in the probability weighted discounted cash flow model include discount rates and probability adjusted annualized monthly gross recurring revenue ranging from $3,765 to $16,800. Changes in the fair value of the contingent consideration to be paid, through amortization of the discount and changes in estimate of the amount to be paid, are reflected in the consolidated statements of operations and comprehensive loss.

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The acquired assets and liabilities of Beninform Holdings have been recorded based on management's estimates of their fair market values as of the acquisition date. The following tables summarize the fair values of assets acquired and liabilities assumed at the acquisition date:

Total purchase price	$6,550
Purchase price allocation:	
Cash and cash equivalents	155
Accounts receivable, net	395
Prepaid expenses and other current assets	59
Property and equipment	572
Intangible assets	2,480
Total identifiable assets acquired	3,661
Accounts payable and accrued expenses	(237)
Deferred revenue	(107)
Long-term debt and capital leases	(71)
Total liabilities assumed	(415)
Net identifiable assets acquired	3,246
Goodwill	3,304
Net assets acquired	$6,550

The fair value of accounts receivable acquired was $395, with a gross contractual amount of $508. The Company expected acquired accounts receivable of $113 to be uncollectible.

Of the $2,480 of acquired intangible assets, $240 was assigned to registered trademarks, $2,060 to customer agreements, and $180 to non-compete agreements. The useful lives of these acquired intangible assets ranged from 3 to 6 years.

The excess of the fair value of consideration transferred in connection with the Company's acquisition of Beninform Holdings, Inc. over the fair value of the net identifiable assets acquired of $3,304 has been recorded as goodwill. This goodwill is not expected to be deductible for tax purposes and represents the expected synergies of the combined company and intangible assets that do not qualify for separate recognition.

The amounts of revenue and net loss of the acquired company included in the Company's consolidated statements of operations and comprehensive loss from the acquisition date through December 31, 2010 are $1,446 and $(305), respectively. The pro forma consolidated revenue and net loss as if the acquired company had been included in the consolidated results of the Company for the entire year ending December 31, 2010 are $69,033 and $(2,617), respectively.

5. Fair Value Measurement

The carrying amounts of certain of the Company's financial instruments, including cash and cash equivalents, net accounts receivable, accounts payable and other accrued liabilities, and accrued compensation and benefits, approximate fair value due to their short-term nature. The carrying value of the Company's financing obligations approximates fair value, considering the borrowing rates currently available to the Company for financing obligations with similar terms and credit risks.

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The Company uses a three-tier fair value hierarchy to classify and disclose all assets and liabilities measured at fair value on a recurring basis, as well as assets and liabilities measured at fair value on a non-recurring basis, in periods subsequent to their initial measurement. The hierarchy requires the Company to use observable inputs when available, and to minimize the use of unobservable inputs when determining fair value. The three tiers are defined as follows:

Level 1. Quoted prices (unadjusted) in active markets for identical assets or liabilities.

Level 2. Other inputs that are directly or indirectly observable in the marketplace.

Level 3. Unobservable inputs for which there is little or no market data, which require the Company to develop its own assumptions.

Assets and Liabilities Measured at Fair Value on a Recurring Basis

The Company evaluates its financial assets and liabilities subject to fair value measurements on a recurring basis to determine the appropriate level to classify them for each reporting period. This determination requires significant judgments to be made.

The following tables present information about the Company's assets and liabilities that are measured at fair value on a recurring basis using the above categories, as of December 31, 2011 and 2012.

	December 31, 2011			
Description	**Level 1**	**Level 2**	**Level 3**	**Total**
Cash equivalents:				
Money market mutual funds (1)	$ 15,634	$ —	$ —	$15,634
Total assets	$ 15,634	$ —	$ —	$15,634
Liabilities:				
Contingent consideration (2) (see Note 4)	$ —	$ —	$ 2,538	$ 2,538
Total liabilities	$ —	$ —	$ 2,538	$ 2,538

	December 31, 2012			
Description	**Level 1**	**Level 2**	**Level 3**	**Total**
Cash equivalents:				
Money market mutual funds (1)	$ 18,282	$ —	$ —	$18,282
Total assets	$ 18,282	$ —	$ —	$18,282
Liabilities:				
Contingent consideration (2) (see Note 4)	$ —	$ —	$ 328	$ 328
Total liabilities	$ —	$ —	$ 328	$ 328

(1) Money market funds are classified as cash equivalents in the Company's consolidated balance sheets. As short-term, highly liquid investments readily convertible to known amounts of cash, with remaining maturities of three months or less at the time of purchase, the Company's cash equivalent money market funds have carrying values that approximate fair value.

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(2) Contingent consideration related to acquisitions is classified within Level 3 because the liabilities are valued using significant unobservable inputs. The Company estimated the fair value of the acquisition-related contingent consideration using a probability-weighted discounted cash flow method. On the consolidated statements of operations and comprehensive loss, change in fair value related to changes in estimated contingent consideration to be paid is included in "Change in fair value of contingent consideration," and accretion of the discount on contingent consideration is included in other expense.

Assets Measured at Fair Value on a Recurring Basis Using Significant Unobservable Inputs (Level 3)

The following table presents the changes in the Company's Level 3 instruments measured at fair value on a recurring basis for the years ended December 31:

	2011	2012
Balance of contingent consideration at January 1	$1,696	$ 2,538
Change in fair value	503	121
Accretion of discount	339	67
Payment	—	(2,398)
Balance of contingent consideration at December 31	$2,538	$ 328

6. Property and Equipment

Property and equipment consists of the following as of December 31:

	2011	2012
Computers and related equipment	$ 11,112	$ 10,521
Furniture and fixtures	1,987	2,406
Other equipment	1,921	1,941
Purchased software and licenses	12,389	12,605
Software developed	11,447	13,363
Vehicles	158	111
Leasehold improvements	754	1,690
Total property and equipment, at cost	39,768	42,637
Accumulated depreciation and amortization	(24,052)	(28,487)
Property and equipment, net	$ 15,716	$ 14,150

Depreciation and amortization expense on property and equipment was $6,343, $7,040, and $8,294, for the years ended December 31, 2010, 2011 and 2012, respectively. Property and equipment at December 31, 2011 and 2012 includes fixed assets acquired under capital lease agreements of $5,268 and $3,893, respectively. Accumulated depreciation of assets under capital leases totaled $1,551 and $1,392 as of December 31, 2011 and 2012, respectively. Amortization of assets under capital leases is included in depreciation expense.

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The Company capitalized software development costs of $2,711 and $3,089 for the years ended December 31, 2011 and 2012, respectively. Amortization of capitalized software development costs totaled $1,690, $2,009 and $3,145 during the years ended December 31, 2010, 2011 and 2012, respectively. The net book value of capitalized software development costs was $3,960 and $3,969 at December 31, 2011 and 2012, respectively.

During 2012, the Company determined it was no longer probable that certain software developed for internal use and certain purchased software would produce expected cash flows for the remainder of their respective useful lives. As a result, the Company recognized an impairment charge related to these long-lived assets totaling $1,051 for the year ended December 31, 2012.

In 2011, the Company traded in used computer equipment in a purchase of servers, computers, software, and services. The assets transferred were accounted for at fair value. The Company recognized a gain on the exchange of $178 in other expense.

7. Goodwill and Intangible Assets

The Company's goodwill balance is solely attributable to the Benefit Informatics reporting unit. The change in the carrying amount of goodwill was as follows for the years ended December 31:

	2011	2012
Goodwill on January 1	$ 3,304	$1,634
Impairment	(1,670)	—
Goodwill on December 31	$ 1,634	$1,634

The impairment recorded during the year ended December 31, 2011 was due to declines in the expected future performance of the assets acquired, as a result of decreased forecasted revenue and net cash flows.

Information regarding the Company's acquisition-related intangible assets is as follows:

	As of December 31, 2011			
	Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount	Weighted-Average Remaining Useful Life (in years)
Trademarks	$ 240	$ (68)	$ 172	3.6
Customer agreements	2,060	(365)	1,695	6.6
Non-compete agreements	126	(80)	46	1.6
Total	$2,426	$ (513)	$ 1,913	6.2

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	As of December 31, 2012			
	Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount	Weighted-Average Remaining Useful Life (in years)
Trademarks	$ 240	$ (116)	$ 124	2.6
Customer agreements	2,060	(622)	1,438	5.6
Non-compete agreements	126	(109)	17	0.6
Total	$ 2,426	$ (847)	$ 1,579	5.4

Amortization expense of acquisition-related intangible assets for the years ended December 31, 2010, 2011 and 2012 was $152, $361, and $335, respectively. As of December 31, 2012, expected amortization expense for the intangible assets for each of the next five years and thereafter was as follows:

2013	$ 323
2014	305
2015	285
2016	258
2017	258
Thereafter	150
Total	$ 1,579

In 2011, the Company determined that the decrease in revenue and net cash flow projections of Benefit Informatics represented an indicator of potential impairment of certain intangible assets on October 31, 2011. The Company determined that the fair value of the intangible assets was less than the expected future cash flows associated with the intangible asset (step 1). The amount of impairment was then calculated and recognized as the difference between the present value of the cash flows and the fair value of the intangible assets (step 2). Impairment charges of $54 to non-compete agreements were recognized for the year ended December 31, 2011 under operating expenses within the Company's Employer segment.

There were no such impairment charges to intangible assets during the years ended December 31, 2010 and 2012.

8. Notes Payable

In December 2010, the Company borrowed $816 under a senior secured promissory note to finance purchases of computer equipment ("Hardware Note"). The note bears interest at a fixed annual rate of 5.0% with principal and interest paid in equal monthly installments through December 2013. The Hardware Note is collateralized by certain specifically identified computers and related equipment.

In August 2011, the Company borrowed $2,020 under a senior secured promissory note to purchase computers and related equipment and software ("Hardware and Software Note"). The note bears interest at a fixed annual rate of 4.5% and is collateralized by certain specifically identified computers and related equipment and software. Principal and interest are paid in equal monthly installments through August 2014.

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In November 2012, the Company entered into a senior secured non-revolving master line of credit facility with a lender ("Master Credit Facility"). The total amount made available under the Master Credit Facility was $6,000. The purpose of the Master Credit Facility is to finance purchases of fixed assets, software, and leasehold improvements.

In November and December 2012, the Company borrowed $4,535 under two senior secured Promissory Notes governed by the Master Credit Facility ("Credit Facility Notes"). The Credit Facility Notes bear interest at a fixed annual rate of 3.6%, and are repayable in equal monthly installments of principal and interest through December 2015. The Credit Facility Notes are collateralized by all accounts receivable and certain specifically identified computers and related equipment and software of the Company.

As of December 31, 2012, $1,465 of the Master Credit Facility was unused. The Company does not incur commitment fees on the unused portion of the Master Credit Facility. The unused Master Credit Facility expires in November 2014. The Company incurred debt issuance costs of $23 related to the Master Credit Facility. These costs are included in prepaid expenses and other current assets and are amortized over the term of the Master Credit Facility on a straight-line basis. The results obtained are not materially different from the results that would be obtained if the effective interest method were applied.

The following table summarizes the outstanding principal balance and estimated net book value of the computers and related equipment and software collateralizing the Company's outstanding notes payable:

	Interest Rate	Outstanding Principal Balance as of December 31,		Estimated Net Book Value of Collateral Equipment as of December 31,	
		2011	2012	2011	2012
Hardware Note	5.0%	$ 558	$ 286	$ 556	$ 263
Hardware and Software Note	4.5%	1,809	1,156	2,044	1,329
Credit Facility Notes	3.6%	—	4,535	—	3,199
Other Notes	5.0% - 10.0%	154	4	264	—
Total		$ 2,521	$ 5,981	$ 2,864	$ 4,791

The interest rates for the notes in the table above approximate currently available rates for financing obligations with similar terms and credit risks.

Future minimum principal payments for the outstanding notes payable as of December 31, 2012 are $2,420, $1,985, $1,568 and $8 for the years ended December 31, 2013, 2014, 2015 and 2016, respectively.

9. Commitment and Contingencies

Operating and Capital Lease Commitments

The Company has entered into various capital lease arrangements to obtain property and equipment for operations. These agreements range from 3 to 5 years with interest rates ranging from 3.6% to 14.9%. The leases are secured by the underlying leased property and equipment.

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In 2011, the Company entered into a lease with a term of 3 years to finance data processing equipment. The lease provides for a bargain purchase option at the end of the term. The total payments under the lease are $3,005. The Company accounts for this arrangement as a capital lease. As of December 31, 2011 and 2012, capital lease obligations include amounts under this lease of $2,297 and $1,375, respectively.

The Company also leases office facilities under various non-cancelable operating lease agreements with original lease periods expiring between 2013 and 2024. Some of the leases provide for renewal terms at the Company's option. Certain future minimum lease payments due under these operating lease agreements contain free rent periods or escalating rent payment provisions. These leases generally do not contain purchase options. Rent expense on these operating leases is recognized over the term of the lease on a straight-line basis.

Rent expense totaled $3,205, $3,292 and $3,850 for the years ended December 31, 2010, 2011 and 2012, respectively.

Future minimum lease payments are as follows:

	Operating Leases	Capital Leases
Year Ending December 31,		
2013	$ 3,751	$ 1,222
2014	3,761	494
2015	3,874	23
2016	3,991	23
2017	4,021	23
Thereafter	21,405	—
Total minimum lease payments	$40,803	1,785
Less: imputed interest		(64)
Less: current portion		(1,171)
Capital lease obligations, net of current portion		$ 550

Contractual Commitments

The Company also has $3,001 of non-cancellable contractual commitments as of December 31, 2012 related to the purchase of software and colocation services. These commitments are not accrued in the consolidated balance sheet of the Company.

Legal Contingencies

The Company may become a party to a variety of legal proceedings that arise in the normal course of business. While the results of such normal course legal proceedings cannot be predicted with certainty, management believes, based on current knowledge, that the final outcome of any matters will not have a material adverse effect on the Company's business, financial position, results of operations or cash flows.

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10. Stock-Based Compensation

The Company maintains the Amended and Restated Benefitfocus.com, Inc. 2000 Stock Option Plan (the "2000 Plan") and the Benefitfocus.com, Inc. 2012 Stock Plan (the "2012 Plan"), pursuant to which the Company has reserved 3,941,253 shares of its common stock for issuance to its employees, directors and non-employee third parties. The 2012 Plan, effective on January 31, 2012, serves as the successor to the 2000 Plan and permits the granting of both incentive stock options and nonqualified stock options. No new awards will be issued under the 2000 Plan as of the effective date of the 2012 Plan. Outstanding awards under the 2000 Plan continue to be subject to the terms and conditions of the 2000 Plan. Shares available for grant under the 2000 Plan, which were reserved but not issued or subject to outstanding awards under the 2000 Plan as of the effective date, were added to the reserves of the 2012 Plan.

The terms of the stock option grants, including the exercise price per share and vesting periods, are determined by the Chairman of the Board who is delegated the authority by the Company's board of directors. Stock options are granted at exercise prices not less than the estimated fair market value of the Company's common stock at the date of grant. As of December 31, 2012, the Company had 320,189 shares allocated to the 2012 Plan, but not yet issued. Generally, the Company issues previously unissued shares for the exercise of stock options; however, previously acquired shares may be reissued to satisfy future issuances. The options typically vest quarterly over a four-year period. The options expire ten years from the grant date. Compensation expense for the fair value of the options at their grant date is recognized ratably over the vesting schedule.

Stock-based compensation expense related to stock options is included in the following line items in the accompanying consolidated statements of operations and comprehensive loss for the years ended December 31:

	2010	2011	2012
Cost of revenue	$ 352	$252	$195
Sales and marketing	77	102	68
Research and development	87	121	130
General and administrative	519	246	319
	$1,035	$721	$712

The Company values stock options using the Black-Scholes option-pricing model, which requires the input of subjective assumptions, including the risk-free interest rate, expected life, expected stock price volatility and dividend yield. The risk-free interest rate assumption is based upon observed interest rates for constant maturity U.S. Treasury securities consistent with the expected term of the Company's employee stock options. The expected life represents the period of time the stock options are expected to be outstanding and is based on the simplified method. Under the simplified method, the expected life of an option is presumed to be the mid-point between the vesting date and the end of the contractual term. The Company used the simplified method due to the lack of sufficient historical exercise data to provide a reasonable basis upon which to otherwise estimate the expected life of the stock options. Expected volatility is based on historical volatilities for publicly traded stock of comparable companies over the estimated expected life of the stock options. The Company assumed no dividend yield because it does not expect to pay dividends in the near future, which is consistent with the Company's history of not paying dividends.

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The following table summarizes the assumptions used for estimating the fair value of stock options granted for the years ended December 31:

	2010	2011	2012
Risk-free interest rate	1.9% - 3.2%	—	0.8% - 1.2%
Expected term (years)	6.08 - 6.58	—	6.08
Expected volatility	57% - 59%	—	53% - 55%
Dividend yield	0%	—	0%
Weighted-average grant date fair value per share	$ 2.43	—	$ 4.24

The following is a summary of the option activity for the year ended December 31, 2011:

	Number of Options	Weighted-Average Exercise Price	Weighted-Average Remaining Contractual Term (in years)	Aggregate Intrinsic Value
Outstanding balance at December 31, 2010	2,906,741	$ 5.11		
Granted	—	—		
Exercised	(77,712)	1.80		
Forfeited	(68,846)	4.31		
Expired	(47,375)	2.23		
Outstanding balance at December 31, 2011	2,712,808	$ 5.27	5.89	$ 2,861
Exercisable at December 31, 2011	2,187,340	$ 5.44	5.46	$ 2,287
Vested and expected to vest at December 31, 2011	2,626,849	$ 5.30	5.84	$ 2,745

The following is a summary of the option activity for the year ended December 31, 2012:

	Number of Options	Weighted-Average Exercise Price	Weighted-Average Remaining Contractual Term (in years)	Aggregate Intrinsic Value
Outstanding balance at December 31, 2011	2,712,808	$ 5.27		
Granted	592,459	9.50		
Exercised	(50,410)	2.14		
Forfeited	(62,297)	5.45		
Expired	(71,496)	4.03		
Outstanding balance at December 31, 2012	3,121,064	$ 6.15	5.71	$ 11,788
Exercisable at December 31, 2012	2,327,504	$ 5.42	4.62	$ 10,387
Vested and expected to vest at December 31, 2012	3,024,199	$ 6.10	5.62	$ 11,575

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The total compensation cost related to nonvested awards not yet recognized as of December 31, 2012 was $2,982 and will be recognized over a weighted-average period of approximately 3.2 years. The aggregate intrinsic value of employee options exercised during the years ended December 31, 2010, 2011, and 2012 was $264, $214, and $293, respectively.

11. Redeemable Convertible Preferred Stock

In February 2007, the Company sold 14,055,851 shares of Series A redeemable convertible preferred stock ("Series A") for $7.52 per share and received proceeds of $105,505, net of $195 of issuance costs, and concurrently repurchased 12,084,741 shares of its outstanding common stock for $85,681.

In August 2010, the Company sold 2,441,009 shares of Series B redeemable convertible preferred stock ("Series B") for $12.29 per share and received proceeds of $29,973, net of $27 of issuance costs and concurrently repurchased 2,441,009 shares of its outstanding common stock held by its founders for $30,000 or $12.29 per share. As the selling stockholders gave up control rights and liquidation rights, the entire consideration was allocated to the cost of the repurchased shares.

All repurchased common stock was retired immediately upon repurchase.

Series A and Series B are collectively referred to herein as the "Series Preferred".

Dividend Rights

The holders of Series A are entitled to receive, prior to any distribution to the holders of Series B or common stock, preferential cumulative dividends, at the rate of 10% compounded annually. No dividends were declared through December 31, 2012 or through the date of issuing these financial statements. Cumulative dividends will not be paid, except in cases of Winding Up (as defined below); a merger, share exchange or consolidation resulting in a loss of control by stockholders of the Company prior to such event; a sale or other disposition of substantially all assets of the Company; or if Series A are redeemed. The distribution to holders of Series A, including accumulated dividends, is capped at 1.5 times the original issue price. The accumulated dividends as of December 31, 2011 and 2012 were $52,850 or $3.76 per share of Series A. Cumulative dividends have not been recorded in the accompanying consolidated financial statements, because it is not probable that the Series Preferred will become redeemable.

In addition to the preferential cumulative dividends, holders of Series Preferred shall be entitled to receive, on an if-converted basis, when set aside or paid by the Company, any dividends on the Company's common stock.

Conversion Rights

Series Preferred are convertible into an equivalent number of common shares, at any time and without any additional payment. Pro rata adjustments will be applied in the events of stock splits, common stock dividends paid, and issuances of common stock, securities convertible to common stock, and options to purchase common stock at a price below the relevant Series Preferred price per share. Issuances of common stock and options to purchase common stock granted to employees, directors, and consultants are excluded from such adjustments, up to the number of shares issued and to be issued upon exercise of options of 4,044,525 after August 24, 2010.

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All outstanding shares of Series Preferred shall be converted into shares of common stock in the event of a firm commitment underwritten public offering resulting in an offer of at least $15.04 per common share and $30,000 of gross proceeds. The conversion rights terminate upon a liquidating event.

Liquidation Rights

In the event of any voluntary or involuntary liquidation, dissolution or winding up (together all hereafter referred to as a "Winding Up") of the Company, the holders of Series A are entitled to receive, prior and in preference to any distribution of any assets of the Company to the holders of common stock, an amount per share equal to the greater of 1) the Series A original issue price plus any unpaid cumulative dividends, up to 1.5 times the original issue price, or 2) the amount that would have been payable had all the Series A shares been converted to common stock. The holders of Series B shall be entitled to receive, prior and in preference to any distribution of any assets of the Company to the holders of common stock, an amount per share equal to the greater of 1) the Series B original issue price plus any dividends declared but unpaid, or 2) such amount per share as would have been payable had all the Series B shares been converted into common stock. Amounts so payable to the holders of Series Preferred are hereinafter referred to as "Liquidation Amounts". After the payment of Liquidation Amounts to all holders of Series Preferred, if payments to the holders of Series B are less than 1.5 times the Series B original issue price ("Series B Floor"), then amounts that would otherwise be payable to the Company's founders shall instead be paid to the holders of the Series B, until they have received a per share amount equal to the Series B Floor.

If upon such Winding Up, the assets are insufficient to pay the holders of Series Preferred the full amount to which they are entitled, they shall share ratably in any distribution of the assets available in proportion to the respective amounts which would otherwise be payable in respect of the shares held by them upon such distribution if all amounts payable on or with respect to such shares were paid in full.

Redemption Rights

The Company is obligated to redeem all of the Series Preferred upon the occurrence of certain deemed liquidation events (including merger, share exchange, or consolidation in which the Company is a party, or a subsidiary of the Company is a party where the Company issues shares of its capital stock, resulting in a loss of control by the current stockholders; or sale or other disposition of substantially all assets of the Company; or any other transaction resulting in the loss of control by the current stockholders), if a majority, by voting power, of the all holders of Series Preferred request such redemption ("Redemption Event"). The redemption price shall be equal to the Liquidation Amounts, as defined above. If the assets of the Company are not sufficient to redeem all of the Series Preferred upon the occurrence of a Redemption Event, the Company shall redeem Series Preferred ratably based on amounts that would be payable if the assets were sufficient, and redeem the remaining Series Preferred as soon as is practicable thereafter.

Voting Rights

Each holder of Series Preferred is entitled to the number of votes equal to the number of shares of common stock into which such shares are convertible. Voting rights are consistent with the rights of holders of common stock, except as otherwise required by law or as specified in the Company's Articles of Incorporation.

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The holders of Series A and Series B are entitled to elect two and one directors, respectively. Common stockholders, acting separately from the holders of Series Preferred, are entitled to elect two directors. The following events require a majority vote of the holders of Series Preferred: 1) revisions to Articles of Incorporation or Bylaws, 2) merger, sale or recapitalization, 3) creation, authorization or issuance of additional stock, 4) purchase or redemption of capital stock, other than preferred redemptions and repurchase of stock from former employees and 5) entering into any agreement or other transaction with any affiliate, other than arms-length transactions approved by the Board. Additionally, the following events require a majority vote of the holders of Series B: 1) changes to the rights of the holders of Series B, 2) merger, sale or recapitalization, 3) changes to the number of authorized shares of Series B, 4) creation of a class of stock superior in rights to Series B, but not Series A.

The following events require a majority vote of the five members of the Board of Directors who are elected separately by the holders of Series A, the holders of Series B, and common stockholders: 1) entering into acquisition or debt agreements in excess of $10,000 (individually or in the aggregate), 2) disposition of substantially all the assets of the Company, 3) transactions resulting in a loss of control of the Company by stockholders before the transaction, or 4) change in the number of directors on the Board of Directors.

12. Stockholders' Deficit

Common Stock

Benefitfocus.com, Inc. is authorized to issue two classes of stock, designated common stock and redeemable convertible preferred stock. Benefitfocus.com, Inc. is authorized to issue 116,496,860 total shares, consisting of 100,000,000 shares of common stock and 16,496,860 shares of Series Preferred. At December 31, 2012, Benefitfocus.com, Inc. had reserved a total of 20,438,113 of its authorized 100,000,000 shares of common stock for future issuance as follows:

For conversion of Series Preferred	16,496,860
Outstanding stock options	3,121,064
Outstanding common warrant	500,000
Possible future issuance under stock option plans	320,189
Total common shares reserved for future issuance	20,438,113

The holders of common stock are entitled to receive dividends if and when declared by the Company, but not until preferential cumulative dividends on Series Preferred stock have been either (i) paid or (ii) declared and Benefitfocus.com, Inc. has set aside funds to pay those dividends declared. Holders of common stock have the right to one vote per share.

During 2009, in connection with a new five-year contract executed with a major customer, the Company issued a warrant to the customer for the right to purchase 500,000 shares of common stock at $5.48 per share. The warrant was issued from the incentive stock option pool of shares approved by the Board of Directors. Under the terms of the warrant, the warrant expires in 10 years. The customer was originally entitled to exercise the warrant in its entirety in 9.5 years. Earlier exercise rights for all or part of the warrants are triggered under certain conditions, the most relevant of which are, on or after the third anniversary date of the issuance date if an IPO has occurred and immediately prior to the closing of a defined Corporate Transaction. In the event the customer cancels the contract prior to the end of the five-year term, one half of the warrants would have been forfeited. In March 2013, the Company made this warrant fully exercisable.

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The Company used an option pricing model to determine the fair value of the common stock warrant. Significant inputs included an estimate of the fair value of the Company's common stock, the remaining contractual life of the warrant, an estimate of the probability and timing of a liquidity event, a risk-free rate of interest and an estimate of the Company's stock volatility using the volatilities of guideline peer companies. The value of the exercisable portion of the warrant is not dependent on the customer's fulfillment of the contract and was measured on the issuance date, with the total fair value at issuance being recognized as a reduction to revenue over the contract period on the straight line basis. The remaining half of the warrant that was dependent on contract fulfillment by the customer was remeasured each quarter, with the resulting increment or decrement in value recognized as a revenue reduction on the straight line basis beginning in the quarter of the revaluation through the end of the contract. The related reduction of revenue during the years ended December 31, 2010, 2011 and 2012 was $306, $141 and $488, respectively.

13. Employee Benefit Plan

The Company maintains a qualified defined contribution plan under Section 401(k) of the U.S. Internal Revenue Code (the "401(k) Plan") covering substantially all employees. Employees are eligible to participate in the 401(k) Plan after one day of service and upon attainment of age 21, and may elect to defer an amount or percentage of their annual compensation up to amounts prescribed by law. The Company makes discretionary matching contributions to employee plan accounts. During each of the years ended December 31, 2010, 2011, and 2012, the Company matched 50% of the employees' contribution, with the match limited to 3% of qualifying compensation. Employee vesting in matching company contributions occurs at a rate of 20% per year after achieving two years of service. During the years ended December 31, 2010, 2011 and 2012, employer matching contributions were $745, $857 and $1,013, respectively.

14. Income Taxes

The Company files income tax returns in the U.S. for federal and various state jurisdictions. The Company is subject to U.S. federal income tax examination for calendar tax years 2009 through 2011 as well as state income tax examinations for various years depending on statutes of limitations of those jurisdictions.

The following summarizes the components of income tax expense for the years ended December 31:

Current taxes:	2010	2011	2012
Federal	$(63)	$ —	$ —
State and local	73	35	84
Total current taxes	$ 10	$ 35	$ 84
Deferred taxes:			
Federal	$ —	$ —	$ —
State and local	—	—	—
Total deferred taxes	$ —	$ —	$ —

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Reconciliation between the effect of applying the federal statutory rate and the effective income tax rate used to calculate the Company's income tax provision is as follows for the years ended December 31:

	2010	2011	2012
Federal statutory rate	34.0%	34.0%	34.0%
Effect of:			
State income taxes, net of federal benefit	1.0	2.8	3.5
Change in tax rates	(10.9)	0.7	2.6
Change in valuation allowance	(37.5)	(33.2)	(38.6)
State tax credits	31.2	2.2	—
Contingent consideration amortization	—	(5.7)	(0.5)
Stock-based compensation	(14.4)	(1.1)	(1.2)
Other permanent items	(3.9)	(0.4)	(0.4)
Other temporary items	—	0.5	—
Income tax provision effective rate	(0.5)%	(0.2)%	(0.6)%

The significant components of the Company's deferred tax asset were as follows as of December 31:

	2011	2012
Deferred tax assets relating to:		
Net operating loss carryforwards	$ 10,742	$ 9,744
Deferred revenue	7,545	13,185
Commissions accrual	111	260
Deferred rent	702	876
State tax credits	2,968	2,968
Stock compensation	901	1,172
Compensation and accruals	1,160	1,506
Total gross deferred tax assets	24,129	29,711
Deferred tax liabilities:		
Prepaid expenses	$ (410)	$ (374)
Property and equipment and intangible assets	(5,665)	(5,624)
Total gross deferred tax liabilities	(6,075)	(5,998)
Deferred assets less liabilities	18,054	23,713
Less: valuation allowance	(18,054)	(23,713)
Net deferred tax asset (liability)	$ —	$ —

As of December 31, 2011 and 2012, the Company's gross deferred tax was reduced by a valuation allowance of $18,054 and $23,713, respectively. The valuation allowance increased by $5,659 during the year ended December 31, 2012. The valuation allowance increase resulted primarily from changes in the deferred revenue deferred tax asset, which on its own increased by $5,640 during the year.

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In assessing the realizability of deferred tax assets, management considers whether it is more likely than not that some portion or all of the deferred tax assets will not be realized. The ultimate realization of deferred tax assets is dependent upon the generation of future taxable income during the periods in which those temporary differences become deductible. Management considers the scheduled reversal of deferred tax liabilities, projected future taxable income, and tax planning strategies in making this assessment. Based upon the level of historical taxable income and projections for future taxable income over the periods in which the deferred tax assets are deductible, management believes it is more likely than not that the Company will not realize the benefits of these deductible differences in the future

Net operating loss carryforwards for federal income tax purposes were approximately $28,884 and $25,595 at December 31, 2011 and 2012, respectively. State net operating loss carryforwards were $26,877 and $23,589 at December 31, 2011 and 2012, respectively. The federal net operating loss carryforwards will expire at various dates beginning in 2016 through 2032, if not utilized. Net operating loss carryforwards and credit carryforwards reflected above may be limited due to historical and future ownership changes.

South Carolina jobs tax credit and headquarters tax credit carryovers of $4,500 and $4,500 were available at December 31, 2011 and 2012, respectively. Headquarters credits are expected to be used to offset future state income tax license fees. The credits expire in various amounts during 2019 through 2032.

15. Segments and Geographic Information

Operating segments are defined as components of an enterprise for which discrete financial information is available that is evaluated regularly by the chief operating decision maker (“CODM”) for purposes of allocating resources and evaluating financial performance. The Company’s CODM, the Chief Executive Officer, reviews financial information presented on a consolidated basis, accompanied by information about operating segments, for purposes of allocating resources and evaluating financial performance.

The Company’s reportable segments are based on the type of customer. The Company determined its operating segments to be: Employers, which derives substantially all of its revenue from customers that use the Company’s services for the provision of benefits to their employees, and administrators acting on behalf of employers; and Carriers, which derives substantially all of its revenue from insurance companies that provide coverage at their own risk.

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The Company evaluates the performance of its operating segments based on operating income. The Company does not allocate interest income, interest expense or income tax expense by segment. Accordingly, the Company does not report such information. Additionally, Employers and Carriers segments share the majority of the Company's assets. Therefore, no segment asset information is reported.

	Year Ended December 31,		
	2010	2011	2012
Revenue from external customers by segment:			
Employers	$ 9,356	$ 15,947	$ 23,760
Carriers	57,766	52,836	57,979
Total net revenue from external customers	$67,122	$ 68,783	$ 81,739
Depreciation and amortization by segment:			
Employers	$ 723	$ 1,974	$ 2,257
Carriers	5,620	5,066	6,037
Total depreciation and amortization	$ 6,343	$ 7,040	$ 8,294
Income (loss) from operations by segment:			
Employers	$ (7,036)	$ (20,226)	$ (19,778)
Carriers	4,787	5,570	5,338
Total loss from operations	$ (2,249)	$ (14,656)	$ (14,440)

Substantially all assets were held and all revenue was generated in the United States during the years ended December 31, 2010, 2011 and 2012.

The Company identifies three reporting units: Carrier, Employer, and Benefit Informatics. The Benefit Informatics reporting unit is included in the Company's Employer operating segment.

16. Related Parties

Related Party Operating Leases

The Company leases its primary office space under the terms of two non-cancelable operating leases from an entity owned and controlled by two of the Company's significant stockholders and executives. The leases have 15-year terms which started in 2006 and 2009. The Company has an option to renew the leases for 5 additional years. The leases provide for 3% fixed annual rent increases. Expenses related to these agreements were $3,100, $3,100 and $3,600 for the years ended December 31, 2010, 2011 and 2012, respectively, and consist of rent on a straight-line basis and related facilities expenses. Amounts due to the related party were $212 and $234 as of December 31, 2011 and 2012, respectively.

Related Party Travel Expenses

The Company utilizes the services of a private air transportation company that is owned and controlled by one of the Company's significant stockholders and executives. Expenses related to this company were $154, $105, and $120 for the years ended December 31, 2010, 2011, and 2012, respectively, and consist of air travel related to the operations of the business. Amounts due to the related party were de minimis as of December 31, 2011 and 2012.

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17. Subsequent Events

The Company has evaluated subsequent events that occurred after December 31, 2012 through May 6, 2013, except as to Note 1, as to which the date is , 2013, the date on which the December 31, 2011 and 2012 consolidated financial statements and schedule were available to be issued.

In February 2013, the Company entered into an amendment to a 2009 office lease agreement with an entity owned and controlled by two of the Company's significant stockholders and executives. Under the terms of the amendment, the Company has committed to rent additional office space under the agreement. Payments for the additional space will commence in 2014.

In March 2013, the Company accelerated the exercisability of its warrant to purchase 500,000 shares of common stock (see Note 12). Subsequent to this acceleration, the warrant is exercisable in full at any time by the customer.

In March 2013, the Company borrowed an additional $874 under a senior secured Promissory Note governed by the Master Credit Facility. This new Credit Facility Note bears interest at a fixed annual rate of 3.6% and is repayable in equal monthly installments of principal and interest through April 2016. The Credit Facility Note is collateralized by all accounts receivable and certain specifically identified computers and related equipment of the Company.

In March 2013, the Company entered into a lease with a term of 3 years to finance data processing equipment and software. The lease provides for a bargain purchase option at the end of the term. The total payments under the lease are $1,117. The Company accounts for this arrangement as a capital lease.

In the period subsequent to December 31, 2012, the Company has issued 142,000 stock options with an aggregate fair value of $1,888,600.

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Through and including , 2013 (the 25th day after the date of this prospectus), all dealers effecting transactions in these securities, whether or not participating in this offering, may be required to deliver a prospectus. This is in addition to the dealer's obligation to deliver a prospectus when acting as underwriters and with respect to their unsold allotments or subscriptions.

Shares

Common Stock

Goldman, Sachs & Co. **Deutsche Bank Securities** **Jefferies**

Canaccord Genuity **Piper Jaffray** **Raymond James**

PART II

INFORMATION NOT REQUIRED IN PROSPECTUS

Item 13. Other Expenses of Issuance and Distribution.

The following table sets forth an itemization of the various costs and expenses, all of which we will pay, in connection with the issuance and distribution of the securities being registered. All of the amounts shown are estimated except the SEC registration fee, the stock exchange listing fee and the FINRA filing fee:

SEC registration fee	$
Stock exchange listing fee	*
FINRA filing fee	*
Blue sky fees and expenses	*
Accounting fees and expenses	*
Printing and engraving expenses	*
Legal fees and expenses	*
Transfer agent and registrar fees	*
Miscellaneous	*
Total	$*

* To be completed by amendment.

Item 14. Indemnification of Directors and Officers.

We are incorporated under the laws of the State of Delaware. Section 145 of the Delaware General Corporation Law provides that a Delaware corporation may indemnify any persons who are, or are threatened to be made, parties to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the right of such corporation), by reason of the fact that such person was an officer, director, employee, or agent of such corporation, or is or was serving at the request of such person as an officer, director, employee, or agent of another corporation or enterprise. The indemnity may include expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit, or proceeding, provided that such person acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the corporation's best interests and, with respect to any criminal action or proceeding, had no reasonable cause to believe that his or her conduct was illegal. A Delaware corporation may indemnify any person who is, or are threatened to be made, a party to any threatened, pending, or completed action or suit by or in the right of the corporation by reason of the fact that such person was a director, officer, employee, or agent of such corporation, or is or was serving at the request of such corporation as a director, officer, employee, or agent of another corporation or enterprise. The indemnity may include expenses (including attorneys' fees) actually and reasonably incurred by such person in connection with the defense or settlement of such action or suit provided such person acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the corporation's best interests, except that no indemnification is permitted without judicial approval if the officer or director is adjudged to be liable to the corporation. Where an officer or director is successful on the merits or otherwise in the defense of any action referred to above, the corporation must indemnify him or her against the expenses which such officer or director has actually and reasonably incurred. Our amended and restated certificate of incorporation and amended and restated bylaws will provide for the indemnification of our directors and officers to the fullest extent permitted under the Delaware General Corporation Law.

Section 102(b)(7) of the Delaware General Corporation Law permits a corporation to provide in its certificate of incorporation that a director of the corporation shall not be personally liable to the corporation or its stockholders for monetary damages for breach of fiduciary duties as a director, except for liability for any:

- Ÿ breach of a director's duty of loyalty to the corporation or its stockholders;
- Ÿ act or omission not in good faith or that involves intentional misconduct or a knowing violation of law;
- Ÿ unlawful payment of dividends or redemption of shares; or
- Ÿ transaction from which the director derives an improper personal benefit.

Our amended and restated certificate of incorporation and amended and restated bylaws, each to be entered into in connection with this offering, include such a provision. Expenses incurred by any officer or director in defending any such action, suit, or proceeding in advance of its final disposition shall be paid by us upon delivery to us of an undertaking, by or on behalf of such director or officer, to repay all amounts so advanced if it shall ultimately be determined that such director or officer is not entitled to be indemnified by us.

Section 174 of the Delaware General Corporation Law provides, among other things, that a director, who willfully or negligently approves of an unlawful payment of dividends or an unlawful stock purchase or redemption, may be held liable for such actions. A director who was either absent when the unlawful actions were approved, or dissented at the time, may avoid liability by causing his or her dissent to such actions to be entered in the books containing minutes of the meetings of the board of directors at the time such action occurred or immediately after such absent director receives notice of the unlawful acts.

As permitted by the Delaware General Corporation Law, we intend to enter into indemnification agreements with each of our directors. Under the terms of our indemnification agreements, we will be required to indemnify each of our directors, to the fullest extent permitted by the laws of the State of Delaware, if the indemnitee acted in good faith and in a manner the indemnitee reasonably believed to be in or not opposed to the best interests of the Company, and with respect to any criminal proceeding, had no reasonable cause to believe the indemnitee's conduct was unlawful. We must indemnify our officers and directors against any and all (a) costs and expenses (including attorneys' and experts' fees, expenses and charges) actually and reasonably paid or incurred in connection with investigating, defending, being a witness in or participating in, or preparing to investigate, defend, be a witness in or participate in, and (b) judgments, fines, penalties and amounts paid in settlement in connection with, in the case of either (a) or (b), any threatened, pending, or completed action, suit, arbitration, alternate dispute resolution mechanism, investigation, inquiry, administrative hearing, or any other actual, threatened, or completed proceeding, by reason of the fact that (x) such person is or was a director or officer, employee, agent, or fiduciary of the Company or (y) such person is or was serving at our request as a director, officer, employee, agent, or fiduciary of another corporation, partnership, joint venture, trust, employee benefits plan, or other enterprise. The indemnification agreements will also require us, if so requested, to advance within 30 days of such request any and all costs and expenses that such director or officer incurred, provided that such person will return any such advance if it is ultimately determined that such person is not entitled to be indemnified for such costs and expenses. Our amended and restated bylaws also require that such person return any such advance if it is ultimately determined that such person is not entitled to indemnification by us as authorized by the laws of the State of Delaware.

We will not be required to provide indemnification under our indemnification agreements for certain matters, including: (1) indemnification in connection with certain proceedings or claims initiated

or brought voluntarily by the indemnitee; (2) indemnification related to disgorgement of profits made from the purchase or sale of securities of our company under Section 16(b) of the Exchange Act or similar provisions of state statutory or common law; (3) indemnification that is finally determined, under the procedures and subject to the presumptions set forth in the indemnification agreements, to be unlawful; or (4) indemnification for liabilities for which the director has received payment under any insurance policy for such person's benefit, our amended and restated certificate of incorporation or amended and restated bylaws or any other contract or otherwise, except with respect to any excess amount beyond the amount so received by such director or officer. The indemnification agreements will require us, to the extent that we maintain an insurance policy or policies providing liability insurance for directors, officers, employees, agents or fiduciaries of our company or of any other corporation, partnership, joint venture, trust, employee benefits plan, or other enterprise that such person serves at the request of our company, to cover such person by such policy or policies to the maximum extent available.

We have an insurance policy covering our officers and directors with respect to certain liabilities, including liabilities arising under the Securities Act of 1933, as amended, or otherwise.

Item 15. Recent Sales of Unregistered Securities.

Since January 1, 2010, we have sold the following securities that were not registered under the Securities Act. All such sales of securities were grants of stock options or issuances of common stock upon the exercise of stock options.

- Ÿ From January 1, 2010 through April 30, 2013, we granted to directors, officers, employees, consultants and other service providers under the 2000 Plan options to purchase 512,000 shares of common stock at per share exercise prices ranging from $5.38 to $5.46.
- Ÿ From January 1, 2010 through April 30, 2013, we issued to directors, officers, employees, consultants and other service providers upon the exercise of options under our 2000 Plan 342,709 shares of common stock at exercise prices ranging from $0.69 to $5.38 per share for total consideration of $782,343.
- Ÿ From January 1, 2010 through April 30, 2013, we granted to directors, officers, employees, consultants and other service providers under the 2012 Plan options to purchase 739,459 shares of common stock with per share exercise prices ranging from $8.11 to $13.53.
- Ÿ In August 2010, we completed our Series B preferred stock financing with Oak Investment Partners XII, L.P. Oak Investment Partners purchased an aggregate of 2,441,009 shares of our Series B preferred stock at a purchase price per share of $12.29, for an aggregate purchase price of $30.0 million.
- Ÿ In May 2012, Francis J. Pelzer V, one of our directors, purchased 5,000 shares of our common stock at a purchase price per share of $13.53 for an aggregate purchase price of $67,650.

These issuances were deemed to be exempt from registration under the Securities Act in reliance on Section 4(2) of the Securities Act or Rule 701 promulgated under Section 3(b) of the Securities Act, as transactions by an issuer not involving a public offering or transactions pursuant to compensatory benefit plans and contracts relating to compensation as provided under Rule 701. The purchasers of securities in each such transaction represented their intention to acquire the securities for investment only and not with a view to offer or sell, in connection with any distribution of the securities, and appropriate legends were affixed to the share certificates and instruments issued in such transactions.

Item 16. Exhibits and Financial Statement Schedules.

(a) Exhibits

Exhibit Number	Description of Documents
1.1	Form of Underwriting Agreement.*
2.1	Agreement and Plan of Merger dated by and among Benefitfocus.com, Inc., Benefitfocus, Inc., and Benefitfocus Mergeco, Inc.*
3.1.1	Certificate of Incorporation of Benefitfocus, Inc., as currently in effect.**
3.1.2	Form of Amended and Restated Certificate of Incorporation of Benefitfocus, Inc., to be in effect at the closing of this offering.*
3.2.1	Bylaws of Benefitfocus, Inc., as currently in effect.**
3.2.2	Form of Amended and Restated Bylaws of Benefitfocus, Inc., to be in effect at the closing of this offering.*
4.1	Specimen Certificate for Common Stock.*
4.2	Amended and Restated Investors' Rights Agreement, dated August 25, 2010, by and among Benefitfocus.com, Inc. and certain stockholders named therein.**
4.3	Amended and Restated Right of First Offer and Co-Sale Agreement, dated August 25, 2010, by and among Benefitfocus.com, Inc. and certain stockholders named therein.**
4.4	Warrant for the Purchase of Shares of Common Stock of Benefitfocus.com, Inc. issued November 23, 2009.**
5.1	Opinion of Wyrick Robbins Yates & Ponton LLP.*
10.1	Amended and Restated Voting Agreement dated August 25, 2010, by and among Benefitfocus.com, Inc., and certain stockholders named therein.**
10.2	Amended and Restated Benefitfocus.com, Inc. 2000 Stock Option Plan.**#
10.3	Benefitfocus.com, Inc. 2012 Stock Plan.**#
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10.5	Form of Grant Notice and Stock Option Agreement under Benefitfocus.com, Inc. 2012 Stock Plan.**#
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10.7	Employment Agreement, dated January 19, 2007, by and between Benefitfocus.com, Inc. and Mason R. Holland, Jr.**#
10.8	Employment Agreement, dated January 19, 2007, by and between Benefitfocus.com, Inc. and Shawn A. Jenkins.**#
10.9	Employment Agreement, dated November 16, 2011, by and between Benefitfocus.com, Inc. and Milton A. Alpern.**#
10.10	Form of Employment Agreement.**#
10.11	Form of Indemnification Agreement.**#
10.12	Lease between Daniel Island Executive Center, LLC and Benefitfocus.com, Inc., dated as of January 1, 2009, as amended.**
10.13	Lease between Daniel Island Executive Center, LLC and Benefitfocus.com, Inc., dated as of May 31, 2005.**

Exhibit Number	Description of Documents
10.14	Master Business Agreement between Aetna Life Insurance Company and Benefitfocus.com, Inc., dated as of November 28, 2006.**†
21.1	List of Subsidiaries of Registrant.**
23.1	Consent of Ernst and Young LLP.*
23.2	Consent of Wyrick Robbins Yates & Ponton LLP (included in Exhibit 5.1).*
24.1	Power of Attorney (included on signature page).**

* To be filed by amendment.
** Filed herewith.
# Management contract or compensatory plan.
† Confidential treatment will be requested with respect to portions of this exhibit.

(b) Financial Statement Schedules

Schedule II—Valuation and Qualifying Accounts (in thousands)

	Balance at Beginning of Period	Additions Charged To Expense	Additions Charged Against Revenue	Deductions	Balance at End of Period
Allowance for doubtful accounts and returns:					
Year ended December 31, 2010	$213	$130	$ 111	$(182)	$272
Year ended December 31, 2011	$272	$136	$ 491	$(540)	$358
Year ended December 31, 2012	$358	$ 98	$1,330	$(886)	$900

	Balance at Beginning of Period	Additions Charged To Costs and Expenses (1)	Deductions	Balance at End of Period
Deferred tax asset valuation allowance:				
Year ended December 31, 2010	$11,960	$1,144	$ —	$13,104
Year ended December 31, 2011	$13,104	$4,950	$ —	$18,054
Year ended December 31, 2012	$18,054	$5,659	$ —	$23,713

(1) Increase in valuation allowance is related to the generation of net operating losses and other deferred tax assets.

Item 17. Undertakings.

The undersigned hereby undertakes to provide to the underwriter at the closing specified in the underwriting agreements, certificates in such denominations and registered in such names as required by the underwriter to permit prompt delivery to each purchaser.

Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act of 1933

and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer, or controlling person of the registrant in the successful defense of any action, suit, or proceeding) is asserted by such director, officer, or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act and will be governed by the final adjudication of such issue.

The undersigned registrant hereby undertakes that:

(1) For purposes of determining any liability under the Securities Act of 1933, the information omitted from the form of prospectus filed as part of this registration statement in reliance upon Rule 430A and contained in a form of prospectus filed by the registrant pursuant to Rule 424(b)(1) or (4) or 497(h) under the Securities Act of 1933 shall be deemed to be part of this registration statement as of the time it was declared effective.

(2) For the purpose of determining any liability under the Securities Act of 1933, each post-effective amendment that contains a form of prospectus shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the Registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized in Charleston, South Carolina on , 2013.

Benefitfocus, Inc.

By: _____
Shawn A. Jenkins,
President and Chief Executive Officer

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each individual whose signature appears below hereby constitutes and appoints each of Milton A. Alpern and Paris Cavic, acting singly, his true and lawful agent, proxy and attorney-in-fact, with full power of substitution and resubstitution, for him and in his name, place and stead, in any and all capacities, to (i) act on, sign, and file with the Securities and Exchange Commission any and all amendments (including post-effective amendments) to this registration statement together with all schedules and exhibits thereto and any subsequent registration statement filed pursuant to Rule 462(b) under the Securities Act of 1933, as amended, together with all schedules and exhibits thereto, (ii) act on, sign, and file such certificates, instruments, agreements, and other documents as may be necessary or appropriate in connection therewith, (iii) act on and file any supplement to any prospectus included in this registration statement or any such amendment or any subsequent registration statement filed pursuant to Rule 462(b) under the Securities Act of 1933, as amended, and (iv) take any and all actions which may be necessary or appropriate in connection therewith, granting unto such agents, proxies and attorneys-in-fact, and each of them, full power and authority to do and perform each and every act and thing necessary or appropriate to be done, as fully for all intents and purposes as he might or could do in person, hereby approving, ratifying and confirming all that such agents, proxies and attorneys-in-fact or any of their substitutes may lawfully do or cause to be done by virtue thereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

SIGNATURE	TITLE	DATE
Mason R. Holland, Jr.	Chairman of the Board of Directors	, 2013
Shawn A. Jenkins	President and Chief Executive Officer (principal executive officer) and Director	, 2013
Milton A. Alpern	Chief Financial Officer (principal financial and accounting officer)	, 2013
Joseph P. DiSabato	Director	, 2013
Ann H. Lamont	Director	, 2013
Francis J. Pelzer V	Director	, 2013
Raheel Zia	Director	, 2013

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24.1	Power of Attorney (included on signature page).**

* To be filed by amendment.
** Filed herewith.
# Management contract or compensatory plan.
† Confidential treatment will be requested with respect to portions of this exhibit.

Exhibit 3.1.1

CERTIFICATE OF INCORPORATION
OF
BENEFITFOCUS, INC.

FIRST: The name of the corporation is Benefitfocus, Inc. (the "Corporation").

SECOND: The address of the Corporation's registered office in the State of Delaware is 3500 South DuPont Highway, in the City of Dover, Kent County, Delaware 19901. The name of its registered agent at such address is Incorporating Services, Ltd.

THIRD: The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of Delaware.

FOURTH: The total number of shares that the Corporation shall have authority to issue is one hundred (100), each with a par value of $0.001. The Corporation is authorized to issue one class of stock to be designated Common Stock.

FIFTH: The name and mailing address of the incorporator are as follows:

David P. Creekman 4101 Lake Boone Trail, Suite 300
Raleigh, North Carolina 27607

SIXTH: Unless and except that the bylaws of the Corporation shall so require, the election of directors of the Corporation need not be by written ballot.

SEVENTH: To the fullest extent permitted by the Delaware General Corporation Law as the same exists or as may hereafter be amended, no present or former director of the Corporation shall be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director. Neither any amendment nor repeal of this Article, nor the adoption of any provision of this Certificate of Incorporation inconsistent with this Article, shall eliminate or reduce the effect of this Article in respect of any matter occurring, or any cause of action, suit or claim that, but for this Article, would accrue or arise, prior to such amendment, repeal or adoption of an inconsistent provision.

EIGHTH: The Corporation shall have the power to indemnify any person who was or is a party or is threatened to be made a party to, or testifies in, any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative in nature, by reason of the fact such person is or was a director, officer or employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, employee benefit plan, trust or other enterprise, against expenses (including attorney's fees), judgments, fines and amounts paid in

settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding to the full extent permitted by law, and the Corporation may adopt bylaws or enter into agreements with any such person for the purpose of providing for such indemnification.

NINTH: The Corporation reserves the right at any time, and from time to time, to amend, alter, change or repeal any provision contained in this Certificate of Incorporation, and other provisions authorized by the laws of the State of Delaware at the time in force may be added or inserted, in the manner now or hereafter prescribed by law; and all rights, preferences and privileges of whatsoever nature conferred upon stockholders, directors or any other persons whomsoever by and pursuant to this Certificate of Incorporation in its present form or as hereafter amended are granted subject to the rights reserved in this article.

TENTH: In furtherance and not in limitation of the powers conferred by the laws of the State of Delaware, the Board of Directors of the Corporation is expressly authorized to make, alter and repeal the bylaws of the Corporation, subject to the power of the stockholders of the Corporation to alter or repeal any bylaw whether adopted by them or otherwise.

The undersigned incorporator hereby acknowledges that the foregoing Certificate of Incorporation is his act and deed.

Dated: March 12, 2013

/s/ David P. Creekman

David P. Creekman, Incorporator

BYLAWS
OF
BENEFITFOCUS, INC.

I. CORPORATE OFFICES

1.1 Registered Office

The registered office of the corporation shall be in the City of Dover, County of Kent, State of Delaware. The name of the registered agent of the corporation at such location is Incorporating Services, Ltd.

1.2 Other Offices

The board of directors may at any time establish other offices at any place or places where the corporation is qualified to do business.

II. MEETINGS OF STOCKHOLDERS

2.1 Place of Meetings

Meetings of stockholders shall be held at any place, within or outside the State of Delaware, designated by the board of directors. The board of directors may, in its sole discretion, determine that a meeting shall not be held at any place, but may instead be held solely by means of remote communication as authorized by Section 211 of the General Corporation Law of Delaware.

If authorized by the board of directors in its sole discretion, and subject to such guidelines and procedures as the board of directors may adopt, stockholders and proxyholders not physically present at a meeting of stockholders may, by means of remote communication, participate in a meeting of stockholders, be deemed present in person and vote at a meeting of stockholders whether such meeting is to be held at a designated place or solely by means of remote communication, provided that (i) the corporation shall implement reasonable measures to verify that each person deemed present and permitted to vote at the meeting by means of remote communication is a stockholder or proxyholder, (ii) the corporation shall implement reasonable measures to provide such stockholders and proxyholders a reasonable opportunity to participate in the meeting and to vote on matters submitted to the stockholders, including an opportunity to read or hear the proceedings of the meeting substantially concurrently with such proceedings, and (iii) if any stockholder or proxyholder votes or takes other action at the meeting by means of remote communication, a record of such vote or other action shall be maintained by the corporation.

2.2 Annual Meeting

The annual meeting of stockholders shall be held each year on a date and at a time designated by the board of directors. In the absence of such designation, the annual meeting of stockholders shall be held on the third Monday in April in each year at 1:00 p.m. However, if such day falls on a legal holiday, then the meeting shall be held at the same time and place on the next succeeding full business day. At the meeting, directors shall be elected and any other proper business may be transacted.

2.3 Special Meeting

Special meetings of the stockholders may be called, at any time for any purpose or purposes, by the board of directors or by such person or persons as may be authorized by the certificate of incorporation or these bylaws, or by such person or persons duly designated by the board of directors whose powers and authority, as expressly provided in a resolution of the board of directors, include the power to call such meetings, but such special meetings may not be called by any other person or persons.

2.4 Notice of Stockholders' Meetings

(a) Except to the extent otherwise required by law, all notices of meetings with stockholders shall be in writing and shall be sent or otherwise given in accordance with Section 2.5 of these bylaws not less than ten (10) nor more than sixty (60) days before the date of the meeting to each stockholder entitled to vote at such meeting. The notice shall specify the place, if any, date, and hour of the meeting, the means of remote communication, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such meeting, and, in the case of a special meeting, the purpose or purposes for which the meeting is called.

(b) Without limiting the manner by which notice otherwise may be given effectively to stockholders, any notice to stockholders given by the corporation shall also be effective if given by a form of electronic transmission consented to by the stockholder to whom the notice is given. Any such consent shall be revocable by the stockholder by written notice to the corporation. Any such consent shall be deemed revoked if (i) the corporation is unable to deliver by electronic transmission two consecutive notices given by the corporation in accordance with such consent, and (ii) such inability becomes known to the secretary or an assistant secretary of the corporation or to the transfer agent, or other person responsible for the giving of notice; provided, however, that the inadvertent failure to recognize such revocation shall not invalidate any meeting or other action.

(c) Without limiting the manner by which notice otherwise may be given effectively to stockholders, any notice to stockholders given by the corporation shall be effective if given by a single written notice to stockholders who share an address if consented to by the stockholders at that address to whom such notice is given. Any such consent shall be revocable by the stockholder by written notice to the corporation. Any stockholder who fails to object in writing to the corporation, within sixty (60) days of having been given written notice by the

corporation of its intention to send the single notice permitted under this subsection 2.4(c), shall be deemed to have consented to receiving such single written notice.

(d) Sections 2.4(b) and (c) shall not apply to any notice given to stockholders under Sections 164 (notice of sale of shares of stockholder who failed to pay an installment or call on stock not fully paid), 296 (notice of disputed claims relating to insolvent corporations), 311 (notice of meeting of stockholders to revoke dissolution of corporation), 312 (notice of meeting of stockholders of corporation whose certificate of incorporation has been renewed or revived) and 324 (notice when stock has been attached as required for sale upon execution process) of the General Corporation Law of Delaware.

2.5 Manner of Giving Notice; Affidavit of Notice

(a) Written notice of any meeting of stockholders, if mailed, is given when deposited in the United States mail, postage prepaid, directed to the stockholder at his, her or its address as it appears on the records of the corporation. An affidavit of the secretary or an assistant secretary or of the transfer agent or other agent of the corporation that the notice has been given shall, in the absence of fraud, be prima facie evidence of the facts stated therein.

(b) Notice given pursuant to this Section 2.5(b) shall be deemed given: (i) if by facsimile telecommunication, when directed to a number at which the stockholder has consented to receive notice; (ii) if by electronic mail, when directed to an electronic mail address at which the stockholder has consented to receive notice; (iii) if by a posting on an electronic network together with separate notice to the stockholder of such specific posting, upon the later of such posting and the giving of such separate notice; and (iv) if by any other form of electronic transmission, when directed to the stockholder. An affidavit of the secretary, an assistant secretary or the transfer agent or other agent of the corporation that the notice has been given by a form of electronic transmission shall, in the absence of fraud, be prima facie evidence of the facts stated therein.

2.6 Quorum

The holders of a majority of the stock issued and outstanding and entitled to vote thereat, present in person or represented by proxy, shall constitute a quorum at all meetings of the stockholders for the transaction of business except as otherwise provided by statute or by the certificate of incorporation. If, however, such quorum is not present or represented at any meeting of the stockholders, then the stockholders entitled to vote thereat, present in person or represented by proxy, shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present or represented. At such adjourned meeting at which a quorum is present or represented, any business may be transacted that might have been transacted at the meeting as originally noticed.

2.7 Adjourned Meeting; Notice

When a meeting is adjourned to another time or place, unless these bylaws otherwise require, notice need not be given of the adjourned meeting if the time and place thereof, and the

means of remote communication, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such meeting, are announced at the meeting at which the adjournment is taken. At the adjourned meeting the corporation may transact any business that might have been transacted at the original meeting. If the adjournment is for more than thirty (30) days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting.

2.8 Voting

The stockholders entitled to vote at any meeting of stockholders shall be determined in accordance with the provisions of Section 2.11 of these bylaws, subject to the provisions of Sections 217 and 218 of the General Corporation Law of Delaware (relating to voting rights of fiduciaries, pledgors and joint owners of stock and to voting trusts and other voting agreements).

Except as otherwise provided in the certificate of incorporation, each stockholder shall be entitled to one vote for each share of capital stock held by such stockholder.

2.9 Waiver of Notice

Whenever notice is required to be given under any provision of the General Corporation Law of Delaware or of the certificate of incorporation or these bylaws, a written waiver thereof, signed by the person entitled to notice, or a waiver by electronic transmission by the person entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the stockholders need be specified in any written waiver or any waiver by electronic transmission of notice unless so required by the certificate of incorporation or these bylaws.

2.10 Stockholder Action by Written Consent Without a Meeting

Unless otherwise provided in the certificate of incorporation, any action required by the General Corporation Law of Delaware to be taken at any annual or special meeting of stockholders of a corporation, or any action that may be taken at any annual or special meeting of such stockholders, may be taken without a meeting, without prior notice, and without a vote if a consent in writing, setting forth the action so taken, is signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted. Notwithstanding the foregoing, following the effectiveness of the registration of any class of stock of the corporation effective upon the corporation’s initial public offering of stock under the Securities Act of 1933, as amended, no action shall be taken by the stockholders of the corporation except at an annual or special meeting of stockholders called in accordance with these bylaws and no action shall be taken by the stockholders by written consent.

A telegram, cablegram or other electronic transmission consenting to an action to be taken and transmitted by a stockholder, proxyholder or other person or persons authorized to act for a stockholder or proxyholder, shall be deemed to be written, signed and dated for the purposes of this Section 2.10, provided that any such telegram, cablegram or other electronic transmission sets forth or is delivered with information from which the corporation can determine (a) that the telegram, cablegram or other electronic transmission was transmitted by the stockholder, proxyholder or other authorized person or persons, and (b) the date on which such stockholder, proxyholder or other authorized person or persons transmitted such telegram, cablegram or electronic transmission. The date on which such telegram, cablegram or electronic transmission is transmitted shall be deemed to be the date on which such consent was signed. No consent given by telegram, cablegram or other electronic transmission shall be deemed to have been delivered until such consent is reproduced in paper form and until such paper form shall have been delivered to the corporation by delivery to its registered office in this State, its principal place of business or an officer or agent of the corporation having custody of the book in which proceedings of meetings of stockholders are recorded. Delivery made to the corporation's registered office shall be made by hand or by certified or registered mail, return receipt requested. Notwithstanding the foregoing limitations on delivery, consents given by telegram, cablegram or other electronic transmission may be otherwise delivered to the principal place of business of the corporation or to an officer or agent of the corporation having custody of the book in which proceedings of meetings of stockholders are recorded, to the extent and in the manner provided by resolution of the board of directors of the corporation. Any copy, facsimile or other reliable reproduction of a consent in writing may be substituted or used in lieu of the original writing for any and all purposes for which the original writing could be used, provided that such copy, facsimile or other reproduction shall be a complete reproduction of the entire original writing.

Prompt notice of the taking of the corporate action without a meeting by written consent shall be given to those stockholders who have not consented in writing. If the action that is consented to is such as would have required the filing of a certificate under any section of the General Corporation Law of Delaware if such action had been voted on by stockholders at a meeting thereof, then the certificate filed under such section shall state, in lieu of any statement required by such section concerning any vote of stockholders, that written notice and written consent have been given as provided in Section 228 of the General Corporation Law of Delaware.

2.11 Record Date for Stockholder Notice; Voting; Giving Consents

In order that the corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, or entitled to express consent to corporate action in writing without a meeting, or entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the board of directors may fix, in advance, a record date that shall not be more than sixty (60) nor less than ten (10) days before the date of such meeting, nor more than sixty (60) days prior to any other action.

If the board of directors does not so fix a record date:

(a) the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held;

(b) the record date for determining stockholders entitled to express consent to corporate action in writing without a meeting, when no prior action by the board of directors is necessary, shall be the day on which the first written consent is expressed; and

(c) the record date for determining stockholders for any other purpose shall be at the close of business on the day on which the board of directors adopts the resolution relating thereto.

A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the board of directors may fix a new record date for the adjourned meeting.

2.12 Proxies

Each stockholder entitled to vote at a meeting of stockholders or to express consent or dissent to corporate action in writing without a meeting may authorize another person or persons to act for him by a written proxy, signed by the stockholder and filed with the secretary of the corporation, but no such proxy shall be voted or acted upon after three (3) years from its date, unless the proxy provides for a longer period. A proxy shall be deemed signed if the stockholder's name is placed on the proxy (whether by manual signature, typewriting, telegraphic transmission or otherwise) by the stockholder or the stockholder's attorney-in-fact. The revocability of a proxy that states on its face that it is irrevocable shall be governed by the provisions of Section 212(e) of the General Corporation Law of Delaware.

2.13 List of Stockholders Entitled to Vote

The officer who has charge of the stock ledger of a corporation shall prepare and make, at least ten (10) days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. The corporation shall not be required to include electronic mail addresses or other electronic contact information on such list. Such list shall be open to the examination of any stockholder for any purpose germane to the meeting for a period of at least ten (10) days prior to the meeting: (a) on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of the meeting, or (b) during ordinary business hours, at the principal place of business of the corporation. In the event that the corporation determines to make the list available on an electronic network, the corporation may take reasonable steps to ensure that such information is available only to stockholders of the corporation. If the meeting is to be held at a place, then the list shall be produced and kept at the time and place of the

meeting during the whole time thereof, and may be examined by any stockholder who is present. If the meeting is to be held solely by means of remote communication, then the list shall also be open to the examination of any stockholder during the whole time of the meeting on a reasonably accessible electronic network, and the information required to access such list shall be provided with the notice of the meeting.

2.14 Stockholder Proposals

Effective upon the corporation's initial public offering of stock under the Securities Act of 1933, as amended, any stockholder wishing to bring any other business before a meeting of stockholders, including, but not limited to, the nomination of persons for election as directors, must provide notice to the corporation not more than ninety (90) and not less than fifty (50) days before the meeting in writing by registered mail, return receipt requested, of the business to be presented by the stockholders at the stockholders' meeting. Any such notice shall set forth the following as to each matter the stockholder proposes to bring before the meeting: (a) a brief description of the business desired to be brought before the meeting and the reasons for conducting such business at the meeting and, if such business includes a proposal to amend the bylaws of the corporation, the language of the proposed amendment; (b) the name and address, as they appear on the corporation's books, of the stockholder proposing such business; (c) the class and number of shares of the corporation that are beneficially owned by such stockholder; (d) a representation that the stockholder is a holder of record of stock of the corporation entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to propose such business; and (e) any material interest of the stockholder in such business. Notwithstanding the foregoing provisions of this Section 2.14, a stockholder shall also comply with all applicable requirements of all applicable laws, rules and regulations, including, but not limited to, the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder, with respect to the matters set forth in this Section 2.14. In the absence of such notice to the corporation meeting the above requirements, a stockholder shall not be entitled to present any business at any meeting of stockholders.

III. DIRECTORS

3.1 Powers

Subject to the provisions of the General Corporation Law of Delaware and any limitations in the certificate of incorporation or these bylaws relating to action required to be approved by the stockholders or by the outstanding shares, the business and affairs of the corporation shall be managed and all corporate powers shall be exercised by or under the direction of the board of directors.

3.2 Number of Directors

The number of directors constituting the board of directors shall be not more than nine (9) but not less than three (3), and may be fixed or changed, within this minimum and maximum,

by the stockholders or the board of directors. The number of directors constituting the initial board of directors shall be fixed at five (5).

No reduction of the authorized number of directors shall have the effect of removing any director before that director's term of office expires.

3.3 Election, Qualification and Term of Office of Directors

Except as provided in Section 3.4 of these bylaws, directors shall be elected at each annual meeting of stockholders to hold office until the next annual meeting. Directors need not be stockholders unless so required by the certificate of incorporation or these bylaws, wherein other qualifications for directors may be prescribed. Each director, including a director elected to fill a vacancy, shall hold office until his or her successor is elected and qualified or until his or her earlier resignation or removal. Each director shall be a natural person.

Elections of directors need not be by written ballot.

3.4 Resignation and Vacancies

Any director may resign at any time upon notice given in writing or electronic transmission to the corporation. When one or more directors so resigns and the resignation is effective at a future date, a majority of the directors then in office, including those who have so resigned, shall have the power to fill such vacancy or vacancies, the vote thereon to take effect when such resignation or resignations shall become effective, and each director so chosen shall hold office as provided in this Section 3.4 in the filling of other vacancies.

Unless otherwise provided in the certificate of incorporation or these bylaws:

(a) vacancies and newly created directorships resulting from any increase in the authorized number of directors elected by all of the stockholders having the right to vote as a single class may be filled by a majority of the directors then in office, although less than a quorum, or by a sole remaining director; and

(b) whenever the holders of any class or classes of stock or series thereof are entitled to elect one or more directors by the provisions of the certificate of incorporation, vacancies and newly created directorships of such class or classes or series may be filled by a majority of the directors elected by such class or classes or series thereof then in office, or by a sole remaining director so elected.

If at any time, by reason of death or resignation or other cause, the corporation should have no directors in office, then any officer or any stockholder or an executor, administrator, trustee or guardian of a stockholder, or other fiduciary entrusted with like responsibility for the person or estate of a stockholder, may call a special meeting of stockholders in accordance with the provisions of the certificate of incorporation or these bylaws, or may apply to the Court of Chancery for a decree summarily ordering an election as provided in Section 211 of the General Corporation Law of Delaware.

If, at the time of filling any vacancy or any newly created directorship, the directors then in office constitute less than a majority of the whole board (as constituted immediately prior to any such increase), then the Court of Chancery may, upon application of any stockholder or stockholders holding at least ten percent (10%)of the total number of the shares at the time outstanding having the right to vote for such directors, summarily order an election to be held to fill any such vacancies or newly created directorships, or to replace the directors chosen by the directors then in office as aforesaid, which election shall be governed by the provisions of Section 211 of the General Corporation Law of Delaware as far as applicable.

3.5 Place of Meetings; Meetings by Telephone

The board of directors of the corporation may hold meetings, both regular and special, either within or outside the State of Delaware.

Unless otherwise restricted by the certificate of incorporation or these bylaws, members of the board of directors, or any committee designated by the board of directors, may participate in a meeting of the board of directors, or any committee, by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and such participation in a meeting shall constitute presence in person at the meeting.

3.6 First Meetings

The first meeting of each newly elected board of directors shall be held at such time and place as shall be fixed by the vote of the stockholders at the annual meeting and no notice of such meeting shall be necessary to the newly elected directors in order legally to constitute the meeting, provided a quorum shall be present. In the event of the failure of the stockholders to fix the time or place of such first meeting of the newly elected board of directors, or in the event such meeting is not held at the time and place so fixed by the stockholders, the meeting may be held at such time and place as shall be specified in a notice given as hereinafter provided for special meetings of the board of directors, or as shall be specified in a written waiver signed by all of the directors.

3.7 Regular Meetings

Regular meetings of the board of directors may be held without notice at such time and at such place as shall from time to time be determined by the board of directors.

3.8 Special Meetings; Notice

Special meetings of the board of directors for any purpose or purposes may be called at any time by the chairman of the board of directors, the president, any vice president, the secretary or any director.

Notice of the time and place of special meetings shall be delivered either personally or by mail, telex, facsimile, telephone or electronic transmission to each director, addressed to each director at such director's address and/or phone number and/or electronic transmission address as it is shown on the records of the corporation. If the notice is mailed, it shall be deposited in the United States mail at least four (4) days before the time of the holding of the meeting. If the notice is delivered personally or by telex, facsimile, telephone or electronic transmission, it shall be delivered by telephone or transmitted at least forty-eight (48) hours before the time of the holding of the meeting. Any oral notice given personally or by telephone may be communicated either to the director or to a person at the office of the director who the person giving the notice has reason to believe will promptly communicate it to the director. The notice need not specify the purpose or the place of the meeting, if the meeting is to be held at the principal executive office of the corporation. Notice may be delivered by any person entitled to call a special meeting or by an agent of such person.

3.9 Quorum

At all meetings of the board of directors, a majority of the authorized number of directors shall constitute a quorum for the transaction of business and the act of a majority of the directors present at any meeting at which there is a quorum shall be the act of the board of directors, except as otherwise specifically provided by statute or by the certificate of incorporation. If a quorum is not present at any meeting of the board of directors, then the directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present.

3.10 Waiver of Notice

Whenever notice is required to be given under any provision of the General Corporation Law of Delaware or of the certificate of incorporation or these bylaws, a written waiver thereof, signed by the person entitled to notice, or a waiver by electronic transmission by the person entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the directors, or meeting of a committee of directors, need be specified in any written waiver of notice unless so required by the certificate of incorporation or these bylaws.

3.11 Adjourned Meeting; Notice

If a quorum is not present at any meeting of the board of directors, then the directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present.

3.12 Board Action by Written Consent Without a Meeting

Unless otherwise restricted by the certificate of incorporation or these bylaws, any action required or permitted to be taken at any meeting of the board of directors, or of any committee thereof, may be taken without a meeting if all members of the board of directors or committee, as the case may be, consent thereto in writing or by electronic transmission and the writing or writings or electronic transmission or transmissions are filed with the minutes of proceedings of the board of directors or committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

3.13 Fees and Compensation of Directors

Unless otherwise restricted by the certificate of incorporation or these bylaws, the board of directors shall have the authority to fix the compensation of directors.

3.14 Approval of Loans to Officers

Subject to compliance with applicable law, including without limitation any federal or state securities laws, the corporation may lend money to, or guarantee any obligation of, or otherwise assist any officer or other employee of the corporation or of its subsidiary, including any officer or employee who is a director of the corporation or its subsidiary, whenever, in the judgment of the directors, such loan, guaranty or assistance may reasonably be expected to benefit the corporation. The loan, guaranty or other assistance may be with or without interest and may be unsecured, or secured in such manner as the board of directors shall approve, including, without limitation, a pledge of shares of stock of the corporation. Nothing contained in this Section 3.14 shall be deemed to deny, limit or restrict the powers of guaranty or warranty of the corporation at common law or under any statute.

3.15 Removal of Directors

Unless otherwise restricted by statute, by the certificate of incorporation or by these bylaws, any director or the entire board of directors may be removed, with or without cause, by the holders of a majority of the shares then entitled to vote at an election of directors; provided, that, whenever the holders of any class or classes of stock, or series thereof, are entitled to elect one or more directors by the provisions of the certificate of incorporation, removal of any directors elected by such class or classes of stock, or series thereof, shall be by the holders of a majority of the shares of such class or classes of stock, or series of stock, then entitled to vote at an election of directors.

No reduction of the authorized number of directors shall have the effect of removing any director prior to the expiration of such director’s term of office.

3.16 Chairman of the Board of Directors

The corporation may also have, at the discretion of the board of directors, a chairman of the board of directors. The chairman of the board of directors shall, if such a person is elected, preside at the meetings of the board of directors and exercise and perform such other powers and duties as may from time to time be assigned to him or her by the board of directors, or as may be prescribed by these bylaws.

3.17 Nominating Procedures

Effective upon the corporation's initial public offering of stock under the Securities Act of 1933, as amended, nominations for election of directors shall be governed by this Section 3.17. Nominations for the election of directors may only be made by the board of directors, by the nominating committee of the board of directors (or, if none, any other committee serving a similar function) or by any stockholder entitled to vote generally in elections of directors where the stockholder complies with the requirements of this Section 3.17. Any stockholder of record entitled to vote generally in elections of directors may nominate one or more persons for election as directors at a meeting of stockholders only if written notice of such stockholder's intent to make such nomination or nominations has been given, either by personal delivery or by United States certified mail, postage prepaid, to the secretary of the corporation (i) with respect to an election to be held at an annual meeting of stockholders, not more than ninety (90) days nor less than fifty (50) days in advance of such meeting, and (ii) with respect to an election to be held at a special meeting of stockholders called for the purpose of the election of directors, not later than the close of business on the tenth (10^{th}) business day following the date on which notice of such meeting is first given to stockholders. Each such notice of a stockholder's intent to nominate a director or directors at an annual or special meeting shall set forth the following: (A) the name and address, as they appear on the corporation's books, of the stockholder who intends to make the nomination and the name and residence address of the person or persons to be nominated; (B) the class and number of shares of the corporation which are beneficially owned by the stockholder; (C) a representation that the stockholder is a holder of record of stock of the corporation entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to nominate the person or persons specified in the notice; (D) a description of all arrangements or understandings between the stockholder and each nominee and any other person or persons (naming such person or persons) pursuant to which the nomination or nominations are to be made by the stockholder; (E) such other information regarding each nominee proposed by such stockholder as would be required to be disclosed in solicitations of proxies for election of directors, or as would otherwise be required, in each case pursuant to Regulation 14A under the Securities Exchange Act of 1934, as amended, including any information that would be required to be included in a proxy statement filed pursuant to Regulation 14A had the nominee been nominated by the board of directors; and (F) the written consent of each nominee to be named in a proxy statement and to serve as director of the corporation if so elected. No person shall be eligible to serve as a director of the corporation unless nominated in accordance with the procedures set forth in this Section 3.17. If the chairman of the stockholders' meeting shall determine that a nomination was not made in accordance with the procedures described by these bylaws, he shall so declare to the meeting, and the defective nomination shall be disregarded. Notwithstanding the foregoing provisions of this Section, a stockholder shall also comply with all

applicable requirements of the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder with respect to the matters set forth in this Section.

IV. COMMITTEES

4.1 Committees of Directors

The board of directors may, by resolution passed by a majority of the whole board of directors, designate one or more committees, with each committee to consist of one or more of the directors of the corporation. The board of directors may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not he or they constitute a quorum, may unanimously appoint another member of the board of directors to act at the meeting in the place of any such absent or disqualified member. Any such committee, to the extent provided in the resolution of the board of directors or in the bylaws of the corporation, shall have and may exercise all the powers and authority of the board of directors in the management of the business and affairs of the corporation, and may authorize the seal of the corporation to be affixed to all papers that may require it; but no such committee shall have the power or authority to (i) approve or adopt, or recommend to the stockholders, any action or matter expressly required by the General Corporation Law of Delaware to be submitted to stockholders for approval, or (ii) adopt, amend or repeal any bylaws of the corporation.

4.2 Committee Minutes

Each committee shall keep regular minutes of its meetings and report the same to the board of directors when required.

4.3 Meetings and Action of Committees

Meetings and actions of committees shall be governed by, and be held and taken in accordance with, the provisions of Article III of these bylaws, Section 3.5 (place of meetings and meetings by telephone), Section 3.7 (regular meetings), Section 3.8 (special meetings and notice), Section 3.9 (quorum), Section 3.10 (waiver of notice), Section 3.11 (adjourned meeting and notice), and Section 3.12 (board action by written consent without a meeting), with such changes in the context of those bylaws as are necessary to substitute the committee and its members for the board of directors and its members; provided, however, that the time of regular meetings of committees may also be called by resolution of the board of directors and that notice of special meetings of committees shall also be given to all alternate members, who shall have the right to attend all meetings of the committee. The board of directors may adopt rules for the government of any committee not inconsistent with the provisions of these bylaws.

V. OFFICERS

5.1 Officers

The officers of the corporation shall be a chief executive officer, a president, one or more vice presidents, a secretary and a treasurer. The corporation may also have, at the discretion of the board of directors, a chairman of the board, one or more assistant vice presidents, assistant secretaries, assistant treasurers and any such other officers as may be appointed in accordance with the provisions of Section 5.3 of these bylaws. Any number of offices may be held by the same person.

5.2 Election of Officers

The officers of the corporation, except such officers as may be appointed in accordance with the provisions of Sections 5.3 of these bylaws, shall be chosen by the board of directors, subject to the rights, if any, of an officer under any contract of employment.

5.3 Subordinate Officers

The board of directors may appoint, or empower the president to appoint, such other officers and agents as the business of the corporation may require, each of whom shall hold office for such period, have such authority and perform such duties as are provided in these bylaws or as the board of directors may from time to time determine.

5.4 Removal and Resignation of Officers

Subject to the rights, if any, of an officer under any contract of employment, any officer may be removed, either with or without cause, by an affirmative vote of the majority of the board of directors at any regular or special meeting of the board of directors or by any officer upon whom such power of removal may be conferred by the board of directors.

Any officer may resign at any time by giving written notice to the corporation. Any resignation shall take effect at the date of the receipt of that notice or at any later time specified in that notice; and, unless otherwise specified in that notice, the acceptance of the resignation shall not be necessary to make it effective. Any resignation is without prejudice to the rights, if any, of the corporation under any contract to which the officer is a party.

5.5 Vacancies in Offices

Any vacancy occurring in any office of the corporation shall be filled by the board of directors.

5.6 Chairman of the Board

The chairman of the board, if such an officer be elected, shall, if present, preside at meetings of the board of directors and exercise and perform such other powers and duties as may from time to time be assigned to him by the board of directors or as may be prescribed by these bylaws. If there is no chief executive officer, then the chairman of the board shall also be the chief executive officer of the corporation and shall have the powers and duties prescribed in Section 5.7 of these bylaws. The chairman of the board shall be chosen by the board of directors.

5.7 Chief Executive Officer

Subject to such supervisory powers, if any, as may be given by the board of directors to the chairman of the board, the chief executive officer of the corporation shall, subject to the control of the board of directors, have general supervision, direction and control of the business and the officers of the corporation. The chief executive officer shall preside at all meetings of the stockholders and, in the absence or nonexistence of a chairman of the board, at all meetings of the board of directors at which he or she is present. The chief executive officer shall have the general powers and duties of management usually vested in the office of chief executive officer of a corporation and shall have such other powers and duties as may be prescribed by the board of directors or these bylaws.

5.8 President

Subject to such supervisory powers, if any, as may be given by the board of directors to the chairman of the board or the chief executive officer, if there be such officers, the president shall, subject to the control of the board of directors, have general supervision, direction and control of the business and the officers of the corporation. In the absence or nonexistence of the chief executive officer, he or she shall preside at all meetings of the stockholders and, in the absence or nonexistence of a chairman of the board and chief executive officer, at all meetings of the board of directors at which he or she is present. He or she shall have the general powers and duties of management usually vested in the office of president of a corporation and shall have such other powers and duties as may be prescribed by the board of directors or these bylaws. The board of directors may provide in their discretion that the offices of president and chief executive officer may be held by the same person.

5.9 Vice Presidents

In the absence or disability of the chief executive officer and president, the vice presidents, if any, in order of their rank as fixed by the board of directors or, if not ranked, a vice president designated by the board of directors, shall perform all the duties of the president and when so acting shall have all the powers of, and be subject to all the restrictions upon, the president. The vice presidents shall have such other powers and perform such other duties as

from time to time may be prescribed for them by the board of directors, these bylaws, the president or the chairman of the board.

5.10 Secretary

The secretary or an agent of the corporation shall keep or cause to be kept, at the principal executive office of the corporation or such other place as the board of directors may direct, a book of minutes of all meetings and actions of directors, committees of directors and stockholders. The minutes shall show the time and place of each meeting, whether regular or special (and, if special, how authorized and the notice given), the names of those present at directors' meetings or committee meetings, the number of shares present or represented at stockholders' meetings and the proceedings thereof.

The secretary shall keep, or cause to be kept, at the principal executive office of the corporation or at the office of the corporation's transfer agent or registrar, as determined by resolution of the board of directors, a share register, or a duplicate share register, showing the names of all stockholders and their addresses, the number and classes of shares held by each, the number and date of certificates evidencing such shares, and the number and date of cancellation of every certificate surrendered for cancellation.

The secretary shall give, or cause to be given, notice of all meetings of the stockholders and of the board of directors required to be given by law or by these bylaws. The secretary shall keep the seal of the corporation, if one be adopted, in safe custody and shall have such other powers and perform such other duties as may be prescribed by the board of directors or by these bylaws.

5.11 Treasurer

The treasurer shall keep and maintain, or cause to be kept and maintained, adequate and correct books and records of accounts of the properties and business transactions of the corporation, including accounts of its assets, liabilities, receipts, disbursements, gains, losses, capital, retained earnings and shares. The books of account shall at all reasonable times be open to inspection by any director.

The treasurer shall deposit all money and other valuables in the name and to the credit of the corporation with such depositaries as may be designated by the board of directors. The treasurer shall disburse the funds of the corporation as may be ordered by the board of directors, shall render to the president and directors, whenever they request it, an account of all of his or her transactions as treasurer and of the financial condition of the corporation, and shall have such other powers and perform such other duties as may be prescribed by the board of directors or these bylaws.

5.12 Assistant Secretary

The assistant secretary, or, if there is more than one, the assistant secretaries in the order determined by the stockholders or board of directors (or if there be no such determination, then

in the order of their election) shall, in the absence of the secretary or in the event of his or her inability or refusal to act, perform the duties and exercise the powers of the secretary and shall perform such other duties and have such other powers as the board of directors or the stockholders may from time to time prescribe.

5.13 Representation of Shares of Other Corporations

The chairman of the board, the chief executive officer, the president, any vice president, the treasurer, the secretary or assistant secretary of this corporation, or any other person authorized by the board of directors or the chief executive officer, president or a vice president, is authorized to vote, represent, and exercise on behalf of this corporation all rights incident to any and all shares of any other corporation or corporations standing in the name of this corporation. The authority granted herein may be exercised either by such person directly or by any other person authorized to do so by proxy or power of attorney duly executed by such person having the authority.

5.14 Authority and Duties of Officers

In addition to the foregoing authority and duties, all officers of the corporation shall respectively have such authority and perform such duties in the management of the business of the corporation as may be designated from time to time by the board of directors or the stockholders.

VI. INDEMNITY

6.1 Indemnification of Directors and Officers

The corporation shall, to the maximum extent and in the manner permitted by the General Corporation Law of Delaware, indemnify each of its directors and officers against expenses (including attorneys' fees), judgments, fines, settlements, and other amounts actually and reasonably incurred in connection with any proceeding, arising by reason of the fact that such person is or was an agent of the corporation. For purposes of this Section 6.1, a director or officer of the corporation includes any person (a) who is or was a director or officer of the corporation, (b) who is or was serving at the request of the corporation as a director, officer, manager, member, partner, trustee or other agent of another corporation, limited liability company, partnership, joint venture, trust or other enterprise, or (c) who was a director or officer of a corporation that was a predecessor corporation of the corporation or of another enterprise at the request of such predecessor corporation. Such indemnification shall be a contract right and shall include the right to receive payment of any expenses incurred by the indemnitee in connection with any proceeding in advance of its final disposition, consistent with the provisions of applicable law as then in effect. The right of indemnification provided in this Section 6.1 shall not be exclusive of any other rights to which those seeking indemnification may otherwise be entitled, and the provisions of this Section 6.1 shall inure to the benefit of the heirs and legal representatives of any person entitled to indemnity under this Section 6.1 and shall be applicable to proceedings commenced or continuing after the adoption of this Section 6.1, whether arising from acts or

omissions occurring before or after such adoption. In furtherance, but not in limitation of the foregoing provisions, the following procedures, presumptions and remedies shall apply with respect to advancement of expenses and the right to indemnification under this Section 6.1.

(a) Advancement of Expenses. All reasonable expenses incurred by or on behalf of the indemnitee in connection with any proceeding shall be advanced to the indemnitee by the corporation within twenty (20) days after the receipt by the corporation of a statement or statements from the indemnitee requesting such advance or advances from time to time, whether prior to or after final disposition of such proceeding, unless, prior to the expiration of such twenty-day period, the board of directors shall unanimously (except for the vote, if applicable, of the indemnitee) determine that the indemnitee has no reasonable likelihood of being entitled to indemnification pursuant to this Section 6.1. Such statement or statements shall reasonably evidence the expenses incurred by the indemnitee and, if required by law at the time of such advance, shall include or be accompanied by an undertaking by or on behalf of the indemnitee to repay the amounts advanced if it should ultimately be determined that the indemnitee is not entitled to be indemnified against such expenses pursuant to this Section 6.1.

(b) Procedure for Determination of Entitlement to Indemnification.

(i) To obtain indemnification under this Section 6.1, an indemnitee shall submit to the secretary of the corporation a written request, including such documentation and information as is reasonably available to the indemnitee and reasonably necessary to determine whether and to what extent the indemnitee is entitled to indemnification (the "Supporting Documentation"). The determination of the indemnitee's entitlement to indemnification shall be made not later than sixty (60) days after receipt by the corporation of the written request for indemnification together with the Supporting Documentation. The secretary of the corporation shall, promptly upon receipt of such a request for indemnification, advise the board of directors in writing that the indemnitee has requested indemnification, whereupon the corporation shall provide such indemnification, including without limitation advancement of expenses, so long as the indemnitee is legally entitled thereto in accordance with applicable law.

(ii) The indemnitee's entitlement to indemnification under this Section 6.1 shall be determined in one of the following ways: (A) by a majority vote of the Disinterested Directors (as hereinafter defined), even though less than a quorum of the board of directors; (B) by a committee of such Disinterested Directors, even though less than a quorum of the board of directors; (C) by a written opinion of Independent Counsel (as hereinafter defined) if (x) a Change of Control (as hereinafter defined) shall have occurred and the indemnitee so requests or (y) a quorum of the board of directors consisting of Disinterested Directors is not obtainable or, even if obtainable, a majority of such Disinterested Directors so directs; (D) by the stockholders of the corporation (but only if a majority of the Disinterested Directors, if they constitute a quorum of the board of directors, presents the issue of entitlement to indemnification to the stockholders for their determination); or (E) as provided in paragraph (c) below.

(iii) In the event the determination of entitlement to indemnification is to be made by Independent Counsel pursuant to paragraph (b)(ii) above, a majority of the Disinterested Directors shall select the Independent Counsel, but only an Independent Counsel to

which the indemnitee does not reasonably object; provided, however, that if a Change of Control shall have occurred, the indemnitee shall select such Independent Counsel, but only an Independent Counsel to which the board of directors does not reasonably object.

(iv) The only basis upon which a finding that indemnification may not be made is that such indemnification is prohibited by law.

(c) Presumptions and Effect of Certain Proceedings. Except as otherwise expressly provided in this Section 6.1, if a Change of Control shall have occurred, the indemnitee shall be presumed to be entitled to indemnification under this Section 6.1 upon submission of a request for Indemnification together with the Supporting Documentation in accordance with paragraph (b)(i), and thereafter the corporation shall have the burden of proof to overcome that presumption in reaching a contrary determination. In any event, if the person or persons empowered under paragraph (b)(ii) above to determine entitlement to indemnification shall not have been appointed or shall not have made a determination within sixty (60) days after receipt by the corporation of the request therefor together with the Supporting Documentation, the indemnitee shall be deemed to be entitled to indemnification and the indemnitee shall be entitled to such indemnification unless (A) the indemnitee misrepresented or failed to disclose a material fact in making the request for indemnification or in the Supporting Documentation or (B) such indemnification is prohibited by law. The termination of any proceeding described in this Section 6.1, or of any claim, issue or matter therein, by judgment, order, settlement or conviction, or upon a plea of *nolo contendere* or its equivalent, shall not, of itself, adversely affect the right of the indemnitee to indemnification or create a presumption that the indemnitee did not act in good faith and in a manner that the indemnitee reasonably believed to be in or not opposed to the best interests of the corporation or, with respect to any criminal proceeding, that the indemnitee had reasonable cause to believe that the indemnitee's conduct was unlawful.

(d) Remedies of Indemnitee.

(i) In the event that a determination is made pursuant to paragraph (b)(ii) that the indemnitee is not entitled to indemnification under this Section 6.1: (A) the indemnitee shall be entitled to seek an adjudication of his or her entitlement to such indemnification either, at the indemnitee's sole option, in (x) an appropriate court of the State of Delaware or any other court of competent jurisdiction, or (y) an arbitration to be conducted by a single arbitrator pursuant to the rules of the American Arbitration Association; (B) any such judicial proceeding or arbitration shall be *de novo* and the indemnitee shall not be prejudiced by reason of such adverse determination; and (C) in any such judicial proceeding or arbitration the corporation shall have the burden of proving that the indemnitee is not entitled to indemnification under this Section 6.1.

(ii) If a determination shall have been made or is deemed to have been made, pursuant to paragraph (b)(ii) or (iii), that the indemnitee is entitled to indemnification, the corporation shall be obligated to pay the amounts constituting such indemnification within five (5) days after such determination has been made or is deemed to have been made and shall be conclusively bound by such determination unless (A) the indemnitee misrepresented or failed to disclose a material fact in making the request for indemnification or in the Supporting

Documentation, or (B) such indemnification is prohibited by law. In the event that: (X) advancement of expenses is not timely made pursuant to paragraph (a); or (Y) payment of indemnification is not made within five (5) days after a determination of entitlement to indemnification has been made or deemed to have been made pursuant to paragraph (b)(ii) or (iii), the indemnitee shall be entitled to seek judicial enforcement of the corporation's obligation to pay to the indemnitee such advancement of expenses or indemnification. Notwithstanding the foregoing, the corporation may bring an action, in an appropriate court in the State of Delaware or any other court of competent jurisdiction, contesting the right of the indemnitee to receive indemnification hereunder due to the occurrence of an event described in subclause (A) or (B) of this clause (ii) (a "Disqualifying Event"); provided, however, that in any such action the corporation shall have the burden of proving the occurrence of such Disqualifying Event.

(iii) The corporation shall be precluded from asserting in any judicial proceedings or arbitration commenced pursuant to this paragraph (d) that the procedures and presumptions of this Section 6.1 are not valid, binding and enforceable and shall stipulate in any such court or before any such arbitrator that the corporation is bound by all the provisions of this Section 6.1.

(iv) In the event that the indemnitee, pursuant to this paragraph (d), seeks a judicial adjudication of or an award in arbitration to enforce his or her rights under, or to recover damages for breach of, this Section 6.1, the indemnitee shall be entitled to recover from the corporation, and shall be indemnified by the corporation against, any expenses actually and reasonably incurred by the indemnitee if the indemnitee prevails in such judicial adjudication or arbitration. If it shall be determined in such judicial adjudication or arbitration that the indemnitee is entitled to receive part but not all of the indemnification or advancement of expenses sought, the expenses incurred by the indemnitee in connection with such judicial adjudication shall be prorated accordingly.

(e) Definitions. For purposes of this Section 6.1:

(i) "Change in Control" means a change in control of the corporation of a nature that would be required to be reported in response to Item 6(e) of Schedule 14A of Regulation 14A promulgated under the Securities Exchange Act of 1934, as amended (the "Act"), whether or not the corporation is then subject to such reporting requirement; provided that, without limitation, such a change in control shall be deemed to have occurred if (i) any "person" (as such term is used in Sections 13(d) and 14(d) of the Act) is or becomes the "beneficial owner" (as defined in Rule l3d-3 under the Act), directly or indirectly, of securities of the corporation representing twenty-five percent (25%) or more of the combined voting power of the corporation's then outstanding securities without the prior approval of at least a majority of the members of the board of directors in office immediately prior to such acquisition; (ii) the corporation is a party to a merger, consolidation, sale of assets or other reorganization, or a proxy contest, as a consequence of which members of the board of directors in office immediately prior to such transaction or event constitute less than a majority of the board of directors thereafter; or (iii) during any period of two (2) consecutive years, individuals who at the beginning of such period constituted the board of directors (including for this purpose any new director whose election or nomination for election by the corporation's stockholders was approved by a vote of

at least a majority of the directors then still in office who were directors at the beginning of such period) cease for any reason to constitute at least a majority of the board of directors;

(ii) “Disinterested Director” means a director of the corporation who is not a party to the proceeding in respect of which indemnification is sought by the indemnitee; and

(iii) “Independent Counsel” means a law firm or a member of a law firm that neither presently is, nor in the past five (5) years has been, retained to represent: (A) the corporation or the indemnitee in any matter material to either such party or (B) any other party to the proceeding giving rise to a claim for indemnification under this Section 6.1. Notwithstanding the foregoing, the term “Independent Counsel” shall not include any person who, under the applicable standards of professional conduct then prevailing under such persons, relevant jurisdiction of practice, would have a conflict of interest in representing either the corporation or the indemnitee in an action to determine the indemnitee’s rights under this Section 6.1.

(f) Invalidity; Severability; Interpretation. If any provision or provisions of this Section 6.1 shall be held to be invalid, illegal or unenforceable for any reason whatsoever: (i) the validity, legality and enforceability of the remaining provisions of this Section 6.1 (including, without limitation, all portions of any paragraph of this Section 6.1 containing any such provision held to be invalid, illegal or unenforceable, that are not themselves invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby; and (ii) to the fullest extent possible, the provisions of this Section 6.1 (including, without limitation, all portions of any paragraph of this Section 6.1 containing any such provision held to be invalid, illegal or unenforceable, that are not themselves invalid; illegal or unenforceable) shall be construed so as to give effect to the intent manifested by the provision held invalid, illegal or unenforceable. Reference herein to laws, regulations or agencies shall be deemed to include all amendments thereof, substitutions therefor and successors thereto.

6.2 Indemnification of Others

The corporation shall have the power, to the extent and in the manner permitted by the General Corporation Law of Delaware, to indemnify each of its officers, employees and agents (other than directors) against expenses (including attorneys’ fees), judgments, fines, settlements, and other amounts actually and reasonably incurred in connection with any proceeding, arising by reason of the fact that such person is or was an agent of the corporation. For purposes of this Section 6.2, an officer, employee or agent of the corporation (other than a director) includes any person (a) who is or was an employee or agent of the corporation, (b) who is or was serving at the request of the corporation as an a director, officer, manager, member, partner, trustee, employee or other agent of another corporation, limited liability company, partnership, joint venture, trust or other enterprise, or (c) who was an employee or agent of a corporation that was a predecessor corporation of the corporation or of another enterprise at the request of such predecessor corporation.

6.3 Insurance

The corporation may purchase and maintain insurance on behalf of any person who is or was a director, officer, manager, member, partner, trustee, employee or other agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, limited liability company, partnership, joint venture, trust or other enterprise against any liability asserted against him and incurred by him in any such capacity, or arising out of his or her status as such, whether or not the corporation would have the power to indemnify him against such liability under the provisions of the General Corporation Law of Delaware.

VII. RECORDS AND REPORTS

7.1 Maintenance and Inspection of Records

The corporation shall, either at its principal executive office or at such place or places as designated by the board of directors, keep a record of its stockholders listing their names and addresses and the number and class of shares held by each stockholder, a copy of these bylaws as amended to date, accounting books and other records.

Any stockholder of record, in person or by attorney or other agent, shall, upon written demand under oath stating the purpose thereof, have the right during the usual hours for business to inspect for any proper purpose the corporation’s stock ledger, a list of its stockholders and its other books and records and to make copies or extracts therefrom. A proper purpose shall mean a purpose reasonably related to such person’s interest as a stockholder. In every instance where an attorney or other agent is the person who seeks the right to inspection, the demand under oath shall be accompanied by a power of attorney or such other writing that authorizes the attorney or other agent to so act on behalf of the stockholder. The demand under oath shall be directed to the corporation at its registered office in Delaware or at its principal place of business.

Any records maintained by a corporation in the regular course of its business, including its stock ledger, books of account and minute books, may be kept on, or by means of, or be in the form of, any information storage device or method, provided that the records so kept can be converted into clearly legible paper form within a reasonable time. Any corporation shall so convert any records so kept upon the request of any person entitled to inspect such records pursuant to any provision of the certificate of incorporation, these bylaws or the General Corporation Law of Delaware. When records are kept in such manner, a clearly legible paper from or by means of the information storage device or method shall be admissible in evidence, and accepted for all other purposes, to the same extent as an original paper record of the same information would have been, provided the paper form accurately portrays the record.

7.2 Inspection by Directors

Any director shall have the right to examine the corporation’s stock ledger, a list of its stockholders and its other books and records for a purpose reasonably related to his or her

position as a director. The Court of Chancery is hereby vested with the exclusive jurisdiction to determine whether a director is entitled to the inspection sought. The court may summarily order the corporation to permit the director to inspect any and all books and records, the stock ledger and the stock list and to make copies or extracts therefrom. The burden of proof shall be upon the corporation to establish that the inspection such director seeks is for an improper purpose. The court may, in its discretion, prescribe any limitations or conditions with reference to the inspection, or award such other and further relief as the court may deem just and proper.

7.3 Annual Statement to Stockholders

The board of directors shall present at each annual meeting, and at any special meeting of the stockholders when called for by vote of the stockholders, a full and clear statement of the business and condition of the corporation.

VIII. GENERAL MATTERS

8.1 Checks

From time to time, the board of directors shall determine by resolution which person or persons may sign or endorse all checks, drafts, other orders for payment of money, notes or other evidences of indebtedness that are issued in the name of or payable to the corporation, and only the persons so authorized shall sign or endorse those instruments.

8.2 Execution of Corporate Contracts and Instruments

The board of directors, except as otherwise provided in these bylaws, may authorize any officer or officers, or agent or agents, to enter into any contract or execute any instrument in the name of and on behalf of the corporation; such authority may be general or confined to specific instances. Unless so authorized or ratified by the board of directors or within the agency power of an officer, no officer, agent or employee shall have any power or authority to bind the corporation by any contract or engagement or to pledge its credit or to render it liable for any purpose or for any amount.

8.3 Stock Certificates; Partly Paid Shares

The shares of the corporation shall be represented by certificates, provided that the board of directors of the corporation may provide by resolution or resolutions that some or all of any or all classes or series of its stock shall be uncertificated shares. Any such resolution shall not apply to shares represented by a certificate until such certificate is surrendered to the corporation. Notwithstanding the adoption of such a resolution by the board of directors, every holder of stock represented by certificates and upon request every holder of uncertificated shares shall be entitled to have a certificate signed by, or in the name of the corporation by the chairman or vice-chairman of the board of directors, or the president or vice president, and by the treasurer or an assistant treasurer, or the secretary or an assistant secretary of such corporation representing the number of shares registered in certificate form. Any or all of the signatures on the certificate

may be a facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate has ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the corporation with the same effect as if he were such officer, transfer agent or registrar at the date of issue. The corporation shall not have power to issue a certificate in bearer form.

The corporation may issue the whole or any part of its shares as partly paid and subject to call for the remainder of the consideration to be paid therefor. Upon the face or back of each stock certificate issued to represent any such partly paid shares, and upon the books and records of the corporation in the case of uncertificated partly paid shares, the total amount of the consideration to be paid therefor and the amount paid thereon shall be stated. Upon the declaration of any dividend on fully paid shares, the corporation shall declare a dividend upon partly paid shares of the same class, but only upon the basis of the percentage of the consideration actually paid thereon.

8.4 Special Designation on Certificates

If the corporation is authorized to issue more than one class of stock or more than one series of any class, then the powers, the designations, the preferences, and the relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights shall be set forth in full or summarized on the face or back of the certificate that the corporation shall issue to represent such class or series of stock; provided, however, that, except as otherwise provided in Section 202 of the General Corporation Law of Delaware, in lieu of the foregoing requirements there may be set forth on the face or back of the certificate that the corporation shall issue to represent such class or series of stock a statement that the corporation will furnish without charge to each stockholder who so requests the powers, the designations, the preferences, and the relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights.

8.5 Lost Certificates

Except as provided in this Section 8.5, no new certificates for shares shall be issued to replace a previously issued certificate unless the latter is surrendered to the corporation and cancelled at the same time. The corporation may issue a new certificate of stock or uncertificated shares in the place of any certificate theretofore issued by it, alleged to have been lost, stolen or destroyed, and the corporation may require the owner of the lost, stolen or destroyed certificate, or his or her legal representative, to give the corporation a bond sufficient to indemnify it against any claim that may be made against it on account of the alleged loss, theft or destruction of any such certificate or the issuance of such new certificate or uncertificated shares.

8.6 Construction; Definitions

Unless the context requires otherwise, the general provisions, rules of construction, and definitions in the Delaware General Corporation Law shall govern the construction of these

bylaws. Without limiting the generality of this provision, the singular number includes the plural, the plural number includes the singular, and the term “person” includes both a corporation and a natural person.

8.7 Dividends

The directors of the corporation, subject to any rights or restrictions contained in the certificate of incorporation, may declare and pay dividends upon the shares of its capital stock pursuant to the General Corporation Law of Delaware. Dividends may be paid in cash, in property or in shares of the corporation’s capital stock.

The directors of the corporation may set apart out of any of the funds of the corporation available for dividends a reserve or reserves for any proper purpose and may abolish any such reserve. Such purposes shall include but not be limited to equalizing dividends, repairing or maintaining any property of the corporation and meeting contingencies.

8.8 Fiscal Year

The fiscal year of the corporation shall be fixed by resolution of the board of directors and may be changed by the board of directors.

8.9 Seal

The corporation may adopt a corporate seal which may be altered as desired, and may use the same by causing it, or a facsimile thereof, to be impressed or affixed or in any other manner reproduced.

8.10 Transfer of Stock

Upon surrender to the corporation or the transfer agent of the corporation of a certificate for shares duly endorsed or accompanied by proper evidence of succession, assignation or authority to transfer, it shall be the duty of the corporation to issue a new certificate to the person entitled thereto, cancel the old certificate and record the transaction in its books.

8.11 Stock Transfer Agreements and Restrictions

The corporation shall have power to enter into and perform any agreement with any number of stockholders of any one or more classes of stock of the corporation to restrict the transfer of shares of stock of the corporation of any one or more classes owned by such stockholders in any manner not prohibited by the General Corporation Law of Delaware.

8.12 Electronic Transmission

For purposes of these bylaws, “electronic transmission” means any form of communication, not directly involving the physical transmission of paper, that creates a record

that may be retained, retrieved and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process.

IX. AMENDMENTS

The original or other bylaws of the corporation may be adopted, amended or repealed by the stockholders entitled to vote; provided, however, that the corporation may, in its certificate of incorporation, confer the power to adopt, amend or repeal bylaws upon the directors. The fact that such power has been so conferred upon the directors shall not divest the stockholders of the power, nor limit their power to adopt, amend or repeal bylaws.

X. DISSOLUTION

If it should be deemed advisable in the judgment of the board of directors of the corporation that the corporation should be dissolved, the board, after the adoption of a resolution to that effect by a majority of the whole board at any meeting called for that purpose, shall cause notice to be mailed to each stockholder entitled to vote thereon of the adoption of the resolution and of a meeting of stockholders to take action upon the resolution.

At the meeting a vote shall be taken for and against the proposed dissolution. If a majority of the outstanding stock of the corporation entitled to vote thereon votes for the proposed dissolution, then a certificate stating, among other things, that the dissolution has been authorized in accordance with the provisions of Section 275 of the General Corporation Law of Delaware and setting forth the names and residences of the directors and officers shall be executed, acknowledged, and filed and shall become effective in accordance with Section 103 of the General Corporation Law of Delaware. Upon such certificate's becoming effective in accordance with Section 103 of the General Corporation Law of Delaware, the corporation shall be dissolved.

Whenever all the stockholders entitled to vote on a dissolution consent in writing, either in person or by duly authorized attorney, to a dissolution, no meeting of directors or stockholders shall be necessary. The consent shall be filed and shall become effective in accordance with Section 103 of the General Corporation Law of Delaware. Upon such consent's becoming effective in accordance with Section 103 of the General Corporation Law of Delaware, the corporation shall be dissolved. If the consent is signed by an attorney, then the original power of attorney or a photocopy thereof shall be attached to and filed with the consent. The consent filed with the Secretary of State shall have attached to it the affidavit of the secretary or some other officer of the corporation stating that the consent has been signed by or on behalf of all the stockholders entitled to vote on a dissolution; in addition, there shall be attached to the consent a certification by the secretary or some other officer of the corporation setting forth the names and residences of the directors and officers of the corporation.

XI. CUSTODIAN

11.1 Appointment of a Custodian in Certain Cases

The Court of Chancery, upon application of any stockholder, may appoint one or more persons to be custodians and, if the corporation is insolvent, to be receivers, of and for the corporation when:

(a) at any meeting held for the election of directors the stockholders are so divided that they have failed to elect successors to directors whose terms have expired or would have expired upon qualification of their successors;

(b) the business of the corporation is suffering or is threatened with irreparable injury because the directors are so divided respecting the management of the affairs of the corporation that the required vote for action by the board of directors cannot be obtained and the stockholders are unable to terminate this division; or

(c) the corporation has abandoned its business and has failed within a reasonable time to take steps to dissolve, liquidate or distribute its assets.

11.2 Duties of Custodian

The custodian shall have all the powers and title of a receiver appointed under Section 291 of the General Corporation Law of Delaware, but the authority of the custodian shall be to continue the business of the corporation and not to liquidate its affairs and distribute its assets, except when the Court of Chancery otherwise orders and except in cases arising under Sections 226(a)(3) or 352(a)(2) of the General Corporation Law of Delaware.

Exhibit 4.2

AMENDED AND RESTATED INVESTORS' RIGHTS AGREEMENT

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AMENDED AND RESTATED INVESTORS' RIGHTS AGREEMENT

THIS AMENDED AND RESTATED INVESTORS' RIGHTS AGREEMENT ("**Agreement**") is made as of the 25th day of August 2010, by and among Benefitfocus.com, Inc., a South Carolina corporation (the "**Company**") and each of the investors listed on Schedule A hereto, each of which is referred to in this Agreement as an "**Investor**".

RECITALS

WHEREAS, on February 7, 2007 the Company and certain of the Investors entered into the Series A Preferred Stock Purchase Agreement (the "**Series A Purchase Agreement**") and a previous Investor Rights Agreement (the "**Prior Agreement**") the terms of which shall be superseded by this Agreement upon its becoming effective;

WHEREAS, the undersigned, which includes the holders of 66-2/3% of the Registrable Securities under the Prior Agreement required to amend the Prior Agreement, wish to amend and restate the Prior Agreement as set forth herein;

WHEREAS, the Company and certain of the Investors (the "**Series B Investors**") are parties to the Series B Preferred Stock Purchase Agreement dated as of the date hereof (the "**Series B Purchase Agreement**");

WHEREAS, the obligations in the Series B Purchase Agreement are conditioned upon the execution and delivery of this Agreement; and

WHEREAS, in order to induce the Company to enter into the Series B Purchase Agreement and to induce the Series B Investors to invest funds in the Company pursuant to the Series B Purchase Agreement, the Investors and the Company hereby agree that this Agreement shall govern the rights of the Investors to cause the Company to register shares of Common Stock issuable to the Investors, to receive certain information from the Company, and to participate in future equity offerings by the Company, and shall govern certain other matters as set forth in this Agreement;

NOW, THEREFORE, the parties hereby agree as follows:

1. Definitions. For purposes of this Agreement:

1.1. "**Affiliate**" means, with respect to any specified Person, any other Person who or which, directly or indirectly, controls, is controlled by, or is under common control with such specified Person, including without limitation any general partner, officer, director, or manager of such Person and any venture capital fund now or hereafter existing that is controlled by one or more general partners or managing members of, or shares the same management company with, such Person.

1.2. "**Common Stock**" means shares of the Company's common stock, no par value per share.

1.3. "**Board**" means the board of directors of the Company.

1.4. "**Damages**" means any loss, damage, or liability (joint or several) to which a party hereto may become subject under the Securities Act, the Exchange Act, or other federal or state law, insofar as such loss, damage, or liability (or any action in respect thereof) arises out of or is based upon (i) any untrue statement or alleged untrue statement of a material fact contained in any registration statement of the Company, including any preliminary prospectus or final prospectus contained therein or any amendments or supplements thereto; (ii) an omission or alleged omission to state therein a material fact required to be stated therein, or necessary to make the statements therein not misleading; or (iii) any violation or alleged violation by the indemnifying party (or any of its agents or Affiliates) of the Securities Act, the Exchange Act, any state securities law, or any rule or regulation promulgated under the Securities Act, the Exchange Act, or any state securities law.

1.5. "**Derivative Securities**" means any securities or rights convertible into, or exercisable or exchangeable for (in each case, directly or indirectly), Common Stock, including options and warrants.

1.6. "**Exchange Act**" means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

1.7. "**Excluded Registration**" means (i) a registration relating to the sale of securities to employees of the Company or a subsidiary pursuant to a stock option, stock purchase, or similar plan; (ii) a registration relating to an SEC Rule 145 transaction; (iii) a registration on any form that does not include substantially the same information as would be required to be included in a registration statement covering the sale of the Registrable Securities; or (iv) a registration in which the only Common Stock being registered is Common Stock issuable upon conversion of debt securities that are also being registered.

1.8. "**Form S-1**" means such form under the Securities Act as in effect on the date hereof or any successor registration form under the Securities Act subsequently adopted by the SEC.

1.9. "**Form S-3**" means such form under the Securities Act as in effect on the date hereof or any registration form under the Securities Act subsequently adopted by the SEC that permits incorporation of substantial information by reference to other documents filed by the Company with the SEC.

1.10. "**GAAP**" means generally accepted accounting principles in the United States.

1.11. "**GS Fund VI**" means GS Capital Partners VI Parallel, L.P.

1.12. "**Holder**" means any holder of Registrable Securities who is a party to this Agreement.

1.13. "**Immediate Family Member**" means a child, stepchild, grandchild, parent, stepparent, grandparent, spouse, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law, including adoptive relationships, of a natural person referred to herein.

1.14. "**Initiating Holders**" means, collectively, Holders who properly initiate a registration request under this Agreement.

1.15. "**IPO**" means the Company's first underwritten public offering of its Common Stock under the Securities Act.

1.16. "**Key Employee**" means any executive-level employee as well as any employee who, either alone or in concert with others, develops, invents, programs, or designs any Company Intellectual Property (as defined in the Series B Purchase Agreement).

1.17. "**Major Investor**" means (i) any Investor that, individually or together with such Investor's Affiliates, holds at least 30% of the shares of Series A Preferred Stock originally acquired by such Investor pursuant to the Series A Purchase Agreement; provided, however, that "Major Investor", as applied to GS Fund VI and its Affiliates, shall refer only to GS Fund VI for the purposes of Section 3 hereof; (ii) any Investor that, individually or together with such Investor's Affiliates, holds at least 30% of the shares of the Series B Preferred Stock originally acquired by such Investor pursuant to the Series B Purchase Agreement; (iii) Mason Holland, individually or together with his Affiliates, for so long as he continues to hold at least 30% of the Common Stock held by him immediately after the closing of the transactions contemplated by the Series B Purchase Agreement, including the consummation of the redemption by the Company of Common Stock using proceeds of the sale of the Series B Preferred Stock (collectively, the "Closing"), and (iv) Shawn Jenkins, individually or together with his Affiliates, for so long as he continues to hold at least 30% of the Common Stock held by him immediately after the Closing.

1.18. "**New Securities**" means, collectively, equity securities of the Company, whether or not currently authorized, as well as rights, options, or warrants to purchase such equity securities, or securities of any type whatsoever that are, or may become, convertible or exchangeable into or exercisable for such equity securities.

1.19. "**Person**" means any individual, corporation, partnership, trust, limited liability company, association or other entity.

1.20. "**Preferred Directors**" means the Series A Directors and the Series B Director.

1.21. "**Preferred Stock**" means the Series A Preferred Stock and the Series B Preferred Stock.

1.22. "**Registrable Securities**" means (i) the Common Stock issuable or issued upon conversion of the Preferred Stock; (ii) any Common Stock issued as (or issuable upon the

conversion or exercise of any warrant, right, or other security that is issued as) a dividend or other distribution with respect to, or in exchange for or in replacement of, the shares referenced in clause (i) above; (iii) any Common Stock otherwise held by executive-level employees of the Company; and (iv) any Common Stock held by Mason Holland or Shawn Jenkins or their Affiliates; excluding in all cases, however, any Registrable Securities sold by a Person in a transaction in which the applicable rights under this Agreement are not assigned pursuant to Section 6.1, and any shares of Common Stock held by a Person holding less than 1% of the outstanding capital stock of the Company on an as-converted basis who is able to sell all of such shares of Common Stock within 90 days under SEC Rule 144 on a national stock exchange and for which it is determined that, pursuant to Section 2.12(c) herein, each certificate representing such shares do not require a restrictive legend.

1.23. "**Registrable Securities then outstanding**" means the number of shares determined by adding the number of shares of outstanding Common Stock that are Registrable Securities and the number of shares of Common Stock issuable (directly or indirectly) pursuant to then exercisable and/or convertible securities that are Registrable Securities.

1.24. "**Restricted Securities**" means the securities of the Company required to bear the legend set forth in Section 2.12(b) hereof.

1.25. "**SEC**" means the Securities and Exchange Commission.

1.26. "**SEC Rule 144**" means Rule 144 promulgated by the SEC under the Securities Act.

1.27. "**SEC Rule 145**" means Rule 145 promulgated by the SEC under the Securities Act.

1.28. "**Securities Act**" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

1.29. "**Selling Expenses**" means all underwriting discounts, selling commissions, and stock transfer taxes applicable to the sale of Registrable Securities.

1.30. "**Series A Director**" means any director of the Company that the holders of record of the Series A Preferred Stock are entitled to elect pursuant to the Company's Articles of Incorporation.

1.31. "**Series A Preferred Stock**" means shares of the Company's Series A Preferred Stock, no par value per share.

1.32. "**Series B Director**" means any director of the Company that the holders of record of the Series B Preferred Stock are entitled to elect pursuant to the Company's Articles of Incorporation.

1.33. "**Series B Preferred Stock**" means shares of the Company's Series B Preferred Stock, no par value per share.

2. Registration Rights. The Company covenants and agrees as follows:

2.1. Demand Registration.

(a) Form S-1 Demand. If at any time after the earlier of (i) February 7, 2012 or (ii) one hundred eighty (180) days after the effective date of the registration statement for the IPO, the Company receives a request from Holders of sixty-six and two thirds percent (66 2/3%) of the Common Stock issued or issuable upon conversion of the Preferred Stock then outstanding (the "**Requesting Holders**") that the Company file a Form S-1 registration statement with respect to such number of shares as would result in an anticipated aggregate offering price, net of Selling Expenses, of at least $5 million, then the Company shall (i) within ten (10) days after the date such request is given, give notice thereof (the "**Demand Notice**") to all Holders other than the Initiating Holders; and (ii) as soon as practicable, and in any event within sixty (60) days after the date such request is given by the Initiating Holders, file a Form S-1 registration statement under the Securities Act covering all Registrable Securities that the Initiating Holders requested to be registered and any additional Registrable Securities requested to be included in such registration by any other Holders, as specified by notice given by each such Holder to the Company within twenty (20) days of the date the Demand Notice is given, and in each case, subject to the limitations of Section 2.1(c) and Section 2.3.

(b) Form S-3 Demand. If at any time when it is eligible to use a Form S-3 registration statement, the Company receives a request from Holders of at least ten percent (10%) of the Registrable Securities then outstanding that the Company file a Form S-3 registration statement with respect to outstanding Registrable Securities of such Holders having an anticipated aggregate offering price, net of Selling Expenses, of at least $500,000, then the Company shall (i) within ten (10) days after the date such request is given, give a Demand Notice to all Holders other than the Initiating Holders; and (ii) as soon as practicable, and in any event within forty-five (45) days after the date such request is given by the Initiating Holders, file a Form S-3 registration statement under the Securities Act covering all Registrable Securities requested to be included in such registration by any other Holders, as specified by notice given by each such Holder to the Company within twenty (20) days of the date the Demand Notice is given, and in each case, subject to the limitations of Section 2.1(c) and Section 2.3. To the extent the Company is a well-known seasoned issuer (as defined in Rule 405 under the Securities Act) (a "**WKSI**") at the time any Demand Notice is submitted to the Company, and such Demand Notice requests that the Company file an automatic shelf registration statement (as defined in Rule 405 under the Securities Act) (an "automatic shelf registration statement") on Form S-3, the Company shall file an automatic shelf registration statement which covers those Registrable Securities which are requested to be registered. The Company shall use its commercially reasonable best efforts to remain a WKSI (and not become an ineligible issuer (as defined in Rule 405 under the Securities Act)) during the period during which such automatic shelf registration statement is required to remain effective. If the Company does not pay the filing fee covering the Registrable Securities at the time the automatic shelf registration

statement is filed, the Company agrees to pay such fee at such time or times as the Registrable Securities are to be sold. If the automatic shelf registration statement has been outstanding for at least three (3) years, at the end of the third year the Company shall refile a new automatic shelf registration statement covering the Registrable Securities. If at any time when the Company is required to re-evaluate its WKSI status the Company determines that it is not a WKSI, the Company shall use its commercially reasonable best efforts to refile the shelf registration statement on Form S-3 and, if such form is not available, Form S-1 and keep such registration statement effective during the period during which such registration statement is required to be kept effective.

(c) Notwithstanding the foregoing obligations, if the Company furnishes to Holders requesting a registration pursuant to this Section 2.1 a certificate signed by the Company's chief executive officer stating that in the good faith judgment of the Board it would be materially detrimental to the Company and its stockholders for such registration statement to either become effective or remain effective for as long as such registration statement otherwise would be required to remain effective, because such action would (i) materially interfere with a significant acquisition, corporate reorganization, or other similar transaction involving the Company; (ii) require premature disclosure of material information that the Company has a bona fide business purpose for preserving as confidential; or (iii) render the Company unable to comply with requirements under the Securities Act or Exchange Act, then the Company shall have the right to defer taking action with respect to such filing, and any time periods with respect to filing or effectiveness thereof shall be tolled correspondingly, for a period of not more than ninety (90) days after the request of the Initiating Holders is given; provided, however, that the Company may not invoke this right more than once in any twelve (12) month period; and provided further that the Company shall not register any securities for its own account or that of any other stockholder during such ninety (90) day period other than pursuant to a registration relating to the sale of securities to employees of the Company or a subsidiary pursuant to a stock option, stock purchase, or similar plan; a registration on any form that does not include substantially the same information as would be required to be included in a registration statement covering the sale of the Registrable Securities; or a registration in which the only Common Stock being registered is Common Stock issuable upon conversion of debt securities that are also being registered.

(d) The Company shall not be obligated to effect, or to take any action to effect, any registration pursuant to Section 2.1(a) (i) during the period that is sixty (60) days before the Company's good faith estimate of the date of filing of, and ending on a date that is one hundred eighty (180) days after the effective date of, a Company-initiated registration, provided, that the Company is actively employing in good faith commercially reasonable efforts to cause such registration statement to become effective; (ii) after the Company has effected two registrations pursuant to Section 2.1(a) (excluding the IPO if such IPO was not requested by the Requesting Holders pursuant to Section 2.1(a)); or (iii) if the Initiating Holders propose to dispose of shares of Registrable Securities that may be immediately registered on Form S-3 pursuant to a request made pursuant to Section 2.1(b). The Company shall not be obligated to effect, or to take any action to effect, any registration pursuant to Section 2.1(b) if the Company has effected one registration pursuant to Section 2.1(b) within the six (6) month period immediately preceding the date of such request. A registration shall not be counted as "effected"

for purposes of this Section 2.1(d) until such time as the applicable registration statement has been declared effective by the SEC, unless the Initiating Holders withdraw their request for such registration, elect not to pay the registration expenses therefor, and forfeit their right to one demand registration statement pursuant to Section 2.6, in which case such withdrawn registration statement shall be counted as "effected" for purposes of this Section 2.1(d).

2.2. Company Registration. If the Company proposes to register (including, for this purpose, a registration effected by the Company for stockholders other than the Holders) any of its securities under the Securities Act in connection with the public offering of such securities solely for cash (other than in an Excluded Registration), the Company shall, at such time, promptly give each Holder notice of such registration. Upon the request of each Holder given within twenty (20) days after such notice is given by the Company, the Company shall, subject to the provisions of Section 2.3, cause to be registered all of the Registrable Securities that each such Holder has requested to be included in such registration. The Company shall have the right to terminate or withdraw any registration initiated by it under this Section 2.2 before the effective date of such registration, whether or not any Holder has elected to include Registrable Securities in such registration. The expenses (other than Selling Expenses) of such withdrawn registration shall be borne by the Company in accordance with Section 2.6.

2.3. Underwriting Requirements.

(a) If, pursuant to Section 2.1, the Initiating Holders intend to distribute the Registrable Securities covered by their request by means of an underwriting, they shall so advise the Company as a part of their request made pursuant to Section 2.1, and the Company shall include such information in the Demand Notice. The underwriter(s) will be selected by the Company, subject only to the reasonable approval of the Initiating Holders. In such event, the right of any Holder to include such Holder's Registrable Securities in such registration shall be conditioned upon such Holder's participation in such underwriting and the inclusion of such Holder's Registrable Securities in the underwriting to the extent provided herein. All Holders proposing to distribute their securities through such underwriting shall (together with the Company as provided in Section 2.4(e)) enter into an underwriting agreement in customary form with the underwriter(s) selected for such underwriting. Notwithstanding any other provision of this Section 2.3, if the managing underwriter(s) advise(s) the Initiating Holders in writing that marketing factors require a limitation on the number of shares to be underwritten, then the Initiating Holders shall so advise all Holders of Registrable Securities that otherwise would be underwritten pursuant hereto, and the number of Registrable Securities that may be included in the underwriting shall be allocated among such Holders of Registrable Securities, including the Initiating Holders, in proportion (as nearly as practicable) to the number of Registrable Securities owned by each Holder or in such other proportion as shall mutually be agreed to by all such selling Holders; provided, however, that the number of Registrable Securities held by the Holders to be included in such underwriting shall not be reduced unless all other securities are first entirely excluded from the underwriting. To facilitate the allocation of shares in accordance with the above provisions, the Company or the underwriters may round the number of shares allocated to any Holder to the nearest 100 shares.

(b) In connection with any offering involving an underwriting of shares of the Company's capital stock pursuant to Section 2.2, the Company shall not be required to include any of the Holders' Registrable Securities in such underwriting unless the Holders accept the terms of the underwriting as agreed upon between the Company and its underwriters, and then only in such quantity as the underwriters in their sole discretion determine will not jeopardize the success of the offering by the Company. If the total number of securities, including Registrable Securities, requested by stockholders to be included in such offering exceeds the number of securities to be sold (other than by the Company) that the underwriters in their reasonable discretion determine is compatible with the success of the offering, then the Company shall be required to include in the offering only that number of such securities, including Registrable Securities, which the underwriters and the Company in their sole discretion determine will not jeopardize the success of the offering. If the underwriters determine that less than all of the Registrable Securities requested to be registered can be included in such offering, then the Registrable Securities that are included in such offering shall be allocated among the selling Holders in proportion (as nearly as practicable to) the number of Registrable Securities owned by each selling Holder or in such other proportions as shall mutually be agreed to by all such selling Holders. To facilitate the allocation of shares in accordance with the above provisions, the Company or the underwriters may round the number of shares allocated to any Holder to the nearest 100 shares. Notwithstanding the foregoing, in no event shall (i) the number of Registrable Securities included in the offering be reduced unless all other securities (other than securities to be sold by the Company) are first entirely excluded from the offering, or (ii) the number of Registrable Securities included in the offering be reduced below thirty percent (30%) of the total number of securities included in such offering, unless such offering is the IPO, in which case the selling Holders may be excluded further if the underwriters make the determination described above and no other stockholder's securities are included in such offering. For purposes of the provision in this Section 2.3(b) concerning apportionment, for any selling Holder that is a partnership, limited liability company, or corporation, the partners, members, retired partners, retired members, stockholders, and Affiliates of such Holder, or the estates and Immediate Family Members of any such partners, retired partners, members, and retired members and any trusts for the benefit of any of the foregoing Persons, shall be deemed to be a single "selling Holder," and any pro rata reduction with respect to such "selling Holder" shall be based upon the aggregate number of Registrable Securities owned by all Persons included in such "selling Holder," as defined in this sentence.

2.4. Obligations of the Company. Whenever required under this Section 2 to effect the registration of any Registrable Securities, the Company shall, as expeditiously as reasonably possible:

(a) prepare and file with the SEC a registration statement with respect to such Registrable Securities and use its best efforts to cause such registration statement to become effective and, upon the request of the Holders of a majority of the Registrable Securities registered thereunder, keep such registration statement effective for a period of up to one hundred twenty (120) days or, if earlier, until the distribution contemplated in the registration statement has been completed; provided, however, that (i) such one hundred twenty (120) day period shall be extended for a period of time equal to the period the Holder refrains, at the

request of an underwriter of Common Stock (or other securities) of the Company, from selling any securities included in such registration, and (ii) in the case of any registration of Registrable Securities on Form S-3 that are intended to be offered on a continuous or delayed basis, subject to compliance with applicable SEC rules, such one hundred twenty (120) day period shall be extended for up to sixty (60) days, if necessary, to keep the registration statement effective until all such Registrable Securities are sold;

(b) prepare and file with the SEC such amendments and supplements to such registration statement, and the prospectus used in connection with such registration statement, as may be necessary to comply with the Securities Act in order to enable the disposition of all securities covered by such registration statement;

(c) furnish to the selling Holders such numbers of copies of a prospectus, including a preliminary prospectus, as required by the Securities Act, and such other documents as the Holders may reasonably request in order to facilitate their disposition of their Registrable Securities;

(d) use its best efforts to register and qualify the securities covered by such registration statement under such other securities or blue-sky laws of such jurisdictions as shall be reasonably requested by the selling Holders; provided that the Company shall not be required to qualify to do business or to file a general consent to service of process in any such states or jurisdictions, unless the Company is already subject to service in such jurisdiction and except as may be required by the Securities Act;

(e) in the event of any underwritten public offering, enter into and perform its obligations under an underwriting agreement, in usual and customary form, with the underwriter(s) of such offering;

(f) use its commercially reasonable efforts to cause all such Registrable Securities covered by such registration statement to be listed on a national securities exchange or trading system and each securities exchange and trading system (if any) on which similar securities issued by the Company are then listed;

(g) provide a transfer agent and registrar for all Registrable Securities registered pursuant to this Agreement and provide a CUSIP number for all such Registrable Securities, in each case not later than the effective date of such registration;

(h) promptly make available for inspection by the selling Holders, any managing underwriter(s) participating in any disposition pursuant to such registration statement, and any attorney or accountant or other agent retained by any such underwriter or selected by the selling Holders, all financial and other records, pertinent corporate documents, and properties of the Company, and cause the Company's officers, directors, employees, and independent accountants to supply all information reasonably requested by any such seller, underwriter, attorney, accountant, or agent, in each case, as necessary or advisable to verify the accuracy of the information in such registration statement and to conduct appropriate due diligence in connection therewith;

(i) notify each selling Holder, promptly after the Company receives notice thereof, of the time when such registration statement has been declared effective or a supplement to any prospectus forming a part of such registration statement has been filed; and

(j) after such registration statement becomes effective, notify each selling Holder of any request by the SEC that the Company amend or supplement such registration statement or prospectus.

2.5. Furnish Information. It shall be a condition precedent to the obligations of the Company to take any action pursuant to this Section 2 with respect to the Registrable Securities of any selling Holder that such Holder shall furnish to the Company such information regarding itself, the Registrable Securities held by it, and the intended method of disposition of such securities as is reasonably required to effect the registration of such Holder's Registrable Securities.

2.6. Expenses of Registration. All expenses (other than Selling Expenses) incurred in connection with registrations, filings, or qualifications pursuant to Section 2, including all registration, filing, and qualification fees; printers' and accounting fees; fees and disbursements of counsel for the Company; and the reasonable fees and disbursements of one counsel for the selling Holders, shall be borne and paid by the Company; provided, however, that the Company shall not be required to pay for any expenses of any registration proceeding begun pursuant to Section 2.1 if the registration request is subsequently withdrawn at the request of the Holders of a majority of the Registrable Securities to be registered (in which case all selling Holders shall bear such expenses pro rata based upon the number of Registrable Securities that were to be included in the withdrawn registration), unless the Holders of a majority of the Registrable Securities agree to forfeit their right to one registration pursuant to Section 2.1(a) or Section 2.1(b), as the case may be; provided further that if, at the time of such withdrawal, the Holders have learned of a material adverse change in the condition, business, or prospects of the Company from that known to the Holders at the time of their request and have withdrawn the request with reasonable promptness after learning of such information, then the Holders shall not be required to pay any of such expenses and shall not forfeit their right to one registration pursuant to Section 2.1(a) or Section 2.1(b). All Selling Expenses relating to Registrable Securities registered pursuant to this Section 2 shall be borne and paid by the Holders pro rata on the basis of the number of Registrable Securities registered on their behalf.

2.7. Delay of Registration. No Holder shall have any right to obtain or seek an injunction restraining or otherwise delaying any registration pursuant to this Agreement as the result of any controversy that might arise with respect to the interpretation or implementation of this Section 2.

2.8. Indemnification . If any Registrable Securities are included in a registration statement under this Section 2:

(a) To the extent permitted by law, the Company will indemnify and hold harmless each selling Holder, and the partners, members, officers, directors, and stockholders of each such Holder; legal counsel and accountants for each such Holder; any underwriter (as defined in the Securities Act) for each such Holder; and each Person, if any, who controls such Holder or underwriter within the meaning of the Securities Act or the Exchange Act, against any Damages, and the Company will pay to each such Holder, underwriter, controlling Person, or other aforementioned Person any legal or other expenses reasonably incurred thereby in connection with investigating or defending any claim or proceeding from which Damages may result, as such expenses are incurred; provided, however, that the indemnity agreement contained in this Section 2.8(a) shall not apply to amounts paid in settlement of any such claim or proceeding if such settlement is effected without the consent of the Company, which consent shall not be unreasonably withheld, nor shall the Company be liable for any Damages to the extent that they arise out of or are based upon actions or omissions made in reliance upon and in conformity with written information furnished by or on behalf of any such Holder, underwriter, controlling Person, or other aforementioned Person expressly for use in connection with such registration.

(b) To the extent permitted by law, each selling Holder, severally and not jointly, will indemnify and hold harmless the Company, and each of its directors, each of its officers who has signed the registration statement, each Person (if any), who controls the Company within the meaning of the Securities Act, legal counsel and accountants for the Company, any underwriter (as defined in the Securities Act), any other Holder selling securities in such registration statement, and any controlling Person of any such underwriter or other Holder, against any Damages, in each case only to the extent that such Damages arise out of or are based upon actions or omissions made in reliance upon and in conformity with written information furnished by or on behalf of such selling Holder expressly for use in connection with such registration; and each such selling Holder will pay to the Company and each other aforementioned Person any legal or other expenses reasonably incurred thereby in connection with investigating or defending any claim or proceeding from which Damages may result, as such expenses are incurred; provided, however, that the indemnity agreement contained in this Section 2.8(b) shall not apply to amounts paid in settlement of any such claim or proceeding if such settlement is effected without the consent of the Holder, which consent shall not be unreasonably withheld; and provided further that in no event shall any indemnity under this Section 2.8(b) exceed the proceeds from the offering received by such Holder (net of any Selling Expenses paid by such Holder), except in the case of fraud or willful misconduct by such Holder.

(c) Promptly after receipt by an indemnified party under this Section 2.8 of notice of the commencement of any action (including any governmental action) for which a party may be entitled to indemnification hereunder, such indemnified party will, if a claim in respect thereof is to be made against any indemnifying party under this Section 2.8, give the indemnifying party notice of the commencement thereof. The indemnifying party shall have the right to participate in such action and, to the extent the indemnifying party so desires, participate jointly with any other indemnifying party to which notice has been given, and to assume the defense thereof with counsel mutually satisfactory to the parties; provided, however, that an indemnified party (together with all other indemnified parties that may be represented without conflict by one counsel) shall have the right to retain one separate counsel, with the fees and

expenses to be paid by the indemnifying party, if representation of such indemnified party by the counsel retained by the indemnifying party would be inappropriate due to actual or potential differing interests between such indemnified party and any other party represented by such counsel in such action. The failure to give notice to the indemnifying party within a reasonable time of the commencement of any such action shall relieve such indemnifying party of any liability to the indemnified party under this Section 2.8, to the extent that such failure materially prejudices the indemnifying party's ability to defend such action. The failure to give notice to the indemnifying party will not relieve it of any liability that it may have to any indemnified party otherwise than under this Section 2.8.

(d) Notwithstanding anything else herein to the contrary, the foregoing indemnity agreements of the Company and the selling Holders are subject to the condition that, insofar as they relate to any Damages arising from any untrue statement or alleged untrue statement of a material fact contained in, or omission or alleged omission of a material fact from, a preliminary prospectus (or necessary to make the statements therein not misleading) that has been corrected in the form of prospectus included in the registration statement at the time it becomes effective, or any amendment or supplement thereto filed with the SEC pursuant to Rule 424(b) under the Securities Act (the "**Final Prospectus**"), such indemnity agreement shall not inure to the benefit of any Person if a copy of the Final Prospectus was furnished to the indemnified party and such indemnified party failed to deliver, at or before the confirmation of the sale of the shares registered in such offering, a copy of the Final Prospectus to the Person asserting the loss, liability, claim, or damage in any case in which such delivery was required by the Securities Act.

(e) To provide for just and equitable contribution to joint liability under the Securities Act in any case in which either (i) any party otherwise entitled to indemnification hereunder makes a claim for indemnification pursuant to this Section 2.8 but it is judicially determined (by the entry of a final judgment or decree by a court of competent jurisdiction and the expiration of time to appeal or the denial of the last right of appeal) that such indemnification may not be enforced in such case, notwithstanding the fact that this Section 2.8 provides for indemnification in such case, or (ii) contribution under the Securities Act may be required on the part of any party hereto for which indemnification is provided under this Section 2.8, then, and in each such case, such parties will contribute to the aggregate losses, claims, damages, liabilities, or expenses to which they may be subject (after contribution from others) in such proportion as is appropriate to reflect the relative fault of each of the indemnifying party and the indemnified party in connection with the statements, omissions, or other actions that resulted in such loss, claim, damage, liability, or expense, as well as to reflect any other relevant equitable considerations. The relative fault of the indemnifying party and of the indemnified party shall be determined by reference to, among other things, whether the untrue or allegedly untrue statement of a material fact, or the omission or alleged omission of a material fact, relates to information supplied by the indemnifying party or by the indemnified party and the parties' relative intent, knowledge, access to information, and opportunity to correct or prevent such statement or omission; provided, however, that, in any such case, (x) no Holder will be required to contribute any amount in excess of the public offering price of all such Registrable Securities offered and sold by such Holder pursuant to such registration statement, and (y) no Person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) will

be entitled to contribution from any Person who was not guilty of such fraudulent misrepresentation; and provided further that in no event shall a Holder's liability pursuant to this Section 2.8(e), when combined with the amounts paid or payable by such Holder pursuant to Section 2.8(b), exceed the proceeds from the offering received by such Holder (net of any Selling Expenses paid by such Holder), except in the case of willful misconduct or fraud by such Holder.

(f) Notwithstanding the foregoing, to the extent that the provisions on indemnification and contribution contained in the underwriting agreement entered into in connection with the underwritten public offering are in conflict with the foregoing provisions, the provisions in the underwriting agreement shall control.

(g) Unless otherwise superseded by an underwriting agreement entered into in connection with the underwritten public offering, the obligations of the Company and Holders under this Section 2.8 shall survive the completion of any offering of Registrable Securities in a registration under this Section 2, and otherwise shall survive the termination of this Agreement.

2.9. Reports Under Exchange Act. With a view to making available to the Holders the benefits of SEC Rule 144 and any other rule or regulation of the SEC that may at any time permit a Holder to sell securities of the Company to the public without registration or pursuant to a registration on Form S-3, the Company shall:

(a) make and keep available adequate current public information, as those terms are understood and defined in SEC Rule 144, at all times after the effective date of the registration statement filed by the Company for the IPO;

(b) use commercially reasonable efforts to file with the SEC in a timely manner all reports and other documents required of the Company under the Securities Act and the Exchange Act (at any time after the Company has become subject to such reporting requirements); and

(c) furnish to any Holder, so long as the Holder owns any Registrable Securities, forthwith upon request (i) to the extent accurate, a written statement by the Company that it has complied with the reporting requirements of SEC Rule 144 (at any time after ninety (90) days after the effective date of the registration statement filed by the Company for the IPO), the Securities Act, and the Exchange Act (at any time after the Company has become subject to such reporting requirements), or that it qualifies as a registrant whose securities may be resold pursuant to Form S-3 (at any time after the Company so qualifies); (ii) a copy of the most recent annual or quarterly report of the Company and such other reports and documents so filed by the Company; and (iii) such other information as may be reasonably requested in availing any Holder of any rule or regulation of the SEC that permits the selling of any such securities without registration (at any time after the Company has become subject to the reporting requirements under the Exchange Act) or pursuant to Form S-3 (at any time after the Company so qualifies to use such form).

2.10. Limitations on Subsequent Registration Rights. From and after the date of this Agreement, the Company shall not, without the prior written consent of the Holders of sixty-six and two thirds percent (66 2/3%) of the Registrable Securities then outstanding, enter into any agreement with any holder or prospective holder of any securities of the Company that would allow such holder or prospective holder (i) to include such securities in any registration unless, under the terms of such agreement, such holder or prospective holder may include such securities in any such registration only to the extent that the inclusion of such securities will not reduce the number of the Registrable Securities of the Holders that are included or (ii) to demand registration of any securities held by such holder or prospective holder; provided that this limitation shall not apply to any additional Investor who becomes a party to this Agreement in accordance with Section 6.9. As of the date hereof, the Company has entered into no other agreement with any holder or prospective holder of any securities of the Company that would allow such holder or prospective holder (i) to include such securities in any registration or (ii) to demand registration of any securities held by such holder or prospective holder.

2.11. "Market Stand-off" Agreement. Each Holder hereby agrees that it will not, without the prior written consent of the managing underwriter, during the period commencing on the date of the final prospectus relating to the IPO and ending on the date specified by the Company and the managing underwriter (such period not to exceed one hundred eighty (180) days), (i) lend; offer; pledge; sell; contract to sell; sell any option or contract to purchase; purchase any option or contract to sell; grant any option, right, or warrant to purchase; or otherwise transfer or dispose of, directly or indirectly, any shares of Common Stock or any securities convertible into or exercisable or exchangeable (directly or indirectly) for Common Stock held immediately before the effective date of the registration statement for such offering, or (ii) enter into any swap or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of such securities, whether any such transaction described in clause (i) or (ii) above is to be settled by delivery of Common Stock or other securities, in cash, or otherwise. The foregoing provisions of this Section 2.11 shall apply only to the IPO, shall not apply to the sale of any shares to an underwriter pursuant to an underwriting agreement, and shall be applicable to the Holders only if all officers, directors, and stockholders individually owning more than one percent (1%) of the Company's outstanding Common Stock (after giving effect to conversion into Common Stock of all outstanding Preferred Stock) are subject to the same restrictions. The underwriters in connection with such registration are intended third-party beneficiaries of this Section 2.11 and shall have the right, power, and authority to enforce the provisions hereof as though they were a party hereto. Each Holder further agrees to execute such agreements as may be reasonably requested by the underwriters in connection with such registration that are consistent with this Section 2.11 or that are necessary to give further effect thereto. Any discretionary waiver or termination of the restrictions of any or all of such agreements by the Company or the underwriters shall apply pro rata to all Holders subject to such agreements, based on the number of shares subject to such agreements.

2.12. Restrictions on Transfer.

(a) The Preferred Stock and the Registrable Securities shall not be sold, pledged, or otherwise transferred, and the Company shall not recognize any such sale, pledge, or transfer, except upon the conditions specified in this Agreement, which conditions are intended to ensure compliance with the provisions of the Securities Act. A transferring Holder will cause any proposed purchaser, pledgee, or transferee of the Preferred Stock and the Registrable Securities held by such Holder to agree to take and hold such securities subject to the provisions and upon the conditions specified in this Agreement.

(b) Each certificate or instrument representing (i) the Preferred Stock, (ii) the Registrable Securities, and (iii) any other securities issued in respect of the securities referenced in clauses (i) and (ii), upon any stock split, stock dividend, recapitalization, merger, consolidation, or similar event, shall (unless otherwise permitted by the provisions of Section 2.12(c)) be stamped or otherwise imprinted with a legend substantially in the following form:

> THE SECURITIES REPRESENTED HEREBY HAVE BEEN ACQUIRED FOR INVESTMENT AND HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED. SUCH SHARES MAY NOT BE SOLD, PLEDGED, OR TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR A VALID EXEMPTION FROM THE REGISTRATION AND PROSPECTUS DELIVERY REQUIREMENTS OF SAID ACT.
>
> THE SECURITIES REPRESENTED HEREBY MAY BE TRANSFERRED ONLY IN ACCORDANCE WITH THE TERMS OF AN AGREEMENT BETWEEN THE COMPANY AND THE STOCKHOLDER, A COPY OF WHICH IS ON FILE WITH THE SECRETARY OF THE COMPANY.

The Holders consent to the Company making a notation in its records and giving instructions to any transfer agent of the Restricted Securities in order to implement the restrictions on transfer set forth in this Section 2.12.

(c) The holder of each certificate representing Restricted Securities, by acceptance thereof, agrees to comply in all respects with the provisions of this Section 2. Before any proposed sale, pledge, or transfer of any Restricted Securities, unless there is in effect a registration statement under the Securities Act covering the proposed transaction, the Holder thereof shall give notice to the Company of such Holder's intention to effect such sale, pledge, or transfer. Each such notice shall describe the manner and circumstances of the proposed sale, pledge, or transfer in sufficient detail and, if reasonably requested by the Company, shall be accompanied at such Holder's expense by either (i) a written opinion of legal counsel who shall, and whose legal opinion shall, be reasonably satisfactory to the Company, addressed to the Company, to the effect that the proposed transaction may be effected without registration under the Securities Act; (ii) a "no action" letter from the SEC to the effect that the proposed sale, pledge, or transfer of such Restricted Securities without registration will not result in a recommendation by the staff of the SEC that action be taken with respect thereto; or (iii) any other evidence reasonably satisfactory to counsel to the Company to the effect that the proposed sale, pledge, or transfer of the Restricted Securities may be effected without registration under

the Securities Act, whereupon the Holder of such Restricted Securities shall be entitled to sell, pledge, or transfer such Restricted Securities in accordance with the terms of the notice given by the Holder to the Company. The Company will not require such a legal opinion or "no action" letter (x) in any transaction in compliance with SEC Rule 144 or (y) in any transaction in which such Holder distributes Restricted Securities to an Affiliate of such Holder for no consideration; provided that each transferee agrees in writing to be subject to the terms of this Section 2.12. Each certificate or instrument evidencing the Restricted Securities transferred as above provided shall bear, except if such transfer is made pursuant to SEC Rule 144, the appropriate restrictive legend set forth in Section 2.12(b), except that such certificate shall not bear such restrictive legend if, in the opinion of counsel for such Holder and the Company, such legend is not required in order to establish compliance with any provisions of the Securities Act.

2.13. The right of any Holder to request registration or inclusion in any registration statement pursuant to this Agreement shall terminate upon the expiration of four (4) years after the closing of the IPO.

3. Information and Observer Rights.

3.1. Delivery of Financial Statements. The Company shall deliver to each Major Investor:

(a) as soon as practicable, but in any event within ninety (90) days after the end of each fiscal year of the Company, (i) a balance sheet as of the end of such year, (ii) statements of income and of cash flows for such year, and a comparison between (x) the actual amounts as of and for such fiscal year and (y) the comparable amounts for the prior year and as included in the Budget (as defined in Section 3.1(e)) for such year, with an explanation of any material differences between such amounts and a schedule as to the sources and applications of funds for such year, and (iii) a statement of stockholders' equity as of the end of such year, all such financial statements audited and certified by independent public accountants of nationally recognized standing selected by the Company;

(b) as soon as practicable, but in any event within forty-five (45) days after the end of each of the first three (3) quarters of each fiscal year of the Company, unaudited statements of income and of cash flows for such fiscal quarter, and an unaudited balance sheet and a statement of stockholders' equity as of the end of such fiscal quarter, all prepared in accordance with GAAP (except that such financial statements may (i) be subject to normal year-end audit adjustments and (ii) not contain all notes thereto that may be required in accordance with GAAP);

(c) as soon as practicable, but in any event within forty-five (45) days after the end of each of the first three (3) quarters of each fiscal year of the Company, a statement showing the number of shares of each class and series of capital stock and securities convertible into or exercisable for shares of capital stock outstanding at the end of the period, the Common Stock issuable upon conversion or exercise of any outstanding securities convertible or exercisable for Common Stock and the exchange ratio or exercise price applicable thereto, and

the number of shares of issued stock options and stock options not yet issued but reserved for issuance, if any, all in sufficient detail as to permit the Major Investors to calculate their respective percentage equity ownership in the Company, and certified by the chief financial officer or chief executive officer of the Company (in such person's capacity as an officer of the Company) as being true, complete, and correct;

(d) as soon as practicable, but in any event within thirty (30) days of the end of each month, an unaudited income statement and statement of cash flows for such month, and an unaudited balance sheet and statement of stockholders' equity as of the end of such month, all prepared in accordance with GAAP (except that such financial statements may (i) be subject to normal year-end audit adjustments and (ii) not contain all notes thereto that may be required in accordance with GAAP);

(e) as soon as practicable, but in any event thirty (30) days before the end of each fiscal year, a budget and business plan for the next fiscal year (collectively, the "**Budget**"), approved by the Board and prepared on a monthly basis, including balance sheets, income statements, and statements of cash flow for such months and, promptly after prepared, any other budgets or revised budgets prepared by the Company;

(f) with respect to the financial statements called for in Section 3.1(a), Section 3.1(b) and Section 3.1(d), an instrument executed by the chief financial officer and chief executive officer of the Company (in their capacity as an officer of the Company) certifying that such financial statements were prepared in accordance with GAAP consistently applied with prior practice for earlier periods (except as otherwise set forth in Section 3.1(b) and Section 3.1(d)) and fairly present the financial condition of the Company and its results of operation for the periods specified therein; and

(g) such other information relating to the financial condition, business, prospects, or corporate affairs of the Company as any Major Investor may from time to time reasonably request; provided, however, that the Company shall not be obligated under this Section 3.1 to provide information (i) that the Company reasonably determines in good faith to be a trade secret or confidential information (unless covered by an enforceable confidentiality agreement, in form acceptable to the Company) or (ii) the disclosure of which would adversely affect the attorney-client privilege between the Company and its counsel.

If, for any period, the Company has any subsidiary whose accounts are consolidated with those of the Company, then in respect of such period the financial statements delivered pursuant to the foregoing sections shall be the consolidated and consolidating financial statements of the Company and all such consolidated subsidiaries.

Notwithstanding anything else in this Section 3.1 to the contrary, the Company may cease providing the information set forth in this Section 3.1 during the period starting with the date thirty (30) days before the Company's good-faith estimate of the date of filing of a registration statement if it reasonably concludes it must do so to comply with the SEC rules applicable to such registration statement and related offering; provided that the Company's covenants under

this Section 3.1 shall be reinstated at such time as the Company is no longer actively employing its commercially reasonable efforts to cause such registration statement to become effective.

3.2. Inspection. The Company shall permit each Major Investor, at such Major Investor's expense, to visit and inspect the Company's properties; examine its books of account and records; and discuss the Company's affairs, finances, and accounts with its officers, during normal business hours of the Company as may be reasonably requested by the Major Investor; provided, however, that the Company shall not be obligated pursuant to this Section 3.2 to provide access to any information that it reasonably considers to be a trade secret or confidential information (unless covered by an enforceable confidentiality agreement, in form acceptable to the Company) or] the disclosure of which would adversely affect the attorney-client privilege between the Company and its counsel.

3.3. Observer Rights. In the event that GS Fund VI has not designated one or both of the Series A Directors it is entitled to designate pursuant to the Amended and Restated Voting Agreement, dated as of the date hereof, between the Company and the other signatories thereto (the "**Voting Agreement**"), or in the event that GS Fund VI is no longer entitled to designate any directors, and as long as GS Fund VI (together with its Affiliates) owns any of the shares of the Series A Preferred Stock it and its Affiliates have purchased under the Series A Purchase Agreement (or an equivalent amount of Common Stock issued upon conversion thereof), the Company shall invite a representative of GS Fund VI to attend all meetings of its Board in a nonvoting observer capacity and, in this respect, shall give such representative copies of all notices, minutes, consents, and other materials that it provides to its directors at the same time and in the same manner as provided to such directors; provided, however, that such representative shall agree to hold in confidence and trust and to act in a fiduciary manner with respect to all information so provided; and provided further, that the Company reserves the right to withhold any information and to exclude such representative from any meeting or portion thereof if access to such information or attendance at such meeting could adversely affect the attorney-client privilege between the Company and its counsel or result in disclosure of trade secrets or a conflict of interest, or if such Investor or its representative is a competitor of the Company.

3.4. Termination of Information and Observer Rights. The covenants set forth in Section 3.1, Section 3.2, and Section 3.3 shall terminate and be of no further force or effect (i) immediately before the consummation of the IPO, or (ii) when the Company first becomes subject to the periodic reporting requirements of Section 12(g) or 15(d) of the Exchange Act, whichever event occurs first.

3.5. Confidentiality. Each Investor agrees that such Investor will keep confidential and will not disclose, divulge, or use for any purpose (other than to monitor its investment in the Company) any confidential information obtained from the Company pursuant to the terms of this Agreement (including notice of the Company's intention to file a registration statement), unless such confidential information (a) is known or becomes known to the public in general (other than as a result of a breach of this Section 3.5 by such Investor), (b) is or has been independently developed or conceived by the

Investor without use of the Company's confidential information, or (c) is or has been made known or disclosed to the Investor by a third party without a breach of any obligation of confidentiality such third party may have to the Company; provided, however, that an Investor may disclose confidential information (i) to its attorneys, accountants, consultants, and other professionals to the extent necessary to obtain their services in connection with monitoring its investment in the Company; (ii) to any prospective purchaser of any Registrable Securities from such Investor, if such prospective purchaser agrees to be bound by the provisions of this Section 3.5; (iii) to any existing or prospective Affiliate, partner, member, stockholder, or wholly owned subsidiary of such Investor in the ordinary course of business, provided that such Investor informs such Person that such information is confidential and directs such Person to maintain the confidentiality of such information; or (iv) as may otherwise be required by law, provided that the Investor promptly notifies the Company of such disclosure and takes reasonable steps to minimize the extent of any such required disclosure.

4. Rights to Future Stock Issuances.

4.1. Right of First Offer. Subject to the terms and conditions of this Section 4.1 and applicable securities laws, if the Company proposes to offer or sell any New Securities, the Company shall first offer such New Securities to each holder of Preferred Stock (a "**Preferred Stock Investor**"). A Preferred Stock Investor shall be entitled to apportion the right of first offer hereby granted to it among itself and its Affiliates in such proportions as it deems appropriate.

(a) The Company shall give notice (the "**Offer Notice**") to each Preferred Stock Investor, stating (i) its bona fide intention to offer such New Securities, (ii) the number of such New Securities to be offered, and (iii) the price and terms, if any, upon which it proposes to offer such New Securities.

(b) By notification to the Company within twenty (20) days after the Offer Notice is given, each Preferred Stock Investor may elect to purchase or otherwise acquire, at the price and on the terms specified in the Offer Notice, up to that portion of such New Securities which equals the proportion that the Common Stock issued and held, or issuable (directly or indirectly) upon conversion and/or exercise, as applicable, of the Preferred Stock and any other Derivative Securities then held by such Preferred Stock Investor bears to the total Common Stock issued and held, or issuable (directly or indirectly) upon conversion and/or exercise, as applicable, of the Preferred Stock and any other Derivative Securities then held, by all the Preferred Stock Investors. At the expiration of such twenty (20) day period, the Company shall promptly notify each Preferred Stock Investor that elects to purchase or acquire all the shares available to it (each, a "**Fully Exercising Investor**") of any other Preferred Stock Investor's failure to do likewise. During the ten (10) day period commencing after the Company has given such notice, each Fully Exercising Investor may, by giving notice to the Company, elect to purchase or acquire, in addition to the number of shares specified above, up to that portion of the New Securities for which Preferred Stock Investors were entitled to subscribe but that were not subscribed for by the Preferred Stock Investors which is equal to the proportion that the Common Stock issued and held, or issuable upon conversion and/or exercise, as

applicable, of Preferred Stock and any other Derivative Securities then held, by such Fully Exercising Investor bears to the Common Stock issued and held, or issuable (directly or indirectly) upon conversion and/or exercise, as applicable, of the Preferred Stock and any other Derivative Securities then held, by all Fully Exercising Investors who wish to purchase such unsubscribed shares. The closing of any sale pursuant to this Section 4.1(b) shall occur within the later of one hundred twenty (120) days of the date that the Offer Notice is given and the date of initial sale of New Securities pursuant to Section 4.1(c).

(c) If all New Securities referred to in the Offer Notice are not elected to be purchased or acquired as provided in Section 4.1(b), the Company may, during the ninety (90) day period following the expiration of the periods provided in Section 4.1(b), offer and sell the remaining unsubscribed portion of such New Securities to any Person or Persons at a price not less than, and upon terms no more favorable to the offeree than, those specified in the Offer Notice. If the Company does not enter into an agreement for the sale of the New Securities within such period, or if such agreement is not consummated within thirty (30) days of the execution thereof, the right provided hereunder shall be deemed to be revived and such New Securities shall not be offered unless first reoffered to the Preferred Stock Investors in accordance with this Section 4.1.

(d) The right of first offer in this Section 4.1 shall not be applicable to (i) Exempted Securities (as defined in the Company's Articles of Incorporation); and (ii) shares of Common Stock issued in the IPO.

4.2. Termination . The covenants set forth in Section 4.1 shall terminate and be of no further force or effect (i) immediately before the consummation of the IPO, or (ii) when the Company first becomes subject to the periodic reporting requirements of Section 12(g) or 15(d) of the Exchange Act, whichever event occurs first.

5. Additional Covenants.

5.1. Insurance. The Company shall use its commercially reasonable efforts to obtain, within ninety (90) days of the date hereof, from financially sound and reputable insurers, Directors and Officers Errors and Omissions insurance, in an amount and on terms satisfactory to at least three members of the Board, and will use commercially reasonable efforts to cause such insurance policies to be maintained until such time as the Board determines that such insurance should be discontinued. Such policy shall not be cancelable by the Company without prior approval of the Board, including the Preferred Stock Directors.

5.2. Employee Agreements. Following the date of this Agreement, the Company will cause (i) each person hereafter employed by it or by any subsidiary (or engaged by the Company or any subsidiary as a consultant/independent contractor) with access to confidential information and/or trade secrets to enter into a nondisclosure and proprietary rights assignment agreement and (ii) each Key Employee to enter into a noncompetition and nonsolicitation agreement, in substantially the form

attached hereto as Exhibit A. In addition, the Company shall not amend, modify, terminate, waive, or otherwise alter, in whole or in part, any of the above-referenced agreements or any restricted stock agreement between the Company and any employee, without the consent of the Preferred Stock Directors.

5.3. Employee Stock. Unless otherwise approved by the Board, including the Preferred Stock Directors, all future employees and consultants of the Company who purchase, receive options to purchase, or receive awards of shares of the Company's capital stock after the date hereof shall be required to execute restricted stock or option agreements, as applicable, providing for (i) vesting of shares over at least a four (4) year period, with the first twenty-five percent (25%) of such shares vesting following twelve (12) months of continued employment or service, and the remaining shares vesting in equal monthly installments over the following thirty-six (36) months, and (ii) a market stand-off provision substantially similar to that in Section 2.11. In addition, unless otherwise approved by the Board, including the Preferred Stock Directors, the Company shall retain a "right of first refusal" on employee transfers until the Company's IPO and shall have the right to repurchase unvested shares at cost upon termination of employment of a holder of restricted stock.

5.4. Meetings of the Board. Unless otherwise determined by the vote of a majority of the directors then in office, the Board shall meet at least quarterly in accordance with an agreed-upon schedule.

5.5. Successor Indemnification. If the Company or any of its successors or assignees consolidates with or merges into any other Person and is not the continuing or surviving corporation or entity of such consolidation or merger, then to the extent necessary, proper provision shall be made so that the successors and assignees of the Company assume the obligations of the Company with respect to indemnification of members of the Board as in effect immediately before such transaction, whether such obligations are contained in the Company's Bylaws, its Articles of Incorporation, or elsewhere, as the case may be.

5.6. Board Expenses. The Company shall reimburse the directors for all reasonable out-of-pocket travel expenses incurred (consistent with the Company's travel policy) in connection with attending meetings of the Board.

5.7. Termination of Covenants. The covenants set forth in this Section 5, except for Section 5.6 and 5.8, shall terminate and be of no further force or effect (a) immediately before the consummation of the IPO, or (b) when the Company first becomes subject to the periodic reporting requirements of Section 12(g) or 15(d) of the Exchange Act, whichever event occurs first. The covenants set forth in Section 5.8 shall terminate and be of no further force or effect immediately before the consummation of the IPO if it triggers mandatory conversion of the Series B Preferred Stock into Common Stock pursuant to the terms of the Articles of Incorporation of the Company as in effect on the date hereof.

5.8. Agreement Regarding Series B Preferred Stock.

(a) Each of Mason R. Holland, Jr. and Shawn Jenkins, including their respective Affiliates (the "Founders"), acknowledge and agree that the Founders and Oak Investment Partners XII, Limited Partnership ("Oak") have agreed that if amounts received by the holders of Series B Preferred Stock in respect of a share of Series B Preferred Stock (or Common Stock in the event of a mandatory conversion of Series B Preferred Stock pursuant to clause (b) of Section 5.1 of the Company's Articles of Incorporation (such shares of Series B Preferred Stock and/or Common Stock, as applicable, the "Subject Shares")) in the event of a liquidation, dissolution or winding up of the Company, a Deemed Liquidation Event or similar transaction, is less than 1.5 times the Series B Original Issue Price (as defined in the Company's Articles of Incorporation), the holders of the Subject Shares shall receive, from any amounts otherwise payable to the Founders in respect of their shares of Common Stock, an amount per share equal to the difference between (i) 1.5 times the Series B Original Issue Price and (ii) the amount received by the holders of Subject Shares in respect of such shares pursuant to the Company's Articles of Incorporation (i.e., an amount that, together with the amount actually received by the holders of Subject Shares described in clause (ii) above, would equal 1.5 times the Series B Original Issue Price). For the avoidance of doubt, (x) Section 2.2 of the Company's Articles of Incorporation is intended to give effect to the foregoing arrangement and the Founders shall not be liable to make any payment under this Section 5.8 if and to the extent that the holders of Subject Shares have otherwise actually received payment for such amounts under Section 2.2 of the Company's Articles of Incorporation, and (y) Section 2.2 of the Company's Articles of Incorporation and the foregoing arrangement shall in no way affect the Liquidation Amount payable to any Holders other than the Founders.

(b) The Founders acknowledge that Oak is relying on the agreement described in this Section 5.8 in making its decision to make an investment in the Series B Preferred Stock of the Company and the Founders agree to use all reasonable efforts and take all reasonable action as may be necessary to effect the foregoing agreement. The Founders also agree that, unless otherwise agreed to in writing by Oak, in addition to any restrictions on transfer contained in this Agreement or otherwise, any transfer of shares of Common Stock held by the Founders shall not be effected unless the transferee of such shares agrees to be bound by this Section 5.8. The Company acknowledges the foregoing arrangement and agrees to use all reasonable efforts and take all reasonable actions as may be necessary to effect the foregoing agreement; provided, however, for the avoidance of doubt, the Company will not be obligated to indemnify or guarantee performance of this Section 5.8 on behalf of the Founders. Notwithstanding anything to the contrary contained in this Agreement, this Section 5.8 may not be amended or modified without the prior written consent of Oak and the Founders.

6. Miscellaneous.

6.1. Successors and Assigns. The rights under this Agreement may be assigned (but only with all related obligations) by a Holder; provided, however, that a Preferred Stock Investor may not assign its rights hereunder unless it holds at least 1,000 shares of Registrable Securities; and provided further, that (x) the

Company is, within a reasonable time after such transfer, furnished with written notice of the name and address of such transferee and the Registrable Securities with respect to which such rights are being transferred; and (y) such transferee agrees in a written instrument delivered to the Company to be bound by and subject to the terms and conditions of this Agreement, including the provisions of Section 2.11. The terms and conditions of this Agreement inure to the benefit of and are binding upon the respective successors and permitted assignees of the parties. Nothing in this Agreement, express or implied, is intended to confer upon any party other than the parties hereto or their respective successors and permitted assignees any rights, remedies, obligations or liabilities under or by reason of this Agreement, except as expressly provided herein.

6.2. Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York, regardless of the laws that might otherwise govern under applicable principles of conflicts of law.

6.3. Counterparts; Facsimile. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement may also be executed and delivered by facsimile signature and in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

6.4. Titles and Subtitles. The titles and subtitles used in this Agreement are for convenience only and are not to be considered in construing or interpreting this Agreement.

6.5. Notices. All notices, requests, and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given, delivered and received (i) upon personal delivery to the party to be notified; (ii) when sent by confirmed electronic mail or facsimile if sent during normal business hours of the recipient, and if not so confirmed, then on the next business day; (iii) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid; or (iv) one (1) business day after the business day of deposit with a nationally recognized overnight courier, specifying next-day delivery, with written verification of receipt. All communications shall be sent to the respective parties at their addresses as set forth on Schedule A hereto, or to the principal office of the Company and to the attention of the Chief Executive Officer, in the case of the Company, or to such email address, facsimile number, or address as subsequently modified by written notice given in accordance with this Section 6.5. If notice is given to the Company, a copy shall also be sent to Wyrick Robbins Yates & Ponton LLP, 4101 Lake Boone Trail, Suite 300, Raleigh, NC 27607, Attn: Donald R. Reynolds.

6.6. Amendments and Waivers. Any term of this Agreement may be amended and the observance of any term of this Agreement may be waived (either generally or in a particular instance, and either retroactively or prospectively) only with the written consent of the Company and the holders of sixty-six and two

thirds percent (66 2/3%) of the Registrable Securities then outstanding; provided that the Company may in its sole discretion waive compliance with Section 2.12(c) (and the Company's failure to object promptly in writing after notification of a proposed assignment allegedly in violation of Section 2.12(c) shall be deemed to be a waiver); and provided further that any provision hereof may be waived by any waiving party on such party's own behalf, without the consent of any other party; and provided further that in no event shall Section 1.17 or Section 3 be amended without the prior written consent of GS Fund VI. Notwithstanding the foregoing, this Agreement may not be amended or terminated and the observance of any term hereof may not be waived with respect to any Investor without the written consent of such Investor, unless such amendment, termination, or waiver applies to all Investors in the same fashion (it being agreed that a waiver of the provisions of Section 4 with respect to a particular transaction shall be deemed to apply to all Investors in the same fashion if such waiver does so by its terms, notwithstanding the fact that certain Investors may nonetheless, by agreement with the Company, purchase securities in such transaction). The Company shall give prompt notice of any amendment or termination hereof or waiver hereunder to any party hereto that did not consent in writing to such amendment, termination, or waiver. Any amendment, termination, or waiver effected in accordance with this Section 6.6 shall be binding on all parties hereto, regardless of whether any such party has consented thereto. No waivers of or exceptions to any term, condition, or provision of this Agreement, in any one or more instances, shall be deemed to be or construed as a further or continuing waiver of any such term, condition, or provision.

6.7. Severability. In case any one or more of the provisions contained in this Agreement is for any reason held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement, and such invalid, illegal, or unenforceable provision shall be reformed and construed so that it will be valid, legal, and enforceable to the maximum extent permitted by law.

6.8. Aggregation of Stock. All shares of Registrable Securities held or acquired by Affiliates shall be aggregated together for the purpose of determining the availability of any rights under this Agreement.

6.9. Additional Investors. Notwithstanding anything to the contrary contained herein, if the Company issues additional shares of the Company's Preferred Stock after the date hereof, any purchaser of such shares of Preferred Stock may become a party to this Agreement by executing and delivering an additional counterpart signature page to this Agreement, and thereafter shall be deemed an "Investor" for all purposes hereunder. No action or consent by the Investors shall be required for such joinder to this Agreement by such additional Investor, so long as such additional Investor has agreed in writing to be bound by all of the obligations as an "Investor" hereunder.

6.10. Entire Agreement. This Agreement (including any Schedules and Exhibits hereto) constitutes the full and entire understanding and agreement among the parties with respect to the subject matter hereof, and any other written or oral agreement relating to the subject matter hereof existing between the parties, including the Prior Agreement, is expressly canceled.

6.11. Delays or Omissions. No delay or omission to exercise any right, power, or remedy accruing to any party under this Agreement, upon any breach or default of any other party under this Agreement, shall impair any such right, power, or remedy of such nonbreaching or nondefaulting party, nor shall it be construed to be a waiver of or acquiescence to any such breach or default, or to any similar breach or default thereafter occurring, nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default theretofore or thereafter occurring. All remedies, whether under this Agreement or by law or otherwise afforded to any party, shall be cumulative and not alternative.

6.12. Expenses. The Company agrees to pay and hold the Investors harmless against liability for payment of all reasonable legal costs and expenses incurred by them in connection with any modification, waiver, consent or amendment requested by the Company in connection with any of this Agreement or any other document entered into in connection herewith (the "**Transaction Document**s"); it being understood and agreed that any modification or amendment of the Transaction Documents in connection with a new equity financing round of the Company shall not be subject to application of this Section 6.12.

6.13. Acknowledgment. The Company acknowledges that the Investors are in the business of venture capital and private equity investing and therefore review the business plans and related proprietary information of many enterprises, including enterprises which may have products or services which compete directly or indirectly with those of the Company. Nothing in this Agreement shall preclude or in any way restrict the Investors from investing or participating in any particular enterprise whether or not such enterprise has products or services which compete with those of the Company.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Investors' Rights Agreement as of the date first written above.

THE COMPANY:

BENEFITFOCUS.COM, INC.

/s/ Mason Holland, Jr.

Name: Mason Holland, Jr.
Title: Chairman of the Board
Address: 100 Benefitfocus Way
Charleston, SC 29492

[Additional Signature Page Follows]

GS CAPITAL PARTNERS VI, L.P.
By: GS Advisors VI, L.L.C.
its General Partner

/s/ Peter J. Perrone
Name: Peter J. Perrone
Title: Vice President

GS CAPITAL PARTNERS VI OFFSHORE, L.P.
By: GS Advisors VI, L.L.C.
its General Partner

/s/ Peter J. Perrone
Name: Peter J. Perrone
Title: Vice President

GS CAPITAL PARTNERS VI GmbH & Co. KG, L.P.
By: GS Advisors VI, L.L.C.
its Managing Limited Partner

/s/ Peter J. Perrone
Name: Peter J. Perrone
Title: Vice President

GS CAPITAL PARTNERS VI PARALLEL, L.P.
By: GS Advisors VI, L.L.C.
its General Partner

/s/ Peter J. Perrone
Name: Peter J. Perrone
Title: Vice President

SERIES B INVESTORS:

OAK INVESTMENT PARTNERS XII, LIMITED PARTNERSHIP
By: Oak Associates XII, LLC, its General Partner

By: /s/ Ann H. Lamont
Name: Ann H. Lamont
Title: Managing Member

OTHER INVESTORS:

THE HOLLAND FAMILY TRUST

By: /s/ Mason R. Holland, Jr.
Mason R. Holland, Jr.

/s/ Mason R. Holland, Jr.
Mason R. Holland, Jr.

/s/ Shawn Jenkins
Shawn Jenkins

SCHEDULE A

INVESTORS

GS CAPITAL PARTNERS VI PARALLEL, L.P.
85 Broad St., 10th Floor
New York, NY 10004

GS CAPITAL PARTNERS VI GmbH & Co. KG
85 Broad St., 10th Floor
New York, NY 10004

GS CAPITAL PARTNERS VI FUND, L.P.
85 Broad St., 10th Floor
New York, NY 10004

GS CAPITAL PARTNERS VI OFFSHORE FUND, L.P.
85 Broad St., 10th Floor
New York, NY 10004

OAK INVESTMENT PARTNERS XII, LIMITED PARTNERSHIP
One Gorham Road
Westport, CT 06880

Mason R. Holland, Jr.

Shawn Jenkins

Exhibit 4.3

AMENDED AND RESTATED RIGHT OF FIRST OFFER AND CO-SALE AGREEMENT

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AMENDED AND RESTATED
RIGHT OF FIRST OFFER
AND CO-SALE AGREEMENT

THIS AMENDED AND RESTATED RIGHT OF FIRST OFFER AND CO-SALE AGREEMENT (the "**Agreement**") is made as of the 25th day of August 2010 by and among Benefitfocus.com, Inc., a South Carolina corporation (the "**Company**"), the Investors listed on Schedule A and the Key Holders listed on Schedule B.

WHEREAS, each Key Holder is the beneficial owner of the number of shares of Capital Stock, or of options to purchase Common Stock, set forth opposite the name of such Key Holder on Schedule B;

WHEREAS, on February 7, 2007 the Company and certain of the Investors (the "**Series A Investors**") entered into the Series A Preferred Stock Purchase Agreement, dated January 19, 2007 (the "**Series A Purchase Agreement**"), pursuant to which such Series A Investors purchased shares of the Series A Preferred Stock of the Company, no par value per share ("**Series A Preferred Stock**"), as well as a Right of First Offer and Co-Sale Agreement with the Key Holders (the "**Prior Agreement**");

WHEREAS, the undersigned, which includes the Company, Key Holders holding a majority of the shares of Transfer Stock held by Key Holders under the Prior Agreement and holders of a majority of the shares of Common Stock issued or issuable upon conversion of the then outstanding shares of Preferred Stock held by the Investors (voting as a single class and on an as-converted basis) required to amend the Prior Agreement, wish to amend and restate the Prior Agreement as set forth herein;

WHEREAS, the Company and certain of the Investors (the "**Series B Investors**") are parties to the Series B Preferred Stock Purchase Agreement, dated as of the date hereof (the "**Series B Purchase Agreement,**" and together with the Series A Purchase Agreement, the "**Purchase Agreements**"), pursuant to which such Series B Investors have agreed to purchase shares of the Series B Preferred Stock of the Company, no par value per share ("**Series B Preferred Stock**"); and

WHEREAS, the Key Holders, the Series A Investors and the Company desire to further induce the Series B Investors to purchase the Series B Preferred Stock;

NOW, THEREFORE, the Company, the Key Holders and the Investors agree as follows:

1. Definitions.

"**Affiliate**" means, with respect to any specified Investor, any other Investor who or which, directly or indirectly, controls, is controlled by or is under common control with such Investor, including without limitation any general partner, officer, director or manager of such Investor, and any venture capital fund now or hereafter existing which is controlled by one or more general partners or managing members of, or shares the same management company with, such Investor.

"**Board**" means the board of directors of the Company.

"**Capital Stock**" means (a) shares of Common Stock and Preferred Stock (whether now outstanding or hereafter issued in any context), (b) shares of Common Stock issued or issuable upon conversion of Preferred Stock and (c) shares of Common Stock issued or issuable upon exercise or conversion, as applicable, of stock options, warrants or other convertible securities of the Company, in each case now owned or subsequently acquired by any Key Holder, any Investor, or their respective successors or permitted transferees or assigns. For purposes of the number of shares of Capital Stock held by an Investor or Key Holder (or any other calculation based thereon), all shares of Preferred Stock shall be deemed to have been converted into Common Stock at the then-applicable conversion ratio.

"**Common Stock**" means shares of common stock of the Company, no par value per share.

"**Company Notice**" means written notice from the Company notifying the selling Key Holders or selling Investors, as applicable, that the Company intends to exercise its Right of First Offer as to some or all of the Transfer Stock with respect to any Proposed Transfer.

"**Investor Notice**" means written notice from an Investor or a Key Holder notifying the Company and the selling Investor or selling Key Holder, as the case may be, that such non-selling Investor or non-selling Key Holder intends to exercise its Secondary Offer Right as to a portion of the Transfer Stock with respect to any Proposed Transfer.

"**Investors**" means the persons named on Schedule A hereto as Series A Investors and Series B Investors, each person to whom the rights of an Investor are assigned pursuant to Section 5.8, each person who hereafter becomes a signatory to this Agreement pursuant to Section 5.10 and any one of them, as the context may require; provided, however, that any such person listed as a Series A Investor shall cease to be considered an Investor for purposes of this Agreement at any time such person and his, her or its Affiliates collectively hold shares representing less than 10% of the fully diluted equity of the Company, and that any such person listed as a Series B Investor shall cease to be considered an Investor for purposes of this Agreement at any time such person and his, her or its Affiliates collectively hold shares representing less than 5% of the fully diluted equity of the Company.

"**Key Holders**" means the persons named on Schedule B hereto, each person to whom the rights of a Key Holder are assigned pursuant to Section 3.1, each person who hereafter becomes a signatory to this Agreement pursuant to Section 5.8 or 5.16 and any one of them, as the context may require; provided, however, that any such person shall cease to be considered a Key Holder for purposes of this Agreement at any time such person and his, her or its Affiliates collectively hold shares representing less than 0.5% of the fully diluted equity of the Company.

"**Preferred Stock**" means shares of preferred stock of the Company, no par value per share.

"**Proposed Transfer**" means any assignment, sale, offer to sell, pledge, mortgage, hypothecation, encumbrance, disposition of or any other like transfer or encumbering of any Transfer Stock (or any interest therein) proposed by any of the Key Holders or Investors.

"**Proposed Transfer Notice**" means written notice from a Key Holder or Investor setting forth the terms and conditions of a Proposed Transfer.

"**Prospective Transferee**" means any person to whom a Key Holder or Investor proposes to make a Proposed Transfer.

"**Right of Co-Sale**" means the right, but not an obligation, of an Investor and Key Holder to participate in a Proposed Transfer on the terms and conditions specified in the Proposed Transfer Notice.

"**Right of First Offer**" means the right, but not an obligation, of the Company, or its permitted transferees or assigns, to purchase some or all of the Transfer Stock with respect to a Proposed Transfer, on the terms and conditions specified in the Proposed Transfer Notice.

"**Secondary Notice**" means written notice from the Company notifying the Investors and the selling Key Holder that the Company does not intend to exercise its Right of First Offer as to all shares of Transfer Stock with respect to any Proposed Transfer.

"**Secondary Offer Right**" means the right, but not an obligation, of each Investor to purchase up to its pro rata portion (based upon the total number of shares of Capital Stock then held by all Investors) of any Transfer Stock not purchased pursuant to the Right of First Offer, on the terms and conditions specified in the Proposed Transfer Notice.

"**Transfer Stock**" means shares of Capital Stock owned by a Key Holder or Investor, or issued to a Key Holder or Investor after the date hereof (including, without limitation, in connection with any stock split, stock dividend, recapitalization, reorganization, or the like).

"**Undersubscription Notice**" means written notice from an Investor or Key Holder notifying the Company and the selling Investor or selling Key Holder, as applicable, that such non-selling Investor or non-selling Key Holder intends to exercise its option to purchase all or any portion of the Transfer Stock not purchased pursuant to the Right of First Offer or the Secondary Offer Right.

2. Agreement Among the Company, the Investors and the Key Holders.

2.1. Right of First Offer.

(a) Grant. Subject to the terms of Section 3 below, each Key Holder and Investor hereby unconditionally and irrevocably grants to the Company a Right of First Offer to purchase all or any portion of Transfer Stock that such Key Holder or Investor may propose to transfer in a Proposed Transfer, at the same price and on the same terms and conditions as those contained in the Proposed Transfer Notice.

(b) Notice. Each Key Holder or Investor proposing to make a Proposed Transfer must deliver a Proposed Transfer Notice to the Company and each other Investor and each other Key Holder not later than forty-five (45) days prior to the consummation of such Proposed Transfer. Such Proposed Transfer Notice shall contain the material terms and conditions (including price and form of consideration) of the Proposed Transfer. To exercise its Right of First Offer under this Section 2, the Company must deliver a Company Notice to the selling Key Holder or Investor within fifteen (15) days after delivery of the Proposed Transfer Notice. In the event of a conflict between this Agreement and any other agreement that may have been entered into by a Key Holder or Investor with the Company that contains a preexisting right of first refusal or right of first offer, the Company, the Key Holder and the Investor acknowledge and agree that the terms of this Agreement shall control and the preexisting right of first refusal or right of first offer shall be deemed satisfied by compliance with Section 2.1(a) and this Section 2.1 (b). In the event of a conflict between this Agreement and the Company's Bylaws containing a preexisting right of first refusal or right of first offer, the terms of the Bylaws will control and compliance with the Bylaws shall be deemed compliance with this Section 2.1(a) and (b) in full.

(c) Grant of Secondary Offer Right to Investors. Subject to the terms of Section 3 below, each Key Holder and Investor hereby unconditionally and irrevocably grants to the other Investors and Key Holders a Secondary Offer Right to purchase all or any portion of the Transfer Stock not purchased by the Company pursuant to the Right of First Offer, as provided in this Section 2.1(c). If the Company does not intend to exercise its Right of First Offer with respect to all Transfer Stock subject to a Proposed Transfer, the Company must deliver a Secondary Notice to the selling Key Holder or Investor, as the case may be, and to each non-selling Investor and non-selling Key Holder to that effect no later than fifteen (15) days after the selling Key Holder or Investor, as the case may be, delivers the Proposed Transfer Notice to the Company. To exercise its Secondary Offer Right, a non-selling Investor or a non-selling Key Holder must deliver an Investor Notice to the selling Key Holder or selling Investor, as appropriate, and the Company within ten (10) days after the Company's deadline for its delivery of the Secondary Notice as provided in the preceding sentence.

(d) Undersubscription of Transfer Stock. If options to purchase have been exercised by the Company and the non-selling Investors and non-selling Key Holders with respect to some but not all of the Transfer Stock by the end of the 10-day period specified in the last sentence of Section 2.1(c) (the "**Notice Period**"), then the Company shall, immediately after the expiration of the Notice Period, send written notice (the "**Company Undersubscription Notice**") to those Investors and Key Holders who fully exercised their Secondary Offer Right within the Notice Period (the "**Exercising Purchasers**"). Each Exercising Purchaser shall, subject to the provisions of this Section 2.1(d), have an additional option to purchase all or any part of the balance of any such remaining unsubscribed shares of Transfer Stock on the terms and conditions set forth in the Proposed Transfer Notice. To exercise such option, an Exercising Purchaser must deliver an Undersubscription Notice to the selling Key Holder or selling Investor, as appropriate, and the Company within ten (10) days after the expiration of the Notice Period. In the event there are two or more such Exercising Purchasers that choose to exercise the last-mentioned option for a total number of remaining shares in excess of the number available, the remaining shares available for purchase under this Section 2.1(d) shall be allocated to such Exercising Purchasers pro rata based on the number of shares of Transfer Stock such Exercising

Purchasers have elected to purchase pursuant to the Secondary Offer Right (without giving effect to any shares of Transfer Stock that any such Exercising Purchaser has elected to purchase pursuant to the Company Undersubscription Notice). If the options to purchase the remaining shares are exercised in full by the Exercising Purchasers, the Company shall immediately notify all of the Exercising Purchasers and the selling Key Holder or selling Investor, as the case may be, of that fact.

(e) Forfeiture of Rights. Notwithstanding the foregoing, if the total number of shares of Transfer Stock that the Company and the Investors and/or Key Holders have agreed to purchase in the Company Notice, Investor Notices and Undersubscription Notices is less than the total number of shares of Transfer Stock, then the Company and the Investors and the Key Holders shall be deemed to have forfeited any right to purchase such Transfer Stock, and the selling Key Holder or selling Investor shall be free to sell all, but not less than all, of the Transfer Stock on terms and conditions substantially similar to (and in no event more favorable than) the terms and conditions set forth in the Proposed Transfer Notice, it being understood and agreed that (i) any such sale or transfer shall be subject to the other terms and restrictions of this Agreement, including without limitation the terms and restrictions set forth in Sections 2.2 and 5.8(b); (ii) any future Proposed Transfer shall remain subject to the terms and conditions of this Agreement, including this Section 2; and (iii) such sale shall be consummated within forty-five (45) days after receipt of the Proposed Transfer Notice by the Company and, if such sale is not consummated within such forty-five (45) day period, such sale shall again become subject to the Right of First Offer and Secondary Offer Right on the terms set forth herein.

(f) Consideration; Closing. If the consideration proposed to be paid for the Transfer Stock is in property, services or other non-cash consideration, the fair market value of the consideration shall be as determined in good faith by the Board and as set forth in the Company Notice. If the Company or any Investor cannot for any reason pay for the Transfer Stock in the same form of non-cash consideration, the Company or such Investor may pay the cash value equivalent thereof, as determined in good faith by the Board and as set forth in the Company Notice. The closing of the purchase of Transfer Stock by the Company and the Investors shall take place, and all payments from the Company and the Investors shall have been delivered to the selling Key Holder or selling Investor, as the case may be, by the later of (i) the date specified in the Proposed Transfer Notice as the intended date of the Proposed Transfer and (ii) forty-five (45) days after delivery of the Proposed Transfer Notice.

2.2. Right of Co-Sale.

(a) Exercise of Right. If any Transfer Stock subject to a Proposed Transfer is not purchased pursuant to Section 2.1 above and thereafter is to be sold to a Prospective Transferee, each respective Investor and Key Holder may elect to exercise its Right of Co-Sale and participate on a pro rata basis in the Proposed Transfer as set forth in Section 2.2(b) below and otherwise on the same terms and conditions specified in the Proposed Transfer Notice (provided that if an Investor wishes to sell Preferred Stock, such Preferred Stock shall first be converted into Common Stock at the applicable conversion ratio). Each Investor and Key Holder who desires to exercise its or his Right of Co-Sale must give the selling Key Holder or selling Investor, as the case may be, written notice to that effect within fifteen (15) days after the deadline for delivery of the Secondary Notice described above, and upon giving such notice

such Investor or Key Holder, as applicable, shall be deemed to have effectively exercised the Right of Co-Sale.

(b) Shares Includable. Each Investor and Key Holder who timely exercises its or his Right of Co-Sale by delivering the written notice provided for above in Section 2.2(a) may include in the Proposed Transfer all or any part of such Investor's or Key Holder's Capital Stock equal to the product obtained by multiplying (i) the aggregate number of shares of Transfer Stock subject to the Proposed Transfer (excluding shares purchased by the Company or the Investors pursuant to the Right of First Offer or the Secondary Offer Right) by (ii) a fraction, the numerator of which is the number of shares of Capital Stock owned by such Investor immediately before consummation of the Proposed Transfer (including any shares that such Investor has agreed to purchase pursuant to the Secondary Offer Right) and the denominator of which is the total number of shares of Capital Stock owned, in the aggregate, by all Investors immediately prior to the consummation of the Proposed Transfer (including any shares that all Investors have collectively agreed to purchase pursuant to the Secondary Offer Right), plus the number of shares of Transfer Stock held by the Key Holders. To the extent one or more of the Investors or Key Holders exercise such right of participation in accordance with the terms and conditions set forth herein, the number of shares of Transfer Stock that the selling Key Holder or selling Investor may sell in the Proposed Transfer shall be correspondingly reduced.

(c) Delivery of Certificates. Each Investor or Key Holder shall effect its participation in the Proposed Transfer by delivering to the transferring Key Holder or Investor, no later than fifteen (15) days after such non-transferring Investor's and non-transferring Key Holder's exercise of the Right of Co-Sale, one or more stock certificates, properly endorsed for transfer to the Prospective Transferee, representing:

(i) the number of shares of Common Stock that such Investor Key Holder elects to include in the Proposed Transfer; or

(ii) the number of shares of Preferred Stock that is at such time convertible into the number of shares of Common Stock that such Investor elects to include in the Proposed Transfer; provided, however, that if the Prospective Transferee objects to the delivery of convertible Preferred Stock in lieu of Common Stock, such Investor shall first convert the Preferred Stock into Common Stock and deliver Common Stock as provided above. The Company agrees to make any such conversion concurrent with and contingent upon the actual transfer of such shares to the Prospective Transferee.

(d) Purchase Agreement. The parties hereby agree that the terms and conditions of any sale pursuant to this Section 2.2 will be memorialized in, and governed by, a written purchase and sale agreement with customary terms and provisions for such a transaction and the parties further covenant and agree to enter into such an agreement as a condition precedent to any sale or other transfer pursuant to this Section 2.2.

(e) Deliveries. Each stock certificate an Investor or Key Holder delivers to the selling Key Holder or selling Investor pursuant to Section 2.2(c) above will be transferred to the Prospective Transferee against payment therefor in consummation of the sale

of the Transfer Stock pursuant to the terms and conditions specified in the Proposed Transfer Notice and the purchase and sale agreement, and the selling Key Holder or selling Investor, as the case may be, shall concurrently therewith remit or direct payment to each other Investor or Key Holder the portion of the sale proceeds to which such Investor or Key Holder is entitled by reason of its participation in such sale. If any Prospective Transferee or Prospective Transferees refuse(s) to purchase securities subject to the Right of Co-Sale from any Investor or Key Holder exercising its Right of Co-Sale hereunder, no Key Holder or Investor may sell any Transfer Stock to such Prospective Transferee or Transferees unless and until, simultaneously with such sale, such Key Holder or Investor purchases all securities subject to the Right of Co-Sale from such other Investor or Key Holder on the same terms and conditions (including the proposed purchase price) as set forth in the Proposed Transfer Notice.

(f) Additional Compliance. If any Proposed Transfer is not consummated within sixty (60) days after receipt of the Proposed Transfer Notice by the Company, the Key Holders or Investors proposing the Proposed Transfer may not sell any Transfer Stock unless they first comply in full with each provision of this Section 2. The exercise or election not to exercise any right by any Investor or Key Holder hereunder shall not adversely affect its right to participate in any other sales of Transfer Stock subject to this Section 2.2.

2.3. Effect of Failure to Comply.

(a) Transfer Void; Equitable Relief. Any Proposed Transfer not made in compliance with the requirements of this Agreement shall be null and void ab initio, shall not be recorded on the books of the Company or its transfer agent and shall not be recognized by the Company. Each party hereto acknowledges and agrees that any breach of this Agreement would result in substantial harm to the other parties hereto for which monetary damages alone could not adequately compensate. Therefore, the parties hereto unconditionally and irrevocably agree that any non-breaching party hereto shall be entitled to seek protective orders, injunctive relief and other remedies available at law or in equity (including, without limitation, seeking specific performance or the rescission of purchases, sales and other transfers of Transfer Stock not made in strict compliance with this Agreement).

(b) Violation of First Offer Right. If any Key Holder or Investor becomes obligated to sell any Transfer Stock to the Company or any other Investor or Key Holder under this Agreement and fails to deliver such Transfer Stock in accordance with the terms of this Agreement, the Company and/or such Investor and/or such Key Holder, may, at its or his option, in addition to all other remedies it may have, send to such Key Holder or selling Investor the purchase price for such Transfer Stock as is herein specified and transfer to the name of the Company or such Investor or Key Holder (or request that the Company effect such transfer in the name of an Investor or Key Holder) on the Company's books the certificate or certificates representing the Transfer Stock to be sold.

(c) Violation of Co-Sale Right. If any Key Holder or Investor purports to sell any Transfer Stock in contravention of the Right of Co-Sale (a "**Prohibited Transfer**"), each other Investor or Key Holder who desires to exercise its Right of Co-Sale

under Section 2.2 may, in addition to such remedies as may be available by law, in equity or hereunder, require such Key Holder or selling Investor to purchase from such other Investor and Key Holder the type and number of shares of Capital Stock that such other Investor and Key Holder would have been entitled to sell to the Prospective Transferee under Section 2.2 had the Prohibited Transfer been effected pursuant to and in compliance with the terms of Section 2.2. The sale will be made on the same terms and subject to the same conditions as would have applied had the Key Holder or Investor not made the Prohibited Transfer, except that the sale (including, without limitation, the delivery of the purchase price) must be made within ninety (90) days after the other Investor or Key Holder learns of the Prohibited Transfer, as opposed to the timeframe proscribed in Section 2.2. Such Key Holder or Investor shall also reimburse each other Investor and Key Holder for any and all reasonable and documented out-of-pocket fees and expenses, including reasonable legal fees and expenses, incurred pursuant to the exercise or the attempted exercise of such other Investor's or Key Holder's rights under Section 2.2.

3. Exempt Transfers.

3.1. Exempted Transfers. Notwithstanding the foregoing or anything to the contrary herein, the provisions of Sections 2.1 and 2.2 shall not apply: (a) in the case of a Key Holder or Investor that is an entity, upon a transfer by such Key Holder or Investor to its stockholders, members, partners or other equity holders, (b) to a repurchase of Transfer Stock from a Key Holder by the Company at a price no greater than that originally paid by such Key Holder for such Transfer Stock and pursuant to an agreement containing vesting and/or repurchase provisions approved by a majority of the Board, (c) to a pledge of Transfer Stock that creates a mere security interest in the pledged Transfer Stock, provided that the pledgee thereof agrees in writing in advance to be bound by and comply with all applicable provisions of this Agreement to the same extent as if it were the Key Holder or Investor making such pledge, or (d) in the case of a Key Holder or Investor that is a natural person, upon a transfer of Transfer Stock by such Key Holder or Investor made for bona fide estate planning purposes, either during his or her lifetime or on death by will or intestacy to his or her spouse, child (natural or adopted), or any other direct lineal descendant of such Key Holder or Investor (or his or her spouse) (all of the foregoing collectively referred to as "family members"), or any other relative/person approved by unanimous consent of the Board, or any custodian or trustee of any trust, partnership or limited liability company for the benefit of, or the ownership interests of which are owned wholly by, such Key Holder, Investor or any such family members; provided that in the case of clause(s) (a), (c) or (d), the Key Holder or Investor, as applicable, shall deliver prior written notice to the other Investors of such pledge, gift or transfer and such shares of Transfer Stock shall at all times remain subject to the terms and restrictions set forth in this Agreement and such transferee shall, as a condition to such issuance, deliver a counterpart signature page to this Agreement as confirmation that such transferee shall be bound by all the terms and conditions of this Agreement as a Key Holder or Investor, as applicable (but only with respect to the securities so transferred to the transferee), including the obligations of a Key Holder or Investor with respect to Proposed Transfers of such Transfer Stock pursuant to Section 2; and provided, further, in the case of any transfer pursuant to clause (a) or (d) above, that such transfer is made pursuant to a transaction in which there is no consideration actually paid for such transfer.

3.2. Exempted Offerings. Notwithstanding the foregoing or anything to the contrary herein, the provisions of Section 2 shall not apply to the sale of any Transfer Stock (a) to the public in an offering pursuant to an effective registration statement under the Securities Act of 1933, as amended, or (b) pursuant to a Deemed Liquidation Event (as defined in the Company's Articles of Incorporation).

4. Legend. Each certificate representing shares of Transfer Stock held by the Key Holders or Investors or issued to any permitted transferee in connection with a transfer permitted by Section 3(a) hereof shall be endorsed with the following legend:

> THE SALE, PLEDGE, HYPOTHECATION OR TRANSFER OF THE SECURITIES REPRESENTED BY THIS CERTIFICATE IS SUBJECT TO, AND IN CERTAIN CASES PROHIBITED BY, THE TERMS AND CONDITIONS OF A CERTAIN RIGHT OF FIRST OFFER AND CO-SALE AGREEMENT BY AND AMONG THE STOCKHOLDER, THE CORPORATION AND CERTAIN OTHER HOLDERS OF STOCK OF THE CORPORATION. COPIES OF SUCH AGREEMENT MAY BE OBTAINED UPON WRITTEN REQUEST TO THE SECRETARY OF THE CORPORATION.

Each Key Holder and Investor agrees that the Company may instruct its transfer agent to impose transfer restrictions on the shares represented by certificates bearing the legend referred to in this Section 4 above to enforce the provisions of this Agreement, and the Company agrees to promptly do so. The legend shall be removed upon termination of this Agreement at the request of the holder.

5. Miscellaneous.

5.1. Term. This Agreement shall automatically terminate upon the earlier of (a) immediately prior to the consummation of the Company's qualified IPO and (b) the consummation of a Deemed Liquidation Event (as defined in the Company's Articles of Incorporation).

5.2. Stock Split. All references to numbers of shares in this Agreement shall be appropriately adjusted to reflect any stock dividend, split, combination or other recapitalization affecting the Capital Stock occurring after the date of this Agreement.

5.3. Ownership. Each Key Holder and Investor represents and warrants that such Key Holder or Investor is the sole legal and beneficial owner of the shares of Transfer Stock subject to this Agreement and that no other person or entity has any interest in such shares (other than a community property interest as to which the holder thereof has acknowledged and agreed in writing to the restrictions and obligations hereunder).

5.4. Notices. All notices and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given and received: (a) upon personal delivery to the party to be notified, (b) when sent by confirmed electronic mail or facsimile if sent during normal business hours of the recipient, and if not so confirmed, then on the next business day, (c) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (d) one (1) business day after deposit with a nationally recognized overnight courier, specifying next business day delivery, with written verification of receipt. All communications shall be sent to the respective parties at their address as set forth on Schedule A or Schedule B hereof, as the case may be, or to such email address, facsimile number or address as subsequently modified by written notice given in accordance with this Section 5.4. If notice is given to the Company, it shall be sent to Benefitfocus.com, Inc., 100 Benefitfocus Way, Charleston, SC 29492, Attention: Mason Holland and a copy (which shall not constitute notice) shall also be sent to Wyrick Robbins Yates & Ponton LLP, 4101 Lake Boone Trail, Raleigh, NC 27607, Attn: Donald R. Reynolds; and if notice is given to the Investors, a copy (which shall not constitute notice) shall also be given to Ropes & Gray LLP, 1211 Avenue of the Americas, New York, NY 10036, Attn: Kristopher D. Brown, and to Finn Dixon & Herling LLP, 177 Broad Street, Stamford, CT 06901, Attn: Michael Herling.

5.5. Entire Agreement. This Agreement (including the Exhibits and Schedules hereto) constitutes the full and entire understanding and agreement between the parties with respect to the subject matter hereof, and any other written or oral agreement relating to the subject matter hereof existing between the parties are expressly canceled.

5.6. Delays or Omissions. No delay or omission to exercise any right, power or remedy accruing to any party under this Agreement, upon any breach or default of any other party under this Agreement, shall impair any such right, power or remedy of such non-breaching or non-defaulting party nor shall it be construed to be a waiver of any such breach or default, or an acquiescence therein, or of or in any similar breach or default thereafter occurring; nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default theretofore or thereafter occurring. Any waiver, permit, consent or approval of any kind or character on the part of any party of any breach or default under this Agreement, or any waiver on the part of any party of any provisions or conditions of this Agreement, must be in writing and shall be effective only to the extent specifically set forth in such writing. All remedies, either under this Agreement or by law or otherwise afforded to any party, shall be cumulative and not alternative.

5.7. Amendment; Waiver and Termination. This Agreement may be amended, modified or terminated (in addition to pursuant to Section 5.1 above) and the observance of any term hereof may be waived (either generally or in a particular instance and either retroactively or prospectively) only by a written instrument executed by (a) the Company, (b) the Key Holders holding a majority of the shares of Transfer Stock then held by all of the Key Holders and (c) the holders of a majority of the shares of Common Stock issued or issuable upon conversion of the then outstanding shares of Preferred Stock held by the Investors (voting as a single class and on an as-converted basis). Any amendment, modification, termination or waiver so effected shall be binding upon the

Company, the Investors, the Key Holders and all of their respective successors and permitted assigns whether or not such party, assignee or other shareholder entered into or approved such amendment, modification, termination or waiver. Notwithstanding the foregoing, (i) this Agreement may not be amended, modified or terminated and the observance of any term hereunder may not be waived with respect to any Investor or Key Holder without the written consent of such Investor or Key Holder unless such amendment, modification, termination or waiver applies to all Investors and Key Holders, respectively, in the same fashion and (ii) the consent of the Key Holders shall not be required for any amendment, modification, termination or waiver if such amendment, modification, termination or waiver does not apply to the Key Holders, and (iii) Schedule A hereto may be amended by the Company from time to time in accordance with the Purchase Agreements to add information regarding Additional Purchasers (as defined in the Purchase Agreements) without the consent of the other parties hereto. The Company shall give prompt written notice of any amendment, modification or termination hereof or waiver hereunder to any party hereto that did not consent in writing to such amendment, modification, termination or waiver. No waivers of or exceptions to any term, condition or provision of this Agreement, in any one or more instances, shall be deemed to be, or construed as, a further or continuing waiver of any such term, condition or provision.

5.8. Assignment of Rights.

(a) The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and permitted assigns of the parties. Nothing in this Agreement, express or implied, is intended to confer upon any party other than the parties hereto or their respective successors and permitted assigns any rights, remedies, obligations, or liabilities under or by reason of this Agreement, except as expressly provided in this Agreement.

(b) Any successor or permitted assignee of any Key Holder, including any Prospective Transferee who purchases shares of Transfer Stock in accordance with the terms hereof, shall deliver to the Company and the Investors, as a condition to any transfer or assignment, a counterpart signature page hereto pursuant to which such successor or permitted assignee shall confirm their agreement to be subject to and bound by all of the provisions set forth in this Agreement that were applicable to the predecessor or assignor of such successor or permitted assignee.

(c) The rights of the Investors hereunder are not assignable without the Company’s written consent (which shall not be unreasonably withheld, delayed or conditioned), except by an Investor to any Affiliate, it being acknowledged and agreed that any such assignment shall be subject to and conditioned upon any such assignee’s delivery to the Company and the other Investors of a counterpart signature page hereto pursuant to which such assignee shall confirm their agreement to be subject to and bound by all of the provisions set forth in this Agreement that were applicable to the assignor of such assignee.

(d) Except in connection with an assignment by the Company by operation of law to the acquirer of the Company, the rights and obligations of the Company hereunder may not be assigned under any circumstances.

5.9. Severability. The invalidity or unenforceability of any provision hereof shall in no way affect the validity or enforceability of any other provision.

5.10. Additional Investors. Notwithstanding anything to the contrary contained herein, if the Company issues additional shares of the Company's Preferred Stock after the date hereof, any purchaser of such shares of Preferred Stock may become a party to this Agreement by executing and delivering an additional counterpart signature page to this Agreement and thereafter shall be deemed an "Investor" for all purposes hereunder.

5.11. Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York, regardless of the laws that might otherwise govern under applicable principles of conflicts of law.

5.12. Titles and Subtitles. The titles and subtitles used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement.

5.13. Counterparts; Facsimile. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement may also be executed and delivered by facsimile signature and in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

5.14. Aggregation of Stock. All shares of Capital Stock held or acquired by Affiliated entities or persons shall be aggregated together for the purpose of determining the availability of any rights under this Agreement and the exercise of any such rights may be allocated among such Affiliated entities in such manner as such Affiliated entities may determine in their discretion.

5.15. Specific Performance. In addition to any and all other remedies that may be available at law in the event of any breach of this Agreement, each Investor shall be entitled to specific performance of the agreements and obligations of the Company and the Key Holders hereunder and to such other injunction or other equitable relief as may be granted by a court of competent jurisdiction.

5.16. Additional Key Holders. In the event that after the date of this Agreement, the Company issues shares of Common Stock, or options to purchase Common Stock, to any employee or consultant, which shares or options would collectively constitute with respect to such employee or consultant (taking into account all shares of Common Stock, options and other purchase rights held by such employee or consultant) one half of one percent (0.5%) or more of the Company's then outstanding Common Stock (treating for this purpose all shares of Common Stock issuable upon exercise of or conversion of outstanding options, warrants or convertible securities, as if exercised or

converted), the Company shall, as a condition to such issuance, cause such employee or consultant to execute a counterpart signature page hereto as a Key Holder, and such person shall thereby be bound by, and subject to, all the terms and provisions of this Agreement applicable to a Key Holder.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Right of First Offer and Co-Sale Agreement as of the date first written above.

BENEFITFOCUS.COM, INC.

By: /s/ Mason R. Holland, Jr.
Name: Mason R. Holland, Jr.
Title: Chairman of the Board
Address: 100 Benefitfocus Way
Charleston, SC 29492

[Additional Signature Pages Follow]

KEY HOLDERS:
THE HOLLAND FAMILY TRUST

By: /s/ Mason R. Holland, Jr.

Name: Mason R. Holland, Jr.
Address: 301 Hammock Lane
Charleston, SC 29492

/s/ Shawn Jenkins

Name: Shawn Jenkins
Address: 313 W. Civitas Street
Mt. Pleasant, SC 29464

[Additional Signature Pages Follow]

SERIES A INVESTORS:

GS CAPITAL PARTNERS VI, L.P.
By: GS Advisors VI, L.L.C.
its General Partner

/s/ Peter J. Perrone
Name: Peter J. Perrone
Title: Vice President
Address:

GS CAPITAL PARTNERS VI OFFSHORE, L.P.
By: GS Advisors VI, L.L.C.
its General Partner

/s/ Peter J. Perrone
Name: Peter J. Perrone
Title: Vice President
Address:

GS CAPITAL PARTNERS VI GmbH & Co. KG, L.P.
By: GS Advisors VI, L.L.C.
its Managing Limited Partner

/s/ Peter J. Perrone
Name: Peter J. Perrone
Title: Vice President
Address:

GS CAPITAL PARTNERS VI PARALLEL, L.P.
By: GS Advisors VI, L.L.C.
its General Partner

/s/ Peter J. Perrone
Name: Peter J. Perrone
Title: Vice President
Address:

SERIES B INVESTORS:

OAK INVESTMENT PARTNERS XII, LIMITED PARTNERSHIP
By: Oak Associates XII, LLC, its General Partner

/s/ Ann H. Lamont
Name: Ann H. Lamont
Title: Managing Member

SCHEDULE A
INVESTORS

Name

GS CAPITAL PARTNERS VI PARALLEL, L.P.
85 Broad St., 10th Floor
New York, NY 10004

GS CAPITAL PARTNERS VI GmbH & Co. KG
85 Broad St., 10th Floor
New York, NY 10004

GS CAPITAL PARTNERS VI FUND, L.P.
85 Broad St., 10th Floor
New York, NY 10004

GS CAPITAL PARTNERS VI OFFSHORE FUND, L.P.
85 Broad St., 10th Floor
New York, NY 10004

OAK INVESTMENT PARTNERS XII, LIMITED PARTNERSHIP
One Gorham Road
Westport, CT 06880

SCHEDULE B
KEY HOLDERS

Names and Address

The Holland Family Trust
c/o Mason R. Holland, Jr.
301 Hammock Lane
Charleston, South Carolina 29492

Shawn Jenkins
313 W. Civitas Street
Mount Pleasant, South Carolina 29464

Exhibit 4.4

BENEFITFOCUS.COM, INC.

WARRANT FOR THE PURCHASE OF SHARES OF COMMON STOCK OF BENEFITFOCUS.COM, INC.

No. 001 **Warrant to Purchase 500,000 Shares**

THIS SECURITY HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACTR OF 1933, AS AMENDED, OR ANY STATE SECURITIES LAWS AND MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT IN COMPLIANCE THEREWITH.

FOR VALUE RECEIVED, BENEFITFOCUS.COM, INC., a South Carolina corporation (the "**Company**"), hereby certifies that AETNA INC., a Pennsylvania corporation (together with its successor or permitted assigns, the "**Holder**"), is entitled, subject to the provisions of this Warrant, to purchase from the Company, at the times specified herein, 500,000 fully paid and non-assessable shares of Common Stock of the Company, without par value per share (the "**Common Stock**"), at a purchase price per share equal to the Exercise Price (as hereinafter defined). The number of shares of Common Stock to be received upon the exercise of this Warrant for the Purchase of Shares of Common Stock (this "**Warrant**") and the price to be paid for a share of Common Stock are subject to adjustment from time to time as hereinafter set forth.

1. *Definitions*. The following terms, as used herein, have the following meanings:

"**Affiliate**" means, with respect to any Person, any other Person directly or indirectly controlling, controlled by or under common control with such Person. For the purpose of this definition, the term "**control**" (including, with correlative meanings, the terms "c**ontrolling**," "**controlled by**" and "**under common control with**"), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person through the ownership of voting securities.

"**Board of Directors**" means the board of directors of the Company.

"**Business Day**" means any day except a Saturday, Sunday or other day on which commercial banks in the City of New York are authorized by law to close.

"**Closing Date**" means the original date of issuance of this Warrant to the Holder.

"**Committee**" means a committee of the Board of Directors as defined in the amended and restated Benefitfocus.com, Inc. 2000 Stock Option Plan.

"**Corporate Transaction**" means (i) directly or indirectly, the sale, transfer or other disposition of all or substantially all of the Company's assets, (ii) a transaction or series of transactions (including, without limitation, by way of merger, consolidation or sale of securities) the result of which is that any Person who is not a stockholder as of the date hereof or an

Affiliate of any such stockholder or "group" (as defined for purposes of Section 13 of the Securities Exchange Act) becomes the "beneficial owner" (as such term is defined in Rule 13d-3 and Rule 13d-5 promulgated under the Securities Exchange Act), directly or indirectly through one or more intermediaries, of more than 50% of the voting power or economic interests in the Company or (iii) the liquidation or dissolution of the Company.

"**Co-Sale Rights Agreement**" means the Amended and Restated Right of First Offer and Co-Sale Agreement entered to among the Holder, the Company, the Investors and certain other parties thereto, effective as of the Closing Date, that provides for the terms and conditions governing the Holder's co-sale rights.

"**Current Market Price Per Common Share**" means, on any determination date, the average of the Daily Prices per share of Common Stock for the 20 consecutive trading days immediately prior to such date. If the Stock is not traded on an established securities market (as defined in Section 1.897-1(m) of the Treasury Regulations), the fair market value as determined in good faith by the Board of Directors or the Committee by application of a reasonable valuation method consistently applied and taking into consideration all available information material to the value of the Company; factors to be considered may include, as applicable, the value of tangible and intangible assets of the Company, the present value of future cash-flows of the Company, the market value of stock or equity interests in similar corporations which can be readily determined through objective means (such as through trading prices on an established securities market or an amount paid in an arm's length private transaction), and other relevant factors such as control premiums or discounts for lack of marketability. For purposes of the foregoing sentence, a valuation prepared in accordance with any of the methods set forth in Section 1.409A-l(b)(5)(iv)(B)(2) of the Treasury Regulations, as the same may be modified in any successor version of the Treasury Regulations, consistently used, shall be rebuttably presumed to result in a reasonable valuation. This paragraph is intended to comply with the definition of "fair market value" contained in Section 1.409A-1(b)(5)(iv) of the Treasury Regulations, as the same may be modified in any successor version of the Treasury Regulations, and should be interpreted consistently therewith. The references to Treasury Regulation Section 1.409A-1 are solely for purposes of establishing a reasonable valuation of Current Market Price Per Common Share. Notwithstanding these references, the Warrant is not a compensatory option.

"**Daily Price**" means (i) if the shares of Common Stock are then listed and traded on a national securities exchange, the closing price on the applicable day as reported by the principal national securities exchange on which such shares are listed and traded and (ii) if such shares are not then listed and traded on a national securities exchange, the closing price on such day as quoted by any regulated quotation service.

"**Exercise Price**" means $5.48 per Warrant Share, as the same may be adjusted from time to time as provided in this Warrant.

"**Expiration Time**" means (i) unless terminated pursuant to clause (ii), 5:00 p.m. New York City time on the tenth anniversary of the Closing Date, or (ii) (A) on the effective date of termination of the Relationship Agreement if the Holder terminates the Relationship Agreement pursuant to Section 4(B)(i) of the Relationship Agreement, (B) on the effective date of termination of the Relationship Agreement if the Company terminates the Relationship

Agreement pursuant to Section 3(B) of the Relationship Agreement or (C) immediately following the closing of a Corporate Transaction that results in a cancellation of the outstanding shares of Common Stock (unless the acquiring entity or successor corporation agrees to assume the obligations of the Company under the Warrant, as amended by mutual agreement of the Holder and the acquiring entity or successor corporation, in consideration of an agreement by the Holder to continue the Relationship Agreement).

"**Investors**" means GS CAPITAL PARTNERS VI, L.P., GS CAPITAL PARTNERS VI OFFSHORE, L.P., GS CAPITAL PARTNERS VI GmbH & Co. KG, L.P., and GS CAPITAL PARTNERS VI PARALLEL, L.P.

"**IPO**" means the Company's first underwritten public offering of its Common Stock under the Securities Act.

"**Person**" means individual, corporation, partnership, limited liability company, association, trust or other entity or organization, including a government or political subdivision or an agency or instrumentality thereof.

"**Relationship Agreement**" means, collectively, Schedules 8, 9 and 10 to the Master Business Agreement between the Company and Aetna Life Insurance Company dated November 28, 2006, as amended by Amendment No. 2 thereto, each effective as of November 1, 2009.

"**Securities Act**" means the Securities Act of 1933, as amended.

"**Securities Exchange Act**" means the Securities Exchange Act of 1934, as amended.

"**Stock Option Plan**" means the Company's Amended and Restated 2000 Stock Option Plan, as amended from time to time.

"**Warrant Shares**" means the shares of Common Stock deliverable upon exercise of this Warrant, as the same may be adjusted from time to time as provided in this Warrant.

2. *Exercise of Warrant.*

(a) The Holder is entitled to exercise this Warrant in whole or in part commencing on the earliest of:

(i) the date which is nine years and six months after the Closing Date;

(ii) subject to Section 16, on or after the third anniversary of the Closing Date if an IPO has occurred prior to the third anniversary of the Closing Date;

(iii) subject to Section 16, on or after the occurrence of an IPO if the IPO occurs on or after the third anniversary of the Closing Date;

(iv) immediately prior to the closing of a Corporate Transaction if such Corporate Transaction occurs on or after the second anniversary of the Closing Date;

(v) immediately prior to the closing of a Corporate Transaction that occurs on or after the first anniversary of the Closing Date and prior to the second anniversary of the Closing Date, but only with respect to two thirds of the Warrant Shares rounded up to the nearest whole share;

(vi) immediately prior to the closing of a Corporate Transaction that occurs prior to the first anniversary of the Closing Date, but only with respect to one half of the Warrant Shares rounded up to the nearest whole share;

(vii) immediately prior to the closing of a sale by one or more Investors that triggers a co-sale right in favor of the Holder under the Co-Sale Rights Agreement if such closing occurs on or after the third anniversary of the Closing Date;

(viii) immediately prior to the closing of a sale by one or more Investors that triggers a co-sale right in favor of the Holder under the Co-Sale Rights Agreement if such closing occurs prior to the third anniversary of the Closing Date, but only with respect to one half of the Warrant Shares rounded up to the nearest whole share that the Holder could sell under the Co-Sale Rights Agreement if such closing had occurred on or after the third anniversary of the Closing Date;

provided, however, that (A) if the Relationship Agreement has previously been terminated prior to the fifth anniversary of the Closing Date by the Holder pursuant to Section 4(B)(ii) of the Relationship Agreement, the aggregate exercise of the Warrant by the Holder shall be limited to up to one half of the Warrant Shares rounded up to the nearest whole share; (B) the Holder may exercise this Warrant under clauses (iv), (v), and (vi) only if the Holder sells, transfers or exchanges the Warrant Shares it receives upon such exercise on or promptly following the closing of the Corporate Transaction; and (C) in all such circumstances the Warrant is only exercisable prior to the Expiration Time; and

(b) To exercise this Warrant, the Holder shall (i) deliver to the Company (A) an executed Warrant Exercise Notice substantially in the form annexed to this Warrant and (B) the original executed Warrant together with an executed Warrant Exercise Subscription Form substantially in the form annexed to this Warrant and (ii) subject to Section 2(f), pay to Company an amount equal to the aggregate Exercise Price. Notwithstanding the immediately preceding sentence, the Holder may provide by written notice (a "**Conditional Exercise Notice**") delivered together with items (i)(A) and (B) to the effect that the exercise of this Warrant is conditioned upon the occurrence of either the closing of a Corporate Transaction, the closing of a sale by one or more Investors that

triggers a co-sale right in favor of the Holder under the Co-Sale Rights Agreement. In the event that the Holder delivers a Conditional Exercise Notice, the Holder shall make the payment referred to in (ii) above simultaneously with the closing of the event specified in the Conditional Exercise Notice. Upon the delivery of (i)(A) and (B) and payment of (ii), the Holder shall be deemed to be the holder of record of the Warrant Shares subject to such exercise as of the date of payment of (ii) or, in the case of the Conditional Exercise Notice, as of the date of the closing of the event specified in the Conditional Exercise Notice (subject to the Company's receipt of payment of the Exercise Price), notwithstanding that the stock transfer books of the Company shall then be closed or that certificates representing such Warrant Shares shall not then be actually delivered to the Holder.

(c) At the election of the Holder, the Exercise Price may be paid either by wire transfer of immediately available funds to an account designated by the Company or by certified or official bank check or bank cashier's check payable to the order of the Company. The Company shall pay any and all documentary, stamp or similar issue or transfer taxes payable in respect of the issue or delivery of the Warrant Shares; *provided* that the Company shall not be required to pay any taxes that may be payable in respect of any transfer involved in the issuance and delivery of the Warrant Shares in a name other than that of the Holder.

(d) If the Holder exercises this Warrant in part, this Warrant shall be surrendered by the Holder to the Company and a new Warrant of the same tenor and for the unexercised number of Warrant Shares shall be executed by the Company as promptly as reasonably practicable. The Company shall register the new Warrant in the name of the Holder or in such name or names of its transferee pursuant to Section 7 hereof as may be directed in writing by the Holder and deliver the new Warrant to the Person or Persons entitled to receive the same as promptly as reasonably practicable.

(e) Upon surrender of this Warrant in conformity with the foregoing provisions or, in the event of a Conditional Exercise Notice, upon the occurrence of the event specified in the Conditional Exercise Notice, the Company shall promptly transfer to the Holder of this Warrant appropriate evidence of ownership of the shares of Common Stock or other securities or property (including any money) to which the Holder is entitled, registered or otherwise placed in, or payable to the order of, the name or names of the Holder or its transferee pursuant to Section 7 as may be directed in writing by the Holder, and shall deliver such evidence of ownership and any other securities or property (including any money) to the Person or Persons entitled to receive the same, together with an amount in cash in lieu of any fraction of a share as provided in Section 6 below.

(f) In lieu of making a cash payment of the Exercise Price to exercise this Warrant pursuant to Section 2(a) (but in all other respects in accordance with the exercise procedure set forth in Section 2(a)), the Holder may elect to convert this Warrant into shares of Common Stock without paying the Exercise Price by reducing the number of Warrant Shares that the Holder would otherwise receive upon exercise of the Warrant, in which event the Company will issue to the Holder the number of shares of Common Stock equal to the amount resulting from the following equation:

$$X = \frac{(A - B)}{A} \times C$$ where:

X = the number of shares of Common Stock issuable upon exercise pursuant to this Section 2(f);

A = the Current Market Price Per Common Share on the date on which the Holder delivers a Warrant Exercise Notice to the Company or, in the event of a Conditional Exercise Notice on the date of the closing of the event specified in the Conditional Exercise Notice, in each case pursuant to Section 2(a);

B = the Exercise Price; and

C = the number of shares of Common Stock as to which this Warrant is being exercised pursuant to Section 2(a).

If the foregoing calculation results in zero or a negative number, then no shares of Common Stock shall be issued upon exercise pursuant to this Section 2(f). Notwithstanding the forgoing, the Holder shall not have the benefit of this Section 2(f) in connection with any exercise of the Warrant pursuant to paragraph 2(a)(i).

(g) If the Holder is exercising this Warrant pursuant to paragraph 2(a)(i) the Holder shall, as a condition of exercising this Warrant, agree to be bound by and subject to the terms of that certain Voting Agreement dated February 21, 2007 between the Company and certain of its shareholders, as such agreement may be amended from time to time.

3. *Representation and Warranties of the Holder.*

(a) The Holder has full power and authority to acknowledge and agree to this Warrant. This Warrant, when executed and delivered by the Holder, constitutes its valid and legally binding obligation, enforceable in accordance with its terms (subject to applicable bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other laws affecting creditors' rights generally and general principles of equity).

(b) This Warrant is issued to the Holder in reliance upon the Holder's representation to the Company, which by the Holder's acknowledgement and agreement to this Warrant, the Holder hereby confirms, that this Warrant and the Warrant Shares will be acquired for investment for the Holder's own account, not as a nominee or agent, and not with a view to the resale or distribution of any part thereof, and that the Holder has no present intention of selling, granting any participation in, or otherwise distributing the same. By acknowledging and agreeing to this Warrant, the Holder further represents that the Holder does not presently have any contract, undertaking, agreement or arrangement with any Person to sell, transfer or grant participations to such Person or to any third Person, with respect to the Warrant or any of the Warrant Shares.

(c) The Holder understands that the Warrant and the Warrant Shares have not been, and will not be, registered under the Securities Act, by reason of a specific exemption from the registration provisions of the Securities Act which depends upon, among other things, the bona fide nature of the investment intent and the accuracy of the Holder's representations as expressed herein. The Holder understands that the Warrant and the Warrant Shares are "restricted securities" under applicable Federal and state securities laws and that, pursuant to these laws, the Holder must hold the Warrant and the Warrant Shares indefinitely unless they are registered with the Securities and Exchange Commission and qualified by state authorities, or an exemption from such registration and qualification requirements is available. The Holder acknowledges that the Company has no obligation to register or qualify the Warrant or the Warrant Shares for resale. The Holder further acknowledges that if an exemption from registration or qualification is available, it may be conditioned on various requirements including, but not limited to, the time and manner of sale, the holding period for the Warrant and the Warrant Shares, and on requirements relating to the Company which are outside of the Holder's control, and which the Company is under no obligation and may not be able to satisfy.

(d) Certificates representing shares of Common Stock issued pursuant to this Warrant shall bear a legend substantially in the form of the legend set forth on the first page of this Warrant to the extent that and for so long as such legend is required pursuant to applicable securities laws.

(e) The Holder has duly executed the Co-Sale Rights Agreement which agreement is valid, binding and enforceable against the Holder.

4. *Representation and Warranties of the Company.* The Company hereby represents and warrants to the Holder as of the Closing Date as follows:

(a) The Company is a corporation duly organized, validly existing and in good standing under the laws of the State of South Carolina. The Company has all requisite corporate power and authority to execute and deliver this Warrant and to perform its obligations hereunder.

(b) This Warrant has been duly authorized, executed and delivered by the Company, and constitutes its valid and legally binding obligation, enforceable in accordance with its terms (subject to applicable bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other laws affecting creditors' rights generally and general principles of equity).

(c) Except as set forth in Schedule 4(c) to this Warrant, as of the Closing Date there are no issued, reserved for issuance or outstanding (i) shares of capital stock of or other voting securities of or ownership interests in the Company, (ii) securities of the Company convertible into or exchangeable for shares of capital stock or other voting securities of or ownership interests in the Company, (iii) warrants, calls, options or other

rights to acquire from the Company, or other obligation of the Company to issue, any capital stock or other voting securities or ownership interests in or any securities convertible into or exchangeable for capital stock or other voting securities or ownership interests in the Company or (iv) restricted shares, stock appreciation rights, performance units, contingent value rights, "phantom" stock or similar securities or rights that are derivative of, or provide economic benefits based, directly or indirectly, on the value or price of, any capital stock or voting securities of the Company.

5. *Reservation of Shares.* The Company hereby agrees that at all times there shall be reserved for issuance and delivery upon exercise of this Warrant such number of its authorized but unissued shares of Common Stock or other securities of the Company from time to time issuable upon exercise of this Warrant as will be sufficient to permit the exercise in full of this Warrant. All such shares shall be duly authorized and, when issued upon such exercise, shall be validly issued, fully paid and non-assessable, free and clear of all liens, security interests, charges and other encumbrances or restrictions on sale and free and clear of all preemptive rights.

6. *Fractional Shares.* No fractional shares or scrip representing fractional shares shall be issued upon the exercise of this Warrant, and in lieu of delivery of any such fractional share to which the Holder may be entitled upon any exercise of this Warrant, the Company shall pay to the Holder an amount in cash equal to such fraction multiplied by the Current Market Price Per Common Share on the Business Day immediately preceding the date on which the Holder delivers the Warrant Exercise Notice pursuant to Section 2(a).

7. *Transfer or Assignment of Warrant.*

(a) Each taker and holder of this Warrant, by taking or holding the same, consents and agrees that the registered holder hereof may be treated by the Company and all other Persons dealing with this Warrant as the absolute owner hereof for any purpose and as the Person entitled to exercise the rights represented hereby.

(b) This Warrant shall not be sold, pledged, or otherwise transferred, and the Company shall not recognize any such sale, pledge, or transfer, except (i) upon compliance with the conditions specified in this Warrant, which conditions are intended to ensure compliance with the provisions of the Securities Act and (ii) only with the prior written consent of the Company (*provided*, *however,* that no such consent shall be required (x) in any transaction in compliance with Rule 144 under the Securities Act on or after the IPO, (y) in any transaction in which the Holder transfers this Warrant to an Affiliate of the Holder or (z) after an IPO, in any transaction in which the Holder transfers this Warrant to a transferee in a private sale exempt from registration under the Securities Act; *provided* that each Affiliate transferee agrees in writing to be subject to the terms of this Section 7). A transferring Holder will cause any proposed purchaser, pledgee, or transferee of this Warrant held by the Holder to agree to take and hold the Warrant subject to the provisions and upon the conditions specified in this Warrant.

(c) Before any proposed sale, pledge, or transfer of this Warrant, unless there is in effect a registration statement under the Securities Act covering the proposed transaction, the Holder shall give notice to the Company of the Holder's intention to effect such sale, pledge, or transfer. Each such notice shall describe the manner and circumstances of the proposed sale, pledge, or transfer in sufficient detail and, if reasonably requested by the Company, shall be accompanied at the Holder's expense by either (i) a written opinion of legal counsel who shall, and whose legal opinion shall, be reasonably satisfactory to the Company, addressed to the Company, to the effect that the proposed transaction may be effected without registration under the Securities Act; (ii) a "no action" letter from the U.S. Securities and Exchange Commission (the "**SEC**") to the effect that the proposed sale, pledge, or transfer of such securities without registration will not result in a recommendation by the staff of the SEC that action be taken with respect thereto; or (iii) any other evidence reasonably satisfactory to counsel to the Company to the effect that the proposed sale, pledge, or transfer of the securities may be effected without registration under the Securities Act, whereupon the Holder shall be entitled to sell, pledge, or transfer such securities in accordance with the terms of the notice given by the Holder to the Company. The Company will not require such a legal opinion or "no action" letter (x) in any transaction in compliance with Rule 144 under the Securities Act on or after the IPO, (y) in any transaction in which the Holder transfers this Warrant to an Affiliate of the Holder or (z) after an IPO, in any transaction in which the Holder transfers this Warrant to a transferee in a private sale exempt from registration under the Securities Act; *provided* that each Affiliate transferee agrees in writing to be subject to the terms of this Section 7. Each certificate or instrument evidencing the securities transferred as above provided shall bear, except if such transfer is made pursuant to SEC Rule 144, the appropriate restrictive legend referenced in Section 3 above, except that such certificate shall not bear such restrictive legend if, in the opinion of counsel for the Holder and the Company, such legend is not required in order to establish compliance with any provisions of the Securities Act.

(d) Upon a valid exchange, transfer or assignment of the Warrant and surrender of this Warrant to the Company, together with the attached Warrant Assignment Form duly executed, the Company shall, as promptly as practicable and without charge, execute and deliver a new Warrant in the name of the assignee or assignees named in such Warrant Assignment Form and, if the Holder's entire interest is not being assigned, in the name of the Holder and this Warrant shall promptly be canceled.

8. *Loss or Destruction of Warrant.* Upon receipt by the Company of evidence satisfactory to it (in the exercise of its reasonable discretion) of the loss, theft, destruction or mutilation of this Warrant, and (in the case of loss, theft or destruction) of reasonably satisfactory indemnification, and upon surrender and cancellation of this Warrant, if mutilated, the Company shall execute and deliver a new Warrant of like tenor and date.

9. *Anti-dilution Provisions.*

(a) (i) If the outstanding shares of Common Stock are changed into or exchanged for a different number of shares of Common Stock by reason of a merger, consolidation, reorganization, recapitalization, reclassification, combination or exchange of shares, or stock split or stock dividend (other than an event covered by Section 9(c) below),

(x) the number of Warrant Shares issuable upon exercise of this Warrant thereafter shall be proportionately adjusted so that the exercise of this Warrant after such event shall entitle the Holder to receive the aggregate number of shares of Common Stock that such Holder would have received had such Holder exercised this Warrant immediately prior to such event and after giving effect to such event; and

(y) the Exercise Price thereafter shall be adjusted to equal the product of the Exercise Price in effect immediately prior to such event multiplied by a fraction (A) the numerator of which shall be the number of Warrant Shares issuable upon the exercise of this Warrant immediately prior to such event and (B) the denominator of which shall be the number of Warrant Shares issuable upon the exercise of this Warrant immediately following such event.

(ii) In case the Company shall at any time after the date hereof issue any shares of its capital stock in a reclassification of Common Stock other than in an event covered by Section 9(c) below (including any such reclassification in connection with a consolidation or merger in which the Company is the continuing corporation), then, as a condition to such reclassification, lawful provisions shall be made, and duly executed documents evidencing the same from the Company or its successor shall be delivered to the Holder, so that the Holder shall have the right at any time that the Warrant is exercisable to purchase, at a total price equal to that payable upon exercise of the Warrant, the kind and amount of capital stock receivable in connection with such recapitalization by a record holder of the same number of shares of Common Stock as were purchasable by the Holder immediately prior to such recapitalization.

Any adjustment made pursuant to this Section 9(a) shall become effective immediately after the applicable record date in the case of a dividend or distribution and immediately after the applicable effective date in the case of a subdivision, split, combination or reclassification. For the avoidance of doubt, notwithstanding Section 9(f), any adjustment made pursuant to this Section 9(a) shall be mandatory and shall not be subject to the discretion of the Company or the Committee.

(b) If any spin-off, spin-out or other distribution of assets materially affects the price of the Common Stock, then the Committee may, but need not, make any or all of the adjustments specified in subsections (a)(i)(x) and (a)(i)(y) above; *provided* that if the Company provides for an anti-dilution adjustment to the holders of the Company's options issued pursuant to the Stock Option Plan or any subsequent equity plan of the Company (the "**Company Stock Options**") as a result of any spin-off, spin-out or other distribution of assets that materially affects the price of the Common Stock, then in such event the Company shall make a comparable adjustment in the Exercise Price or the number of Warrant Shares, or both.

(c) If the Company shall be a party to any Corporate Transaction in which it does not survive, the Committee, in its discretion, may, but shall not be required to notify the Holder that the Warrant shall be assumed by the successor corporation or substituted on an equitable basis with options or warrants issued by such successor corporation.

(d) The adoption of a plan of dissolution or liquidation of the Company shall, notwithstanding other provisions hereof, cause this Warrant to terminate to the extent not exercised prior to the adoption of the plan of dissolution or liquidation by the shareholders, *provided* that, notwithstanding other provisions hereof, the Company may declare this Warrant to be exercisable at any time on or before the fifth Business Day following such adoption, notwithstanding the provisions of this Warrant regarding exercisability; *provided further* that if the Company declares the Company Stock Options to be exercisable at any time on or before the fifth Business Day following such adoption, the Company shall make a comparable declaration with respect to the Warrant.

(e) If the Company (i) issues shares of Common Stock (or options, rights, warrants or other securities convertible into or exchangeable or exercisable for shares of Common Stock (collectively, "**Convertible Securities**")), other than pursuant to the Exercise of this Warrant, at a price per share less than the Current Market Price Per Common Share or takes any other action which reduces the aggregate value of the Warrant (a "**Dilution Event**"), and (ii) (A) the Company provides for an anti-dilution adjustment to the holders of the Company Stock Options in connection with the Dilution Event, then the Company shall make a comparable adjustment in the Exercise Price or the number of Warrant Shares, or both, or (B) the Company does not provide for an anti-dilution adjustment to the holders of the Company Stock Options at the time of the Dilution Event, but conducts one or more subsequent transactions that have the effect of partially or completely compensating the holders of the Company Stock Options for the reduction in the aggregate value of the Company Stock Options as a result of the Dilution Event (including but not limited to by issuing additional common stock or option grants or other compensation to the holders of the Company Stock Options), then the Company shall provide comparable compensation to the Holders; *provided*, *however,* that for purposes of Section 9(e)(i), no issuance of Common Stock pursuant to the exercise or conversion of a Convertible Security shall be deemed to be a Dilution Event if at the time of such issuance, the exercise or conversion price for such Convertible Security at the time of issuance was at least equal to the Current Market Price Per Common Share at such time of issuance, and *provided further*, that the granting of additional stock options or the payment of other compensation to the holders of the Company Stock Options in the normal course of the administration of the Stock Option Plan or any subsequent equity plan of the Company or other employee compensation plans of the Company, either consistently with the Company's past practice or in light of the then current business considerations, shall not be deemed to be (x) an anti-dilution adjustment to the holders of the Company Stock Options in connection with the Dilution Event under (A) or (y) a transaction that has the effect of compensating the holders of the Company Stock Options for the reduction in the aggregate value of the Company Stock Options as a result of the Dilution Event under (B).

(f) The adjustments described in Section 9(a) through Section 9(e), and the manner of their application, shall be determined solely by the Company, and any such adjustment may provide for the elimination of fractional share interests. The adjustments required under this Section 9 shall apply to any successors of the Company and shall be made regardless of the number or type of successive events requiring such adjustments.

(g) Upon the occurrence of each adjustment to the Exercise Price and/or the number of Warrant Shares issuable upon exercise of this Warrant, the Company shall promptly compute such adjustment in accordance with the terms hereof and furnish to the Holder a certificate setting forth such adjustment and showing in reasonable detail the facts upon which such adjustment is based.

(h) If the Company shall propose at any time to effect any of the events described in Section 9(a) through Section 9(e) above that would result in an adjustment to the Exercise Price, the number of Warrant Shares issuable upon exercise of this Warrant or a change in the type of securities or property to be delivered upon exercise of this Warrant, the Company shall send notice to the Holder in the manner set forth in Section 10. In the case of a dividend or other distribution, such notice shall be sent at least 10 days prior to the applicable record date and shall specify such record date and the date on which such dividend or other distribution is to be made. In any other case, such notice shall be sent at least 15 days prior to the effective date of any such event and shall specify such effective date. In all cases, such notice shall specify such event in reasonable detail, including the effect on the Exercise Price and the number, kind or class of securities or other property issuable upon exercise of this Warrant. Failure to furnish any certificate pursuant to Section 9(g) or to give any notice pursuant to this Section 9(h) or any defect in any such certificate or notice, shall not affect the legality or the validity of the adjustment of the Exercise Price and/or the number of securities, cash and/or other property issuable upon exercise of this Warrant, or any transaction giving rise thereto.

10. *Notices.* Any notice, demand or delivery authorized by this Warrant shall be in writing and shall be given to the Holder or the Company, as the case may be, at its address (or facsimile number) set forth below, or such other address (or facsimile number) as shall have been furnished to the party giving or making such notice, demand or delivery:

If to the Company:

Benefitfocus.com, Inc.
100 Benefitfocus Way
Charleston, SC 29492
Facsimile: 843-849-9298
Attention: Andy Howell

If to the Holder:

Aetna Inc.
151 Farmington Avenue
Hartford, Connecticut 06156
Facsimile: 860-273-0603
Attention: Chief Financial Officer

with a copy to:

Aetna Inc.
151 Farmington Avenue
Hartford, Connecticut 06156
Facsimile: 860-273-8340
Attention: General Counsel

Each such notice, demand or delivery shall be deemed received on the date of receipt by the recipient thereof if received prior to 5:00 p.m. in the place of receipt and such day is a Business Day. Otherwise, any such notice, demand or delivery shall be deemed not to have been received until the next succeeding Business Day.

11. *Rule 144 Information*. Following an IPO, the Company covenants that it will use its reasonable efforts to timely file all reports and other documents required to be filed by it under the Securities Act and the Securities Exchange Act and the rules and regulations promulgated by the SEC thereunder, and it will use reasonable efforts to take such further action as any Holder may reasonably request, in each case to the extent required from time to time to enable the Holder to, if permitted by the terms of this Warrant, sell this Warrant or the Warrant Shares without registration under the Securities Act within the limitation of the exemptions provided by (A) Rule 144 under the Securities Act, as such rule may be amended from time to time, or (B) any successor rule or regulation hereafter adopted by the SEC. Upon the written request of any Holder, the Company will deliver to the Holder a written statement that it has complied with such requirements.

12. *Rights of the Holder.*

(a) Prior to any exercise of this Warrant, the Holder shall not, by virtue hereof, be entitled to any rights of a shareholder of the Company, including, without limitation, the right to vote, to receive dividends or other distributions, to exercise any preemptive right or to receive any notice of meetings of shareholders or any notice of any proceedings of the Company except as may be specifically provided for herein.

(b) Notwithstanding paragraph 12(a), the Holder shall be entitled to receive annual and quarterly financial information in accordance with the terms of the Relationship Agreement, as well as such other information as the Company generally distributes to holders of Common Stock.

13. ***GOVERNING LAW.*** **THIS WARRANT AND ALL RIGHTS ARISING HEREUNDER SHALL BE CONSTRUED AND DETERMINED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF NEW YORK, AND THE PERFORMANCE THEREOF SHALL BE GOVERNED AND ENFORCED IN ACCORDANCE WITH SUCH LAWS.**

14. *Jurisdiction; Venue; Service of Process.* Each party hereby irrevocably and unconditionally submits to the exclusive jurisdiction of any state or federal court sitting in New York City, Borough of Manhattan, over any suit, action or proceeding arising out of or relating

to this Warrant. Each party hereby agrees that service of any process, summons, notice or document by U.S. registered mail addressed to such party shall be effective service of process for any such suit, action or proceeding brought against such party in any such court. Each party hereby irrevocably and unconditionally waives any objection to the laying of venue of any such suit, action or proceeding brought in any such court and any claim that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum. Each party agrees that a final judgment in any such suit, action or proceeding brought in any such court shall be conclusive and binding upon the party and may be enforced in any other courts to whose jurisdiction the party is or may be subject by suit upon such judgment.

15. *Amendments; Waivers.* Any provision of this Warrant may be amended or waived if, and only if, such amendment or waiver is in writing and signed, in the case of amendment, by the Holder and the Company, or in the case of a waiver, by the party against whom the waiver is to be effective. No failure or delay by either party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law.

16. "*Market Stand-off*" *Agreement.* The Holder hereby agrees that it will not, without the prior written consent of the managing underwriter, during the period commencing on the date of the final prospectus relating to the IPO and ending on the date specified by the Company and the managing underwriter (such period not to exceed one hundred eighty (180) days), (i) lend; offer; pledge; sell; contract to sell; sell any option or contract to purchase; purchase any option or contract to sell; grant any option, right, or warrant to purchase; or otherwise transfer or dispose of, directly or indirectly, any shares of Common Stock or any securities convertible into or exercisable or exchangeable (directly or indirectly) for Common Stock held immediately before the effective date of the registration statement for such offering, or (ii) enter into any swap or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of such securities, whether any such transaction described in clause (i) or (ii) above is to be settled by delivery of Common Stock or other securities, in cash, or otherwise. The foregoing provisions of this Section 16 shall apply only to the IPO, shall not apply to the sale of any shares to an underwriter pursuant to an underwriting agreement, and shall be applicable to the Holder only if all officers, directors, and stockholders of the Company individually owning more than one percent (1%) of the Company's outstanding Common Stock (after giving effect to conversion into Common Stock of all outstanding Series A Preferred Stock) are subject to the same restrictions. The underwriters in connection with such registration are intended third-party beneficiaries of this Section 16 and shall have the right, power, and authority to enforce the provisions hereof as though they were a party hereto. The Holder further agrees to execute such agreements as may be reasonably requested by the underwriters in connection with such registration that are consistent with this Section 16 or that are necessary to give further effect thereto. Any discretionary waiver or termination of the restrictions of any or all of such agreements by the Company or the underwriters shall apply pro rata to the Holder and all parties subject to such agreements, based on the number of shares subject to such agreements.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Company has duly caused this Warrant to be signed by its duly authorized officer and to be dated as of November 23, 2009.

BENEFITFOCUS.COM, INC.

By: /s/ Mason R. Holland Jr.
Name: Mason R. Holland Jr.
Title: Chairman

Acknowledged and Agreed:
AETNA INC.

By: /s/ Mark L. Klein
Name: Mark L. Klein
Title: Vice President, Corporate Development

SCHEDULE 4(c)

Benefitfocus.com, Inc.

Equity Summary

as of 10/31/2009

Common Stock	7,216,212
Preferred Stock (converts to common 1:1)	14,055,851
Issued and Outstanding Stock	21,272,063
Stock Option Pool	4,044,525
Total Fully Diluted Shares	25,316,588

WARRANT EXERCISE NOTICE

(To be delivered prior to exercise of the Warrant
by execution of the Warrant Exercise Subscription Form)

To: Benefitfocus.com, Inc.

The undersigned hereby notifies you of its intention to exercise the Warrant to purchase shares of Common Stock, without par value per share, of Benefitfocus.com, Inc. The undersigned intends to exercise the Warrant to purchase _____ shares (the "**Warrant Shares**") at $_____ per Share (the Exercise Price currently in effect pursuant to the Warrant). As indicated below, the undersigned intends to pay the aggregate Exercise Price for the Warrant Shares in by wire transfer of immediately available funds or by certified or official bank or bank cashier's check [or by reduction in the number of Warrant Shares that would otherwise be issued upon exercise pursuant to Section [_____] or the Warrant].

Date: _____

_____
(Signature of Owner)

_____
(Street Address)

_____
(City) (State) (Zip Code)

Payment: ☐ $_____ wire transfer of immediately available funds

☐ $_____ certified or official bank or bank cashier's check

☐ Reduction in number of Warrant Shares

WARRANT EXERCISE SUBSCRIPTION FORM

(To be executed only upon exercise of the Warrant
after delivery of Warrant Exercise Notice)

To: Benefitfocus.com, Inc.

The undersigned irrevocably exercises the Warrant for the purchase of _____ shares (the "**Warrant Shares**") of Common Stock, without par value per share, of Benefitfocus.com, Inc. (the "**Company**") at $_____ per Share (the Exercise Price currently in effect pursuant to the Warrant) and herewith makes payment of $_____ (such payment being made as specified in the undersigned's previously-delivered Warrant Exercise Notice), all on the terms and conditions specified in the within the Warrant, surrenders this Warrant and all right, title and interest therein to the Company and directs that the Warrant Shares deliverable upon the exercise of this Warrant be registered or placed in the name and at the address specified below and delivered thereto.

Date: _____

_____
(Signature of Owner)

_____
(Street Address)

_____
(City) (State) (Zip Code)

Securities and/or check to be issued to: _____

Please insert social security or identifying number: _____

Name: _____

Street Address: _____

City, State and Zip Code: _____

Any unexercised portion of the Warrant evidenced by the within Warrant to be issued to:

Please insert social security or identifying number: _____

Name: _____

Street Address: _____

City, State and Zip Code: _____

WARRANT ASSIGNMENT FORM

Dated _____, ____

FOR VALUE RECEIVED, _____ hereby sells, assigns and transfers unto _____ (the "**Assignee**"),

(please type or print in block letters)

_____

(insert address)

its right to purchase up to shares of Common Stock represented by this Warrant and does hereby irrevocably constitute and appoint _____ _____ Attorney, to transfer the same on the books of the Company with full power of substitution in the premises.

Signature _____

AMENDED AND RESTATED VOTING AGREEMENT

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AMENDED AND RESTATED VOTING AGREEMENT

THIS AMENDED AND RESTATED VOTING AGREEMENT (the "**Agreement**") is made and entered into as of this 25th day of August 2010, by and among Benefitfocus.com, Inc., a South Carolina corporation (the "**Company**"), each holder of the Company's Series A Convertible Preferred Stock, without par value per share ("**Series A Preferred Stock**") listed on Schedule A (the "**Series A Investors**"), and each holder of the Company's Series B Convertible Preferred Stock, without par value per share ("**Series B Preferred Stock,**" together with the Series A Preferred Stock, the "**Preferred Stock**") listed on Schedule A (the "**Series B Investors**," and together with the Series A Investors and any subsequent investors, or transferees, who become parties hereto as "Investors" pursuant to Sections 7.1(a) and 7.2 below, the "**Investors**") and those certain stockholders of the Company and holders of options to acquire shares of the capital stock of the Company listed on Schedule B (together with any subsequent stockholders or option holders, or any transferees, who become parties hereto as "Key Holders" pursuant to Sections 7.1(b) and 7.2 below, the "**Key Holders**", and together with the Investors, the "**Stockholders**").

RECITALS

A. On February 7, 2007, the Company and the Series A Investors entered into a Series A Preferred Stock Purchase Agreement (the "**Series A Purchase Agreement**"), providing for the sale of shares of the Company's Series A Preferred Stock, and in connection with that agreement also entered into a Voting Agreement (the **"Prior Agreement"**).

B. The Company and the Series B Investors have entered into a Series B Preferred Stock Purchase Agreement (the "**Series B Purchase Agreement**," together with the Series A Purchase Agreement, the "**Purchase Agreements**"), and in connection with the Series B Purchase Agreement, the parties desire to amend and restate the Prior Agreement to provide the Investors with the right, among other rights, to elect certain members of the board of directors of the Company (the "**Board**") in accordance with the terms of this Agreement.

C. The undersigned, which includes the requisite parties required to amend the prior agreement, wish to amend and restate the Prior Agreement as set forth herein.

D. The Amended and Restated Articles of Incorporation of the Company (the "**Restated Articles**") provides that (a) the holders of record of the shares of the Company's Series A Preferred Stock, exclusively and as a separate class, shall be entitled to elect two (2) directors of the Company (the "**Series A Directors**"); (b) the holders of record of the shares of the Company's Series B Preferred Stock, exclusively and as a separate class, shall be entitled to elect one (1) director of the Company (the "**Series B Director**"); (c) the holders of record of the shares of common stock of the Company, no par value ("**Common Stock**"), exclusively and as a separate class, shall be entitled to elect two (2) directors of the Company (the "**Common Stock Directors**," and collectively with the Series A Directors and the Series B Director, the "**Shareholder Directors**") ; and (c) the holders of record of the shares of Common Stock and of any other class or series of voting stock (including Preferred Stock), exclusively and voting together as a single class, shall be entitled to elect the balance of the total number of directors of the Company.

E. The parties also desire to enter into this Agreement to set forth their agreements and understandings with respect to how shares of the Company's capital stock held by them will be voted on, or tendered in connection with, an acquisition of the Company and an increase in the number of shares of Common Stock required to provide for the conversion of the Company's Preferred Stock.

NOW, THEREFORE, the parties agree as follows:

1. Voting Provisions Regarding Board of Directors.

1.1. Size of the Board. Each Stockholder agrees to vote, or cause to be voted, all Shares (as defined below) owned by such Stockholder, or over which such Stockholder has voting control, from time to time and at all times, in whatever manner as shall be necessary to ensure that the size of the Board shall be set and remain at six (6) directors; provided that the Shareholder Directors may, in their sole respective discretion, unanimously vote to expand the size of the Board to seven (7) directors, with such new directors being elected in accordance with Section 1.2(d) below . For purposes of this Agreement, the term "**Shares**" shall mean and include any securities of the Company the holders of which are entitled to vote for members of the Board, including without limitation, all shares of Common Stock and Preferred Stock, by whatever name called, now owned or subsequently acquired by a Stockholder, however acquired, whether through stock splits, stock dividends, reclassifications, recapitalizations, similar events or otherwise.

1.2. Board Composition. Each Stockholder agrees to vote, or cause to be voted, all Shares owned by such Stockholder, or over which such Stockholder has voting control, from time to time and at all times, in whatever manner as shall be necessary to ensure that at each annual or special meeting of stockholders at which an election of directors is held or pursuant to any written consent of the stockholders, the following persons shall be elected to the Board:

(a) As long as The Goldman Sachs Group, Inc. and its Affiliates (defined below) (collectively, "**Goldman Sachs**") holds not fewer than 10% of the fully diluted equity interest in the Company, two (2) individuals designated by GS Capital Partners VI Parallel, L.P. ("**GS Fund VI**"), which individuals shall initially be Raheel Zia and Joseph DiSabato;

(b) As long as Oak Investment Partners and its Affiliates (collectively, "**Oak**") holds not fewer than 5% of the fully diluted equity interest in the Company, one (1) individual designated by Oak, which individual shall initially be Ann H. Lamont;

(c) As long as each of Mason Holland and Shawn Jenkins, including in each case their respective Affiliates, holds Shares equal to or in excess of the Minimum Ownership Threshold (defined below), Mason Holland and Shawn Jenkins;

(d) Any additional directors in excess of the five (5) Shareholder Directors elected pursuant to Sections 1.2(a), (b) and (c), each of which director shall not otherwise be an Affiliate of the Company or of any Investor, who will be nominated by GS Fund VI, if it satisfies the stock ownership requirement of Section 1.2(a), and Oak, if it satisfies

the stock ownership requirement of Section 1.2(b), and reasonably approved by each of Mason Holland and Shawn Jenkins; and

(e) To the extent that any of clauses (a) through (d) above shall not be applicable pursuant to their respective terms, any member of the Board who would otherwise have been designated in accordance with the terms thereof shall instead be voted upon by all the stockholders of the Company entitled to vote thereon in accordance with, and pursuant to, the Company's Restated Articles.

For purposes of this Agreement, an individual, firm, corporation, partnership, association, limited liability company, trust or any other entity (collectively, a "**Person**") shall be deemed an "**Affiliate**" of another Person who, directly or indirectly, controls, is controlled by or is under common control with such Person, including, without limitation, any general partner, officer, director, or manager of such Person and any venture capital fund now or hereafter existing that is controlled by one or more general partners of or shares the same management company with such Person.

1.3. Failure to Designate a Board Member. In the absence of any designation from the persons or groups with the right to designate a director as specified above, the director previously designated by them and then serving shall be reelected if still eligible to serve as provided herein.

1.4. Removal of Board Members. Each Stockholder also agrees to vote, or cause to be voted, all Shares owned by such Stockholder, or over which such Stockholder has voting control, from time to time and at all times, in whatever manner as shall be necessary to ensure that:

(a) for so long as Goldman Sachs holds at least 10% of the fully diluted equity interest in the Company, no director elected pursuant to Section 1.2(a) of this Agreement may be removed from office unless such removal is directed or approved by GS Fund VI;

(b) for so long as Oak holds at least 5% of the fully diluted equity interest in the Company, no director elected pursuant to Section 1.2(b) of this Agreement may be removed from office unless such removal is directed or approved by Oak;

(c) for so long as each of Shawn Jenkins and Mason Holland, including in each case their respective Affiliates, continue to hold at least 50% of the Common Stock held by them immediately after the consummation of the transactions contemplated by the Series B Purchase Agreement, including the consummation of the redemption by the Company of Common Stock held by them or their Affiliates (the "**Minimum Ownership Threshold**"), neither Shawn Jenkins nor Mason Holland may be removed from office unless such removal is directed or approved by Shawn Jenkins and Mason Holland, for each of their respective positions; and

(d) any vacancies created by the resignation, removal or death of a director elected pursuant to Sections 1.2 or 1.3 shall be filled pursuant to the provisions of this Section 1.

All Stockholders agree to execute any written consents required to perform the obligations of this Agreement, and the Company agrees at the request of any party entitled to designate directors to call a special meeting of stockholders for the purpose of electing directors.

1.5. No Liability for Election of Recommended Directors. No party, nor any Affiliate of any such party, shall have any liability as a result of designating a person for election as a director for any act or omission by such designated person in his or her capacity as a director of the Company, nor shall any party have any liability as a result of voting for any such designee in accordance with the provisions of this Agreement.

2. Vote to Increase Authorized Common Stock. Each Stockholder agrees to vote or cause to be voted all Shares owned by such Stockholder, or over which such Stockholder has voting control, from time to time and at all times, in whatever manner as shall be necessary to increase the number of authorized shares of Common Stock from time to time to ensure that there will be sufficient shares of Common Stock available for conversion of all of the shares of Preferred Stock outstanding at any given time.

3. Drag-Along Right.

3.1. Definitions. A "**Sale of the Company**" shall mean either: (a) a transaction or series of related transactions in which a Person, or a group of related Persons, acquires from stockholders of the Company shares representing more than fifty percent (50%) of the outstanding voting power of the Company (a "**Stock Sale**"); or (b) a transaction that qualifies as a "**Deemed Liquidation Event**" as defined in the Restated Articles.

3.2. **Actions to be Taken**. In the event that (i) at least a majority of the holders of Preferred Stock, voting together as a single class on an as-converted basis, and (ii) Key Holders representing two-thirds of the fully diluted equity of all Key Holders (the "**Selling Stockholders**") approve a Sale of the Company in writing, specifying that this Section 3 shall apply to such transaction, then each Stockholder hereby agrees:

(a) if such transaction requires stockholder approval, with respect to all Shares that such Stockholder owns or over which such Stockholder otherwise exercises voting power, to vote (in person, by proxy or by action by written consent, as applicable) all Shares in favor of, and adopt, such Sale of the Company (together with any related amendment to the Restated Articles required in order to implement such Sale of the Company) and to vote in opposition to any and all other proposals that could delay or impair the ability of the Company to consummate such Sale of the Company;

(b) if such transaction is a Stock Sale, to sell the same proportion of shares of capital stock of the Company beneficially held by such Stockholder as is being sold by the Selling Stockholders to the Person to whom the Selling Stockholders propose to sell their Shares, and, except as permitted in Section 3.3 below, on the same terms and conditions as the Selling Stockholders;

(c) to execute and deliver all related documentation and take such other action in support of the Sale of the Company as shall reasonably be requested by the Company or the Selling Stockholders in order to carry out the terms and provision of this Section 3,

including without limitation executing and delivering instruments of conveyance and transfer, and any purchase agreement, merger agreement, indemnity agreement, escrow agreement, consent, waiver, governmental filing, share certificates duly endorsed for transfer (free and clear of impermissible liens, claims and encumbrances) and any similar or related documents;

(d) not to deposit, and to cause their Affiliates not to deposit, except as provided in this Agreement, any Shares of the Company owned by such party or Affiliate in a voting trust or subject any Shares to any arrangement or agreement with respect to the voting of such Shares, unless specifically requested to do so by the acquiror in connection with the Sale of the Company;

(e) to refrain from exercising any dissenters' rights or rights of appraisal under applicable law at any time with respect to such Sale of the Company; and

(f) if the consideration to be paid in exchange for the Shares pursuant to this Section 3 includes any securities and due receipt thereof by any Stockholder would require under applicable law (x) the registration or qualification of such securities or of any person as a broker or dealer or agent with respect to such securities or (y) the provision to any Stockholder of any information other than such information as a prudent issuer would generally furnish in an offering made solely to "accredited investors" as defined in Regulation D promulgated under the Securities Act of 1933, as amended, the Company may cause to be paid to any such Stockholder in lieu thereof, against surrender of the Shares which would have otherwise been sold by such Stockholder, an amount in cash equal to the fair value (as determined in good faith by the Company) of the securities which such Stockholder would otherwise receive as of the date of the issuance of such securities in exchange for the Shares.

3.3. Exceptions. Notwithstanding the forgoing, a Stockholder will not be required to comply with Section 3.2 above in connection with any proposed Sale of the Company (the "**Proposed Sale**") unless:

(a) any representations and warranties to be made by such Stockholder in connection with the Proposed Sale are limited to representations and warranties related to authority, ownership and the ability to convey title to such Shares, including but not limited to representations and warranties that (i) the Stockholder holds all right, title and interest in and to the Shares such Stockholder purports to hold, free and clear of all liens and encumbrances, (ii) the obligations of the Stockholder in connection with the transaction have been duly authorized, if applicable, (iii) the documents to be entered into by the Stockholder have been duly executed by the Stockholder and delivered to the acquirer and are enforceable against the Stockholder in accordance with their respective terms and (iv) neither the execution and delivery of documents to be entered into in connection with the transaction, nor the performance of the Stockholder's obligations thereunder, will cause a breach or violation of the terms of any agreement, law or judgment, order or decree of any court or governmental agency;

(b) the Stockholder shall not be liable for the inaccuracy of any representation or warranty made by any other Person in connection with the Proposed Sale, other than the Company;

(c) the liability for indemnification, if any, of such Stockholder in the Proposed Sale and for the inaccuracy of any representations and warranties made by the Company in connection with such Proposed Sale, is several and not joint with any other Person, and is pro rata in proportion to the amount of consideration paid to such Stockholder in connection with such Proposed Sale (in accordance with the provisions of the Restated Articles);

(d) liability shall be limited to such Stockholder's pro rata share (determined in proportion to proceeds received by such Stockholder in connection with such Proposed Sale in accordance with the provisions of the Restated Articles) of a negotiated aggregate indemnification amount that applies equally to all Stockholders but that in no event exceeds the amount of consideration actually paid to such Stockholder in connection with such Proposed Sale, except with respect to claims related to fraud by such Stockholder, the liability for which need not be limited as to such Stockholder;

(e) upon the consummation of the Proposed Sale, (i) each holder of each series of the Company's Preferred Stock and each holder of Common Stock will receive the same form of consideration for their shares of Common and Preferred Stock, (ii) each holder of a series of Preferred Stock will receive the same amount of consideration per share of such series of Preferred Stock, (iii) each holder of Common Stock will receive the same amount of consideration per share of Common Stock except to the extent provided otherwise in the Articles of Incorporation of the Company then in effect, and (iv) unless the holders of at least a majority of the Series A Preferred Stock and the holders of at least a majority of the Series B Preferred Stock, each voting as a separate class, elect otherwise by written notice given to the Company at least two (2) days prior to the effective date of any such Proposed Sale, the aggregate consideration receivable by all holders of the Preferred Stock and Common Stock shall be allocated among the holders of Preferred Stock and Common Stock on the basis of the relative liquidation preferences to which the holders of each respective series of Preferred Stock and the holders of Common Stock are entitled in a Deemed Liquidation Event (assuming for this purpose that the Proposed Sale is a Deemed Liquidation Event) in accordance with the Company's Articles of Incorporation in effect immediately prior to the Proposed Sale; provided, however, that the vote required under this subsection 3.3(e)(iv) shall be that of the holders of a majority of the Preferred Stock voting as a single class on an as-converted to Common Stock basis for any change to the liquidation preferences of the Preferred Stock that does not have a disproportionately adverse impact on the holders of one series of Preferred Stock relative to the others; and

(f) subject to clause (e) above, requiring the same form of consideration to be received by the holders of the Company's Common and Preferred Stock, if any holders of any capital stock of the Company are given an option as to the form and amount of consideration to be received as a result of the Proposed Sale, all holders of such capital stock will be given the same option.

3.4. Restrictions on Sales of Control of the Company. No Stockholder shall be a party to any Stock Sale unless (i) such Stock Sale has been approved by the Board in the manner specified in the Company's Articles of Incorporation and (ii) all holders of Preferred Stock are allowed to participate in such transaction and the consideration received pursuant to such transaction is allocated among the parties thereto in the manner specified in the Company's Articles of Incorporation in effect immediately prior to the Stock Sale (as if such transaction were a Deemed Liquidation Event), unless the holders of at least a majority of the Preferred Stock, voting together as a single class on an as-converted basis, elect otherwise by written notice given to the Company at least two (2) days prior to the effective date of any such transaction or series of related transactions.

4. Reincorporation of the Company. The Company agrees to reincorporate itself under the laws of the State of Delaware as soon as reasonably practicable, and unless approved by the directors appointed pursuant to Section 1.2(a) and (b), in no event any later than the date that is the six (6) month anniversary of the closing date of the transactions contemplated by the Series B Purchase Agreement, and each Stockholder agrees to vote, or cause to be voted, all Shares owned by such Stockholder, or over which such Stockholder has voting control, in whatever manner as shall be necessary to approve such reincorporation.

5. Remedies.

5.1. Covenants of the Company. The Company agrees to use its best efforts, within the requirements of applicable law, to ensure that the rights granted under this Agreement are effective and that the parties enjoy the benefits of this Agreement. Such actions include, without limitation, the use of the Company's best efforts to cause the nomination and election of the directors as provided in this Agreement.

5.2. Irrevocable Proxy. Each party to this Agreement hereby constitutes and appoints the President and Treasurer of the Company, and a designee of the Selling Stockholders, and each of them, with full power of substitution, as the proxies of the party with respect to the matters set forth herein, including without limitation, election of persons as members of the Board in accordance with Section 1 hereto, votes to increase authorized shares pursuant to Section 2 hereof and votes regarding any Sale of the Company pursuant to Section 3 hereof, and hereby authorizes each of them to represent and to vote, if and only if the party (i) fails to vote or (ii) attempts to vote (whether by proxy, in person or by written consent), in a manner which is inconsistent with the terms of this Agreement, all of such party's Shares in favor of the election of persons as members of the Board determined pursuant to and in accordance with the terms and provisions of this Agreement or the increase of authorized shares or approval of any Sale of the Company pursuant to and in accordance with the terms and provisions of Sections 2 and 3, respectively, of this Agreement. The proxy granted pursuant to the immediately preceding sentence is given in consideration of the agreements and covenants of the Company and the parties in connection with the transactions contemplated by this Agreement and, as such, is coupled with an interest and shall be irrevocable unless and until this Agreement terminates or expires pursuant to Section 6 hereof. Each party hereto hereby revokes any and all previous proxies with respect to the Shares and shall not hereafter, unless and until this Agreement terminates or expires pursuant to Section 6 hereof, purport to grant any other proxy or power of attorney with respect to any of the Shares, deposit any of the Shares into a voting trust or enter into any agreement (other than this Agreement), arrangement or understanding with

any person, directly or indirectly, to vote, grant any proxy or give instructions with respect to the voting of any of the Shares, in each case, with respect to any of the matters set forth herein.

5.3. Specific Enforcement. Each party acknowledges and agrees that each party hereto will be irreparably damaged in the event any of the provisions of this Agreement are not performed by the parties in accordance with their specific terms or are otherwise breached. Accordingly, it is agreed that each of the Company and the Stockholders shall be entitled to an injunction to prevent breaches of this Agreement, and to specific enforcement of this Agreement and its terms and provisions in any action instituted in any court of the United States or any state having subject matter jurisdiction.

5.4. Remedies Cumulative. All remedies, either under this Agreement or by law or otherwise afforded to any party, shall be cumulative and not alternative.

6. Term. This Agreement shall be effective as of the date hereof and shall continue in effect until and shall terminate upon the earliest to occur of (a) the consummation of a registered firm commitment underwritten public offering of the Company's Common Stock at a price per share of at least $15.04 for a total offering size of not less than $30,000,000 (other than a registration statement relating either to the sale of securities to employees of the Company pursuant to its stock option, stock purchase or similar plan or an SEC Rule 145 transaction); (b) the consummation of a Sale of the Company and distribution of proceeds to or escrow for the benefit of the Stockholders in accordance with the Restated Articles, provided that the provisions of Section 3 hereof will continue after the closing of any Sale of the Company to the extent necessary to enforce the provisions of Section 3 with respect to such Sale of the Company; and (c) termination of this Agreement in accordance with Section 7.8 below.

7. Miscellaneous.

7.1. Additional Parties.

(a) Notwithstanding anything to the contrary contained herein, if the Company issues additional shares of Preferred Stock after the date hereof, as a condition to the issuance of such shares the Company shall require that any purchaser of shares of Preferred Stock become a party to this Agreement by executing and delivering (i) the Adoption Agreement attached to this Agreement as Exhibit A, or (ii) a counterpart signature page hereto agreeing to be bound by and subject to the terms of this Agreement as an Investor and Stockholder hereunder. In either event, each such person shall thereafter shall be deemed an Investor and Stockholder for all purposes under this Agreement.

(b) In the event that after the date of this Agreement, the Company enters into an agreement with any Person to issue shares of capital stock to such Person (other than to a purchaser of Preferred Stock described in Section 7.1(a) above), following which such Person shall hold Shares constituting one percent (1%) or more of the Company's then outstanding capital stock (treating for this purpose all shares of Common Stock issuable upon exercise of or conversion of outstanding options, warrants or convertible securities, as if exercised and/or converted or exchanged), then, the Company shall cause such Person, as a condition precedent to entering into such agreement, to become a party

to this Agreement by executing an Adoption Agreement in the form attached hereto as Exhibit A, agreeing to be bound by and subject to the terms of this Agreement as a Stockholder and thereafter such person shall be deemed a Stockholder for all purposes under this Agreement. Notwithstanding the foregoing, the Company shall use its best efforts to cause any Person holding options as of the date hereof that could constitute more than one percent (1%) or more of the Company's then outstanding capital stock if all such options were exercised to become a party to this Agreement pursuant to this Section 7.1(b) upon exercise of such options.

7.2. Transfers. Each transferee or assignee of any Shares subject to this Agreement shall continue to be subject to the terms hereof, and, as a condition precedent to the Company's recognizing such transfer, each transferee or assignee shall agree in writing to be subject to each of the terms of this Agreement by executing and delivering an Adoption Agreement substantially in the form attached hereto as Exhibit A. Upon the execution and delivery of an Adoption Agreement by any transferee, such transferee shall be deemed to be a party hereto as if such transferee were the transferor and such transferee's signature appeared on the signature pages of this Agreement and shall be deemed to be an Investor and Stockholder, or Key Holder and Stockholder, as applicable. The Company shall not permit the transfer of the Shares subject to this Agreement on its books or issue a new certificate representing any such Shares unless and until such transferee shall have complied with the terms of this Section 7.2. Each certificate representing the Shares subject to this Agreement if issued on or after the date of this Agreement shall be endorsed by the Company with the legend set forth in Section 7.12.

7.3. Successors and Assigns. The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the parties. Nothing in this Agreement, express or implied, is intended to confer upon any party other than the parties hereto or their respective successors and assigns any rights, remedies, obligations, or liabilities under or by reason of this Agreement, except as expressly provided in this Agreement.

7.4. Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York, regardless of the laws that might otherwise govern under applicable principles of conflicts of law.

7.5. Counterparts; Facsimile. This Agreement may be executed and delivered by facsimile signature and in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

7.6. Titles and Subtitles. The titles and subtitles used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement.

7.7. Notices. All notices and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given: (a) upon personal delivery to the party to be notified, (b) when sent by confirmed electronic mail or facsimile if sent during normal business hours of the recipient, and if not so confirmed, then on the next business day, (c) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (d) one (1) business day after the business day of deposit with a nationally recognized overnight courier, specifying next business day delivery, with

written verification of receipt. All communications shall be sent to the respective parties at their address as set forth on Schedule A or Schedule B hereto, or to such email address, facsimile number or address as subsequently modified by written notice given in accordance with this Section 7.7. If notice is given to the Company, a copy shall also be sent to Wyrick Robbins Yates & Ponton LLP, 4101 Lake Boone Trail, Suite 300, Raleigh, NC 27607, Attn: Donald R. Reynolds, and if notice is given to Stockholders, a copy shall also be given to Ropes & Gray LLP, 1211 Avenue of the Americas, New York, NY 10036, Attn: Kristopher D. Brown and to Finn Dixon & Herling LLP, 177 Broad Street, Stamford, CT 06901, Attn: Michael J. Herling**.**

7.8. Consent Required to Amend, Terminate or Waive. This Agreement may be amended or modified and the observance of any term hereof may be waived (either generally or in a particular instance and either retroactively or prospectively) only by a written instrument executed by (a) the Key Holders holding a majority of the Shares then held by the Key Holders, and in all circumstances, each of Shawn Jenkins and Mason Holland so long as they respectively hold Shares in excess of the Minimum Ownership Threshold, and (b) the holders of a majority of the shares of Common Stock issued or issuable upon conversion of the shares of Preferred Stock held by the Investors (voting as a single class and on an as-converted basis). Notwithstanding the foregoing:

(i) this Agreement may not be amended or terminated and the observance of any term of this Agreement may not be waived with respect to any Investor or Key Holder without the written consent of such Investor or Key Holder unless such amendment, termination or waiver applies to all Investors or Key Holders, as the case may be, in the same fashion;

(ii) the consent of the Key Holders shall not be required for any amendment or waiver if such amendment or waiver does not apply to or affect the Key Holders;

(iii) Schedules A and B hereto may be amended by the Company from time to time in accordance with Section 1.3 of the Purchase Agreement to add information regarding additional Investors (as defined in the Purchase Agreement) without the consent of the other parties hereto;

(iv) any provision hereof may be waived by the waiving party on such party's own behalf, without the consent of any other party; and

(v) Section 1.1, 1.2(a) and (d), Section 3, Section 5.1 and Section 7.8(v) of this Agreement shall not be amended or waived without the written consent of GS Fund VI, Section 1.1, 1.2(b) and (d), Section 3, Section 5.1 and Section 7.8(v) of this Agreement shall not be amended or waived without the written consent of Oak, and Section 1.2(c) and (d) of this Agreement shall not be amended or waived without the written consent of the holders of a majority of shares of Common Stock and each of Shawn Jenkins and Mason Holland, so long as they respectively hold Shares in excess of the Minimum Ownership Threshold.

The Company shall give prompt written notice of any amendment, termination or waiver hereunder to any party that did not consent in writing thereto. Any amendment, termination or waiver effected in accordance with this Section 7.8 shall be binding on each party and all of such

party's successors and permitted assigns, whether or not any such party, successor or assignee entered into or approved such amendment, termination or waiver.

7.9. Delays or Omissions. No delay or omission to exercise any right, power or remedy accruing to any party under this Agreement, upon any breach or default of any other party under this Agreement, shall impair any such right, power or remedy of such non-breaching or non-defaulting party nor shall it be construed to be a waiver of any such breach or default, or an acquiescence therein, or of or in any similar breach or default thereafter occurring; nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default previously or thereafter occurring. Any waiver, permit, consent or approval of any kind or character on the part of any party of any breach or default under this Agreement, or any waiver on the part of any party of any provisions or conditions of this Agreement, must be in writing and shall be effective only to the extent specifically set forth in such writing. All remedies, either under this Agreement or by law or otherwise afforded to any party, shall be cumulative and not alternative.

7.10. Severability. The invalidity or unenforceability of any provision hereof shall in no way affect the validity or enforceability of any other provision.

7.11. Entire Agreement. This Agreement (including the Exhibits hereto), the Restated Articles and the other Transaction Agreements (as defined in the Purchase Agreement) constitute the full and entire understanding and agreement between the parties with respect to the subject matter hereof, and any other written or oral agreement relating to the subject matter hereof existing between the parties are expressly canceled.

7.12. Legend on Share Certificates. Each certificate representing any Shares issued after the date hereof shall be endorsed by the Company with a legend reading substantially as follows:

> "THE SHARES EVIDENCED HEREBY ARE SUBJECT TO A VOTING AGREEMENT, AS MAY BE AMENDED FROM TIME TO TIME, (A COPY OF WHICH MAY BE OBTAINED UPON WRITTEN REQUEST FROM THE COMPANY), AND BY ACCEPTING ANY INTEREST IN SUCH SHARES THE PERSON ACCEPTING SUCH INTEREST SHALL BE DEEMED TO AGREE TO AND SHALL BECOME BOUND BY ALL THE PROVISIONS OF THAT VOTING AGREEMENT, INCLUDING CERTAIN RESTRICTIONS ON TRANSFER AND OWNERSHIP SET FORTH THEREIN."

The Company, by its execution of this Agreement, agrees that it will cause the certificates evidencing the Shares issued after the date hereof to bear the legend required by this Section 7.12 of this Agreement, and it shall supply, free of charge, a copy of this Agreement to any holder of a certificate evidencing Shares upon written request from such holder to the Company at its principal office. The parties to this Agreement do hereby agree that the failure to cause the certificates evidencing the Shares to bear the legend required by this Section 7.12 herein and/or the failure of the Company to supply, free of charge, a copy of this Agreement as provided hereunder shall not affect the validity or enforcement of this Agreement.

7.13. Stock Splits, Stock Dividends, etc. In the event of any issuance of Shares of the Company's voting securities hereafter to any of the Stockholders (including, without limitation, in connection with any stock split, stock dividend, recapitalization, reorganization, or the like), such Shares shall become subject to this Agreement and shall be endorsed with the legend set forth in Section 7.12.

7.14. Manner of Voting. The voting of Shares pursuant to this Agreement may be effected in person, by proxy, by written consent or in any other manner permitted by applicable law.

7.15. Further Assurances. At any time or from time to time after the date hereof, the parties agree to cooperate with each other, and at the request of any other party, to execute and deliver any further instruments or documents and to take all such further action as the other party may reasonably request in order to evidence or effectuate the consummation of the transactions contemplated hereby and to otherwise carry out the intent of the parties hereunder.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Voting Agreement as of the date first written above.

THE COMPANY:

BENEFITFOCUS.COM, INC.

By: /s/ Mason R. Holland, Jr.

Name: Mason R. Holland, Jr.
Title: Chairman of the Board
Address: 100 Benefitfocus Way
Charleston, SC 29492

[Additional Signature Pages Follow]

KEY HOLDERS:

THE HOLLAND FAMILY TRUST

By: /s/ Mason R. Holland, Jr.

Name: Mason R. Holland, Jr.

Address: 301 Hammock Lane

Charleston, SC 29492

By: /s/ Shawn Jenkins

Name: Shawn Jenkins

Address: 313 W. Civitas Street

Mount Pleasant, SC 29464

[Additional Signature Pages Follow]

GS CAPITAL PARTNERS VI, L.P.
By: GS Advisors VI, L.L.C.
its General Partner

/s/ Peter J. Perrone
Name: Peter J. Perrone
Title: Vice President

GS CAPITAL PARTNERS VI OFFSHORE, L.P.
By: GS Advisors VI, L.L.C.
its General Partner

/s/ Peter J. Perrone
Name: Peter J. Perrone
Title: Vice President

GS CAPITAL PARTNERS VI GmbH & Co. KG, L.P.
By: GS Advisors VI, L.L.C.
its Managing Limited Partner

/s/ Peter J. Perrone
Name: Peter J. Perrone
Title: Vice President

GS CAPITAL PARTNERS VI PARALLEL, L.P.
By: GS Advisors VI, L.L.C.
its General Partner

/s/ Peter J. Perrone
Name: Peter J. Perrone
Title: Vice President

SERIES B
INVESTORS:

OAK INVESTMENT PARTNERS XII, LIMITED PARTNERSHIP
By: Oak Associates XII, LLC, its General Partner

/s/ Ann H. Lamont
Name: Ann H. Lamont
Title: Managing Member

SCHEDULE A

INVESTORS

Name and Address

GS CAPITAL PARTNERS VI PARALLEL, L.P.
85 Broad St., 10th Floor
New York, NY 10004

GS CAPITAL PARTNERS VI GmbH & Co. KG
85 Broad St., 10th Floor
New York, NY 10004

GS CAPITAL PARTNERS VI FUND, L.P.
85 Broad St., 10th Floor
New York, NY 10004

GS CAPITAL PARTNERS VI OFFSHORE FUND, L.P.
85 Broad St., 10th Floor
New York, NY 10004

OAK INVESTMENT PARTNERS XII, LIMITED PARTNERSHIP
One Gorham Road
Westport, CT 06880

SCHEDULE B

KEY HOLDERS

Name and Address

The Holland Family Trust
c/o Mason R. Holland, Jr.
301 Hammock Lane
Charleston, South Carolina 29492

Shawn Jenkins
313 W. Civitas Street
Mount Pleasant, South Carolina 29464

EXHIBIT A

ADOPTION AGREEMENT

This Adoption Agreement ("**Adoption Agreement**") is executed on , 20 , by the undersigned (the "**Holder**") pursuant to the terms of that certain Amended and Restated Voting Agreement dated as of August 25, 2010 (the "**Agreement**"), by and among Benefitfocus.com, Inc. the ("**Company**") and certain of its stockholders, as such Agreement may be amended or amended and restated hereafter. Capitalized terms used but not defined in this Adoption Agreement shall have the respective meanings ascribed to such terms in the Agreement. By the execution of this Adoption Agreement, the Holder agrees as follows.

1.1 Acknowledgement. Holder acknowledges that Holder is acquiring certain shares of the capital stock of the Company (the "**Stock**") or options, warrants or other rights to purchase such Stock (the "**Options**"), for one of the following reasons (Check the correct box):

☐ as a transferee of Shares from a party in such party's capacity as an "Investor" bound by the Agreement, and after such transfer, Holder shall be considered an "Investor" and a "Stockholder" for all purposes of the Agreement.

☐ as a transferee of Shares from a party in such party's capacity as a "Key Holder" bound by the Agreement, and after such transfer, Holder shall be considered a "Key Holder" and a "Stockholder" for all purposes of the Agreement.

☐ as a new Investor in accordance with Section 7.1(a) of the Agreement, in which case Holder will be an "Investor" and a "Stockholder" for all purposes of the Agreement.

☐ in accordance with Section 7.1(b) of the Agreement, as a new party who is not a new Investor, in which case Holder will be a "Stockholder" for all purposes of the Agreement.

1.2 Agreement. Holder hereby (a) agrees that the Stock, Options and any other shares of capital stock or securities required by the Agreement to be bound thereby, shall be bound by and subject to the terms of the Agreement and (b) adopts the Agreement with the same force and effect as if Holder were originally a party thereto.

1.3 Notice. Any notice required or permitted by the Agreement shall be given to Holder at the address or facsimile number listed below Holder's signature hereto.

HOLDER: _____

By: _____
Name and Title of Signatory

Address: _____

_____

Facsimile Number: _____

ACCEPTED AND AGREED:

BENEFITFOCUS.COM, INC.

By: _____

Title: _____

AMENDED AND RESTATED

BENEFITFOCUS.COM, INC.

2000 STOCK OPTION PLAN

AMENDED AND RESTATED
BENEFITFOCUS.COM, INC.
2000 STOCK OPTION PLAN

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AMENDED AND RESTATED
BENEFITFOCUS.COM, INC.
2000 STOCK OPTION PLAN

This Plan is an amendment and complete restatement of the Benefitfocus.com, Inc. 2000 Stock Option Plan (the "Original Plan").

ARTICLE 1
DEFINITIONS

As used in this Plan, the following terms have the following meanings unless the context clearly indicates to the contrary:

"Board" means the Board of Directors of the Company.

"Cause" means (i) the commission of an act of fraud, embezzlement, theft or proven dishonesty, or any other illegal act or practice (whether or not resulting in criminal prosecution or conviction), including theft or destruction of property of the Company, a Parent, or a Subsidiary, or any other act or practice which the Committee shall, in good faith, deem to have resulted in the recipient's becoming unbondable under the Company's, a Parent's or any Subsidiary's fidelity bond; (ii) the willful engaging in misconduct which is deemed by the Committee, in good faith, to be materially injurious to the Company, a Parent or any Subsidiary, monetarily or otherwise, including, but not limited, improperly disclosing trade secrets or other confidential or sensitive business information and data about the Company, a Parent or any Subsidiaries and competing with the Company, a Parent or any Subsidiaries, or soliciting employees, consultants or customers of the Company, a Parent or any Subsidiaries in violation of law or any employment or other agreement to which the recipient is a party; (iii) the willful and continued failure or habitual neglect by a person who is an Employee to perform his or her duties with the Company, a Parent or any Subsidiary substantially in accordance with the operating and personnel policies and procedures of the Company, Parent or the Subsidiary generally applicable to all their employees; or (iv) other disregard of rules or policies of the Company, a Parent or any Subsidiary, or conduct evincing willful or wanton disregard of the interests of the Company, a Parent or any Subsidiary. For purposes of this Plan, no act or failure to act by the recipient shall be deemed be "willful" unless done or omitted to be done by recipient not in good faith and without reasonable belief that the recipient's action or omission was in the best interest of the Company and/or the Subsidiary. Notwithstanding the foregoing, if the recipient has entered into an employment agreement that is binding as of the date of employment termination, and if such employment agreement defines "Cause," then the definition of "Cause" in such agreement shall apply to the recipient in this Plan. "Cause" shall be determined by the Committee based upon information presented by the Company and the Employee and shall be final and binding on all parties hereto.

"Code" means the United States Internal Revenue Code of 1986, as amended, including effective date and transition rules (whether or not codified). Any reference herein to a specific section of the Code shall be deemed to include a reference to any corresponding provision of future law.

"Committee" means a committee of at least two Directors appointed from time to time by the Board, having the duties and authority set forth herein in addition to any other authority granted by the Board; provided, however, that with respect to any Options granted to an individual who is also a Section 16 Insider, the Committee shall consist of either the entire Board of Directors or a committee of at least two Directors (who need not be members of the Committee with respect to Options granted to any other individuals) who are Non-Employee Directors, and all authority and discretion shall be exercised by such Non-Employee Directors, and references herein to the "Committee" means such Non-Employee Directors insofar as any actions or determinations of the Committee shall relate to or affect Options made to or held by any Section 16 Insider. In selecting the Committee, the Board shall also consider the benefits under Section 162(m) of the Code of having a Committee composed of "outside directors" (as that term is defined in the Code) for certain grants of Options to highly compensated executives. At any time that the Board shall not have appointed a committee as described above, any reference herein to the Committee means a reference to the Board.

"Company" means Benefitfocus.com, Inc., a South Carolina corporation.

"Corporate Transaction" means any of the following transactions to which the Company is a party:

(i) a merger, consolidation, share exchange, combination or other transaction or series of transactions (other than a public offering by the Company for cash of the Company's capital stock, debt or other securities) in which securities possessing more than 50% of the total combined voting power of the Company's outstanding securities are transferred to a person or persons different from the persons holding those securities immediately prior to such transaction;

(ii) the sale, transfer or other disposition of all or substantially all of the Company's assets;

(iii) the liquidation or dissolution of the Company; or

(iv) in lieu of subparagraphs (i) through (iii) above, with respect to any Discount Options, any of the transactions which would constitute a change of ownership or effective control, or a change in the ownership of a substantial portion of the assets, of the Company pursuant to Section 1.409A-3(g)(5) of the Proposed Treasury Regulations, as the same may be modified in any successor or final version of the Treasury Regulations.

"Director" means a member of the Board and any person who is an advisory or honorary director of the Company if such person is considered a director for the purposes of Section 16 of the Exchange Act, as determined by reference to such Section 16 and to the rules, regulations, judicial decisions, and interpretative or "no-action" positions with respect thereto of the SEC, as the same may be in effect or set forth from time to time.

"Discount Option" means any option the Exercise Price of which is less than the Fair Market Value of the Stock on the date of grant of such option.

"Employee" means an employee (as defined in Section 3401(c) of the Code and the regulations promulgated thereunder) of the Company or a Parent or Subsidiary.

"Exchange Act" means the Securities Exchange Act of 1934. Any reference herein to a specific section of the Exchange Act shall be deemed to include a reference to any corresponding provision of future law.

"Exercise Price" means the price at which an Optionee may purchase a share of Stock under a Stock Option Agreement.

"Fair Market Value" on any date means (i) if the Stock is readily tradable on an established securities market (as defined in Section 1.897-1(m) of the Treasury Regulations), the closing sales price of the Stock on the trading day immediately preceding such date on the securities exchange having the greatest volume of trading in the Stock during the thirty-day period preceding the day the value is to be determined or, if such exchange was not open for trading on such date, the next preceding date on which it was open; (ii) if the Stock is not traded on an established securities market (as defined in Section 1.897-1(m) of the Treasury Regulations), the fair market value as determined in good faith by the Board or the Committee by application of a reasonable valuation method consistently applied and taking into consideration all available information material to the value of the Company; factors to be considered may include, as applicable, the value of tangible and intangible assets of the Company, the present value of future cash-flows of the Company, the market value of stock or equity interests in similar corporations which can be readily determined through objective means (such as through trading prices on an established securities market or an amount paid in an arm's length private transaction), and other relevant factors such as control premiums or discounts for lack of marketability. For purposes of the foregoing sentence, a valuation prepared in accordance with any of the methods set forth in Section 1.409A-1(b)(5)(iv)(B)(2) of the Proposed Treasury Regulations, as the same may be modified in any successor or final version of the Treasury Regulations, consistently used, shall be rebuttably presumed to result in a reasonable valuation. This paragraph is intended to comply with the definition of "fair market value" contained in Section 1.409A-1(b)(5)(iv) of the Proposed Treasury Regulations, as the same may be modified in any successor or final version of the Treasury Regulations, and should be interpreted consistently therewith.

"Grantee" means a person who is an Optionee.

"Incentive Stock Option" means an option to purchase any stock of the Company, which complies with and is subject to the terms, limitations and conditions of Section 422 of the Code and any regulations promulgated with respect thereto.

"Non-Employee Director" shall have the meaning set forth in Rule 16b-3 under the Exchange Act, as the same may be in effect from time to time, or in any successor rule thereto, shall be determined for all purposes under the Plan according to interpretative or "no-action" positions with respect thereto issued by the SEC.

"Officer" means a person who constitutes an officer of the Company for the purposes of Section 16 of the Exchange Act, as determined by reference to such Section 16 and to the rules, regulations, judicial decisions, and interpretative or "no-action" positions with respect to such rule of the SEC, as the same may be in effect or set forth from time to time.

"Option" means an option, whether or not an Incentive Stock Option, to purchase Stock granted pursuant to the provisions of Article 6 of this Plan.

"Optionee" means a person to whom an Option has been granted under this Plan.

"Parent" means any corporation (other than the Company) in an unbroken chain of corporations ending with the Company if, at the time of the grant (or modification) of the Option, each of the corporations other than the Company owns stock possessing 50 percent or more of the total combined voting power of the classes of stock in one of the other corporations in such chain.

"Permanent and Total Disability" has the same meaning as given to that term by Code Section 22(e)(3) and any regulations or rulings promulgated thereunder.

"Plan" means the Amended and Restated Benefitfocus.com, Inc. 2000 Stock Option Plan, the terms of which are set forth herein.

"Proposed Treasury Regulations" means regulations proposed by the United States Department of Treasury pursuant to the Code.

"Purchasable" refers to Stock which may be purchased by an Optionee under the terms of this Plan on or after a certain date or the happening of a certain event specified in the applicable Stock Option Agreement.

"Qualified Domestic Relations Order" has the meaning set forth in the Code or in the Employee Retirement Income Security Act of 1974, or the rules and regulations promulgated under the Code or such Act.

"SEC" means the United States Securities and Exchange Commission.

"Section 16 Insider" means any person who is subject to the provisions of Section 16 of the Exchange Act, as provided in Rule 16a-2 promulgated pursuant to the Exchange Act.

"Stock" means the common stock, no par value per share, of the Company or, in the event that the outstanding shares of Stock are hereafter changed into or exchanged for shares of a different class of stock of the Company or some other entity, such other stock; provided, however, that with respect to any Discount Options, such other stock must be common stock and meet the requirements of Section 1.409A-1(b)(5)(iii) of the Proposed Treasury Regulations, as the same may be modified in any successor or final version of the Treasury Regulations.

"Stock Option Agreement" means an agreement between the Company and an Optionee under which the Optionee may purchase Stock under this Plan, a sample form of which is attached hereto as Exhibit A (which form may be varied by the Committee in granting an Option).

"Subsidiary" means any corporation (other than the Company) in an unbroken chain of corporations beginning with the Company if, at the time of the grant (or modification) of the Option, each of the corporations other than the last corporation in the unbroken chain owns stock possessing 50 percent or more of the total combined voting power of all classes of stock in one of the other corporations in such chain.

"Treasury Regulations" means final regulations issued by the United States Department of Treasury pursuant to the Code.

ARTICLE 2
THE PLAN

2.1 Name. This Plan shall be known as the "Amended and Restated Benefitfocus.com, Inc. 2000 Stock Option Plan."

2.2 Purpose. The purpose of the Plan is to advance the interests of the Company, its Subsidiaries and its shareholders by affording certain Employees, Officers and Directors of the Company and its Subsidiaries, as well as key consultants and advisors to the Company or any Subsidiary, an opportunity to acquire or increase their proprietary interests in the Company. The objective of the issuance of the Options is to promote the growth and profitability of the Company and its Subsidiaries because the Grantees will be provided with an additional incentive to achieve the Company's objectives through participation in its success and growth and by encouraging their continued association with or service to the Company.

2.3 Effective Date. The Plan shall become effective on the date of its adoption by the Board; provided, however, that if the Company's shareholders have not approved the Plan on or prior to the first anniversary of such effective date, then all options granted under the Plan on or after the Effective Date shall be non-Incentive Stock Options.

ARTICLE 3
PARTICIPANTS

The class of persons eligible to participate in the Plan shall consist of all persons whose participation in the Plan the Committee determines to be in the best interests of the Company, which shall include, but not be limited to, all Officers, Directors and Employees of the Company or any Parent or Subsidiary, as well as key consultants and advisors to the Company or any Parent or Subsidiary; provided, however, that Incentive Stock Options may only be issued to Employees.

ARTICLE 4
ADMINISTRATION

4.1 Duties and Powers of the Committee. The Plan shall be administered by the Committee. The Committee shall select one of its members as its Chairman and shall hold its meetings at such times and places as it may determine. The Committee shall keep minutes of its meetings and shall make such rules and regulations for the conduct of its business as it may deem necessary. The Committee shall have the power to act by unanimous written consent in lieu of a meeting, and to meet telephonically. In administering the Plan, the Committee's actions and determinations shall be binding on all interested parties. The Committee shall have the power to grant Options in accordance with the provisions of the Plan. Subject to the provisions of the Plan, the Committee shall have the discretion and authority to determine those individuals to whom Options will be granted, the number of shares of Stock subject to each Option, such other matters as are specified herein, and any other terms and conditions of a Stock Option Agreement. The Committee shall also have the discretion and authority to delegate to any Officer its powers to grant Options under the Plan to any person who is an Employee, but not an Officer or Director, of the Company or any Parent or Subsidiary. To the extent not inconsistent with the provisions of the Plan, the Committee may give a Grantee an election to surrender an Option in exchange for the grant of a new Option, and shall have the authority to amend or modify an outstanding Stock Option Agreement, or to waive any provision thereof, provided that the Grantee consents to such action.

4.2 Interpretation; Rules. Subject to the express provisions of the Plan, the Committee also shall have complete authority to interpret the Plan, to prescribe, amend, and rescind rules and regulations relating to it, to determine the details and provisions of each Stock Option Agreement, and to make all other determinations necessary or advisable for the administration of the Plan, including, without limitation, the amending or altering of the Plan and any Options granted under the Plan as may be required to comply with or to conform to any federal, state, or local laws or regulations.

4.3 No Liability. Neither any member of the Board nor any member of the Committee shall be liable to any person for any act or determination made in good faith with respect to the Plan or any Option granted hereunder.

4.4 Majority Rule. A majority of the members of the Committee shall constitute a quorum, and any action taken by a majority at a meeting at which a quorum is present, or any action taken without a meeting evidenced by a writing executed by all the members of the Committee, shall constitute the action of the Committee.

4.5 Company Assistance. The Company shall supply full and timely information to the Committee on all matters relating to eligible persons, their employment, death, retirement, disability, or other termination of employment, and such other pertinent facts as the Committee may require. The Company shall furnish the Committee with such clerical and other assistance as is necessary in the performance of its duties.

ARTICLE 5
SHARES OF STOCK SUBJECT TO PLAN

5.1 Limitations. Subject to any antidilution adjustment pursuant to the provisions of Section 5.2 of this Plan, the maximum number of shares of Stock that may be issued hereunder shall be 4,044,525, including shares that may be issued upon the exercise of options that have already been granted under the Original Plan. The amount of Stock subject to the Plan may be increased from time to time in accordance with Article 8, provided that the total number of shares of Stock issuable pursuant to Incentive Stock Options may not be increased to more than 3,572,275, including shares that may be issued upon the exercise of Incentive Stock Options that have already been granted under the Original Plan (other than pursuant to anti-dilution adjustments) or as described above without shareholder approval. Shares subject to an Option may be either authorized and unissued shares or shares issued and later acquired by the Company. The shares covered by any unexercised portion of an Option that has terminated for any reason (except as set forth in the following paragraph), may again be granted under the Plan, and such shares shall not be considered as having been optioned or issued in computing the number of shares of Stock remaining available for option hereunder.

If Options are issued in respect of options to acquire stock of any entity acquired, by merger or otherwise, by the Company (or any Subsidiary of the Company), to the extent that such issuance shall not be inconsistent with the terms, limitations and conditions of Code section 422 or Rule 16b3 under the Exchange Act, the aggregate number of shares of Stock for which Options may be granted hereunder shall automatically be increased by the number of shares subject to the Options so issued; provided, however, that the aggregate number of shares of Stock for which Options may be granted hereunder shall automatically be decreased by the number of shares covered by any unexercised portion of an Option so issued that has terminated for any reason, and the shares subject to any such unexercised portion may not be optioned to any other person.

5.2 Antidilution.

(a) If the outstanding shares of Stock are changed into or exchanged for a different number or kind of shares of Stock of the Company by reason of a merger, consolidation, reorganization, recapitalization, reclassification, combination or exchange of shares, or stock split or stock dividend (other than an event covered by subsection (c) below), the Committee shall appropriately adjust (i) the aggregate number and kind of shares of Stock for which Options may be granted hereunder, and (ii) the rights of Optionees (concerning the number of shares subject to Options and the Exercise Price) under outstanding Options and the rights of the holders of Awards.

(b) If any spin-off, spin-out or other distribution of assets materially affects the price of the Company's Stock, or if there is any assumption and conversion to the Plan by the Company of an acquired company's outstanding option grants, then the Committee may, but need not, make any or all of the adjustments specified in subsections (a)(i) and (a)(ii) above.

(c) If the Company shall be a party to any Corporate Transaction in which it does not survive, the Committee, in its discretion, may, but shall not be required to:

(i) notwithstanding other provisions of this Plan, declare that all Options granted under the Plan shall become exercisable immediately notwithstanding the provisions of the respective Stock Option Agreements regarding exercisability, that all such Options shall terminate 30 days after the Committee gives written notice of the immediate right to exercise all such Options and of the decision to terminate all Options not exercised within such 30-day period; and/or

(ii) notify all Grantees that all Options granted under the Plan shall be assumed by the successor corporation or substituted on an equitable basis with options issued by such successor corporation.

(d) If the Company is to be liquidated or dissolved in connection with a Corporate Transaction described in Section 5.2(c), the provisions of such Section shall apply. In all other instances, the adoption of a plan of dissolution or liquidation of the Company shall, notwithstanding other provisions hereof, cause every Option outstanding under the Plan to terminate to the extent not exercised prior to the adoption of the plan of dissolution or liquidation by the shareholders, provided that, notwithstanding other provisions hereof, the Committee may declare all Options granted under the Plan to be exercisable at any time on or before the fifth business day following such adoption notwithstanding the provisions of the respective Stock Option Agreements regarding exercisability.

(e) The adjustments described in paragraphs (a) through (d) of this Section 5.2, and the manner of their application, shall be determined solely by the Committee, and any such adjustment may provide for the elimination of fractional share interests; provided, however, that any adjustment made by the Committee shall be made in a manner that will not cause an Incentive Stock Option to be other than an Incentive Stock Option under applicable statutory and regulatory provisions. The adjustments required under this Article 5 shall apply to any successors of the Company and shall be made regardless of the number or type of successive events requiring such adjustments.

ARTICLE 6
OPTIONS

6.1 Types of Options Granted. The Committee may, under this Plan, grant either Incentive Stock Options or Options which do not qualify as Incentive Stock Options. Within the limitations provided in this Plan, both types of Options may be granted to the same person at the same time, or at different times, under different terms and conditions, as long as the terms and conditions of each Option are consistent with the provisions of the Plan. Without limitation of the foregoing, Options may be granted subject to conditions based on the financial performance of the Company or any other factor the Committee deems relevant.

6.2 Option Grant and Agreement. Each Option granted hereunder shall be evidenced by minutes of a meeting or the written consent of the Committee and by a written Stock Option Agreement executed by the Company and the Optionee. The terms of the Option, including the Option's duration, time or times of exercise, Exercise Price, whether the Option is intended to be an Incentive Stock Option, shall be stated in the Stock Option Agreement. No Incentive Stock Option may be granted more than ten years after the earlier to occur of the effective date of the Plan or the date the Plan is approved by the Company's shareholders.

Separate Stock Option Agreements may be used for Options intended to be Incentive Stock Options and those not so intended, but any failure to use such separate agreements shall not invalidate, or otherwise adversely affect the Optionee's interest in, the Options evidenced thereby.

6.3 Optionee Limitations. The Committee shall not grant an Incentive Stock Option to any person who, at the time the Incentive Stock Option is granted:

(a) is not an Employee; or

(b) owns or is considered to own stock possessing at least 10% of the total combined voting power of all classes of stock of the Company or any of its Parent or Subsidiary corporations; provided, however, that this limitation shall not apply if at the time an Incentive Stock Option is granted the Exercise Price is at least 110% of the Fair Market Value of the Stock subject to such Option and such Option by its terms would not be exercisable after five years from the date on which the Option is granted. For the purpose of this subsection (b), a person shall be considered to own: (i) the stock owned, directly or indirectly, by or for his or her brothers and sisters (whether by whole or half blood), spouse, ancestors and lineal descendants; (ii) the stock owned, directly or indirectly, by or for a corporation, partnership, estate, or trust in proportion to such person's stock interest, partnership interest or beneficial interest therein; and (iii) the stock which such person may purchase under any outstanding options of the Company or of any Parent or Subsidiary of the Company.

6.4 $100,000 AND SECTION 162(m) LIMITATIONS. Except as provided below, the Committee shall not grant an Incentive Stock Option to, or modify the exercise provisions of outstanding Incentive Stock Options held by, any person who, at the time the Incentive Stock Option is granted (or modified), would thereby receive or hold any Incentive Stock Options of the Company and any Parent or Subsidiary of the Company, such that the aggregate Fair Market Value (determined as of the respective dates of grant or modification of each option) of the stock with respect to which such Incentive Stock Options are exercisable for the first time during any calendar year is in excess of $100,000 (or such other limit as may be prescribed by the Code from time to time); provided that the foregoing restriction on modification of outstanding Incentive Stock Options shall not preclude the Committee from modifying an outstanding Incentive Stock Option if, as a result of such modification and with the consent of the Optionee, such Option no longer constitutes an Incentive Stock Option; and provided that, if the $100,000 limitation (or such other limitation prescribed by the Code) described in this Section 6.4 is exceeded, the Incentive Stock Option, the granting or modification of which resulted in the exceeding of such limit, shall be treated as an Incentive Stock Option up to the limitation and the excess shall be treated as an Option not qualifying as an Incentive Stock Option.

6.5 Exercise Price. The Exercise Price of the Stock subject to each Option shall be determined by the Committee. Subject to the provisions of Section 6.3(b) hereof, the Exercise Price of an Incentive Stock Option shall not be less than the Fair Market Value of the Stock as of the date the Option is granted (or in the case of an Incentive Stock Option that is subsequently modified, on the date of such modification).

6.6 Exercise Period. The period for the exercise of each Option granted hereunder shall be determined by the Committee, but the Stock Option Agreement with respect to each Option intended to be an Incentive Stock Option shall provide that such Option shall not be exercisable after the expiration of ten years from the date of grant (or modification) of the Option. In addition, no Incentive Stock Option granted under the Plan shall be exercisable prior to shareholder approval of the Plan. Any Discount Option must be exercised no later than March 15 of the year following the calendar year in which such option vests.

6.7 Option Exercise.

(a) Unless otherwise provided in the Stock Option Agreement or Section 6.6 of this Plan, an Option may be exercised at any time or from time to time during the term of the Option as to any or all full shares which have become Purchasable under the provisions of the Option, but not at any time as to fewer than 100 shares unless the remaining shares that have become so Purchasable are fewer than 100 shares. The Committee shall have the authority to prescribe in any Stock Option Agreement that the Option may be exercised only in accordance with a vesting schedule during the term of the Option.

(b) An Option shall be exercised by (i) delivery to the Company at its principal office a written notice of exercise with respect to a specified number of shares of Stock and (ii) payment to the Company at that office of the full amount of the Exercise Price for such number of shares in accordance with Section 6.7(c). If requested by an Optionee, an Option may be exercised with the involvement of a stockbroker in accordance with the federal margin rules set forth in Regulation T (in which case the certificates representing the underlying shares will be delivered by the Company directly to the stockbroker).

(c) The Exercise Price is to be paid in full in cash upon the exercise of the Option, and the Company shall not be required to deliver certificates for the shares purchased until such payment has been made; provided, however, that in lieu of cash, in the Company's sole discretion, all or any portion of the Exercise Price may be paid by tendering to the Company shares of Stock duly endorsed for transfer and owned by the Optionee, or by authorization to the Company to withhold shares of Stock otherwise issuable upon exercise of the Option, in each case to be credited against the Exercise Price at the Fair Market Value of such shares on the date of exercise (however, no fractional shares may be so transferred, and the Company shall not be obligated to make any cash payments in consideration of any excess of the aggregate Fair Market Value of shares transferred over the aggregate Exercise Price); provided further, that the Board may provide in a Stock Option Agreement (or may otherwise determine in its sole discretion at the time of exercise) that, in lieu of cash or shares, all or a portion of the Exercise Price may be paid by the Optionee's execution of a recourse note equal to the Exercise Price or relevant portion thereof, subject to compliance with applicable state and federal laws, rules and regulations.

(d) In addition to and at the time of payment of the Exercise Price, the Optionee shall pay to the Company in cash the full amount of any federal, state, and local income, employment, or other withholding taxes applicable to the taxable income of such Optionee resulting from such exercise; provided, however, that in the discretion of the Committee any Stock Option Agreement may provide that all or any portion of such tax obligations, together with additional taxes not exceeding the actual additional taxes to be owed by the Optionee as a result of such exercise, may, upon the irrevocable election of the Optionee, be paid by tendering to the Company whole shares of Stock duly endorsed for transfer and owned by the Optionee, or by authorization to the Company to withhold shares of Stock otherwise issuable upon exercise of the Option, in either case in that number of shares having a Fair Market Value on the date of exercise equal to the amount of such taxes thereby being paid, and subject to such restrictions as to the approval and timing of any such election as the Committee may from time to time determine to be necessary or appropriate to satisfy the conditions of the exemption set forth in Rule 16b-3 under the Exchange Act, if such rule is applicable.

(e) The holder of an Option shall not have any of the rights of a shareholder with respect to the shares of Stock subject to the Option until such shares have been issued and transferred to the Optionee upon the exercise of the Option.

6.8 Nontransferability of Option. Other than as provided below, no Option shall be transferable by an Optionee other than by will or the laws of descent and distribution or, in the case of non-Incentive Stock Options, pursuant to a Qualified Domestic Relations Order, and, during the lifetime of an Optionee, Options shall be exercisable only by such Optionee (or by such Optionee's guardian or legal representative, should one be appointed). However, in connection with the Optionee's estate plan, a Non-Incentive Stock Option may be assigned in whole or in part during Optionee's lifetime to one or more members of the Optionee's immediate family (consisting of the Optionee's spouse and lineal descendants) or to a trust or entity established for the exclusive benefit of one or more such family members. The assigned portion shall be exercisable only by the person or persons who acquire a proprietary interest in the Option pursuant to such assignment. The terms applicable to the assigned portion shall be the same as those in effect for this Option immediately prior to such assignment and shall be set forth in such documents issued to the assignee as the Committee may deem appropriate.

6.9 Termination of Employment or Service. The Committee shall have the power to specify, with respect to the Options granted to a particular Optionee, the effect upon such Optionee's right to exercise an Option of termination of such Optionee's employment or service under various circumstances, which effect may include immediate or deferred termination of such Optionee's rights under an Option, or acceleration of the date at which an Option may be exercised in full; provided, however, that in no event may an Incentive Stock Option be exercised after the expiration of ten years from the date of its grant; and provided further, that the exercise period for any Discount Option may not be accelerated except as permitted by Section 1.409A-3(h) of the Proposed Treasury Regulations, as the same may be modified in any successor or final version of the Treasury Regulations, and may not be exercised later than the date as provided in Section 6.6.

6.10 Employment Rights. Nothing in the Plan or in any Stock Option Agreement shall confer on any person any right to continue in the employ of the Company or any Parent or Subsidiary of the Company, or shall interfere in any way with the right of the Company or any Parent or Subsidiary of the Company to terminate such person's employment at any time.

6.11 Certain Successor Options. To the extent not inconsistent with the terms, limitations and conditions of Code section 422 and any regulations promulgated with respect thereto, an Option issued in respect of an option held by an Employee to acquire stock of any entity acquired, by merger or otherwise, by the Company (or any Parent or Subsidiary of the Company) may contain terms that differ from those stated in this Article 6, but solely to the extent necessary to preserve for any such employee the rights and benefits contained in such predecessor option, or to satisfy the requirements of Code section 424(a).

6.12 Effect of a Corporate Transaction. All Options, to the extent outstanding at the time of a Corporate Transaction but not otherwise fully exercisable, may be accelerated in the discretion of the Committee and in accordance with a stock option agreement such that certain or all Options that were not exercisable prior to the Corporate Transaction become exercisable, immediately prior to the effective date of the Corporate Transaction, for certain or all shares at the time subject to such Options.

ARTICLE 7
STOCK CERTIFICATES

The Company shall not be required to issue or deliver any certificate for shares of Stock purchased upon the exercise of any Option granted hereunder or any portion thereof, prior to fulfillment of all of the following conditions:

(a) The admission of such shares to listing on all stock exchanges on which the Stock is then listed;

(b) The completion of any registration or other qualification of such shares which the Committee shall deem necessary or advisable under any federal or state law or under the rulings or regulations of the SEC or any other governmental regulatory body, or the determination by the Company, with the advice of legal counsel, that exemptions are available from such registration and qualification;

(c) The obtaining of any approval or other clearance from any federal or state governmental agency or body which the Committee shall determine to be necessary or advisable; and

(d) The lapse of such reasonable period of time following the exercise of the Option as the Board from time to time may establish for reasons of administrative convenience.

Stock certificates issued and delivered to Grantees shall bear such restrictive legends as the Company shall deem necessary or advisable pursuant to applicable federal and state securities laws. The inability of the Company to obtain approval from any regulatory body having authority deemed by the Company to be necessary to the lawful issuance and sale of any Stock pursuant to Options shall relieve the Company of any liability with respect to the non-issuance or sale of the Stock as to which such approval shall not have been obtained. The Company shall, however, use its best efforts to obtain all such approvals.

ARTICLE 8
TERMINATION AND AMENDMENT

8.1 Termination and Amendment. The Board may at any time terminate the Plan; provided, however, that the Board (unless its actions are approved or ratified by the shareholders of the Company within twelve months of the date that the Board amends the Plan) may not amend the Plan to:

Increase the total number of shares of Stock issuable pursuant to Incentive Stock Options under the Plan, except as contemplated in Section 5.2; or

Change the class of employees eligible to receive Incentive Stock Options that may participate in the Plan.

8.2 Effect on Grantee's Rights. No termination, amendment, or modification of the Plan shall affect adversely a Grantee's rights under a Stock Option Agreement without the consent of the Grantee or his legal representative.

ARTICLE 9
RELATIONSHIP TO OTHER COMPENSATION PLANS

The adoption of the Plan shall not affect any other stock option, incentive, or other compensation plans in effect for the Company or any of its Subsidiaries, except the Original Plan as set forth herein; nor shall the adoption of the Plan preclude the Company or any Parent or Subsidiary of the Company from establishing any other form of incentive or other compensation plan for Employees, Officers or Directors of the Company or any Parent or Subsidiary of the Company.

ARTICLE 10
MISCELLANEOUS

10.1 Replacement or Amended Grants. At the sole discretion of the Committee, and subject to the terms of the Plan, the Committee may modify outstanding Options or accept the surrender of outstanding Options and grant new Options in substitution for them, provided that no modification of an Option may be made which would adversely affect a Grantee's rights under a Stock Option Agreement or result in any tax to such Grtantee pursuant to Section 409A of the Code without the consent of the Grantee or his legal representative.

10.2 Forfeiture for Competition. If a Grantee provides services to a competitor of the Company, a Parent or any Subsidiaries, whether as an employee, officer, director, independent contractor, consultant, agent, or otherwise, such services being of a nature that can reasonably be expected to involve the skills and experience used or developed by the Grantee while an Employee, then that Grantee's rights under any Options outstanding hereunder shall be forfeited and terminated, subject to a determination to the contrary by the Committee.

10.3 Leave of Absence. Unless provided otherwise in a particular Stock Option Agreement, and except with respect to a Discount Option, the following provisions shall apply upon an Optionee's commencement of an authorized leave of absence:

(a) The exercise schedule in effect for such Option shall be frozen as of the first day of the authorized leave, and the Option shall not become exercisable for any additional installments of shares of Stock during the period Optionee remains on such leave.

(b) Should Optionee resume active Employee status within 60 days after the start date of the authorized leave, Optionee shall, for purposes of the applicable exercise schedule, receive service credit for the entire period of such leave. If Optionee does not resume active Employee status within such 60-day period, then no credit shall be given for the entire period of such leave.

(c) If the Option is an Incentive Stock Option, then the following shall also apply:

> If the leave of absence continues for more than three months, then the Option shall automatically convert to a Non-Incentive Stock Option under the Federal tax laws upon the expiration of such three-month period, unless the Optionee's reemployment rights are guaranteed by statute or written agreement. Following any such conversion of the Option, all subsequent exercises of the Option, whether effected before or after Optionee's return to active Employee status, shall result in an immediate taxable event, and the Company shall be required to collect from Optionee the Federal, state and local income and employment withholding taxes applicable to such exercise.

(d) In no event shall the Option become exercisable for any additional shares or otherwise remain outstanding if the Optionee does not resume Employee status prior to the Expiration Date of the option term.

10.4 Plan Binding on Successors. The Plan shall be binding upon the successors and assigns of the Company.

10.5 Singular, Plural; Gender. Whenever used in this Plan, nouns in the singular shall include the plural, and the masculine pronoun shall include the feminine gender.

10.6 Headings, etc., No Part of Plan. Headings of Articles and Sections of this Plan are inserted for convenience and reference; they do not constitute part of the Plan.

10.7 Section 16 Compliance. With respect to Section 16 Insiders and "highly-compensated" persons under Section 162(m) of the Code, transactions under this Plan are intended to comply with all applicable conditions of Rule 16b-3 or its successors under the Exchange Act and with Section 162(m) of the Code. To the extent any provision of the Plan or action by the Committee fails to so comply, it shall be deemed void to the extent permitted by law and deemed advisable by the Committee. In addition, if necessary to comply with Rule 16b3 with respect to any grant of an Option hereunder, and in addition to any other vesting or holding period specified hereunder or in an applicable Stock Option Agreement, any Section 16 Insider acquiring an Option shall be required to hold either the Option or the underlying shares of Stock obtained upon exercise of the Option for a minimum of six months.

Exhibit 10.3

BENEFITFOCUS.COM, INC.

2012 STOCK PLAN

1. Purpose. This 2012 Stock Plan (the "***Plan***") is intended to provide incentives:

(a) to employees of Benefitfocus.com, Inc., a South Carolina corporation (the "***Company***"), or its parent (if any) or any of its present or future subsidiaries (collectively, "Related Corporations"), by providing them with opportunities to purchase Common Stock (as defined below) of the Company pursuant to options granted hereunder that qualify as "incentive stock options" ("***ISOs***") under Section 422 of the Internal Revenue Code of 1986, as amended, or any successor statute (the "***Code***");

(b) to directors, employees and consultants of the Company and Related Corporations by providing them with opportunities to purchase Common Stock of the Company pursuant to options granted hereunder that do not qualify as ISOs (Nonstatutory Stock Options, or "***NSOs***");

(c) to employees and consultants of the Company and Related Corporations by providing them with bonus awards of Common Stock of the Company ("***Stock Bonuses***"); and

(d) to employees and consultants of the Company and Related Corporations by providing them with opportunities to make direct purchases of Common Stock of the Company ("***Purchase Rights***"); and

(e) to employees and consultants of the Company and Related Corporations by providing them with the right to receive, without payment to the Company, a number of shares of Common Stock, cash, or any combination thereof determined pursuant to a formula specified herein ("***SARs***").

Both ISOs and NSOs are referred to hereafter individually as "***Options***," and Options, Stock Bonuses, Purchase Rights and SARs are referred to hereafter collectively as "***Stock Rights***." As used herein, the terms "parent" and "subsidiary" mean "parent corporation" and "subsidiary corporation," respectively, as those terms are defined in Section 424 of the Code.

2. Administration of the Plan.

(a) The Plan shall be administered by (i) the Board of Directors of the Company (the "***Board***") or (ii) a committee consisting of directors or other persons appointed by the Board (the "***Committee***"). The appointment of the members of, and the delegation of powers to, the Committee by the Board shall be consistent with applicable laws and regulations (including, without limitation, the Code, Rule 16b-3 promulgated under the Securities Exchange Act of 1934, as amended (the "***Exchange Act***"), or any successor rule thereto ("***Rule 16b-3***"), and any applicable state law (collectively, the "***Applicable Laws***"). Once appointed, such Committee shall continue to serve in its designated capacity until otherwise directed by the Board. From time to time, the Board may increase the size of the Committee and appoint

additional members thereof, remove members (with or without cause) and appoint new members in substitution therefor, fill vacancies, however caused, and remove all members of the Committee and thereafter directly administer the Plan, all to the extent permitted by the Applicable Laws.

(b) Subject to ratification of the grant or authorization of each Stock Right by the Board (if so required by an Applicable Law), and subject to the terms of the Plan, the Committee, if so appointed, shall have the authority, in its discretion, to:

(i) determine the employees of the Company and Related Corporations (from among the class of employees eligible under Section 3 to receive ISOs) to whom ISOs may be granted, and to determine (from among the classes of individuals and entities eligible under Section 3 to receive NSOs, Stock Bonuses, Purchase Rights and SARs) to whom NSOs, Stock Bonuses, Purchase Rights and SARs may be granted;

(ii) determine the time or times at which Options, Stock Bonuses, Purchase Rights or SARs may be granted (which may be based on performance criteria);

(iii) determine the number of shares of Common Stock subject to any Stock Right granted by the Committee;

(iv) determine the option price of shares subject to each Option, which price shall not be less than the minimum price specified in Section 6 hereof, as appropriate, the purchase price of shares subject to each Purchase Right and the exercise price of each SAR, and to determine the form of consideration to be paid to the Company for exercise of such Option or purchase of shares with respect to a Purchase Right;

(v) determine whether each Option granted shall be an ISO or NSO;

(vi) determine (subject to Section 7) the time or times when each Option shall become exercisable and the duration of the exercise period;

(vii) determine whether restrictions such as repurchase options are to be imposed on shares subject to Options, Stock Bonuses and Purchase Rights and the nature of such restrictions, if any;

(viii) approve forms of agreement for use under the Plan;

(ix) determine the Fair Market Value (as defined in Section 6(d) below) of a Stock Right or the Common Stock underlying a Stock Right;

(x) accelerate vesting on any Stock Right or to waive any forfeiture restrictions, or to waive any other limitation or restriction with respect to a Stock Right;

(xi) reduce the exercise price of any Stock Right if the Fair Market Value of the Common Stock covered by such Stock Right shall have declined since the date the Stock Right was granted;

(xii) institute a program whereby outstanding Options can be surrendered in exchange for Options with a lower exercise price;

(xiii) modify or amend each Stock Right (subject to Section 8(d) of the Plan) including the discretionary authority to extend the post-termination exercisability period of Stock Rights longer than is otherwise provided for by terms of the Plan or the Stock Right;

(xiv) construe and interpret the Plan and Stock Rights granted hereunder and prescribe and rescind rules and regulations relating to the Plan; and

(xv) make all other determinations necessary or advisable for the administration of the Plan.

If the Committee determines to issue a NSO, it shall take whatever actions it deems necessary, under Section 422 of the Code and the regulations promulgated thereunder, to ensure that such Option is not treated as an ISO. The interpretation and construction by the Committee of any provisions of the Plan or of any Stock Right granted under it shall be final unless otherwise determined by the Board. The Committee may from time to time adopt such rules and regulations for carrying out the Plan as it may deem best. No member of the Board or the Committee shall be liable for any action or determination made in good faith with respect to the Plan or any Stock Right granted under it.

(c) The Committee may select one of its members as its chairman, and shall hold meetings at such times and places as it may determine. The Committee shall keep minutes of its meetings and shall make such rules and regulations for the conduct of its business as it may deem necessary. The Committee shall have the power to act by written consent in lieu of a meeting and to meet telephonically. Acts by a majority of the Committee, approved in person at a meeting or in writing, shall be the valid acts of the Committee. All references in this Plan to the Committee shall mean the Board if no Committee has been appointed.

(d) Those provisions of the Plan that make express reference to Rule 16b-3 shall apply to the Company only at such time as the Company's Common Stock is registered under the Exchange Act, and then only to such persons as are required to file reports under Section 16(a) of the Exchange Act (a "***Reporting Person***").

(e) To the extent that Stock Rights are to be qualified as "performance-based" compensation within the meaning of Section 162(m) of the Code, the Plan shall be administered by a committee consisting of two or more "outside directors" as determined under Section 162(m) of the Code.

3. Eligible Employees and Others.

(a) Eligibility. ISOs may be granted to any employee of the Company or any Related Corporation. Those officers of the Company who are not employees may not be granted ISOs under the Plan. NSOs, Stock Bonuses, Purchase Rights and SARs may be granted to any director, employee or consultant of the Company or any Related Corporation. Granting of any Stock Right to any individual or entity shall neither entitle that individual or entity to, nor disqualify him or her from, participation in any other grant of Stock Rights.

(b) Special Rule for Grant of Stock Rights to Reporting Persons. The selection of a director or an officer who is a Reporting Person (as the terms "director" and "officer" are defined for purposes of Rule 16b-3) as a recipient of a Stock Right, the timing of the Stock Right grant, the exercise price, if any, of the Stock Right and the number of shares subject to the Stock Right shall be determined either (i) by the Board or (ii) by a committee of the Board that is composed solely of two or more Non-Employee Directors having full authority to act in the matter. For the purposes of the Plan, a director shall be deemed to be a "***Non-Employee Director***" only if such person is defined as such under Rule 16b-3(b)(3), as interpreted from time to time.

(c) Annual Limitation for Employees. To the extent the Company is subject to Section 162(m) of the Code, no employee shall be eligible to be granted Stock Rights covering more than 4,044,525 shares of Common Stock during any calendar year.

4. Stock. The stock subject to Stock Rights shall be authorized but unissued shares of Common Stock of the Company, no par value per share, or such shares of the Company's capital stock into which such class of shares may be converted pursuant to any reorganization, recapitalization, merger, consolidation or the like (the "***Common Stock***"), or shares of Common Stock reacquired by the Company in any manner. The aggregate number of shares that may be issued pursuant to the Plan is 4,044,525 shares of Common Stock, less any shares issued or subject to outstanding Options under the Company's Amended and Restated 2000 Stock Option Plan (the "2000 Plan"), subject to adjustment as provided herein. Any such shares may be issued as ISOs, NSOs or Stock Bonuses, or to persons or entities making purchases pursuant to Purchase Rights or exercises pursuant to SARs, so long as the number of shares so issued does not exceed such aggregate number, as adjusted. To the extent that cash in lieu of shares of Common Stock is delivered upon the exercise of an SAR pursuant to Section 15, the Company shall be deemed, for purposes of applying the limitation on the number of shares, to have issued the greater of the number of shares of Common Stock which it was entitled to issue upon such exercise or on the exercise of any related Option. If any Option or SAR granted under the Plan or under the 2000 Plan shall expire or terminate for any reason without having been exercised in full or shall cease for any reason to be exercisable in whole or in part, or if the Company shall reacquire any shares issued pursuant to Stock Rights, the unpurchased shares subject to such Options and SARs and any shares so reacquired by the Company shall again be available for grants of Stock Rights under the Plan. Shares of Common Stock which are withheld to pay the exercise price of an Option and/or any related withholding obligations shall not be available for issuance under the Plan.

5. Granting of Stock Rights. Stock Rights may be granted under the Plan at any time after the Effective Date, as set forth in Section 16, and prior to 10 years thereafter. The date of grant of a Stock Right under the Plan will be the date specified by the Board or Committee at the time it grants the Stock Right; provided, however, that such date shall not be prior to the date on which the Board or Committee acts. The Board or Committee shall have the right, with the consent of the optionee, to convert an ISO granted under the Plan to an NSO pursuant to Section 17.

6. Minimum Price; ISO Limitations.

(a) The price per share specified in the agreement relating to each NSO, Stock Bonus, Purchase Right or SAR granted under the Plan shall be established by the Board or Committee, taking into account any noncash consideration to be received by the Company from the recipient of Stock Rights.

(b) The price per share specified in the agreement relating to each ISO granted under the Plan shall not be less than the Fair Market Value per share of such Common Stock on the date of such grant. In the case of an ISO to be granted to an employee owning stock possessing more than 10% of the total combined voting power of all classes of stock of the Company or any Related Corporation, the price per share specified in the agreement relating to such ISO shall not be less than 110% of the Fair Market Value per share of such Common Stock on the date of the grant.

(c) To the extent that the aggregate Fair Market Value (determined at the time an ISO is granted) of Common Stock for which ISOs granted to any employee are exercisable for the first time by such employee during any calendar year (under all stock option plans of the Company and any Related Corporation) exceeds $100,000; or such higher value as permitted under Code Section 422 at the time of determination, such Options will be treated as NSOs, provided that this Section shall have no force or effect to the extent that its inclusion in the Plan is not necessary for Options issued as ISOs to qualify as ISOs pursuant to Section 422 of the Code. The rule of this Section 6(c) shall be applied by taking Options in the order in which they were granted.

(d) "***Fair Market Value***" on any date means (i) if the Common Stock is readily tradable on an established securities market (as defined in Section 1.897-1(m) of the final regulations issued by the United States Treasury pursuant to the Code (the "***Treasury Regulations***"), the closing sales price of the Common Stock on the trading day immediately preceding such date on the securities exchange having the greatest volume of trading in the Common Stock during the thirty-day period preceding the day the value is to be determined or, if such exchange was not open for trading on such date, the next preceding date on which it was open; (ii) if the Common Stock is not traded on an established securities market (as defined in Section 1.897-1(m) of the Treasury Regulations), the fair market value as determined in good faith by the Board of the Committee by application of a reasonable valuation method consistently applied and taking into consideration all available information material to the value of the company; factors to be considered may include, as applicable, the value of tangible and intangible assets of the Company, the present value of future cash-flows of the Company, the

market value of stock or equity interests in similar corporations which can be readily determined through objective means (such as through trading prices on an established securities market or an amount paid in an arm's length private transaction), and other relevant factors such as control premiums or discounts for lack of marketability. For purposes of the foregoing sentence, a valuation prepared in accordance with any of the methods set forth in Section 1.409A-1(b)(5)(iv)(B)(2) of the Treasury Regulations, consistently used, shall rebuttably be presumed to result in a reasonable valuation. This paragraph is intended to comply with the definition of "fair market value" contained in Section 1.409A-1(b)(5)(iv) of the Treasury Regulations, and should be interpreted consistently therewith.

7. Option Duration. Subject to earlier termination as provided in Sections 9 and 10, each Option shall expire on the date specified by the Board or Committee, but not more than:

(a) 10 years from the date of grant in the case of NSOs;

(b) 10 years from the date of grant in the case of ISOs generally; and

(c) five years from the date of grant in the case of ISOs granted to an employee owning stock possessing more than 10% of the total combined voting power of all classes of stock of the Company or any Related Corporation.

Subject to earlier termination as provided in Sections 9 and 10, the term of each ISO shall be the term set forth in the original instrument granting such ISO, except with respect to any part of such ISO that is converted into an NSO pursuant to Section 17.

8. Exercise of Options. Subject to the provisions of Section 9 through Section 12 of the Plan, each Option granted under the Plan shall be exercisable as follows:

(a) the Option shall either be fully exercisable on the date of grant or shall become exercisable thereafter in such installments as the Board or Committee may specify;

(b) once an installment becomes exercisable it shall remain exercisable until expiration or termination of the Option, unless otherwise specified by the Board or Committee;

(c) each Option or installment may be exercised at any time or from time to time, in whole or in part, for up to the total number of shares with respect to which it is then exercisable; and

(d) the Board or Committee shall have the right to accelerate the date of exercise of any installment of any Option, provided that the Board or Committee shall not accelerate the exercise date of any installment of any ISO granted to any employee (and not previously converted into an NSO pursuant to Section 17) without the prior consent of such employee if such acceleration would violate the annual vesting limitation contained in Section 422 of the Code, as described in Section 6(c).

Notwithstanding anything to the contrary in this Agreement, any Option with an exercise price less than the Fair Market Value of Common Stock on the date of grant of such Option must be exercised no later than March 15th of the year following the calendar year in which the Option vests.

9. Termination of Employment. If a grantee ceases to be employed by the Company and all Related Corporations other than by reason of death or disability as defined in Section 10, unless otherwise specified in the instrument granting such Stock Right, the grantee shall have the continued right to exercise any Stock Right held by him or her, to the extent of the number of shares with respect to which he or she could have exercised it on the date of termination until the Stock Right's specified expiration date; provided, however, in the event the grantee exercises any ISO after the date that is three months following the date of termination of employment, such ISO will automatically be converted into an NSO subject to the terms of the Plan. Employment shall be considered as continuing uninterrupted during any bona fide leave of absence (such as those attributable to illness, military obligations or governmental service) provided that the period of such leave does not exceed 90 days or, if longer, any period during which such grantee's right to reemployment with the Company is guaranteed by statute or by contract. A bona fide leave of absence with the written approval of the Company shall not be considered an interruption of employment under the Plan, provided that such written approval contractually obligates the Company or any Related Corporation to continue the employment of the grantee after the approved period of absence; and provided that the foregoing approval requirement shall not apply to a leave of absence guaranteed by statute or contract. ISOs granted under the Plan shall not be affected by any change of employment within or among the Company and Related Corporations, so long as the optionee continues to be an employee of the Company or any Related Corporation.

For purposes of this Plan, a change in status from employee to a consultant, or from a consultant to employee, will not constitute a termination of employment, provided that a change in status from an employee to consultant may cause an ISO to become an NSO under the Code.

NOTHING IN THE PLAN SHALL BE DEEMED TO GIVE ANY GRANTEE OF ANY STOCK RIGHT THE RIGHT TO BE RETAINED IN EMPLOYMENT OR OTHER SERVICE BY THE COMPANY OR ANY RELATED CORPORATION FOR ANY PERIOD OF TIME OR TO AFFECT THE AT-WILL NATURE OF ANY EMPLOYEE'S EMPLOYMENT.

10. Death; Disability.

(a) If a grantee ceases to be employed by the Company and all Related Corporations by reason of death, or if a grantee dies within three months of the date his or her employment or other affiliation with the Company has been terminated, any Stock Right held by him or her may be exercised to the extent of the number of shares with respect to which he or she could have exercised said Stock Right on the date of death, by his or her estate, personal representative or beneficiary who has acquired the Stock Right by will or by the laws of descent and distribution (the "***Successor Grantee***"), unless otherwise specified in the instrument granting such Stock Right, prior to the earlier of (i) one year after the date of termination or (ii) the Stock Right's specified expiration date; provided, however, that a Successor Grantee shall be entitled

to ISO treatment under Section 421 of the Code only if the deceased optionee would have been entitled to like treatment had he or she exercised such Option on the date of his or her death; and provided further in the event the Successor Grantee exercises an ISO after the date that is one year following the date of termination by reason of death, such ISO will automatically be converted into a NSO subject to the terms of the Plan.

(b) If a grantee ceases to be employed by the Company and all Related Corporations by reason of disability, he or she shall continue to have the right to exercise any Stock Right held by him or her on the date of termination until, unless otherwise specified in the instrument granting such Stock Right, the earlier of (i) one year after the date of termination or (ii) the Stock Right's specified expiration date; provided, however, in the event the grantee exercises an ISO after the date that is one year following the date of termination by reason of disability, such ISO will automatically be converted into a NSO subject to the terms of the Plan. For the purposes of the Plan, the term "disability" shall mean "permanent and total disability" as defined in Section 22(e)(3) of the Code.

(c) The provisions of subsections (a) and (b) of this Section 10 regarding the exercise period of a Stock Right may be waived, extended or further limited, in the discretion of the Board or Committee, in an instrument granting a Stock Right that is not an ISO.

11. Transferability and Assignability of Stock Rights.

(a) Unless approved by the Committee, no ISO granted under this Plan shall be assignable or otherwise transferable by the optionee except by will or by the laws of descent and distribution. An ISO may be exercised during the lifetime of the optionee only by the optionee.

(b) Unless approved by the Committee, no NSO, Purchase Right or SAR may be transferable by the grantee except (i) to the grantee's family members or (ii) by will or by the laws of descent and distribution or pursuant to a qualified domestic relations order as defined in the Code or Title I of the Employee Retirement Income Security Act, or the rules thereunder. For purposes of the Plan, a grantee's "family members" shall be deemed to consist of his or her spouse, parents, children, grandparents, grandchildren and any trusts created for the benefit of such individuals. A family member to whom any such Stock Right has been transferred pursuant to this Section 11(b) shall be hereinafter referred to as a "***Permitted Transferee***". A Stock Right shall be transferred to a Permitted Transferee in accordance with the foregoing provisions, and subject to all the provisions of the Stock Right Agreement and this Plan, by the execution by the grantee and the transferee of an assignment in writing in such form approved by the Board or the Committee. The Company shall not be required to recognize the rights of a Permitted Transferee until such time as it receives a copy of the assignment from the grantee.

12. Terms and Conditions of Stock Rights. Stock Rights shall be evidenced by instruments (which need not be identical) in such forms as the Board or Committee may from time to time approve. Such instruments shall conform to the terms and conditions set forth in Sections 6 through 11 and Section 15 hereof and may contain such other provisions as the Board or Committee deems advisable that are not inconsistent with the Plan, including restrictions (or

other conditions deemed by the Board or Committee to be in the best interests of the Company) applicable to the exercise of Options or to shares of Common Stock issuable upon exercise of Options. In granting any NSO, the Board or Committee may specify that such NSO shall be subject to the restrictions set forth herein with respect to ISOs, or to such other termination and cancellation provisions as the Board or Committee may determine. The Board or Committee may from time to time confer authority and responsibility on one or more of its own members and/or one or more officers of the Company to execute and deliver such instruments. The proper officers of the Company are authorized and directed to take any and all action necessary or advisable from time to time to carry out the terms of such instruments.

13. Adjustments. Upon the occurrence of any of the following events, the rights of a recipient of a Stock Right granted hereunder shall be adjusted as hereinafter provided, unless otherwise provided in the written agreement between the recipient and the Company relating to such Stock Right.

(a) If the shares of Common Stock shall be subdivided or combined into a greater or smaller number of shares or if the Company shall issue shares of Common Stock as a stock dividend on its outstanding Common Stock, the number of shares of Common Stock deliverable upon the exercise of outstanding Stock Rights shall be appropriately increased or decreased proportionately, and appropriate adjustments shall be made in the purchase price (if any) per share to reflect such subdivision, combination or stock dividend.

(b) If the Company is to be consolidated with or acquired by another entity in a merger, sale of all or substantially all of the Company's assets or otherwise (an "***Acquisition***"), unless otherwise provided by the Board or Committee, in its sole discretion, the Board or Committee or the board of directors of any entity assuming the obligations of the Company hereunder (the "***Successor Board***") shall, as to outstanding Stock Rights, make appropriate provision for the continuation of such Stock Rights by either assumption of such Stock Rights or by substitution of such Stock Rights with an equivalent award. For Stock Rights that are so assumed or substituted, in the event of a termination of grantee's employment or consulting relationship by the Company or its successor other than For Cause (as defined below) or by grantee for Good Reason (as defined below) within 60 days prior to and 180 days after an Acquisition, all Stock Rights held by such grantee shall become vested and immediately and fully exercisable and all forfeiture restrictions shall be waived. If the Board, the Committee, or the Successor Board does not make appropriate provisions for the continuation of such Stock Rights by either assumption or substitution, unless otherwise provided by the Board or Committee in its sole discretion, Stock Rights shall become vested and fully and immediately exercisable and all forfeiture restrictions shall be waived and all Stock Rights not exercised at the time of the closing of such Acquisition shall terminate notwithstanding anything to the contrary in Section 9 hereof.

For purposes of this Plan, "***For Cause***" shall mean the termination of a grantee's status as an employee, a director or consultant (as applicable) for any of the following reasons, as determined by the Committee in its sole discretion; provided, that, with respect to an employee that is party to an agreement with the Company where a termination for cause is defined in such agreement, the definition in such agreement shall govern the determination under this Section 13:

(i) a grantee who is a consultant and who commits a material breach of any consulting, noncompetition, confidentiality or similar agreement with the Company or a subsidiary, as determined under such agreement; (ii) a grantee who is an employee or a consultant and who is convicted (including a trial, plea of guilty or plea of nolo contendere) for committing an act of fraud, embezzlement, theft, or other act constituting a felony; (iii) a grantee who is an employee or a consultant and who willfully engages in gross misconduct or willfully violates a Company or a subsidiary policy in any material respect; or (iv) a grantee who is a Company employee and who commits a material breach of any noncompetition, confidentiality or similar agreement with the Company or a subsidiary, as determined under such agreement.

For purposes of this Plan, a termination for "***Good Reason***" shall mean the resignation of an employee within 30 days after the following actions: (i) without the express written consent of employee, the Company assigns duties which are materially inconsistent with employee's position, duties and status; (ii) any action by the Company which results in a material diminution in the position, duties or status of employee or any transfer or proposed transfer of employee for any extended period to a location more than 35 miles away from such employees' principal place of employment, except for a transfer or proposed transfer for strategic reallocations of the personnel reporting to employee; or (iii) the Company reduces the base annual salary of employee, as the same may hereafter be increased from time to time.

(c) In the event of a transaction, including without limitation, a recapitalization or reorganization of the Company (other than a transaction described in subsection (b) above) pursuant to which securities of the Company or of another corporation are issued with respect to the outstanding shares of Common Stock, an optionee or grantee upon exercising an a Stock Right shall be entitled to receive for the purchase price paid upon such exercise the securities he or she would have received if he or she had exercised the Stock Right immediately prior to such recapitalization or reorganization.

(d) In the event of the proposed dissolution or liquidation of the Company, each Stock Right will terminate immediately prior to the consummation of such proposed action or at such other time and subject to such other conditions as shall be determined by the Board or Committee.

(e) Except as expressly provided herein, no issuance by the Company of shares of stock of any class, or securities convertible into shares of stock of any class, shall affect, and no adjustment by reason thereof shall be made with respect to, the number or price of shares subject to Stock Right. No adjustments shall be made for dividends paid in cash or in property other than Common Stock of the Company.

(f) No fractional shares shall be issued under the Plan and any optionee who would otherwise be entitled to receive a fraction of a share upon exercise of a Stock Right shall receive from the Company cash in lieu of such fractional shares in an amount equal to the Fair Market Value of such fractional shares, as determined in the sole discretion of the Board or Committee.

(g) Upon the happening of any of the foregoing events described in subsections (a), (b) or (c) above, the class and aggregate number of shares set forth in Section 4 hereof that are subject to Stock Rights that previously have been or subsequently may be granted under the Plan shall also be appropriately adjusted to reflect the events described. The Board or Committee or the Successor Board shall determine the specific adjustments to be made under this Section 13 and, subject to Section 2, its determination shall be conclusive.

14. Means of Exercising Stock Rights.

(a) Except as otherwise provided in this Plan or the instrument evidencing the Stock Right, a Stock Right (or any part or installment thereof) shall be exercised by giving written notice to the Company at its principal office address to the attention of its President. Such notice shall identify the Stock Right being exercised and specify the number of shares as to which such Stock Right is being exercised, accompanied by full payment of the exercise price therefor, if any, payable as follows (a) in United States dollars in cash or by check, (b) at the discretion of the Board or Committee, by delivery of the grantee's personal recourse note bearing interest payable not less than annually at a market rate that is no less than 100% of the lowest applicable Federal rate, as defined in Section 1274(d) of the Code, (c) at the discretion of the Board or Committee, through the surrender of shares of Common Stock then issuable upon exercise of the Stock Right having a Fair Market Value on the date of exercise equal to the aggregate exercise price of the Stock Right and/or any related withholding tax obligations, (d) at the discretion of the Board or the Committee, through the delivery of already-owned shares of Common Stock having a Fair Market Value on the date of exercise equal to the aggregate exercise price of the Stock Right and/or any related withholding tax obligations, (e) at the discretion of the Board or Committee, delivery of a notice that the grantee has placed a market sell order with a broker with respect to shares of Common Stock then issuable upon exercise of the Stock Right and that the broker has been directed to pay a sufficient portion of the net proceeds of the sale to the Company in satisfaction of the Stock Right exercise price, provided that payment of such proceeds is then made to the Company upon settlement of the sale, or (f) at the discretion of the Board or Committee, by any combination of (a), (b, (c), (d) or (e), or such other consideration and method of payment for the issuance of shares to the extent permitted by applicable law or the Plan. If the Board or Committee exercises its discretion to permit payment of the exercise price of an ISO by means of the methods set forth in clauses (b), (c), (d), (e) or (f) of the preceding sentence, the term of exercise shall be evidenced by the terms set forth in the written agreement evidencing the grant of the Stock Right. The shares of Common Stock delivered by a grantee pursuant to clause (d) above must have been held by grantee for a period of not less than one year prior to the exercise of the Stock Right, unless otherwise determined by the Board or the Committee. The holder of a Stock Right shall not have the rights of a stockholder with respect to the shares covered by the Stock Right until the date of issuance of a stock certificate for such shares. Except as expressly provided above in Section 13 with respect to changes in capitalization and stock dividends, no adjustment shall be made for dividends or similar rights for which the record date is before the date such stock certificate is issued.

(b) The Company shall not be required to issue or deliver any certificate for shares of Common Stock issued upon the exercise of any Stock Right granted hereunder or any portion thereof, prior to fulfillment of all of the following conditions:

(i) the admission of such shares to listing on all stock exchanges on which the Common Stock is listed, if any;

(ii) the completion of any registration or other qualification of such shares which the Board or Committee shall deem necessary or advisable under any federal or state law or under the rulings or regulations of the United States Securities and Exchange Commission (the "***SEC***") or any other governmental regulatory body, or the determination by the Company, with the advice of legal counsel, that exemptions are available from such registration and qualification;

(iii) the obtaining of any approval or other clearance from any federal or state governmental agency or body which the Board or Committee shall determine to be necessary or advisable; and

(iv) the lapse of such reasonable period of time following the exercise of the Option as the Board or Committee from time to time may establish for reasons of administrative convenience.

Stock certificates issued and delivered to grantees shall bear such restrictive legends as the Company shall deem necessary or advisable pursuant to applicable federal and state securities laws. The inability of the Company to obtain approval from any regulatory body having authority deemed by the Company to be necessary to the lawful issuance and sale of any Common Stock pursuant to Stock Rights shall relieve the Company of any liability whit respect to the non-issuance or sale of the Common Stock as to which such approval shall not have been obtained. The Company shall, however, use its commercially reasonable efforts to obtain all such approvals.

15. Stock Appreciation Rights. An SAR may be granted (a) with respect to any Option granted under this Plan, either concurrently with the grant of such Option or at such later time as determined by the Committee (as to all or any portion of the shares of Common Stock subject to the Option), or (b) alone, without reference to any related Option. Each SAR granted by the Committee under this Plan shall be subject to the following terms and conditions. Each SAR granted to any participant shall relate to such number of shares of Common Stock as shall be determined by the Committee, subject to adjustment as provided in Section 13. In the case of an SAR granted with respect to an Option, the number of shares of Common Stock to which the SAR pertains shall be reduced in the same proportion that the holder of the Option exercises the related Option. The exercise price of an SAR will be determined by the Committee, in its discretion, at the date of grant but may not be less than 100% of the Fair Market Value of the shares of Common Stock subject thereto on the date of grant. Subject to the right of the Committee to deliver cash in lieu of shares of Common Stock (which, as it pertains to officers and directors of the Company, shall comply with all requirements of the Exchange Act), the number of shares of Common Stock which shall be issuable upon the exercise of an SAR shall be determined by dividing:

(a) the number of shares of Common Stock as to which the SAR is exercised multiplied by the amount of the appreciation in such shares (for this purpose, the "appreciation" shall be the amount by which the Fair Market Value of the shares of Common Stock subject to the SAR on the exercise date exceeds (1) in the case of an SAR related to an Option, the exercise price of the shares of Common Stock under the Option or (2) in the case of an SAR granted alone, without reference to a related Option, an amount which shall be determined by the Committee at the time of grant, subject to adjustment under Section 13); by

(b) the Fair Market Value of a share of Common Stock on the exercise date.

In lieu of issuing shares of Common Stock upon the exercise of a SAR, the Committee may elect to pay the holder of the SAR cash equal to the Fair Market Value on the exercise date of any or all of the shares which would otherwise be issuable. No fractional shares of Common Stock shall be issued upon the exercise of an SAR; instead, the holder of the SAR shall be entitled to receive a cash adjustment equal to the same fraction of the Fair Market Value of a share of Common Stock on the exercise date or to purchase the portion necessary to make a whole share at its Fair Market Value on the date of exercise. The exercise of an SAR related to an Option shall be permitted only to the extent that the Option is exercisable under Section 8 on the date of surrender. Any ISO surrendered pursuant to the provisions of this Section 15 shall be deemed to have been converted into a NSO immediately prior to such surrender.

16. Term and Amendment of Plan. This Plan was adopted by the Board in December 2011 (the "***Effective Date***"), subject (with respect to the validation of ISOs granted under the Plan) to approval of the Plan by the stockholders of the Company. The Plan will be approved by the stockholders of the Company within one year of the Effective Date. The Plan shall expire 10 years after the Effective Date (except as to Stock Rights outstanding on that date). Subject to the provisions of Section 5 above, Stock Rights may be granted under the Plan prior to the date of stockholder approval of the Plan. The Board may terminate or amend the Plan in any respect at any time, subject to any approvals required under Applicable Laws or any securities exchange listing requirements; except that without the approval of the stockholders obtained within 12 months before or after the Board adopts a resolution authorizing any of the following actions:

(a) the total number of shares that may be issued under the Plan may not be increased (except by adjustment pursuant to Section 13);

(b) the provisions of Section 3 regarding eligibility for grants of ISOs may not be modified;

(c) the provisions of Section 6(b) regarding the exercise price at which shares may be offered pursuant to ISOs may not be modified (except by adjustment pursuant to Section 13); and

(d) the expiration date of the Plan may not be extended.

Except as provided in Section 13(b) and the fifth sentence of this Section 16, in no event may action of the Board or stockholders adversely alter or impair the rights of a grantee, without his or her consent, under any Stock Right previously granted.

17. Conversion of ISOs into NSOs; Termination of ISOs. The Board or Committee, with the consent of any optionee, may in its discretion take such actions as may be necessary to convert an optionee's ISOs (or any installments or portions of installments thereof) that have not been exercised on the date of conversion into NSOs at any time prior to the expiration of such ISOs. These actions may include, but not be limited to, accelerating the exercisability, extending the exercise period or reducing the exercise price of the appropriate installments of optionee's Options. At the time of such conversion, the Board or Committee (with the consent of the optionee) may impose these conditions on the exercise of the resulting NSOs as the Board or Committee in its discretion may determine, provided that the conditions shall not be inconsistent with the Plan. Nothing in the Plan shall be deemed to give any optionee the right to have such optionee's ISOs converted into NSOs, and no conversion shall occur until and unless the Board or Committee takes appropriate action. The Board or Committee, with the consent of the optionee, may also terminate any portion of any ISO that has not been exercised at the time of termination.

18. Governmental Regulation. The Company's obligation to sell and deliver shares of the Common Stock under the Plan is subject to the approval of any governmental authority required in connection with the authorization, issuance or sale of such shares.

19. Withholding of Additional Income Taxes.

(a) Upon the exercise of an NSO or SAR, the grant of a Stock Bonus or Purchase Right for less than the Fair Market Value of the Common Stock, the making of a Disqualifying Disposition (as defined in Section 20), or the vesting of restricted Common Stock acquired on the exercise of a Stock Right hereunder, the Company, in accordance with Section 3402(a) of the Code and any applicable state statute or regulation, may require the optionee, Stock Bonus or SAR recipient or purchaser to pay to the Company additional withholding taxes in respect of the amount that is considered compensation includable in such person's gross income. With respect to (a) the exercise of an Option, (b) the grant of a Stock Bonus, (c) the grant of a Purchase Right of Common Stock for less than its Fair Market Value, (d) the vesting of restricted Common Stock acquired by exercising a Stock Right, or (e) the exercise of an SAR, the Committee in its discretion may condition such event on the payment by the optionee, Stock Bonus recipient or purchaser of any such additional withholding taxes.

(b) At the sole and absolute discretion of the Committee, the holder of Stock Rights may pay all or any part of the total estimated federal and state income tax liability arising out of the exercise or receipt of such Stock Rights, the making of a Disqualifying Disposition, or the vesting of restricted Common Stock acquired on the exercise of a Stock Right hereunder (each of the foregoing, a "***Tax Event***") by tendering already-owned shares of Common Stock or (except in the case of a Disqualifying Disposition) by directing the Company to withhold shares of Common Stock otherwise to be transferred to the holder of such Stock Rights as a result of the exercise or receipt thereof in an amount equal to the estimated federal and state income tax

liability arising out of such event, provided that no more shares may be withheld than are necessary to satisfy the holder's actual minimum withholding obligation with respect to the exercise of Stock Rights. In such event, the holder of Stock Rights must, however, notify the Committee of his or her desire to pay all or any part of the total estimated federal and state income tax liability arising out of a Tax Event by tendering already-owned shares of Common Stock or having shares of Common Stock withheld prior to the date that the amount of federal or state income tax to be withheld is to be determined. For purposes of this Section 19(b), shares of Common Stock shall be valued at their Fair Market Value on the date that the amount of the tax withholdings is to be determined.

20. Notice to Company of Disqualifying Disposition. Each employee who receives an ISO must agree to notify the Company in writing immediately after the employee makes a Disqualifying Disposition (as defined below) of any Common Stock acquired pursuant to the exercise of an ISO. A "***Disqualifying Disposition***" is any disposition (including any sale) of such Common Stock before either (a) two years after the date the employee was granted the ISO, or (b) one year after the date the employee acquired Common Stock by exercising the ISO. If the employee has died before such stock is sold, these holding period requirements do not apply and no Disqualifying Disposition can occur thereafter.

21. Electronic Delivery. The Board may, in its sole discretion, decide to deliver any documents related to any Stock Rights granted under the Plan through an online or electronic system established and maintained by the Company or another third party designated by the Company or to request a recipient's consent to participate in the Plan by electronic means. Each recipient of securities hereunder consents to receive such documents by electronic delivery and agrees to participate in the Plan through an online or electronic system established and maintained by the Company or another third party designated by the Company, and such consent shall remain in effect throughout recipient's term of employment or service with the Company and thereafter until withdrawn in writing by recipient.

22. Data Privacy. The Board may, in its sole discretion, decide to collect, use and transfer, in electronic or other form, personal data as described in this Plan or any Stock Right for the exclusive purpose of implementing, administering and managing participation in the Plan. Each recipient of securities hereunder acknowledges that the Company holds certain personal information about the recipient, including, but not limited to, name, home address and telephone number, date of birth, social security number or other identification number, salary, nationality, job title, details of all Stock Rights awarded, cancelled, exercised, vested or unvested, for the purpose of implementing, administering and managing the Plan (the "***Data***"). Each recipient of securities hereunder further acknowledges that Data may be transferred to any third parties assisting in the implementation, administration and management of the Plan and that these third parties may be located in jurisdictions that may have different data privacy laws and protections, and recipient authorizes such third parties to receive, possess, use, retain and transfer the Data, in electronic or other form, for the purposes of implementing, administering and managing the Plan, including any requisite transfer of such Data as may be required to a broker or other third party with whom the recipient or the Company may elect to deposit any shares of Common Stock acquired upon any Stock Right.

23. Governing Law; Construction. The validity and construction of the Plan and the instruments evidencing Stock Rights shall be governed by the laws of the State of South Carolina. In construing this Plan, the singular shall include the plural and the masculine gender shall include the feminine and neuter, unless the context otherwise requires.

24. Lock-up Agreement. Each recipient of securities hereunder agrees, in connection with the first registration with the United States Securities and Exchange Commission under the Securities Act of 1933, as amended, of the public sale of the Company's Common Stock, not to sell, make any short sale of, loan, grant any option for the purchase of or otherwise dispose of any securities of the Company (other than those included in the registration) without the prior written consent of the Company or such underwriters, as the case may be, for such period of time (not to exceed 180 days) from the effective date of such registration as the Company or the underwriters, as the case may be, shall specify. Each such recipient agrees that the Company may instruct its transfer agent to place stop-transfer notations in its records to enforce this Section 22. Each such recipient agrees to execute a form of agreement reflecting the foregoing restrictions as requested by the underwriters managing such offering.

Schedule A of the Benefitfocus.com, Inc. 2000 SOP
Notice of Grant of Stock Option

Notice is hereby given of the following option grant (the "Option") to purchase shares of the Common Stock of Benefitfocus.com, Inc. (the "Corporation"):

Optionee:	**NAME**	**Grant Date:**	**DATE**
Exercise Price:	**$$ per share**	**Number of Options Shares:**	**###**
Type of Option:	**ISO**	**Total Option Price:**	**$$**

VESTING

Vesting Commencement Date:	**DATE**
Expiration Date:	**DATE**

Vesting Schedule: 100% Cliff after sixty months after Grant Date

Optionee understands and agrees that the Option is granted subject to and in accordance with the terms of the Benefitfocus.com, Inc. 2000 Stock Option Plan (the "Plan"). Optionee further agrees to be bound by the terms of the Plan and the terms of the Option as set forth in the attached Stock Option Agreement (Exhibit A to the Plan). Optionee understands that any Option Shares purchased under the Option will be subject to the terms set forth in the Stock Option Agreement, whether said options are purchased electronically or in person.

No Employment or Service Contract. Nothing in this Notice or in the Plan shall confer upon Optionee any right to continue in Service for any period of specific duration or interfere with or otherwise restrict in any way the rights of the Corporation (or any Parent of Subsidiary employing or retaining Optionee) or of Optionee, which rights are hereby expressly reserved by each, to terminate Optionee's Service at any time for any reason, with or without cause.

Definitions. All capitalized terms in this Notice shall have the meaning assigned to them in this Notice or in the Stock Option Agreement.

Agreed as Above Written:

BENEFITFOCUS.COM, INC.

By: _____
Name: Mason R. Holland Jr.
Title: Chairman of the Board

OPTIONEE

_____
NAME

EXHIBIT A to
Amended and Restated
Benefitfocus.com, Inc.
2000 Stock Option Plan

BENEFITFOCUS.COM, INC.
STOCK OPTION AGREEMENT

THIS STOCK OPTION AGREEMENT (this "Agreement") is entered into on DATE, by and between Benefitfocus.com, Inc., a South Carolina corporation (the "Company"), and **NAME** (the "Optionee").

WHEREAS, on March 1, 2007, the Board of Directors of the Company adopted an amendment and restatement of its existing Stock Option Plan known as the "Amended and Restated Benefitfocus.com, Inc. 2000 Stock Option Plan" (the "Plan"), and recommended that the Plan be approved by the Company's shareholders; and

WHEREAS, the Committee has granted the Optionee a stock option to purchase the number of shares of the Company's common stock as set forth below, and in consideration of the granting of that stock option the Optionee intends to remain in the employ of the Company; and

WHEREAS, the Company and the Optionee desire to enter into a written agreement with respect to such option in accordance with the Plan.

WHEREAS, to the extent there is an additional grant of Options offered in conjunction with the execution of this Exhibit A, the additional grant shall serve as consideration between the parties in amending and restating any previously executed Agreements involving stock options between the parties.

NOW, THEREFORE, as an employment incentive and to encourage stock ownership, and also in consideration of the mutual covenants contained herein, the parties hereto agree as follows.

1. Incorporation of Plan. This option is granted pursuant to the provisions of the Plan, and the terms and definitions of the Plan are incorporated into this Agreement by reference and made a part of this Agreement. The Optionee acknowledges receipt of a copy of the Plan.

2. Grant of Option. Subject to the terms, restrictions, limitations and conditions stated in this Agreement, the Company hereby evidences its grant to the Optionee, not in lieu of salary or other compensation, of the right and option (the "Option") to purchase all or any part of the number of shares of the Company's Common Stock, no par value per share (the "Stock"), set forth on each Schedule A attached and incorporated into this Agreement by reference. The Option shall be exercisable in the amounts and at the time(s) specified on each Schedule A. The Option shall expire and shall not be exercisable on the date specified on each Schedule A or on

such earlier date as determined pursuant to Section 8, 9, 10, or 11 of this Agreement. Each Schedule A states whether the Option is intended to be an Incentive Stock Option.

3. Purchase Price. The price per share to be paid by the Optionee for the shares subject to this Option (the "Exercise Price") shall be as specified on each Schedule A, which price shall be an amount not less than the Fair Market Value (or 110% of the Fair Market Value in the event the Optionee is a person described in Section 6.3(b) of the Plan) of a share of Stock as of the Date of Grant (as defined in Section 12 below) if the Option is an Incentive Stock Option.

4. Exercise Terms. The Optionee must exercise the Option for at least the lesser of 100 shares or the number of shares of Purchasable Stock as to which the Option remains unexercised. If this Option is not exercised with respect to all or any part of the shares subject to this Option prior to its expiration, the shares with respect to which this Option was not exercised shall no longer be subject to this Option.

5. Option Non-Transferable. No Option shall be transferable by an Optionee other than by will or the laws of descent and distribution or, in the case of non-Incentive Stock Options, pursuant to a Qualified Domestic Relations Order. During the lifetime of an Optionee, Options shall be exercisable only by such Optionee (or by such Optionee's guardian or legal representative, should one be appointed).

6. Notice of Exercise of Option. This Option may be exercised by the Optionee, or by the Optionee's administrators, executors or personal representatives, by a written notice signed by the Optionee, or by such administrators, executors or personal representatives, and delivered or mailed to the Company as specified in Section 14 below to the attention of the Chairman of the Board, or such other officer as the Chairman of the Board may designate. Any such notice shall (a) specify the number of shares of Stock which the Optionee or the Optionee's administrators, executors or personal representatives, as the case may be, then elects to purchase hereunder, (b) contain such information as may be reasonably required pursuant to Section 13 below, and (c) be accompanied by (i) a certified or cashier's check payable to the Company in payment of the total Exercise Price applicable to such shares as provided herein, (ii) shares of Stock owned by the Optionee and duly endorsed or accompanied by stock transfer powers having a Fair Market Value equal to the total Exercise Price applicable to such shares purchased under this Agreement, or (iii) a certified or cashier's check accompanied by the number of shares of Stock whose Fair Market Value when added to the amount of the check equals the total Exercise Price applicable to the shares being purchased under this Agreement. Upon receipt of any such notice and accompanying payment, and subject to the terms hereof, the Company agrees to issue to the Optionee or the Optionee's administrators, executors or personal representatives, as the case may be, stock certificates or a formal written notice for the number of shares specified in such notice registered in the name of the person exercising this Option.

7. Adjustment in Option. The number of Shares subject to this Option, the Exercise Price and other matters are subject to adjustment during the term of this Option in accordance with Section 5.2 of the Plan.

8. Termination of Employment.

(a) Except as specified in each Schedule A attached hereto, in the event of a termination of the Optionee's employment, this Option, to the extent not previously exercised, shall terminate 30 days after the date of the employee's last day of employment and shall not thereafter be or become exercisable.

(b) Unless and to the extent otherwise provided in each Schedule A hereto, in the event of the retirement of the Optionee at the normal retirement date as prescribed from time to time by the Company or any Subsidiary, the Optionee shall continue to have the right to exercise any Options for shares which were Purchasable at the date of the Optionee's retirement. Notwithstanding the foregoing, the Options will become void and unexercisable on the date which is three months after the date of retirement unless on (or effective as of) the date of retirement the Optionee enters into a non-compete agreement with the Company and continues to comply with such non-compete agreement. This Option does not confer upon the Optionee any right with respect to continuance of employment by the Company or by any of its Subsidiaries. This Option shall not be affected by any change of employment so long as the Optionee continues to be an employee of the Company or one of its Subsidiaries.

9. Company Right to Repurchase. At anytime after termination of employment by an employee for any reason, any shares purchased pursuant to the exercise of any options, including any shares of stock exercised by previous option grants, can be repurchased by the Company (at the Company's sole discretion). The price for the share repurchase by the Company shall be established by the Board of Directors of the Company.

10. Disabled Optionee. In the event of termination of employment because of the Optionee's Permanent and Total Disability, the Optionee (or his or her personal representative) may exercise this Option, within a period ending on the earlier of (a) the last day of the one year period following the Optionee's Permanent and Total Disability or (b) the expiration date of this Option, to the extent of the number of shares which were Purchasable under this Agreement at the date of such termination.

11. Death of Optionee. Except as otherwise set forth in Schedule A with respect to the rights of the Optionee upon termination of employment under Section 8(a) above, in the event of the Optionee's death while employed by the Company or any of its Subsidiaries or within three months after a termination of such employment (if such termination was neither (i) for cause nor (ii) voluntary on the part of the Optionee and without the written consent of the Company), the appropriate persons described in Section 6 of this Agreement or persons to whom all or a portion of this Option is transferred in accordance with Section 5 of this Agreement may exercise this Option at any time within a period ending on the earlier of (a) the last day of the one year period following the Optionee's death or (b) the expiration date of this Option. If the Optionee was an employee of the Company at the time of death, this Option may be so exercised to the extent of the number of shares that were Purchasable under this Agreement at the date of death. If the Optionee's employment terminated prior to his or her death, this Option may be exercised only to the extent of the number of shares covered by this Option which were Purchasable under this Agreement at the date of such termination.

12. Date of Grant. This Option was granted by the Committee on the date set forth in Schedule A (the "Date of Grant").

13. Compliance with Regulatory Matters. The Optionee acknowledges that the issuance of capital stock of the Company is subject to limitations imposed by federal and state law, and the Optionee hereby agrees that the Company shall not be obligated to issue any shares of Stock upon exercise of this Option that would cause the Company to violate law or any rule, regulation, order or consent decree of any regulatory authority (including without limitation the SEC) having jurisdiction over the affairs of the Company. The Optionee agrees that he or she will provide the Company with such information as is reasonably requested by the Company or its counsel to determine whether the issuance of Stock complies with the provisions described by this Section 13.

14. Restriction on Disposition of Shares. The shares purchased pursuant to the exercise of an Incentive Stock Option shall not be transferred by the Optionee except pursuant to the Optionee's will, or the laws of descent and distribution, until such date which is the later of two years after the grant of such Incentive Stock Option or one year after the transfer of the shares to the Optionee pursuant to the exercise of such Incentive Stock Option.

15. Restrictions. At the request of the Company, Optionee will enter into and be bound by any restrictions or agreements that are in place in substantially the same form as for the major common stockholders of the Company. These agreements include but are not limited to Voting Agreements, Right of First Offer Agreements, Co Sale Agreements, and / or Investor Rights Agreements.

16. Miscellaneous.

(a) This Agreement shall be binding upon the parties hereto and their representatives, successors and assigns.

(b) This Agreement is executed and delivered in, and shall be governed by the laws of, the State of South Carolina.

(c) Any requests or notices to be given hereunder shall be deemed given, and any elections or exercises to be made or accomplished shall be deemed made or accomplished, upon actual delivery thereof to the designated recipient, or three days after deposit thereof in the United States mail, registered, return receipt requested and postage prepaid, addressed, if to the Optionee, at the address set forth below and, if to the Company, to the executive offices of the Company at 100 Benefitfocus Way, Charleston SC 29492, or at such other addresses that the parties provide to each other in accordance with the foregoing notice requirements.

(d) This Exhibit A amends and restates in its entirety any previous Exhibit A or Stock Option Agreements between the Optionee and the Company. However, any prior Schedule A Stock Option Grant Agreements, executed by the parties prior to this restated Exhibit A shall remain in full force and effect and made a part of this revised Exhibit A.

IN WITNESS WHEREOF, the Committee has caused this Stock Option Agreement to be executed on behalf of the Company, and the Optionee has executed this Stock Option Agreement, all as of the day and year first above written.

BENEFITFOCUS.COM, INC.

By: _____

Name: Mason R. Holland Jr.
Title: Chairman of the Board

OPTIONEE

_____

Name: **NAME**

2012 Stock Plan
Notice of Grant of Stock Option

Notice is hereby given of the following option grant (the "***Option***") to purchase shares of the Common Stock of Benefitfocus.com, Inc. (the "***Corporation***") pursuant to the Corporation's 2012 Stock Plan (the "***Plan***"):

Optionee:	**NAME**	**Grant Date:**	**DATE**
Exercise Price:	**$X.XX** per share	**Number of Options Shares:**	**NUMBER**
Type of Option:	**ISO/NSO**	**Total Option Price:**	**$X,XXX**

VESTING

Vesting Commencement Date: **VESTING DATE**
Expiration Date: **EXPIRATION DATE**

Vesting Schedule: 100% Cliff after sixty months after Vesting Commencement Date

Optionee understands and agrees that the Option is granted subject to and in accordance with the terms of the Plan, and Benefitfocus.com. Optionee further agrees to be bound by the terms of the Plan and the terms of the Option as set forth in the attached Stock Option Agreement. Optionee understands that any shares of Common Stock purchased under the Option will be subject to the terms set forth in the Stock Option Agreement, whether said options are purchased electronically or in person.

No Employment or Service Contract. Nothing in this Notice or in the Plan shall confer upon Optionee any right to continue in Service for any period of specific duration or interfere with or otherwise restrict in any way the rights of the Corporation (or any parent or subsidiary of the Corporation employing or retaining Optionee) or of Optionee, which rights are hereby expressly reserved by each, to terminate Optionee's service at any time for any reason, with or without cause.

Definitions. All capitalized terms in this Notice shall have the meaning assigned to them in this Notice or in the attached Stock Option Agreement or Plan.

Agreed as Above Written:

BENEFITFOCUS.COM, INC.

By: _____
Name: Mason R. Holland Jr.
Title: Chairman of the Board

OPTIONEE

_____
NAME

BENEFITFOCUS.COM, INC.

STOCK OPTION AGREEMENT

THIS STOCK OPTION AGREEMENT (this "***Agreement***") is entered into on GRANT DATE, by and between Benefitfocus.com, Inc., a South Carolina corporation (the "***Company***"), and NAME (the "***Optionee***").

WHEREAS, on January, 2013, the Board of Directors and shareholders of the Company adopted the Benefitfocus.com, Inc. 2012 Stock Plan (the "***Plan***"); and

WHEREAS, the Committee has granted the Optionee a stock option to purchase the number of shares of the Company's common stock as set forth below, and in consideration of the granting of that stock option the Optionee intends to remain in the employ of the Company; and

WHEREAS, the Company and the Optionee desire to enter into a written agreement with respect to such option in accordance with the Plan.

NOW, THEREFORE, as an employment incentive and to encourage stock ownership, and also in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

1. Incorporation of Plan. This option is granted pursuant to the provisions of the Plan and the terms and definitions of the Plan are incorporated into this Agreement by reference and made a part of this Agreement. The Optionee acknowledges receipt of a copy of the Plan.

2. Grant of Option. Subject to the terms, restrictions, limitations and conditions stated in this Agreement, the Company hereby evidences its grant to the Optionee, not in lieu of salary or other compensation, of the right and option (the "***Option***") to purchase all or any part of the number of shares of the Company's Common Stock, no par value per share (the "***Stock***"), set forth in the Notice of Grant of Stock Option (the "***Notice of Grant***"). The Option shall be exercisable in the amounts and at the time(s) specified on the Notice of Grant. If designated as an Incentive Stock Option, this Option is intended to qualify as an Incentive Stock Option as defined in Section 422 of the Code, or any successor provision. The Notice of Grant designates whether the Option is intended to be an Incentive Stock Option.

3. Purchase Price. The price per share to be paid by the Optionee for the shares subject to this Option (the "***Exercise Price***") shall be as specified on the Notice of Grant, which price shall be an amount not less than the Fair Market Value (or 110% of the Fair Market Value in the event the Optionee is a person described in Section 6(b) of the Plan) of a share of Common Stock as of the Date of Grant reflected on the Notice of Grant if the Option is an Incentive Stock Option.

4. Exercise Terms. The Optionee must exercise the Option for at least the lesser of 100 shares or the number of shares of Common Stock as to which the Option remains unexercised. If this Option is not exercised with respect to all or any part of the shares subject to

this Option prior to its expiration, the shares with respect to which this Option was not exercised shall no longer be subject to this Option.

5. Option Non-Transferable. No Option shall be transferable by an Optionee other than by will or the laws of descent and distribution or, in the case of an NSO, as provided in Section 11(b) of the Plan. During the lifetime of an Optionee, Options shall be exercisable only by such Optionee (or by such Optionee's guardian or legal representative, should one be appointed).

6. Notice of Exercise of Option. This Option may be exercised by the Optionee, or by the Optionee's administrators, executors or personal representatives, by a written notice signed by the Optionee, or by such administrators, executors or personal representatives, and delivered or mailed to the Company to the attention of the Chairman of the Board, or such other officer as the Chairman of the Board may designate. Any such notice shall (a) specify the number of shares of Stock which the Optionee or the Optionee's administrators, executors or personal representatives, as the case may be, then elects to purchase hereunder, (b) contain such information as may be reasonably required pursuant to Section 13 below, and (c) be accompanied by (i) a certified or cashier's check payable to the Company in payment of the total Exercise Price applicable to such shares as provided herein, (ii) shares of Stock owned by the Optionee and duly endorsed or accompanied by stock transfer powers having a Fair Market Value equal to the total Exercise Price applicable to such shares purchased under this Option, (iii) a certified or cashier's check accompanied by the number of shares of Common Stock whose Fair Market Value when added to the amount of the check equals the total Exercise Price applicable to the Stock being purchased under this Option, or (iv) the surrender of shares of Common Stock then issuable upon exercise of the Option having a Fair Market value equal to the total Exercise Price applicable to such Stock purchased under this Option. Upon receipt of any such notice and accompanying payment, and subject to the terms hereof, the Company agrees to issue to the Optionee or the Optionee's administrators, executors or personal representatives, as the case may be, stock certificates or a formal written notice for the number of shares specified in such notice registered in the name of the person exercising this Option.

No Stock shall be issued pursuant to the exercise of this Option unless such issuance and such exercise shall comply with all relevant provisions of law and the requirements of any stock exchange upon which the Stock is then listed. Assuming such compliance, for income tax purposes, the Stock shall be considered transferred to the Optionee on the date on which the Option is exercised with respect to such Stock.

7. Adjustment in Option. The number of shares of Stock subject to this Option, the Exercise Price and other matters are subject to adjustment during the term of this Option in accordance with Section 13 of the Plan.

8. Termination of Relationship.

(a) Except as specified in the Notice of Grant, in the event of a termination of the Optionee's directorship, employment or consulting relationship with the Company, this

Option, to the extent not previously exercised, shall terminate 30 days after the last day of the Optionee's relationship with the Company and shall not thereafter be or become exercisable.

(b) Unless and to the extent otherwise provided in the Notice of Grant, in the event of the retirement of the Optionee as an employee of the Company at the normal retirement date as prescribed from time to time by the Company or any Related Corporation, the Optionee shall continue to have the right to exercise any Options for shares which were exercisable at the date of the Optionee's retirement. Notwithstanding the foregoing, the Options will become void and unexercisable on the date which is three months after the date of retirement unless on (or effective as of) the date of retirement the Optionee enters into a non-compete agreement with the Company and continues to comply with such non-compete agreement. This Option does not confer upon the Optionee any right with respect to continuance of employment by the Company or by any Related Corporation. This Option shall not be affected by any change of employment so long as the Optionee continues to be an employee of the Company or any Related Corporation.

9. Company Repurchase Right. At any time after termination of employment or consulting relationship by an employee or consultant for any reason, any shares purchased pursuant to the exercise of any options, including any shares of stock exercised by previous option grants, can be repurchased by the Company (at the Company's sole discretion). The price for the share repurchase by the Company shall be their Fair Market Value, as established by the Board of Directors of the Company.

10. Disability of Optionee. In the event of termination of employment or consultancy because of the Optionee's Permanent and Total Disability, the Optionee (or his or her personal representative) may exercise this Option, within a period ending on the earlier of (a) the last day of the one year period following the Optionee's Permanent and Total Disability or (b) the expiration date of this Option, to the extent of the number of shares which were Purchasable under this Agreement at the date of such termination.

11. Death of Optionee. Except as otherwise set forth in the Notice of Grant, in the event of the Optionee's death while employed or engaged in a consulting relationship by the Company or any of its Subsidiaries or within three months after a termination of such employment or consultancy (if such termination was neither (i) for Cause nor (ii) voluntary on the part of the Optionee and without the written consent of the Company), the appropriate persons described in Section 6 of this Agreement or persons to whom all or a portion of this Option is transferred in accordance with Section 5 of this Agreement may exercise this Option at any time within a period ending on the earlier of (a) the last day of the one year period following the Optionee's death or (b) the expiration date of this Option. This Option may be so exercised to the extent of the number of shares that were purchasable under this Agreement at the date of death.

12. Date of Grant; Term. This Option was granted by the Committee on the date set forth in the Notice of Grant (the "***Date of Grant***"). This Option may be exercised only within the term set out in the Notice of Grant and the Plan, and may be exercised during such term only in accordance with the Plan and the terms of this Option.

13. Compliance with Regulatory Matters. The Optionee acknowledges that the issuance of capital stock of the Company is subject to limitations imposed by federal and state law, and the Optionee hereby agrees that the Company shall not be obligated to issue any shares of Stock upon exercise of this Option that would cause the Company to violate law or any rule, regulation, order or consent decree of any regulatory authority (including without limitation the SEC) having jurisdiction over the affairs of the Company. The Optionee agrees that he or she will provide the Company with such information as is reasonably requested by the Company or its counsel to determine whether the issuance of Common Stock complies with the provisions described by this Section 13.

14. Tax Consequences. Set forth below is a brief summary as of the date of this Option of some of the federal and tax consequences of exercise of this Option and disposition of the Stock. THIS SUMMARY IS NECESSARILY INCOMPLETE, AND THE TAX LAWS AND REGULATIONS ARE SUBJECT TO CHANGE. OPTIONEE WILL ALSO BE SUBJECT TO APPLICABLE STATE INCOME TAX LAWS AND REGULATIONS. OPTIONEE SHOULD CONSULT A TAX ADVISER BEFORE EXERCISING THIS OPTION OR DISPOSING OF THE STOCK.

(a) Exercise of ISO. If this Option qualifies as an ISO, there will be no regular federal income tax liability upon the exercise of the Option, although the excess, if any, of the Fair Market Value of the Stock on the date of exercise over the Exercise Price will be treated as an item of adjustment to the alternative minimum tax for federal tax purposes in the year of exercise and may subject the Optionee to the alternative minimum tax.

(b) Exercise of Nonstatutory Stock Option. If this Option does not qualify as an ISO, there may be a regular federal income tax liability upon the exercise of the Option. The Optionee will be treated as having received compensation income (taxable at ordinary income tax rates) equal to the excess, if any, of the fair market value of the Stock on the date of exercise over the Exercise Price, and the Company will qualify for a deduction in the same amount, subject to the requirement that the compensation be reasonable. If Optionee is an employee, the Company will be required to withhold from Optionee’s compensation or collect from Optionee and pay to the applicable taxing authorities an amount equal to a percentage of this compensation income at the time of exercise.

(c) Disposition of Stock. In the case of an NSO, if Stock are held for at least one year, any gain realized on disposition of the Stock will be treated as long-term capital gain for federal income tax purposes. In the case of an ISO, if Stock transferred pursuant to the Option are held for at least one year after exercise and are disposed of at least two years after the Date of Grant, any gain realized on disposition of the Stock will also be treated as long-term capital gain for federal income tax purposes. If Stock purchased under an ISO are disposed of within one year after exercise or within two years after the Date of Grant, any gain realized on such disposition will be treated as compensation income (taxable at ordinary income rates) in an amount equal to the excess of the lesser of (i) the Fair Market Value of the Stock on the date of exercise, or (ii) the sale price of the Stock over the Exercise Price paid for those Stock. The

Company will also be allowed a deduction equal to any such amount recognized, subject to the requirement that the compensation be reasonable.

(d) Notice of Disqualifying Disposition of ISO Stock. If the Option granted to Optionee herein is an ISO, and if Optionee sells or otherwise disposes of any of the Stock acquired pursuant to the ISO on or before the later of (i) the date two years after the Date of Grant, or (ii) the date one year after the date of exercise, the Optionee shall immediately notify the Company in writing of such disposition. Optionee agrees that Optionee may be subject to income tax withholding by the Company on the compensation income recognized by the Optionee from the early disposition by payment in cash or out of the current earnings paid to the Optionee.

15. Other Agreements. At the request of the Company, Optionee will enter into and be bound by any restrictions or agreements that are in place in substantially the same form as for the major common stockholders of the Company. These agreements include but are not limited to the Amended and Restated Voting Agreement dated August 25, 2010, any other Voting Agreements, Right of First Offer Agreements, Co Sale Agreements, and / or Investor Rights Agreements.

16. 2012 Stock Plan. Optionee acknowledges receipt of a copy of the Plan, represents that he or she is familiar with the terms and provisions thereof and hereby accepts this Option subject to all of the terms and provisions thereof. Optionee has reviewed the Plan and this Option in their entirety, and fully understands all provisions of the Option. Optionee acknowledges that neither the Company nor its personnel and advisors can give Optionee tax, financial or legal advice in connection with the Plan or this Option. Optionee hereby agrees to accept as binding, conclusive and final all decisions or interpretations of the Board or Committee upon any questions arising under the Plan or this Option.

17. Miscellaneous.

(a) This Agreement shall be binding upon the parties hereto and their representatives, successors and assigns.

(b) This Agreement is executed and delivered in, and shall be governed by the laws of, the State of South Carolina.

(c) Any requests or notices to be given hereunder shall be deemed given, and any elections or exercises to be made or accomplished shall be deemed made or accomplished, upon actual delivery thereof to the designated recipient, or three days after deposit thereof in the United States mail, registered, return receipt requested and postage prepaid, addressed, if to the Optionee, at the address set forth below and, if to the Company, to the executive offices of the Company at 100 Benefitfocus Way, Charleston SC 29492, or at such other addresses that the parties provide to each other in accordance with the foregoing notice requirements.

[The next page is the signature page.]

IN WITNESS WHEREOF, the Committee has caused this Stock Option Agreement to be executed on behalf of the Company, and the Optionee has executed this Stock Option Agreement, all as of the day and year first above written.

BENEFITFOCUS.COM, INC.

By: _____
Name: Mason R. Holland Jr.
Title: Chairman of the Board

OPTIONEE

_____
Name: **NAME**

Exhibit 10.6

Benefitfocus.com, Inc.
MANAGEMENT INCENTIVE BONUS PROGRAM
_____ Fiscal Year

1.0 PURPOSE

This Management Incentive Bonus Program (Bonus Plan) is designed to reward select Management based on their responsibilities and for their contributions to the successful achievement of certain corporate goals and objectives and to share the success and risks of the business based upon achievement of annual business goals.

2.0 ADMINISTRATION

The Bonus Plan is approved annually and administered by the Company's Management Incentive Committee (MIC), to consist of the CFO and the CEO. The MIC will be responsible for setting the Company Operating Goals and Objectives and administering the Bonus Plan. The MIC will delegate specific administrative tasks to the CFO as Plan Administrator, who will have day-to-day responsibility for the administration of the Plan.

3.0 BONUS COMPUTATIONS

The foundation of the _____ bonus program is achievement of consolidated revenues. The _____ bonus earned is a function of a Percentage of Bonus Earned (PBE) based on achieving annual revenue targets, the Executive's annual base salary and a designated Bonus Target Percent (BTP). The annual bonus shall be determined by multiplying the annual base salary by the designated BTP, multiplied times the PBE.

Annual Revenues and PBE

Our Annual Revenue Goal (ARG) for _____ is $_____. The following PBEs apply to the indicated levels of consolidated revenue achieved.

	Percentage of Bonus Earned (PBE)
Achieve at least $_____ (____% of the ARG)	____%
Achieve at least $_____ (____% of the ARG)	____%
Achieve at least $_____ (____% of the ARG)	____%
Achieve at least $_____ (____% of the ARG)	____%
Achieve at least $_____ (____% of the ARG)	____%
Achieve at least $_____ (____% of the ARG)	____%

Quarterly and Annual Bonus Calculation

The bonus will be available on a quarterly basis and annual basis. At the end of each calendar quarter, if actual quarterly revenues exceed the budgeted quarterly revenues per the adopted budget, a quarterly bonus will be paid. The quarterly bonus payouts will be 75% (interim rate) of one quarter of the bonus amount based on the budgeted revenues for the quarter. For example, if the Company achieves actual revenues in excess of the budgeted revenues through March 31, 2013, and the management team associate has a $100,000 salary with a 10% BTP, the bonus shall be $_____ ($100,000 × 10% BTP × 100% PBE based on budget of $_____ revenues × 25% quarterly allocation × 75% interim rate).

Annual bonus calculations will be based on calendar year results. Any amounts paid during the year based on the quarterly determinations, will be deducted from the annual payout. For example, if the Company achieves $_____ ARG for the year, and the associate's salary is $100,000, BTP is 10%, and $_____ was paid from quarterly bonuses, the amount paid after year-end will be $_____ ($100,000 x 10% BTP x 100% PBE = $_____ less $_____ paid in quarterly bonuses).

For _____, if the Company achieves 100% or more of its Annual Revenue Goal (ARG) of $_____, the Percentage of Bonus Earned (PBE) will be increased by ____%. For example, if the Company achieves its $_____ ARG and the associate's salary is $100,000, BTP is 10%, and $_____ was paid from quarterly bonuses, the amount paid after year-end will be $_____ ($100,000 x 10% BTP x 125% PBE = $_____ less $_____ paid in quarterly bonuses). The determination of whether or not the PBE is increased by ____% will be made at the end of the year following the finalization of _____ revenues.

Quarterly bonuses shall be determined on a cumulative basis, if the current quarter revenue budget is achieved. For example, if the first quarter revenue budget was not achieved, but the year to date revenue through June 30, _____ was in excess of the revenue budget for the two quarters combined, the bonus payout for the second quarter will include a catch-up for the first quarter. As a second example, if the second quarter revenue budget is not achieved, the first quarter revenue budget was achieved, and budgeted revenues year to date June 30, _____ were achieved, there will be no bonus payout for quarter two.

The _____ quarterly revenue budget amounts are as follows:

Q1	$_____
Q2	$_____
Q3	$_____
Q4	$_____
Total	$_____

Bonus Amount: The BTP will be the percentage in effect at the end of the quarter or year as applicable to the bonus determination. The current targeted eligible bonus percentage is listed at the bottom of this document on the signature page. Should the BTP or Base Salary subsequently change, there will be no retroactive application to previously determined quarterly bonuses.

Accounting Policies

Generally accepted accounting principles and our accounting policies in effect and being applied throughout the year, as appropriate, shall apply to all transactions and balances. The application of GAAP and the Company's accounting policies shall be subject to the interpretation of the MIC.

4.0 GENERAL PROVISIONS

The Bonus Plan is designed to meet these key objectives:

- Reward achievement of specific Company Revenue Growth objectives
- Ensure Personal Objectives are in line with overall Company Goals
- Align Company Management and Shareholder interests
- Drive the results that will create increasing Company Value

4.1 Other Bonus Plans: The Bonus Plan supersedes all prior bonus plans and shall not be modified unless authorized in writing by the CEO.

4.2 Plan Objectives: Applicable revenue and operating expense targets for fiscal year _____, shall be established by the Chief Executive Officer.

4.3 Payment of Bonus: Bonus payouts will be paid no later than 45 days following the end of each quarter and within 75 days following year-end.

4.4 Benefits: Bonus Plan awards are considered compensation for purposes of benefit determination and eligibility under the Company's 401(k) plan. Bonus Plan awards are not compensation for purposes of benefit determination or eligibility under the Company's life, accidental death and dismemberment, short or long-term disability insurance, or any other similar benefit plan in accordance with all plan rules and limitations.

4.5 Deductions: All Bonus Plan awards are subject to statutory deductions and are taxable at the time of payment. There shall be no Bonus Plan Awards under the Plan deferred to any future years.

4.6 Transfer/Status Change: Participants must have been hired and eligible to participate at the beginning of the fiscal quarter. Executives transferring from another incentive/commission plan during the fiscal quarter shall be compensated based on the plan they were eligible for at the beginning of the quarter at a pro-rated basis. Executives whose promotion increases their base salary to a higher amount during the quarter will be re-leveled at the beginning of the following quarter. Executives must be in a management position on the Management Team for the entire quarter for the bonus to be paid. Should an Executive be removed from the Management team for any reason, any further bonus amounts under this plan shall be forfeited, and not paid.

4.7 Leave of Absence: Bonus Plan Awards are pro-rated for Executives who are on leave of absence more than three consecutive weeks during any single quarter. Executives must be actively at work at the beginning of the quarter to be eligible for that period. Executives who have been on an approved family or medical leave of absence under FMLA criteria will be eligible for a pro-rated award, assuming all other criteria have been met.

4.8 Termination of Employment: In the event an Executive's active employment terminates during the fiscal quarter or year by reason of retirement, total and permanent disability, or death, the participant will receive a pro-rated bonus, assuming all other criteria have been met.

In the event an Executive's active employment terminates for any other reason, including resignation and discharge for cause prior to the bonus payout date, all rights to an award will be forfeited.

4.9 Amendment and Termination of the Plan: The MIC and/or the Chief Executive Officer may terminate, suspend, or amend the Bonus Plan, in whole or in part, from time to time.

4.10 Payment from General Assets: The payment of a Bonus Plan award shall be from the general assets of the Company. Executives shall have no greater rights to payment than other general creditors of the Company.

4.11 Participation: Participation in the Bonus Plan does not guarantee employment, nor does participation at any time guarantee ongoing participation.

4.12 Interpretation: The Plan MIC shall have full power and authority to interpret and administer the Bonus Plan. Disputes arising under the Bonus Plan regarding the administration, interpretation or calculation of awards or any other matter may be submitted in writing to the MIC, who shall render a final and binding decision.

5.0 CONFIDENTIALITY

Participation in the Bonus Plan and all related discussion and documentation is considered fully confidential between the Company and the Executive. All Executives are expected to honor this confidentiality and not disclose or discuss Bonus Plan matters with any persons other than his/her manager, CEO, CFO, SVP Finance or Human Resources management. Failure to maintain confidentiality regarding the Bonus Plan may jeopardize participation and/or award eligibility.

6.0 ETHICS

Any participant who manipulates or attempts to manipulate the Bonus Plan for personal gain at the expense of customers, other employees, or Company objectives will be subject to appropriate disciplinary action, up to and including termination of employment.

7.0 PLAN IS NOT A CONTRACT

The adoption and maintenance of the Bonus Plan shall not be deemed to be a contract of employment between the Company and an Executive. Nothing herein contained shall be deemed to give any Executive the right to be retained in the employ of the Company or to interfere with the right of the Company to discharge any Executive at any time, nor shall it interfere with the Executives right to terminate employment at any time.

Executive **Bonus Target Percentage: ____%**

_____

I acknowledge Receipt of the _____
Bonus Plan (sign and date)

_____

Executive Name Printed

Benefitfocus.com, Inc.

_____

Executive Signature

_____

Executive Name Printed

Exhibit 10.7

EMPLOYMENT AGREEMENT

This EMPLOYMENT AGREEMENT (this "Agreement") is made by and between BENEFITFOCUS.COM, INC, a South Carolina corporation (the "Company"), and **Mason R. Holland, Jr.,** an individual resident of Charleston, South Carolina (the "Executive"), as of the 19th day of January, 2007 (the "Effective Date").

The Company presently employs the Executive as its **Chairman of the Board of Directors**. The Board of Directors of the Company (the "Board") recognizes that the Executive's contribution to the growth and success of the Company is substantial. The Board desires to provide for the continued employment of the Executive to promote the best interests of the Company and its shareholders. The Executive is willing to continue to serve the Company on the terms and conditions herein provided. This Agreement is intended to be the entire agreement between the parties hereto with respect to the subject matter hereof and hereby supersedes any prior agreements, arrangements or understandings, whether written or oral, with respect to the subject matter hereof.

Certain capitalized terms used in this Agreement are defined in Section 19.

In consideration of the foregoing, the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree (as of the Effective Date) that:

1. Employment. The Company shall continue to employ the Executive, and the Executive shall continue to serve the Company, as the Chairman of the Board of Directors upon the terms and conditions set forth herein. The Executive shall have such authority and responsibilities as are consistent with his position and which may be set forth in the Bylaws or assigned by the Board from time to time, including, but not limited to: (i) acting as a liaison with the Company's legal counsel and accounting professionals, (ii) chairing board meetings, (iii) negotiating partnership agreements with key vendors, (iv) marketing products to key clients of the Company, (v) providing marketing support to new clients of the Company, (vi) attending industry meetings and taking part in speaking engagements on behalf of the Company, and (vii) playing an active role in the hiring of key executive employees of the Company. The Company and the Executive agree and understand that the Executive (A) shall continue to actively manage his real estate and other investment holdings while also fulfilling his responsibilities under this Agreement and (B) may also devote reasonable periods to service as a director or advisor to other organizations, to charitable and community activities, and to managing his personal investments, provided that with respect to each subclauses (A) and (B) above (1) such activities do not materially interfere with the performance of the Executive's duties hereunder and are not in conflict or competitive with, or adverse to, the interests of the Company, and (2) the Executive gives all members of the Board written notice of any new director or advisor activities in which he intends to participate or investments in which he intends to hold ten percent (10%) or more of the equity of the investment target.

2. Term. Unless earlier terminated as provided herein, the Executive's employment under this Agreement shall be for a continuing term (the "Term") of three (3) years,

which shall be extended automatically (without further action of the Company or the Executive) each day for an additional day so that the remaining term shall continue to be three (3) years; provided, however, that either party may at any time, by written notice to the other, fix the Term to a finite term of three (3) years, without further automatic extension, commencing with the date of such notice.

3. Compensation and Benefits.

a. Through the Term, the Company shall pay the Executive a salary at a rate of not less than $200,000 per annum in accordance with the salary payment practices of the Company. The Board (or the Compensation Committee thereof) shall review the Executive's salary at least annually (on or before January 1, 2008 for the first review) and shall increase the Executive's salary by at least 5% annually; provided, however, that any increase in excess of such amount in any given year shall require the consent of the individuals on the Board designated by GS Capital Partners VI Parallel, L.P. (the "Goldman Board Designees"). The Company may not decrease the Executive's base salary.

b. Through the Term, the Executive shall be eligible to participate in any management incentive programs established by the Company and to receive incentive compensation based upon achievement of targeted levels of performance and such other criteria as the Board or Compensation Committee (which in each case shall require the approval of at least one (1) of the Goldman Board Designees) may establish from time to time. In addition, the Board or the Compensation Committee shall annually consider the Executive's performance and determine if any additional bonus is appropriate; provided any such additional bonus is approved by at least one (1) of the Goldman Board Designees. Notwithstanding the foregoing, the Executive shall receive and shall be entitled to receive an annual bonus at least equal to the Executive's base salary if the Company achieves the financial targets for the calendar year approved by the Board, which approval must include at least one (1) of the Goldman Board Designees. Executive's bonus for 2007 will be payable based on achieving gross revenue and EBIT targets as such will be set in the budget approved by the Board, which approval must include at least one (1) of the Goldman Board Designees.

c. Subject to and conditional upon the terms and provisions contained under separate agreement (the "Definitive Option Document"), the Executive shall receive as additional compensation options to acquire 423,729 shares of the Company's common stock with an exercise price of $7.09, and such options will, subject to the continued employment of the Executive by the Company and his not having been terminated for Cause, vest to the Executive 25 % per year and will become fully vested on month 48 following the Effective Date.

d. Through the Term, or such longer period as may be required by applicable law, the Executive shall continue to participate in all retirement, welfare, deferred compensation, life and health insurance (including health insurance for Executive's spouse and his dependents), and other benefit plans or programs of the Company now or hereafter applicable to the Executive or applicable generally to Executives of the Company or to a class of Executives that includes senior executives of the Company; provided, however, that during any period during the Term that the Executive is subject to a Disability, and during the 180-day period of physical or mental infirmity leading up to the Executive's Disability, the amount of the Executive's compensation

provided under this Section 3 shall be reduced by the sum of the amounts, if any, paid to the Executive for the same period under any disability benefit or pension plan of the Company or any of its subsidiaries.

e. Through the Term and consistent with the policies of the Company in effect as of the Effective Date and past practice, the Company shall continue to reimburse the Executive for travel, seminar and other expenses related to the Executive's duties which are incurred; provided that expenses in excess of $10,000 per month must first be submitted to the Board in writing. Consistent with the Company's policies in effect as of the Effective Date and past practice, said travel costs shall include the use of a Company plane or charter when the additional cost is reasonably deemed appropriate by the Executive.

f. The Company shall pay for cell phone expenses, internet access accounts and business expenses related to other similar devices such as a blackberry for the Executive.

4. Termination.

a. The Executive's employment under this Agreement may be terminated prior to the end of the Term only as follows:

(i) by the Company upon the death of the Executive;

(ii) by the Company due to the Disability of the Executive after delivery of a Notice of Termination to the Executive;

(iii) by the Company for Cause upon delivery of a Notice of Termination to the Executive;

(iv) by the Company for any reason, including, but not limited to, in connection with a Change of Control, upon delivery of a Notice of Termination to the Executive;

(v) by the Executive for any reason, including, but not limited to, without Adequate Justification, upon delivery of a Notice of Termination to the Company; and

(vi) by the Executive for Adequate Justification upon no less than 90 days written notice to the Company.

b. If the Executive's employment with the Company shall be terminated during the Term pursuant to Sections 4(a)(i) or 4(a)(ii), the Company shall pay to the Executive (or in the case of his death, the Executive's estate) within 15 days after the Termination Date, a lump sum cash payment equal to the Accrued Compensation.

c. If the Executive's employment with the Company shall be terminated without Cause pursuant to Sections 4(a)(iv) or 4(a)(vi), as the agreed upon exclusive remedy available to the Executive (in law or equity) and subject to the Executive first entering into an

appropriate and mutually acceptable release of the Company and its affiliates, the Executive shall be entitled to the following:

(i) the Company shall pay the Executive in cash within 15 days of the Termination Date an amount equal to all Accrued Compensation and the Pro Rata Bonus;

(ii) the Company shall pay to the Executive in cash at the end of each of the 36 consecutive 30-day periods following the Termination Date, an amount equal to one-twelfth of the sum of the Base Amount and the Bonus Amount, each as calculated as of the Termination Date.

(iii) for the period during which the Company is making payments to Executive pursuant to Section 4(c)(ii) (the "Continuation Period"), the Company shall at its expense continue on behalf of the Executive and his dependents and beneficiaries the life insurance, disability, medical, dental and hospitalization benefits provided (x) to the Executive immediately prior to such termination or (y) to other similarly situated executives who continue or become in the employ of the Company during the Continuation Period, if permitted, in either case, by the applicable benefit plan. The coverage and benefits (including deductibles and costs) provided in this Section 4(c)(iii) during the Continuation Period shall be no less favorable to the Executive and his dependents and beneficiaries than the most favorable of such coverages and benefits during any of the periods referred to in clauses (x) and (y) above. The Company's obligation hereunder with respect to the foregoing benefits shall be limited to the extent that the Executive obtains any such benefits pursuant to a subsequent employer's benefit plans, in which case the Company may reduce the coverage of any benefits it is required to provide the Executive hereunder as long as the aggregate coverages and benefits of the combined benefit plans is no less favorable to the Executive than the coverages and benefits required to be provided hereunder. This subsection (iii) shall not be interpreted so as to limit any benefits to which the Executive or his dependents or beneficiaries may be entitled under any of the Company's Executive benefit plans, programs or practices following the Executive's termination of employment, including without limitation, retiree medical and life insurance benefits; and

(iv) as to be set forth in and subject to the provisions of the Definitive Option Document, the restrictions on any outstanding incentive awards (including stock options) granted to the Executive under the Plan or under any other incentive plan or arrangement shall lapse and such incentive award shall become 100% vested, and all stock options and stock appreciation rights granted to the Executive shall become immediately exercisable and shall become 100% vested.

d. If the Executive's employment with the Company is terminated pursuant to Section 4(a)(iii) or 4(a)(v), the Company shall pay the Executive in cash within 15 days of the Termination Date, an amount equal to all Accrued Compensation.

e. [Intentionally Omitted].

f. The Executive shall not be required to mitigate the amount of any payment provided for in this Agreement by seeking other employment or otherwise; provided, however, that to the extent that the Executive is employed by another company in a Competing Business during the 24 months following the Termination Date, the Executive will forfeit any remaining severance payments provided in this Section 4.

g. Notwithstanding any provision contained herein to the contrary, the aggregate value of all compensation payable to or for the benefit of the Executive which is contingent on any change in the ownership or effective control of the Company or in the ownership of a substantial portion of the assets of the Company, as determined in accordance with Section 280G(b)(2) of the Code, and the regulations promulgated thereunder (the "Parachute Payments") shall not exceed an amount equal to 2.99 times the base amount as determined in accordance with Code Section 280G(b)(3) and the regulations promulgated thereunder. The Company shall reasonably cooperate with the Executive in determining the extent of the limitation provided in the preceding sentence and in the manner in which such limitation is applied to all payments otherwise due to the Employee hereunder.

h. The severance pay and benefits provided for in this Section 4 shall be in lieu of any other severance or termination pay to which the Executive may be entitled under any Company severance or termination plan, program, practice or arrangement.

5. Protection of Trade Secrets and Confidential Information.

a. Through exercise of his rights and performance of his obligations under this Agreement, Executive will be exposed to "Trade Secrets" and "Confidential Business Information" (as those terms are defined below). "Trade Secrets" shall mean information or data of or about the Company or any affiliated entity, including, but not limited to, technical or nontechnical data, formulas, patterns, compilations, programs, devices, methods, techniques, drawings, processes, financial data, financial plans, products plans, or lists of actual or potential customers, clients, distributors, or licensees, that: (i) derive economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from their disclosure or use; and (ii) are the subject of efforts that are reasonable under the circumstances to maintain their secrecy. To the extent that the foregoing definition is inconsistent with a broader definition of "trade secret" under applicable law, the latter definition shall govern for purposes of interpreting Executive's obligations under this Agreement. Except as required to perform his obligations under this Agreement or except with Company's prior written permission, Executive shall not use, redistribute, market, publish, disclose or divulge to any other person or entity any Trade Secrets of the Company. The Executive's obligations under this provision shall remain in force (during or after the Term) for so long as such information or data shall continue to constitute a "trade secret" under applicable law. Executive agrees to cooperate with any and all confidentiality requirements of the Company and Executive shall immediately notify the Company of any unauthorized disclosure or use of any Trade Secrets of which Executive becomes aware.

b. The Executive agrees to maintain in strict confidence and, except as necessary to perform his duties for the Company, not to use or disclose any Confidential Business Information at any time, either during the term of his employment or for a period of one year after the Executive's last date of employment, so long as the pertinent data or information remains Confidential Business Information. "Confidential Business Information" shall mean any non-public information of a competitively sensitive or personal nature, other than Trade Secrets, acquired by the Executive, directly or indirectly, in connection with the Executive's employment (including his employment with the Company prior to the date of this Agreement), including (without limitation) oral and written information concerning the Company or its affiliates relating to financial position and results of operations (revenues, margins, assets, net income, etc.), annual and long-range business plans, marketing plans and methods, account invoices, oral or written customer information, and personnel information. Confidential Business Information also includes information recorded in manuals, memoranda, projections, minutes, plans, computer programs, and records, whether or not legended or otherwise identified by the Company and its affiliates as Confidential Business Information, as well as information which is the subject of meetings and discussions and not so recorded; provided, however, that Confidential Business Information shall not include information that is generally available to the public, other than as a result of disclosure, directly or indirectly, by the Executive, or was available to the Executive on a non-confidential basis prior to its disclosure to the Executive.

c. Upon termination of employment, the Executive shall leave with the Company all business records relating to the Company and its affiliates including, without limitation, all contracts, calendars, and other materials or business records concerning its business or customers, including all physical, electronic, and computer copies thereof, whether or not the Executive prepared such materials or records himself. Upon such termination, the Executive shall retain no copies of any such materials, and, if requested, shall certify in writing to the Company that no such materials are in his possession.

d. As set forth above, the Executive shall not disclose Trade Secrets or Confidential Business Information. However, nothing in this provision shall prevent the Executive from disclosing Trade Secrets or Confidential Business Information pursuant to a court order or court-issued subpoena, so long as the Executive first notifies the Company of said order or subpoena in sufficient time to allow the Company to seek an appropriate protective order. The Executive agrees that if he receives any formal or informal discovery request, court order, or subpoena requesting that he disclose Trade Secrets or Confidential Business Information, he will immediately notify the Company and provide the Company with a copy of said request, court order, or subpoena.

6. Non-Compete, Non-Solicitation and Related Matters.

a. The Executive covenants and undertakes that, during the period of his employment hereunder and if the Executive is terminated for Cause or if the Executive terminates his employment with the Company for any reason other than Adequate Justification, then for a period of 24 months following the date of termination, he will not, without the prior written consent of the Company, directly or indirectly, and whether as principal, agent, officer, director, employee, consultant, or otherwise, alone or in association with any other person, firm, corporation, or other business organization, carry on, or be engaged, or take part in, or render

services to, or own, share in the earnings of, or invest in the stock, bonds, or other securities of any person, firm, corporation, or other business organization (other than the Company or its affiliates, if any) engaged in a Competing Business; provided, however, that the Executive may invest in stock, bonds or other securities of any Competing Business if (i) such stock, bonds, or other securities are listed on any national or regional securities exchange or have been registered under Section 12(g) of the Securities Exchange Act of 1934, as amended; and (ii) his investment does not exceed, in the case of any class of the capital stock of any one issuer, 5% of the issued and outstanding shares, or in the case of bonds or other securities, 5% of the aggregate principal amount thereof issued and outstanding.

b. If the Executive is terminated for Cause or if the Executive terminates his employment with the Company for any reason other than Adequate Justification, then for a period of 24 months following the date of termination, the Executive shall not (except on behalf of or with the prior written consent of the Company) either directly or indirectly, on the Executive's own behalf or in the service or on behalf of others, (i) solicit, divert or appropriate to or for a Competing Business, or (ii) attempt to solicit, divert, or appropriate to or for a Competing Business, any person or entity that was a customer or prospective customer of the Company on the date of termination and with whom the Executive had direct material contact within six months of the Executive's last date of employment.

c. If the Executive is terminated for Cause or if the Executive terminates his employment with the Company for any reason other than Adequate Justification, then for a period of 24 months following the date of termination, the Executive will not, either directly or indirectly, on the Executive's own behalf or in the service or on behalf of others, (i) solicit, divert, or hire away, or (ii) attempt to solicit, divert, or hire away any employee of or consultant to the Company or any of its affiliates engaged or experienced in the Business, regardless of whether the employee or consultant is full-time or temporary, the employment or engagement is pursuant to written agreement, or the employment is for a determined period or is at will.

d. The Executive acknowledges and agrees that great loss and irreparable damage would be suffered by the Company if the Executive should breach or violate any of the terms or provisions of the covenants and agreements set forth in this Section 6. The Executive further acknowledges and agrees that each of these covenants and agreements is reasonably necessary to protect and preserve the interests of the Company. The parties agree that money damages for any breach of clauses (a), (b) and (c) of this Section 6 will be insufficient to compensate for any breaches thereof, and that the Executive or any of the Executive's affiliates, as the case may be, will, to the extent permitted by law, waive in any proceeding initiated to enforce such provisions any claim or defense that an adequate remedy at law exists. The existence of any claim, demand, action, or cause of action against the Company, whether predicated upon this Agreement or otherwise, shall not constitute a defense to the enforcement by the Company of any of the covenants or agreements in this Agreement; provided, however, that nothing in this Agreement shall be deemed to deny the Executive the right to defend against this enforcement on the basis that the Company has no right to its enforcement under the terms of this Agreement.

e. The Executive acknowledges and agrees that: (i) the covenants and agreements contained in clauses (a) through (f) of this Section 6 are the essence of this

Agreement; (ii) that the Executive has received good, adequate and valuable consideration for each of these covenants; and (iii) each of these covenants is reasonable and necessary to protect and preserve the interests and properties of the Company. The Executive also acknowledges and agrees that: (i) irreparable loss and damage will be suffered by the Company should the Executive breach any of these covenants and agreements; (ii) each of these covenants and agreements in clauses (a), (b) and (c) of this Section 6 is separate, distinct and severable not only from the other covenants and agreements but also from the remaining provisions of this Agreement; and (iii) the unenforceability of any covenants or agreements shall not affect the validity or enforceability of any of the other covenants or agreements or any other provision or provisions of this Agreement. The Executive acknowledges and agrees that if any of the provisions of clauses (a) and (b) of this Section 6 shall ever be deemed to exceed the time, activity, or geographic limitations permitted by applicable law, then such provisions shall be and hereby are reformed to the maximum time, activity, or geographical limitations permitted by applicable law.

f. The Executive and the Company hereby acknowledge that it may be appropriate from time to time to modify the terms of this Section 6 and the definition of the term “Business” to reflect changes in the Company’s business and affairs so that the scope of the limitations placed on the Executive’s activities by this Section 6 accomplishes the parties’ intent in relation to the then current facts and circumstances. Any such amendment shall be effective only when completed in writing and signed by the Executive and the Company.

7. Successors; Binding Agreement.

a. This Agreement shall be binding upon and shall inure to the benefit of the Company, its Successors and Assigns and the Company shall require any Successors and Assigns to expressly assume and agree to perform this Agreement in the same manner and to the same extent that the Company would be required to perform it if no such succession or assignment had taken place.

b. Neither this Agreement nor any right or interest hereunder shall be assignable or transferable by the Executive, his beneficiaries or legal representatives, except by will or by the laws descent and distribution. This Agreement shall inure to the benefit of and be enforceable by the Executive’s legal personal representative.

8. Fees and Expenses. The prevailing party in any dispute or other action relating to the terms or provisions of this Agreement shall be reimbursed by the non-prevailing party for all reasonable legal fees and expenses incurred by it in connection with such matter.

9. Notice. For the purposes of this Agreement, notices and all other communications provided for in this Agreement (including the Notice of Termination) shall be in writing and shall be deemed to have been duly given when personally delivered or sent by certified mail, return receipt requested, postage prepaid, addressed to the respective addresses last given by each party to the other; provided, however, that all notices to the Company shall be directed to the attention of the Board with a copy to the Secretary of the Company. All notices and communications shall be deemed to have been received on the date of delivery thereof.

10. Settlement of Claims. The Company's obligation to make the payments provided for in this Agreement and otherwise to perform its obligations hereunder shall not be affected by any circumstances, including, without limitation, any set-off, counterclaim, recoupment, defense or other right which the Company may have against the Executive or others. The Company may, however, withhold from any benefits payable under this Agreement all federal, state, city, or other taxes as shall be required pursuant to any law or governmental regulation or ruling.

11. Modification and Waiver. No provisions of this Agreement may be modified, waived or discharged unless such waiver, modification or discharge is agreed to in writing and signed by the Executive and the Company. No waiver by any party hereto at any time of any breach by the other party hereto of, or compliance with, any condition or provision of this Agreement to be performed by such other party shall be deemed a waiver of similar or dissimilar provisions or conditions at the same or at any prior or subsequent time.

12. Governing Law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of South Carolina without giving effect to the conflict of laws principles thereof. Any action brought by any party to this Agreement shall be brought and maintained in a court of competent jurisdiction in State of South Carolina.

13. Severability. The provisions of this Agreement shall be deemed severable and the invalidity or unenforceability of any provision shall not affect the validity or enforceability of the other provisions hereof.

14. Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto and supersedes all prior agreements, if any, understandings and arrangements, oral or written, between the parties hereto with respect to the subject matter hereof.

15. Headings. The headings of Sections herein are included solely for convenience of reference and shall not control the meaning or interpretation of any of the provisions of this Agreement.

16. Facsimile Signatures and Counterparts. This Agreement may be executed by facsimile and in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

17. [Intentionally Omitted]

18. [Intentionally Omitted]

19. Definitions. For purposes of this Agreement, the following terms shall have the following meanings:

a "Accrued Compensation" shall mean an amount which shall include all amounts earned or accrued through the Termination Date but not paid as of the Termination Date including (i) earned base salary, and (ii) reimbursement for reasonable and necessary expenses

permitted by this Agreement incurred by the Executive on behalf of the Company during the period ending on the Termination Date.

b “Act” shall mean the Securities Act of 1933, as amended.

c “Adequate Justification” shall mean any of the following events or conditions: (i) a material failure of the Company to comply with the terms of this Agreement, following written notice by the Executive to the Board of such material failure, describing it in reasonable detail, and a 20 day cure period; (ii) any non-voluntary, Company-imposed relocation of the Executive outside Charleston, South Carolina; (iii) a Change in Control which results in a material diminution in the Executive’s responsibilities; or (iv) other than as provided for herein (including through the lapse of the Term), the removal of the Executive from the position of President and Chairman of the Board of Directors.

d. “Base Amount” shall mean the greater of the Executive’s annual base salary at the rate in effect on the Termination Date and shall include all amounts of his base salary that are deferred under the qualified and non-qualified employee benefit plans of the Company or any other agreement or arrangement.

e “Board” shall have the meaning set forth in the recitals.

f “Bonus Amount” shall mean the average of the annual bonuses paid or payable during the three (3) full fiscal years ended prior to the Termination Date (or such lesser period for which annual bonuses were actually paid or payable to the Executive).

g “Business” shall mean internet based enrollment and products offered to the health care industry.

h “Bylaws” shall mean the Amended and Restated Bylaws of the Company, as amended, supplemented or otherwise modified from time to time.

i. “Cause” shall mean the following actions, failures and events by or affecting the Executive: (1) a conviction of the Executive of, or the entering of a plea of nolo contendere by the Executive with respect to, having committed a felony, (2) abuse of controlled substances or alcohol or acts of dishonesty or moral turpitude by the Executive that are detrimental to the Company, (3) acts or omissions by the Executive that the Executive knew or should reasonably have known would substantially damage the business of the Company, (4) negligence by the Executive in the performance of, or disregard by the Executive of, his obligations under this Agreement or otherwise relating to his employment, or a breach by the Executive of this Agreement, which negligence, disregard or breach continues unremedied for a period of 20 days after written notice thereof to the Executive, or (5) failure by the Executive to obey the reasonable and lawful orders and policies of the Board that are consistent with the provisions of this Agreement (provided that, in the case of clause (2) or (3) above, the Employee shall have received written notice of such proposed termination and a reasonable opportunity to discuss the matter with the Board, followed by a notice that the Board adheres to its position.

j. “Change in Control” shall mean the occurrence during the Term of any the following events: (1) the consolidation or merger of the Company with or into any other

corporation or other entity (other than a merger in which the Company is the surviving corporation and which will not result in more than 50% of the voting capital stock of the Company outstanding immediately after the effective date of such merger being owned of record or beneficially by persons other than the holders of such voting capital stock immediately prior to such merger in the same proportions in which such shares were held immediately prior to the merger), or (ii) the sale of all or substantially all of the properties and assets of the Company as an entirety to any other unaffiliated person. For avoidance of doubt, the consummation of the transactions contemplated by that certain Series A Stock Purchase Agreement, dated January [19], 2007, between the Company and the other parties thereto, shall not constitute a Change of Control for purposes hereof.

k. “Compensation Committee” shall mean the compensation committee of the Board.

l. “Competing Business” shall mean any business that, in whole or in part, is the same or substantially the same as the Business.

m. “Confidential Business Information” shall have the meaning ascribed to it in Section 5(b).

n. “Continuation Period” shall have the meaning ascribed to it in Section 4(c)(iii).

o. “Disability” shall mean the inability of the Executive to perform substantially all of his current duties as required hereunder for a continuous period of 90 days because of mental or physical condition, illness or injury.

p. “Effective Date” shall have the meaning ascribed to it in the prefatory paragraph of this Agreement.

q. [Intentionally Omitted]

r. “Notice of Termination” shall mean a written notice of termination from the Company or the Executive which specifies an effective date of termination, indicates the specific termination provision in this Agreement relied upon, and sets forth in reasonable detail the facts and circumstances claimed to provide a basis for termination of the Executive’s employment under the provision so indicated.

s. “Plan” shall mean any of the Company’s incentive stock plans.

t. “Pro Rata Bonus” shall mean an amount equal to the Bonus Amount multiplied by a fraction the numerator of which is the number of days in the fiscal year through the Termination Date and the denominator of which is 365.

u. “Successors and Assigns” shall mean a corporation or other entity acquiring all or substantially all the assets and business of the Company (including this Agreement), whether by operation of law or otherwise.

v. “Termination Date” shall mean, in the case of the Executive’s death, his date of death, and in all other cases, the date specified in the Notice of Termination.

w. “Trade Secrets” shall have the meaning ascribed to it in Section 5(a).

[Signatures appear on the following page.]

IN WITNESS WHEREOF, the Company has caused this Employment Agreement to be executed by an officer thereunto duly authorized, and the Executive has signed and sealed this Agreement, effective as of the date first above written.

BENEFITFOCUS.COM, INC.

By: /s/ Shawn A. Jenkins
Name: Shawn A. Jenkins
Title: President & CEO

EXECUTIVE

/s/ Mason R. Holland, Jr.
Mason R. Holland, Jr.

Exhibit 10.8

EMPLOYMENT AGREEMENT

This EMPLOYMENT AGREEMENT (this "Agreement") is made by and between BENEFITFOCUS.COM, INC, a South Carolina corporation (the "Company"), and **Shawn A. Jenkins,** an individual resident of Charleston, South Carolina (the "Executive"), as of the 19th day of January, 2007 (the "Effective Date").

The Company presently employs the Executive as its **Chief Executive Officer**. The Board of Directors of the Company (the "Board") recognizes that the Executive's contribution to the growth and success of the Company is substantial. The Board desires to provide for the continued employment of the Executive to promote the best interests of the Company and its shareholders. The Executive is willing to continue to serve the Company on the terms and conditions herein provided. This Agreement is intended to be the entire agreement between the parties hereto with respect to the subject matter hereof and hereby supersedes any prior agreements, arrangements or understandings, whether written or oral, with respect to the subject matter hereof.

Certain capitalized terms used in this Agreement are defined in Section 19.

In consideration of the foregoing, the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree (as of the Effective Date) that:

1. Employment. The Company shall continue to employ the Executive, and the Executive shall continue to serve the Company, as President and Chief Executive Officer upon the terms and conditions set forth herein. The Executive shall have such authority and responsibilities as are consistent with his position and which may be set forth in the Bylaws or assigned by the Board from time to time, including, but not limited to, devoting his full business time, attention, skill and efforts to the performance of his duties hereunder, except during periods of illness or periods of vacation and leaves of absence consistent with Company policy. The Company and the Executive agree and understand that the Executive may devote reasonable periods of time to serve as a director or advisor to other organizations, to perform charitable and other community activities (in Executive's discretion), and to manage his personal investments; provided, however, that (1) such activities do not materially interfere with the performance of the Executive's duties hereunder and are not in conflict or competitive with, or adverse to, the interests of the Company and (2) the Executive gives all members of the Board written notice of any new director or advisor activities in which he intends to participate or investments in which he intends to hold ten percent (10%) or more of the equity of the investment target.

2. Term. Unless earlier terminated as provided herein, the Executive's employment under this Agreement shall be for a continuing term (the "Term") of three (3) years, which shall be extended automatically (without further action of the Company or the Executive) each day for an additional day so that the remaining term shall continue to be three (3) years; provided, however, that either party may at any time, by written notice to the other, fix the Term to a finite term of three (3) years, without further automatic extension, commencing with the date of such notice.

3. Compensation and Benefits.

a. Through the Term, the Company shall pay the Executive a salary at a rate of not less than $400,000 per annum in accordance with the salary payment practices of the Company. The Board (or the Compensation Committee thereof) shall review the Executive's salary at least annually (on or before January 1, 2008 for the first review) and shall increase the Executive's salary by at least 5% annually; provided, however, that any increase in excess of such amount in any given year shall require the consent of the individuals on the Board designated by GS Capital Partners VI Parallel, L.P. (the "Goldman Board Designees"). The Company may not decrease the Executive's base salary.

b. Through the Term, the Executive shall be eligible to participate in any management incentive programs established by the Company and to receive incentive compensation based upon achievement of targeted levels of performance and such other criteria as the Board or Compensation Committee (which in each case shall require the approval of at least one (1) of the Goldman Board Designees) may establish from time to time. In addition, the Board or the Compensation Committee shall annually consider the Executive's performance and determine if any additional bonus is appropriate; provided any such additional bonus is approved by at least one (1) of the Goldman Board Designees. Notwithstanding the foregoing, the Executive shall receive and shall be entitled to receive an annual bonus at least equal to the Executive's base salary if the Company achieves the financial targets for the calendar year approved by the Board, which approval must include at least one (1) of the Goldman Board Designees. Executive's bonus for 2007 will be payable based on achieving gross revenue and EBIT targets as such will be set in the budget approved by the Board, which approval must include at least one (1) of the Goldman Board Designees. In addition, if the Company's financial targets are exceeded by 10% for the year, the Executive will earn an additional bonus amount equal to 50% of base salary.

c. Subject to and conditional upon the terms and provisions contained under separate agreement (the "Definitive Option Document"), the Executive shall receive as additional compensation options to acquire 847,458 shares of the Company's common stock with an exercise price of $7.09, and such options will, subject to the continued employment of the Executive by the Company and his not having been terminated for Cause, vest to the Executive 25 % per year and will become fully vested on month 48 following the Effective Date.

d. Through the Term, or such longer period as may be required by applicable law, the Executive shall continue to participate in all retirement, welfare, deferred compensation, life and health insurance (including health insurance for Executive's spouse and his dependents), and other benefit plans or programs of the Company now or hereafter applicable to the Executive or applicable generally to Executives of the Company or to a class of Executives that includes senior executives of the Company; provided, however, that during any period during the Term that the Executive is subject to a Disability, and during the 180-day period of physical or mental infirmity leading up to the Executive's Disability, the amount of the Executive's compensation provided under this Section 3 shall be reduced by the sum of the amounts, if any, paid to the Executive for the same period under any disability benefit or pension plan of the Company or any of its subsidiaries.

e. Through the Term and consistent with the policies of the Company in effect as of the Effective Date and past practice, the Company shall continue to reimburse the Executive for travel, seminar and other expenses related to the Executive's duties which are incurred; provided that Company-related business expenses in excess of $30,000 per month must first be approved by the Board in writing. Consistent with the Company's policies in effect as of the Effective Date and past practice, said travel costs shall include the use of a Company plane or charter when the additional cost is reasonably deemed appropriate by the Executive.

f. The Company shall pay for cell phone expenses, internet access accounts and expenses related to other similar devices such as a blackberry for the Executive.

4. Termination.

a. The Executive's employment under this Agreement may be terminated prior to the end of the Term only as follows:

(i) by the Company upon the death of the Executive;

(ii) by the Company due to the Disability of the Executive after delivery of a Notice of Termination to the Executive;

(iii) by the Company for Cause upon delivery of a Notice of Termination to the Executive;

(iv) by the Company for any reason, including, but not limited to, in connection with a Change of Control, upon delivery of a Notice of Termination to the Executive;

(v) by the Executive for any reason, including, but not limited to, without Adequate Justification, upon delivery of a Notice of Termination to the Company; and

(vi) by the Executive for Adequate Justification upon no less than 90 days written notice to the Company.

b. If the Executive's employment with the Company shall be terminated during the Term pursuant to Sections 4(a)(i) or 4(a)(ii), the Company shall pay to the Executive (or in the case of his death, the Executive's estate) within 15 days after the Termination Date, a lump sum cash payment equal to the Accrued Compensation and the Pro Rata Bonus.

c. If the Executive's employment with the Company shall be terminated without Cause pursuant to Sections 4(a)(iv) or 4(a)(vi), as the agreed upon exclusive remedy available to the Executive (in law or equity) and subject to the Executive first entering into an appropriate and mutually acceptable release of the Company and its affiliates, the Executive shall be entitled to the following:

(i) the Company shall pay the Executive in cash within 15 days of the Termination Date an amount equal to all Accrued Compensation and the Pro Rata Bonus;

(ii) the Company shall pay to the Executive in cash at the end of each of the 36 consecutive 30-day periods following the Termination Date, an amount equal to one-twelfth of the sum of the Base Amount and the Bonus Amount, each as calculated as of the Termination Date.

(iii) for the period during which the Company is making payments to Executive pursuant to Section 4(c)(ii) (the "Continuation Period"), the Company shall at its expense continue on behalf of the Executive and his dependents and beneficiaries the life insurance, disability, medical, dental and hospitalization benefits provided (x) to the Executive immediately prior to such termination or (y) to other similarly situated executives who continue or become in the employ of the Company during the Continuation Period, if permitted, in either case, by the applicable benefit plan. The coverage and benefits (including deductibles and costs) provided in this Section 4(c)(iii) during the Continuation Period shall be no less favorable to the Executive and his dependents and beneficiaries than the most favorable of such coverages and benefits during any of the periods referred to in clauses (x) and (y) above. The Company's obligation hereunder with respect to the foregoing benefits shall be limited to the extent that the Executive obtains any such benefits pursuant to a subsequent employer's benefit plans, in which case the Company may reduce the coverage of any benefits it is required to provide the Executive hereunder as long as the aggregate coverages and benefits of the combined benefit plans is no less favorable to the Executive than the coverages and benefits required to be provided hereunder. This subsection (iii) shall not be interpreted so as to limit any benefits to which the Executive or his dependents or beneficiaries may be entitled under any of the Company's Executive benefit plans, programs or practices following the Executive's termination of employment, including without limitation, retiree medical and life insurance benefits; and

(iv) as to be set forth in and subject to the provisions of the Definitive Option Document, the restrictions on any outstanding incentive awards (including stock options) granted to the Executive under the Plan or under any other incentive plan or arrangement shall lapse and such incentive award shall become 100% vested, and all stock options and stock appreciation rights granted to the Executive shall become immediately exercisable and shall become 100% vested.

d. If the Executive's employment with the Company is terminated pursuant to Section 4(a)(iii) or 4(a)(v), the Company shall pay the Executive in cash within 15 days of the Termination Date, an amount equal to all Accrued Compensation.

e. [Intentionally Omitted].

f. The Executive shall not be required to mitigate the amount of any payment provided for in this Agreement by seeking other employment or otherwise; provided, however, that to the extent that the Executive is employed by another company in a Competing Business during the 24 months following the Termination Date, the Executive will forfeit any remaining severance payments provided in this Section 4.

g. Notwithstanding any provision contained herein to the contrary, the aggregate value of all compensation payable to or for the benefit of the Executive which is contingent on any change in the ownership or effective control of the Company or in the ownership of a substantial portion of the assets of the Company, as determined in accordance with Section 280G(b)(2) of the Code, and the regulations promulgated thereunder (the "Parachute Payments") shall not exceed an amount equal to 2.99 times the base amount as determined in accordance with Code Section 280G(b)(3) and the regulations promulgated thereunder. The Company shall reasonably cooperate with the Executive in determining the extent of the limitation provided in the preceding sentence and in the manner in which such limitation is applied to all payments otherwise due to the Employee hereunder.

h. The severance pay and benefits provided for in this Section 4 shall be in lieu of any other severance or termination pay to which the Executive may be entitled under any Company severance or termination plan, program, practice or arrangement.

5. Protection of Trade Secrets and Confidential Information.

a. Through exercise of his rights and performance of his obligations under this Agreement, Executive will be exposed to "Trade Secrets" and "Confidential Business Information" (as those terms are defined below). "Trade Secrets" shall mean information or data of or about the Company or any affiliated entity, including, but not limited to, technical or nontechnical data, formulas, patterns, compilations, programs, devices, methods, techniques, drawings, processes, financial data, financial plans, products plans, or lists of actual or potential customers, clients, distributors, or licensees, that: (i) derive economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from their disclosure or use; and (ii) are the subject of efforts that are reasonable under the circumstances to maintain their secrecy. To the extent that the foregoing definition is inconsistent with a broader definition of "trade secret" under applicable law, the latter definition shall govern for purposes of interpreting Executive's obligations under this Agreement. Except as required to perform his obligations under this Agreement or except with Company's prior written permission, Executive shall not use, redistribute, market, publish, disclose or divulge to any other person or entity any Trade Secrets of the Company. The Executive's obligations under this provision shall remain in force (during or after the Term) for so long as such information or data shall continue to constitute a "trade secret" under applicable law. Executive agrees to cooperate with any and all confidentiality requirements of the Company and Executive shall immediately notify the Company of any unauthorized disclosure or use of any Trade Secrets of which Executive becomes aware.

b. The Executive agrees to maintain in strict confidence and, except as necessary to perform his duties for the Company, not to use or disclose any Confidential Business Information at any time, either during the term of his employment or for a period of one year after the Executive's last date of employment, so long as the pertinent data or information remains Confidential Business Information. "Confidential Business Information" shall mean any non-public information of a competitively sensitive or personal nature, other than Trade Secrets, acquired by the Executive, directly or indirectly, in connection with the Executive's employment (including his employment with the Company prior to the date of this Agreement), including (without limitation) oral and written information concerning the Company or its affiliates relating to financial position and results of operations (revenues, margins, assets, net income,

etc.), annual and long-range business plans, marketing plans and methods, account invoices, oral or written customer information, and personnel information. Confidential Business Information also includes information recorded in manuals, memoranda, projections, minutes, plans, computer programs, and records, whether or not legended or otherwise identified by the Company and its affiliates as Confidential Business Information, as well as information which is the subject of meetings and discussions and not so recorded; provided, however, that Confidential Business Information shall not include information that is generally available to the public, other than as a result of disclosure, directly or indirectly, by the Executive, or was available to the Executive on a non-confidential basis prior to its disclosure to the Executive.

c. Upon termination of employment, the Executive shall leave with the Company all business records relating to the Company and its affiliates including, without limitation, all contracts, calendars, and other materials or business records concerning its business or customers, including all physical, electronic, and computer copies thereof, whether or not the Executive prepared such materials or records himself. Upon such termination, the Executive shall retain no copies of any such materials, and, if requested, shall certify in writing to the Company that no such materials are in his possession.

d. As set forth above, the Executive shall not disclose Trade Secrets or Confidential Business Information. However, nothing in this provision shall prevent the Executive from disclosing Trade Secrets or Confidential Business Information pursuant to a court order or court-issued subpoena, so long as the Executive first notifies the Company of said order or subpoena in sufficient time to allow the Company to seek an appropriate protective order. The Executive agrees that if he receives any formal or informal discovery request, court order, or subpoena requesting that he disclose Trade Secrets or Confidential Business Information, he will immediately notify the Company and provide the Company with a copy of said request, court order, or subpoena.

6. Non-Compete, Non-Solicitation and Related Matters.

a. The Executive covenants and undertakes that, during the period of his employment hereunder and if the Executive is terminated for Cause or if the Executive terminates his employment with the Company for any reason other than Adequate Justification, then for a period of 24 months following the date of termination, he will not, without the prior written consent of the Company, directly or indirectly, and whether as principal, agent, officer, director, employee, consultant, or otherwise, alone or in association with any other person, firm, corporation, or other business organization, carry on, or be engaged, or take part in, or render services to, or own, share in the earnings of, or invest in the stock, bonds, or other securities of any person, firm, corporation, or other business organization (other than the Company or its affiliates, if any) engaged in a Competing Business; provided, however, that the Executive may invest in stock, bonds or other securities of any Competing Business if (i) such stock, bonds, or other securities are listed on any national or regional securities exchange or have been registered under Section 12(g) of the Securities Exchange Act of 1934, as amended; and (ii) his investment does not exceed, in the case of any class of the capital stock of any one issuer, 5% of the issued and outstanding shares, or in the case of bonds or other securities, 5% of the aggregate principal amount thereof issued and outstanding.

b. If the Executive is terminated for Cause or if the Executive terminates his employment with the Company for any reason other than Adequate Justification, then for a period of 24 months following the date of termination, the Executive shall not (except on behalf of or with the prior written consent of the Company) either directly or indirectly, on the Executive's own behalf or in the service or on behalf of others, (i) solicit, divert or appropriate to or for a Competing Business, or (ii) attempt to solicit, divert, or appropriate to or for a Competing Business, any person or entity that was a customer or prospective customer of the Company on the date of termination and with whom the Executive had direct material contact within six months of the Executive's last date of employment.

c. If the Executive is terminated for Cause or if the Executive terminates his employment with the Company for any reason other than Adequate Justification, then for a period of 24 months following the date of termination, the Executive will not, either directly or indirectly, on the Executive's own behalf or in the service or on behalf of others, (i) solicit, divert, or hire away, or (ii) attempt to solicit, divert, or hire away any employee of or consultant to the Company or any of its affiliates engaged or experienced in the Business, regardless of whether the employee or consultant is full-time or temporary, the employment or engagement is pursuant to written agreement, or the employment is for a determined period or is at will.

d. The Executive acknowledges and agrees that great loss and irreparable damage would be suffered by the Company if the Executive should breach or violate any of the terms or provisions of the covenants and agreements set forth in this Section 6. The Executive further acknowledges and agrees that each of these covenants and agreements is reasonably necessary to protect and preserve the interests of the Company. The parties agree that money damages for any breach of clauses (a), (b) and (c) of this Section 6 will be insufficient to compensate for any breaches thereof, and that the Executive or any of the Executive's affiliates, as the case may be, will, to the extent permitted by law, waive in any proceeding initiated to enforce such provisions any claim or defense that an adequate remedy at law exists. The existence of any claim, demand, action, or cause of action against the Company, whether predicated upon this Agreement or otherwise, shall not constitute a defense to the enforcement by the Company of any of the covenants or agreements in this Agreement; provided, however, that nothing in this Agreement shall be deemed to deny the Executive the right to defend against this enforcement on the basis that the Company has no right to its enforcement under the terms of this Agreement.

e. The Executive acknowledges and agrees that: (i) the covenants and agreements contained in clauses (a) through (f) of this Section 6 are the essence of this Agreement; (ii) that the Executive has received good, adequate and valuable consideration for each of these covenants; and (iii) each of these covenants is reasonable and necessary to protect and preserve the interests and properties of the Company. The Executive also acknowledges and agrees that: (i) irreparable loss and damage will be suffered by the Company should the Executive breach any of these covenants and agreements; (ii) each of these covenants and agreements in clauses (a), (b) and (c) of this Section 6 is separate, distinct and severable not only from the other covenants and agreements but also from the remaining provisions of this Agreement; and (iii) the unenforceability of any covenants or agreements shall not affect the validity or enforceability of any of the other covenants or agreements or any other provision or provisions of this Agreement. The Executive acknowledges and agrees that if any of the provisions of clauses (a) and (b) of this Section 6 shall ever be deemed to exceed the time,

activity, or geographic limitations permitted by applicable law, then such provisions shall be and hereby are reformed to the maximum time, activity, or geographical limitations permitted by applicable law.

f. The Executive and the Company hereby acknowledge that it may be appropriate from time to time to modify the terms of this Section 6 and the definition of the term "Business" to reflect changes in the Company's business and affairs so that the scope of the limitations placed on the Executive's activities by this Section 6 accomplishes the parties' intent in relation to the then current facts and circumstances. Any such amendment shall be effective only when completed in writing and signed by the Executive and the Company.

7. Successors; Binding Agreement.

a. This Agreement shall be binding upon and shall inure to the benefit of the Company, its Successors and Assigns and the Company shall require any Successors and Assigns to expressly assume and agree to perform this Agreement in the same manner and to the same extent that the Company would be required to perform it if no such succession or assignment had taken place.

b. Neither this Agreement nor any right or interest hereunder shall be assignable or transferable by the Executive, his beneficiaries or legal representatives, except by will or by the laws descent and distribution. This Agreement shall inure to the benefit of and be enforceable by the Executive's legal personal representative.

8. Fees and Expenses. The prevailing party in any dispute or other action relating to the terms or provisions of this Agreement shall be reimbursed by the non-prevailing party for all reasonable legal fees and expenses incurred by it in connection with such matter.

9. Notice. For the purposes of this Agreement, notices and all other communications provided for in this Agreement (including the Notice of Termination) shall be in writing and shall be deemed to have been duly given when personally delivered or sent by certified mail, return receipt requested, postage prepaid, addressed to the respective addresses last given by each party to the other; provided, however, that all notices to the Company shall be directed to the attention of the Board with a copy to the Secretary of the Company. All notices and communications shall be deemed to have been received on the date of delivery thereof.

10. Settlement of Claims. The Company's obligation to make the payments provided for in this Agreement and otherwise to perform its obligations hereunder shall not be affected by any circumstances, including, without limitation, any set-off, counterclaim, recoupment, defense or other right which the Company may have against the Executive or others. The Company may, however, withhold from any benefits payable under this Agreement all federal, state, city, or other taxes as shall be required pursuant to any law or governmental regulation or ruling.

11. Modification and Waiver. No provisions of this Agreement may be modified, waived or discharged unless such waiver, modification or discharge is agreed to in writing and signed by the Executive and the Company. No waiver by any party hereto at any time of any breach by the other party hereto of, or compliance with, any condition or provision

of this Agreement to be performed by such other party shall be deemed a waiver of similar or dissimilar provisions or conditions at the same or at any prior or subsequent time.

12. Governing Law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of South Carolina without giving effect to the conflict of laws principles thereof. Any action brought by any party to this Agreement shall be brought and maintained in a court of competent jurisdiction in State of South Carolina.

13. Severability. The provisions of this Agreement shall be deemed severable and the invalidity or unenforceability of any provision shall not affect the validity or enforceability of the other provisions hereof.

14. Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto and supersedes all prior agreements, if any, understandings and arrangements, oral or written, between the parties hereto with respect to the subject matter hereof.

15. Headings. The headings of Sections herein are included solely for convenience of reference and shall not control the meaning or interpretation of any of the provisions of this Agreement.

16. Facsimile Signatures and Counterparts. This Agreement may be executed by facsimile and in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

17. [Intentionally Omitted]

18. [Intentionally Omitted]

19. Definitions. For purposes of this Agreement, the following terms shall have the following meanings:

a “Accrued Compensation” shall mean an amount which shall include all amounts earned or accrued through the Termination Date but not paid as of the Termination Date including (i) earned base salary, and (ii) reimbursement for reasonable and necessary expenses permitted by this Agreement incurred by the Executive on behalf of the Company during the period ending on the Termination Date.

b “Act” shall mean the Securities Act of 1933, as amended.

c “Adequate Justification” shall mean any of the following events or conditions: (i) a material failure of the Company to comply with the terms of this Agreement, following written notice by the Executive to the Board of such material failure, describing it in reasonable detail, and a 20 day cure period; (ii) any non-voluntary, Company-imposed relocation of the Executive outside Charleston, South Carolina; (iii) a Change in Control which results in a material diminution in the Executive’s responsibilities; or (iv) other than as provided for herein (including through the lapse of the Term), the removal of the Executive from the position of President and Chief Executive Officer.

d. “Base Amount” shall mean the greater of the Executive’s annual base salary at the rate in effect on the Termination Date and shall include all amounts of his base salary that are deferred under the qualified and non-qualified employee benefit plans of the Company or any other agreement or arrangement.

e “Board” shall have the meaning set forth in the recitals.

f “Bonus Amount” shall mean the average of the annual bonuses paid or payable during the three (3) full fiscal years ended prior to the Termination Date (or such lesser period for which annual bonuses were actually paid or payable to the Executive).

g “Business” shall mean internet based enrollment and products offered to the health care industry.

h “Bylaws” shall mean the Amended and Restated Bylaws of the Company, as amended, supplemented or otherwise modified from time to time.

i. “Cause” shall mean the following actions, failures and events by or affecting the Executive: (1) a conviction of the Executive of, or the entering of a plea of nolo contendere by the Executive with respect to, having committed a felony, (2) abuse of controlled substances or alcohol or acts of dishonesty or moral turpitude by the Executive that are detrimental to the Company, (3) acts or omissions by the Executive that the Executive knew or should reasonably have known would substantially damage the business of the Company, (4) negligence by the Executive in the performance of, or disregard by the Executive of, his obligations under this Agreement or otherwise relating to his employment, or a breach by the Executive of this Agreement, which negligence, disregard or breach continues unremedied for a period of 20 days after written notice thereof to the Executive, or (5) failure by the Executive to obey the reasonable and lawful orders and policies of the Board that are consistent with the provisions of this Agreement (provided that, in the case of clause (2) or (3) above, the Employee shall have received written notice of such proposed termination and a reasonable opportunity to discuss the matter with the Board, followed by a notice that the Board adheres to its position.

j. “Change in Control” shall mean the occurrence during the Term of any the following events: (1) the consolidation or merger of the Company with or into any other corporation or other entity (other than a merger in which the Company is the surviving corporation and which will not result in more than 50% of the voting capital stock of the Company outstanding immediately after the effective date of such merger being owned of record or beneficially by persons other than the holders of such voting capital stock immediately prior to such merger in the same proportions in which such shares were held immediately prior to the merger), or (ii) the sale of all or substantially all of the properties and assets of the Company as an entirety to any other unaffiliated person. For avoidance of doubt, the consummation of the transactions contemplated by that certain Series A Stock Purchase Agreement, dated January [19], 2007, between the Company and the other parties thereto, shall not constitute a Change of Control for purposes hereof.

k. “Compensation Committee” shall mean the compensation committee of the Board.

l. “Competing Business” shall mean any business that, in whole or in part, is the same or substantially the same as the Business.

m. “Confidential Business Information” shall have the meaning ascribed to it in Section 5(b).

n. “Continuation Period” shall have the meaning ascribed to it in Section 4(c)(iii).

o. “Disability” shall mean the inability of the Executive to perform substantially all of his current duties as required hereunder for a continuous period of 90 days because of mental or physical condition, illness or injury.

p. “Effective Date” shall have the meaning ascribed to it in the prefatory paragraph of this Agreement.

q. [Intentionally Omitted]

r. “Notice of Termination” shall mean a written notice of termination from the Company or the Executive which specifies an effective date of termination, indicates the specific termination provision in this Agreement relied upon, and sets forth in reasonable detail the facts and circumstances claimed to provide a basis for termination of the Executive’s employment under the provision so indicated.

s. “Plan” shall mean any of the Company’s incentive stock plans.

t. “Pro Rata Bonus” shall mean an amount equal to the Bonus Amount multiplied by a fraction the numerator of which is the number of days in the fiscal year through the Termination Date and the denominator of which is 365.

u. “Successors and Assigns” shall mean a corporation or other entity acquiring all or substantially all the assets and business of the Company (including this Agreement), whether by operation of law or otherwise.

v. “Termination Date” shall mean, in the case of the Executive’s death, his date of death, and in all other cases, the date specified in the Notice of Termination.

w. “Trade Secrets” shall have the meaning ascribed to it in Section 5(a).

[Signatures appear on the following page.]

IN WITNESS WHEREOF, the Company has caused this Employment Agreement to be executed by an officer thereunto duly authorized, and the Executive has signed and sealed this Agreement, effective as of the date first above written.

BENEFITFOCUS.COM, INC.

By: /s/ Mason Holland Jr.
Name: Mason Holland Jr.
Title: Chairman of the Board

EXECUTIVE

/s/ Shawn A. Jenkins
Shawn A. Jenkins

Exhibit 10. 9

BENEFITFOCUS.COM, INC.

EMPLOYMENT AGREEMENT

THIS AGREEMENT (the "Agreement"), is made and entered into this 16th day of November, 2011, by and between: Benefitfocus.com, Inc., having its principal place of business at: 100 Benefitfocus Way, Charleston, SC 29492, (hereinafter referred to as the "Employer") and Milton A. Alpren whose present address is: 2 Honeysuckle Circle, Hopkinton, MA 01748, hereinafter referred to as the "Employee".

1. **Employment.** The Employer hereby agrees to employ the Employee in the capacity of: Chief Financial Officer, upon the terms and conditions set out herein, and the Employee accepts such employment.

2. **Term.** The term of this Agreement shall begin on January 9, 2012. The Employee understands and acknowledges that employment is considered "at will" and is terminable at any time at the will of the Employer or the Employee, not withstanding any other provisions of this Agreement, including Section 17 and Section 8 of Exhibit "B" of this 9 of this Agreement. This Agreement shall remain in force until terminated at the will of either party or as described in Section 17 and Section 8 of Exhibit "B" of this Agreement.

3. **Duties.** The Employee shall perform, for the Employer, the duties set out in the attached Exhibit "A" entitled "Job Description," which is incorporated herein and made a part of this Agreement.

4. **Compensation.** The Employee's compensation shall be paid in accordance with that outlined in Exhibit "B" entitled "Compensation Program," which is incorporated herein and made a part hereof.

5. **Extent of Services.** The Employee shall devote his entire time, attention, and energies to the Employer's business and shall not, during the term of this Agreement, be engaged in any other business activity that conflicts with, or takes the Employee's time or attention away from, the Employee's work for the Employer, whether or not such business activity is pursued for gain, profit or other pecuniary advantage. The Employee further agrees that he or she will perform all of the duties assigned to the Employee to the best of his ability and in a manner satisfactory to the Employer, that he will truthfully and accurately maintain all records, preserve all such records, and make all such reports as the Employer may require; that he will fully account for all money and all of the property of the Employer of which the Employee may have custody and will pay over and deliver the same whenever and however the Employee may be directed to do so.

6. **Expenses.** The Employer agrees to reimburse the Employee for travel and other expenses incurred while conducting business on behalf of the Employer as long as they are reasonable and approved by the Employer and comply with government regulations covering such expenses for business purposes. Such expenses will be stated on a Company furnished expense form, have required receipts, be signed by the Employee, and sent to the Employer for approval and reimbursement. This procedure is to be accomplished on a weekly basis.

7. **Covenant Not to Disclose Trade Secrets and Confidential Information.**

   a. The Employee acknowledges that the Employer has information which is confidential and information which constitutes trade secrets which the Employer uses in its Business and which is essential to its continued ability to compete and be successful in the Business of the Employer. For purposes of this Agreement, "Business" shall mean the business of providing human resource management and benefit administration services via a web based enrollment and communication software application.

b. The term “Trade Secret(s)”, as used herein, shall be defined as information, including, but not limited to, a formula, pattern, compilation, program, device, method, technique, product, system or process, design, prototype, procedure or code that: (i) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by the public or any other person who can obtain economic value from its disclosure or use, and (ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

c. The Employee acknowledges and recognizes that the list of customers of the Employer, its customer information, its pricing information, policies and operating procedures, as the same may exist from time to time, are valuable, special and unique assets of the Employer and are Trade Secrets belonging to the Employer.

d. The term “Confidential Information,” as such term is used herein, shall mean any information which the Employer uses in its business and which the Employer considers to be confidential or proprietary, but which does not rise to the level of a trade secret.

e. The Employee covenants and agrees that during the Employee’s employment and at all times thereafter, the Employee shall not use any Trade Secrets of the Employer, except as an employee of the Employer with the consent of the Employer. The Employee further covenants and agrees that during the Employee’s employment and at all times thereafter, the Employee shall not disclose any Trade Secrets of the Company to any firm, company, corporation, association or other entity, for any reason or purpose whatsoever, except as an employee of the Company with the consent of the Company, or as may be required by law.

f. The Employee further covenants and agrees that during the Employees employment and for a period of two (2) years following the termination of the Employee’s employment relationship with the Employer, either by the Employee or the Employer, for any reason whatsoever, the Employee shall not use or disclose any Confidential Information, except as an employee of the Company with the consent of the Company, or as may be required by law.

8. **Covenant Not to Solicit Customers.**

a. The Employee covenants and agrees that in the event the Employee’s employment relationship with the Employer is terminated, either by the Employee or the Employer, for any reason whatsoever, the Employee shall not, for a period of two (2) years following the termination of the Employee’s employment with the Employer, directly or indirectly, alone or in association with or on behalf of any other person or entity, (i) solicit, (ii) accept Business from or (iii) perform any service in competition with the Employer for, any person or entity who was a customer of the Employer at any time during Employee’s employment with the Company and with whom the Employee had any contact at any time during the twenty four (24) months prior to the termination of his or her employment.

b. The Employee recognizes and acknowledges that the Employer’s customers and the specific needs of such customers are essential to the success of its business and its continued good will and that its customer list and customer information is a property interest of the Employer, having been developed by the Employer at great effort and expense.

9. **Covenants are Independent.** The covenants on the part of the Employee contained in paragraphs 7 and 8 hereof, as well as in each subsection of Section 8, shall each be construed as agreements independent of each other and of any other provision in this Agreement and the unenforceability of one shall not affect the remaining covenants.

10. **Consideration.** The Employee acknowledges and agrees that valid consideration has been given to the Employee by the Employer in return for the promises of the Employee set forth herein.

11. **Extension of Periods.** Each of the time periods described in this Agreement shall be automatically extended by any length of time during which the Employee is in breach of the corresponding covenant contained herein. The provisions of this Agreement shall continue in full force and effect throughout the duration of the extended periods.

12. **Reasonable Restraint.** It is agreed by the parties that the foregoing covenants in this Agreement are necessary for the legitimate business interests of the Employer and impose a reasonable restraint on the Employee in light of the activities and Business of the Employer on the date of the execution of this Agreement.

13. **Notices.** Any notice required or desired to be given under this Agreement shall be given in writing, sent by certified mail, return receipt requested, to his residence in the case of the Employee, or to its principal place of business, in the case of the Employer.

14. **Waiver of Breach.** The waiver by the Employer of a breach of any provision of this Agreement by the Employee shall not operate or be construed as a waiver of any subsequent breach by the Employee. No waiver shall be valid unless in writing and signed by the Employer.

15. **Assignment.** The Employee acknowledges that the services to be rendered by the Employee are unique and personal. Accordingly, the Employee may not assign any of his or her rights or delegate any of his or her duties or obligations under this Agreement. The rights and obligations of the Employer under this Agreement shall inure to the benefit of and shall be binding upon the successors and assigns of the Employer.

16. **Vacations and Sick Leave.** The Employer's vacation and sick leave policies will be detailed in its Employee Handbook the provisions of which are subject to change on a prospective basis.

17. **Termination Without Cause.** The Employee may terminate this Agreement without cause. In such event the Employer requests thirty (30) days written notice to the Employer. In such event, no severance allowance shall be paid to the Employee unless the Employee terminates this Agreement in accordance with the provisions of Section 8 of Exhibit "B" of this Agreement; but the Employee shall continue (if agreed to by the Employer) to render his services and shall be paid his regular compensation up to the date of termination.

18. **Entire Agreement.** This Agreement contains the entire understanding of the parties. It may be changed only by an Agreement in writing, signed by the parties hereto.

19. **Governing Law; Jurisdiction and Venue.** This Agreement, and all transactions contemplated hereby, shall be governed by, construed and enforced in accordance with the laws of the State of South Carolina. The parties agree that any action or dispute regarding this Agreement shall be filed with a court having subject matter jurisdiction located in Charleston County, State of South Carolina.

20. **Work Facilities.** The Employee shall be provided with such other facilities and services as are suitable to the Employee's position and appropriate for the performance of his or her duties. In the case of an employee performing the sales duties and located remote to the main office, it is expected that the employee will maintain some form of office at his or her residence, which contains the necessary equipment to perform the assigned duties.

21. **Severability.** To the extent that any provision or language of this Agreement is deemed unenforceable, by virtue of the scope of the business activity prohibited or the length of time the

activity is prohibited, the Employer and Employee agree that this Agreement shall be enforced to the fullest extent permissible under the laws and public policies of the State of South Carolina.

22. **Contractual Procedures.** Unless specifically disallowed by law, should litigation arise hereunder, service of process therefore may be obtained through certified mail, return receipt requested; the parties hereto waiving any and all rights they may have to object to the method by which service was perfected.

23. **Remedies for Breach.** Both parties recognize and agree that a breach by either party of any covenant contained in this Agreement would cause immeasurable and irreparable harm to the other party. In the event of a breach or threatened breach of any covenant contained herein, each party shall be entitled to temporary and permanent injunctive relief, restraining the other party from violating or threatening to violate any covenant contained herein, as well as all costs and fees incurred by the prevailing party, including attorneys fees, as a result of the other party's breach or threatened breach of the covenant. The parties agree that the relief described herein is in addition to such other and further relief as may be available at equity or by law. Nothing herein shall be construed as prohibiting the parties from pursuing any other remedies available to it for such breach or threatened breach, including the recovery of damages.

24. **At-Will Employment.** The Employee understands and agrees that this Agreement shall in no way impose upon the Employer any obligation to employ the Employee or to continue the Employee's employment for any length of time, notwithstanding any other provisions of this Agreement, including Section 17 and Section 8 of Exhibit "B" of this Agreement. The employment or continuation of employment by the Employer is, and at all times shall remain, in the absolute discretion of the Employer, which employment may be terminated by the Employee or the Employer at will, notwithstanding any other provisions of this Agreement, including Section 17 and Section 8 of Exhibit "B" of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date above written.

Signed, sealed and delivered in the presence of:

"EMPLOYER"

/s/ Shawn Jenkins

Witness

Benefitfocus.com, Inc.

By: Shawn Jenkins

Its: CEO

Witness name printed

"EMPLOYEE"

/s/ Milton A. Alpern

Witness

Employee signature

Milton A. Alpern

Witness name printed

Employee name printed

Exhibit 10. 9

Exhibit “A” to Alpern Employment Agreement dated November 2011.

Job Description for the Position of: Chief Financial Officer

The Chief Financial Officer’s primary responsibility it to achieve the Company gross revenue and expense goals on an annual basis. This position reports directly to the Chief Executive Officer and duties will be those customary for a private and/or public company CFO and as further defined below.

PLANNING

1. Assist in formulating the company’s future direction and supporting tactical initiatives
2. Monitor and direct the implementation of strategic business plans
3. Develop financial and tax strategies
4. Manage the capital request and budgeting processes
5. Develop performance measures that support the company’s strategic direction
6. Strategic planning with regard to new products and services including pricing and expense models
7. Product and technology strategic planning against a multi-year expense plan by key project
8. Develop key metric scorecard for both internal and external reporting

OPERATIONS

1. Participate in key decisions as a member of the executive management team
2. Maintain in-depth relations with all members of the management team
3. Manage the accounting, human resources, investor relations, legal, tax, finance and treasury departments
4. Oversee the financial operations of subsidiary companies
5. Manage any third parties to which functions have been outsourced
6. Implement operational best practices
7. Oversee employee benefit plans
8. Model overseas offices headcount
9. Establish a top-notch engineering recruiting team and on-boarding process inside of HR
10. Evolve the HR department to meet the growing demands of our company
11. Define a multi-tier compensation plan for key 25, 50, 75 and 100 associates
12. Management of facilities
13. Negotiate contracts and contract management

FINANCIAL INFORMATION

1. Oversee the issuance of financial information
2. Personally review and approve all filings with the Securities and Exchange Commission
3. Report financial results, with CEO, to the board of directors
4. In-depth analysis of cost of revenue categories and logical changes in the allocation of budgeted

spend

5. Corporate Governance to SOX

RISK MANAGEMENT

1. Understand and mitigate key elements of the company's risk profile
2. Monitor all open legal issues involving the company, and legal issues affecting the industry
3. Construct and monitor reliable control systems
4. Maintain appropriate insurance coverage
5. Ensure that the company complies with all legal and regulatory requirements
6. Ensure that record keeping meets the requirements of auditors and government agencies
7. Report risk issues to the audit committee of the board of directors
8. Maintain relations with external auditors and investigate their findings and recommendations

FUNDING, M&A, CAPITAL EXPENDITURES

1. Monitor cash balances and cash forecasts. Invest funds.
2. Arrange for debt and equity financing
3. Lead IPO deal team, preparations and banker relationships
4. Capital spending ROI analysis and associated controls
5. Supervise acquisition due diligence and negotiate acquisitions
6. Maintain current and ongoing analysis of comparable company metrics, i.e. revenue growth, EBITDA %, sales and marketing spend, R&D, etc.

THIRD PARTIES

1. Participate in conference calls with the investment community
2. Maintain banking relationships
3. Represent the company with investment bankers and investors
4. Select large customer relationships

Benefitfocus.com, Inc.

Compensation Program

For
Milton A. Alpern

Exhibit “B” to Employment Agreement dated November 2011.

1. *Salary:* The Company shall pay the Employee, as compensation for services rendered by the Employee, a salary of Two Hundred and Sixty Seven Thousand ($267,000.00) dollars per year, payable twice per month (on the 1st and 15th). The scheduled start date is January 9, 2012. The first payment for the scheduled start date shall be February 1, 2012. All wages shall be subject to withholding and other applicable taxes.

2. *Annual Review:* Annual salary reviews will occur on or around the annual budget process for the company.

3. *Annual Bonus Opportunity:* The Company will pay you a bonus of 50% of your base pay when Company annual targets are met. The Bonus can in some cases be over 50% if a certain over percentage of the Company targets are met. The targets for achieving the Bonus will be the same Company targets set for the entire Executive Management Team as adjusted at the beginning of each year.

4. *Stock Incentive:* Employee will participate in a Benefitfocus stock plan under separate agreement. Said Stock Option grant will include:

   Grant: .80% of all outstanding stock on a fully diluted basis as of July 1, 2011

   Vesting: 25% after 1 year followed by 1/36 per month vesting of the remaining unvested options over the next thirty-six (36) months.

   Grant Price: Price of Options as valued on July 1, 2011

   The Company agrees to accelerate your stock option vesting to 100% in the event of a Change in Control of the Company, as defined herein, only if you are terminated within 12 months after the Change in Control without Cause, including a change in your position from Chief Financial Officer or a change in your duties and responsibilities.

5. *Relocation Reimbursement:* The Company will reimburse the Employee up to a maximum of $50,000 for moving expenses. The Employer follows IRS accountable plan moving reimbursement guidelines (refer to IRS Publication 521). The Employee will need to submit receipts for any direct moving expenses incurred, the balance will be paid to the Employee as ordinary wages. Should Employee terminate employment with Benefitfocus by resignation within Twenty Four (24) months of hire, Employee will be obligated to repay this moving expense to Benefitfocus.

6. *Normal Hours of Work:* Full time executive positions and the Chief Financial Officer are expected to work the amount of time needed to meet or exceed all metrics as assigned by the CEO.

7. *Company Benefits, Annual Leave and Paid Holidays:* As outlined in the benefit summary and reviewed at the time of the employment offer.

8. *Severance:* In the event the Company terminates your employment without “Cause,” as defined herein, at any time prior to a Change of Control, as defined herein, then upon execution of a general release of claims satisfactory to the Company, the Company will provide you with the following severance benefits: (i) salary continuation for a period of twelve (12) months at your then current rate of base salary; (ii) a portion of your targeted annual bonus determined in accordance with the applicable paragraph below; (iii) if you are eligible for,

elect and remain eligible for COBRA continuation coverage, the Company will pay the share of the premium it was paying prior to termination during the period you are receiving severance; and, (iv) six months continued vesting of the stock options that you have been granted at the time of such termination. Except as may be provided under this Agreement following termination of your employment, any benefits to which you may be entitled pursuant to the Company's plans, policies and arrangements referred to herein shall be determined and paid in accordance with the terms of such plans, policies and arrangements.

In the event the Company or its acquirer terminates your employment without "Cause," as defined herein, at the time of or within twelve (12) months following a Change of Control, as defined herein, then upon execution of a general release of claims satisfactory to the Company, the Company or its acquirer will provide you with the following severance benefits: (i) salary continuation for a period of twelve (12) months at your then current rate of base salary; (ii) a portion of your targeted annual bonus determined in accordance with the applicable paragraph below; and, (iii) if you are eligible for, elect and remain eligible for COBRA continuation coverage, the Company or its acquirer will pay the share of the premium it was paying prior to termination during the period you are receiving severance. Except as may be provided under this Agreement following termination of your employment, any benefits to which you may be entitled pursuant to the Company's plans, policies and arrangements referred to herein shall be determined and paid in accordance with the terms of such plans, policies and arrangements.

For purposes of this document, you will receive the same severance benefits as upon a termination without Cause if you notify the Company of your decision to terminate your employment with the Company within three (3) months of the occurrence of either of the following: (i) a decrease to your base salary or targeted annual bonus without your consent and approval to an amount less than the then current amount immediately preceding the decrease, or (ii) a change in your position from Chief Financial Officer or your duties and responsibilities without your consent and approval.

If the Company terminates your employment with or without Cause, after completion of any period (whether a calendar year or any other period) during which your eligibility for a bonus is to be determined (a "Bonus Period") but prior to the date when such bonus is to be paid, you will be entitled to receive such bonus at the time it would have been paid. In addition, if the company terminates your employment without cause prior to the completion of a Bonus Period, you will be entitled to receive a prorated portion of such bonus at the time it would have been paid, based on the portion of the Bonus Period that you were employed by the Company.

"Cause" shall mean a determination by the Company's board of directors of any of the following: (i) your violation of any applicable material law or regulation respecting the business of the Company; (ii) your commission of a felony or a crime involving moral turpitude, (iii) any act of dishonesty, fraud or misrepresentation in relation to your duties to the Company, (iv) failure to perform in any material respect your duties hereunder after twenty (20) days' written notice and an opportunity to cure such failure and a reasonable opportunity to present to the Company's board of directors your position regarding any dispute relating to the existence of such failure; (v) your failure to attempt in good faith to implement a clear and reasonable directive from the Company's board of directors or to comply with any of the Company's policies and procedures which failure is material and occurs after written notice from the Company's board of directors; (vi) any act of gross misconduct which is materially and demonstrably injurious to the Company; or, (vii) your breach of fiduciary responsibility.

A "Change of Control" shall be deemed to have occurred if any of the following conditions have occurred: (i) the merger or consolidation of the Company with another entity, where the Company is not the surviving entity and where after the merger or consolidation (A) its stockholders prior to the merger or consolidation hold less than 50% of the voting stock of the surviving entity and (B) its directors prior to the merger or consolidation are less than a majority of the directors of the surviving entity; (ii) the sale of all or substantially all of the Company's assets to a third party where subsequent to the transaction (A) its stockholders hold less than 50% of the stock of said third party and (B) its directors are less than a majority of the board of directors of said third party; or (iii) a transaction or series of transactions, including a merger of the Company with another entity where the Company is the surviving entity, whereby (A) 50%

or more of the voting stock of the Company after the transaction is owned actually or beneficially by parties who held less than 30% of the voting stock, actually or beneficially, prior to the transaction(s) and (B) its board of directors after the transaction(s) or within 60 days thereof is comprised of less than a majority of the Company's directors serving prior to the transaction(s).

Signed and delivered on this 16th day of November, 2011 in the presence of:

BENEFITFOCUS.COM, INC.	EMPLOYEE
/s/ Shawn Jenkins	/s/ Milton Alpern
Executive Signature	Employee Signature
Shawn Jenkins	Milton Alpern
Executive Name Printed	Employee Name Printed

Exhibit 10.10

BENEFITFOCUS.COM, INC.

EMPLOYMENT AGREEMENT

THIS AGREEMENT (the "Agreement"), is made and entered into this day of 201 , by and between: Benefitfocus.com, Inc., having its principal place of business at: 100 Benefitfocus Way, Charleston, SC 29492, (hereinafter referred to as the "Company") and whose present address is: (hereinafter referred to as the "Employee").

1. **Employment**. The Company hereby agrees to employ the Employee in the capacity of: EDI Integration Analyst, upon the terms and conditions set out herein, and the Employee accepts such employment.

2. **Term**. The term of this Agreement shall begin on , 201 . The Employee understands and acknowledges that employment is considered "at will" and is terminable at any time at the will of the Company or the Employee, not withstanding any other provisions of this Agreement, including Section 19 hereof. This Agreement shall remain in force until terminated at the will of either party or as described in Section 19 of this Agreement.

3. **Duties**. The Employee shall perform, for the Company, the duties set out in the attached Exhibit "A" entitled "Job Description," which is incorporated herein and made a part of this Agreement.

4. **Compensation**. The Employee's compensation shall be paid in accordance with that outlined in Exhibit "B" entitled "Compensation Program," which is incorporated herein and made a part hereof.

5. **Extent of Services**. The Employee shall devote his entire time, attention, and energies to the Company's business and shall not, during the term of this Agreement, be engaged in any other business activity that conflicts with, or takes the Employee's time or attention away from, the Employee's work for the Company, whether or not such business activity is pursued for gain, profit or other pecuniary advantage. The Employee further agrees that he or she will perform all of the duties assigned to the Employee to the best of his or her ability and in a manner satisfactory to the Company, that he or she will truthfully and accurately maintain all records, preserve all such records, and make all such reports as the Company may require; that he or she will fully account for all money and all of the property of the Company of which the Employee may have custody and will pay over and deliver the same whenever and however the Employee may be directed to do so.

6. **Expenses**. The Company agrees to reimburse the Employee for travel and other expenses incurred while conducting business on behalf of the Company as long as they are reasonable and approved by the Company and comply with government regulations covering such expenses for business purposes. Such expenses will be stated on a company furnished expense form, have required receipts, be signed by the Employee, and sent to the Company for approval and reimbursement. This procedure is to be accomplished on a weekly basis.

7. **Covenant Not to Disclose Trade Secrets and Confidential Information**.

a. As an employee of the Company, the Employee will be exposed to "Trade Secrets" and "Confidential Business Information" (as those terms are defined below). "Trade Secrets" shall mean information or data of or about the Company or any affiliated entity, including, but not limited to, technical or non-technical data, formulas, patterns, compilations, programs, devices, methods, techniques, drawings, processes, financial data, financial plans, products plans, or lists of actual or potential customers, clients, distributors, or licensees, that: (i) derive economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from their disclosure or use; and (ii) are the subject of efforts that are reasonable under the circumstances to maintain their secrecy. To the extent that the foregoing definition is

inconsistent with a broader definition of "trade secret" under applicable law, the latter definition shall govern for purposes of interpreting the Employee's obligations under this Agreement. Except as required to perform his or her obligations under this Agreement or except with Company's prior written permission, the Employee shall not use, redistribute, market, publish, disclose or divulge to any other person or entity any Trade Secrets of the Company. The Employee's obligations under this provision shall remain in force (during or after the Term) for so long as such information or data shall continue to constitute a "trade secret" under applicable law. The Employee agrees to cooperate with any and all confidentiality requirements of the Company and the Employee shall immediately notify the Company of any unauthorized disclosure or use of any Trade Secrets of which the Employee becomes aware.

b. The Employee agrees to maintain in strict confidence and, except as necessary to perform his or her duties for the Company, not to use or disclose any Confidential Business Information at any time, during the term of his or her employment or for a period of one year after the Employee's last date of employment, so long as the pertinent data or information remains Confidential Business Information. "Confidential Business Information" shall mean any non-public information of a competitively sensitive or personal nature, other than Trade Secrets, acquired by the Employee, directly or indirectly, in connection with the Employee's employment (including his or her employment with the Company prior to the date of this Agreement), including (without limitation) oral and written information concerning the Company or its affiliates relating to financial position and results of operations (revenues, margins, assets, net income, etc.), annual and long-range business plans, marketing plans and methods, account invoices, oral or written customer information, and personnel information. Confidential Business Information also includes information recorded in manuals, memoranda, projections, minutes, plans, computer programs, and records, whether or not legended or otherwise identified by the Company and its affiliates as Confidential Business Information, as well as information which is the subject of meetings and discussions and not so recorded; provided, however, that Confidential Business Information shall not include information that is generally available to the public, other than as a result of disclosure, directly or indirectly, by the Employee, or that was available to the Employee on a non-confidential basis prior to its disclosure to the Employee.

c. Upon termination of employment, the Employee shall leave with the Company all business records relating to the Company and its affiliates including, without limitation, all contracts, calendars, and other materials or business records concerning its business or customers, including all physical, electronic, and computer copies thereof, whether or not the Employee prepared such materials or records himself. Upon such termination, the Employee shall retain no copies of any such materials and, if requested, shall certify in writing to the Company that no such materials are in his possession.

d. As set forth above, the Employee shall not disclose Trade Secrets or Confidential Business Information. However, nothing in this provision shall prevent the Employee from disclosing Trade Secrets or Confidential Business Information pursuant to a court order or court-issued subpoena, so long as the Employee first notifies the Company of said order or subpoena in sufficient time to allow the Company to seek an appropriate protective order. The Employee agrees that if he or she receives any formal or informal discovery request, court order, or subpoena requesting that the Employee disclose Trade Secrets or Confidential Business Information, he or she will immediately notify the Company and provide the Company with a copy of said request, court order, or subpoena.

8. <u>Covenant Not to Solicit Customers.</u>

a. The Employee covenants and agrees that for a period of one (1) year following the date of termination of the Employee's employment with the Company, for any reason, whether by the Employee or the Company, the Employee shall not (except on behalf of or with the prior written consent of the Company) either directly or indirectly, on the Employee's own behalf or in the service or on behalf of others, (i) solicit, divert or appropriate to or for a Competing

Business, or (ii) attempt to solicit, divert, or appropriate to or for a Competing Business, any person or entity that was a customer or prospective customer of the Company on the date of termination and with whom the Employee had direct material contact within six months of the Employee's last date of employment. For purposes of this Agreement, the term "Competing Business" shall mean the business of offering human resource management and benefit administration services to companies via a Web-based system.

b. The Employee recognizes and acknowledges that the Company's customers and the specific needs of such customers are essential to the success of its business and its continued good will and that its customer list and customer information is a property interest of the Company, having been developed by the Company at great effort and expense.

9. **Covenant Not to Solicit Employees/Consultants**. The Employee covenants and agrees that for a period of one (1) year following the date of termination of the Employee's employment with the Company, for any reason, whether by Employee or the Company, Employee will not, either directly or indirectly, on the Employee's own behalf or in the service or on behalf of others, (i) solicit, divert, or hire away, or (ii) attempt to solicit, divert, or hire away any employee of or consultant to the Company or any of its affiliates engaged or experienced in the Business (as defined herein), regardless of whether the employee or consultant is full-time or temporary, the employment or engagement is pursuant to written agreement, or the employment is for a determined period or is at will. For purposes of this Agreement, the term "Business" shall mean the business of offering human resource management and benefit administration services to companies via a Web-based system.

10. **Covenant Not to Compete.** The Employee covenants and agrees that in the event the Employee's employment relationship with the Company is terminated, either by the Employee or the Company, for any reason whatsoever, the Employee shall not, for a period of one (1) year following the termination of the Employee's employment with the Company, and within the United States, directly or indirectly, alone or in association with or on behalf of any other person, firm, corporation, or other business organization, (a) carry on, be engaged in, or take part in a Competing Business (as defined above), (b) render services to a Competing Business, or (c) own, share in the earnings of, or invest in the stock, bonds, or other securities of any person, firm, corporation, or other business organization (other than the Company or its affiliates, if any) engaged in a Competing Business; provided, however, that Employee may invest in stock, bonds or other securities of any Competing Business if (i) such stock, bonds, or other securities are listed on any national or regional securities exchange or have been registered under Section 12(g) of the Securities Exchange Act of 1934, as amended; and (ii) Employee's investment does not exceed, in the case of any class of the capital stock of any one issuer, 5% of the issued and outstanding shares, or in the case of bonds or other securities, 5% of the aggregate principal amount thereof issued and outstanding.

11. **Covenants are Independent**. The covenants on the part of the Employee contained in paragraphs 7, 8, 9 and 10 hereof, as well as in each subsection thereof, shall each be construed as agreements independent of each other and of any other provision in this Agreement and the unenforceability of one shall not affect the remaining covenants.

12. **Consideration**. The Employee acknowledges and agrees that valid consideration has been given to the Employee by the Company in return for the promises of the Employee set forth herein.

13. **Extension of Periods**. Each of the time periods described in this Agreement shall be automatically extended by any length of time during which the Employee is in breach of the corresponding covenant contained herein. The provisions of this Agreement shall continue in full force and effect throughout the duration of the extended periods.

14. **Reasonable Restraint**. It is agreed by the parties that the foregoing covenants in this Agreement are necessary for the legitimate business interests of the Company and impose a reasonable restraint on the Employee in light of the activities and Business of the Company on the date of the execution of this Agreement.

15. **Notices**. Any notice required or desired to be given under this Agreement shall be given in writing, sent by certified mail, return receipt requested, to his or her residence in the case of the Employee, or to its principal place of business, in the case of the Company.

16. **Waiver of Breach**. The waiver by the Company of a breach of any provision of this Agreement by the Employee shall not operate or be construed as a waiver of any subsequent breach by the Employee. No waiver shall be valid unless in writing and signed by the Company.

17. **Assignment**. The Employee acknowledges that the services to be rendered by the Employee are unique and personal. Accordingly, the Employee may not assign any of his or her rights or delegate any of his or her duties or obligations under this Agreement. The rights and obligations of the Company under this Agreement shall inure to the benefit of and shall be binding upon the successors and assigns of the Company. The Employee agrees that this Agreement, and the covenants contained herein, may be assigned by the Company to any successor company.

18. **Vacations and Sick Leave**. The Company's vacation and sick leave policies will be detailed in its Employee Handbook the provisions of which are subject to change on a prospective basis.

19. **Termination Without Cause**. The Employee may terminate this Agreement without cause. In such event the Company requests fourteen (14) days written notice to the Company. In such event, no severance allowance shall be paid to the Employee; but the Employee shall continue (if agreed to by the Company) to render his services and shall be paid his regular compensation up to the date of termination.

20. **Entire Agreement**. This Agreement contains the entire understanding of the parties. It may be changed only by an Agreement in writing, signed by the parties hereto.

21. **Governing Law; Jurisdiction and Venue**. This Agreement, and all transactions contemplated hereby, shall be governed by, construed and enforced in accordance with the laws of the State of South Carolina. The parties agree that any action or dispute regarding this Agreement shall be filed with a court having subject matter jurisdiction located in Charleston County, State of South Carolina.

22. **Work Facilities**. The Employee shall be provided with such other facilities and services as are suitable to the Employee's position and appropriate for the performance of his or her duties. In the case of an employee performing the sales duties and located remote to the main office, it is expected that the employee will maintain some form of office at his or her residence, which contains the necessary equipment to perform the assigned duties.

23. **Severability**. To the extent that any provision or language of this Agreement is deemed unenforceable, by virtue of the scope of the business activity prohibited or the length of time the activity is prohibited, the Company and Employee agree that this Agreement shall be enforced to the fullest extent permissible under the laws and public policies of the State of South Carolina.

24. **Remedies for Breach**. The Employee recognizes and agrees that a breach by the Employee of any covenant contained in this Agreement would cause immeasurable and irreparable harm to the Company. In the event of a breach or threatened breach of any covenant contained herein, the Company shall be entitled to temporary and permanent injunctive relief, restraining the Employee from violating or threatening to violate any covenant contained herein, as well as all costs and fees incurred by the Company, including attorneys fees, as a result of the Employee's breach or threatened breach of the covenant. The Company and the Employee agree that the relief described herein is in addition to such other and further relief as may be available to the Company at equity or by law. Nothing herein shall be construed as prohibiting the Company from pursuing any other remedies available to it for such breach or threatened breach, including the recovery of damages from the Employee.

25. **Additional Representations of Employee**. The Employee acknowledges and agrees that: (i) the covenants contained in this Agreement are the essence of this Agreement; (ii) the Employee has received good, adequate and valuable consideration for each of these covenants; (iii) each of these covenants is reasonable and necessary to protect and preserve the interests and properties of the Company; (iv) each of these covenants in this Agreement is separate, distinct and severable not only from the other covenants but also from the remaining provisions of this Agreement; (v) the unenforceability of any covenants or agreements shall not affect the validity or enforceability of any of the other covenants or agreements or any other provision or provisions of this Agreement; and (vi) if the covenants herein shall ever be deemed to exceed the time, activity, or geographic limitations permitted by applicable law, then such provisions shall be and hereby are reformed to the maximum time, activity, or geographical limitations permitted by applicable law.

26. **At-Will Employment**. The Employee understands and agrees that this Agreement shall in no way impose upon the Company any obligation to employ the Employee or to continue the Employee's employment for any length of time. The employment or continuation of employment by the Company is, and at all times shall remain, in the absolute discretion of the Company, which employment may be terminated by the Employee or the Company at will.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on this _____ day of _____, 2013.

Signed, sealed and delivered in the presence of:

"COMPANY"

Witness	Benefitfocus.com, Inc.
	By: _____
Witness name printed	Its: _____

"EMPLOYEE"

Witness	Employee signature
Witness name printed	Employee name printed

Exhibit 10.11

[AMENDED AND RESTATED] INDEMNIFICATION AGREEMENT

THIS **[**AMENDED AND RESTATED**]** INDEMNIFICATION AGREEMENT (the "**Agreement**") is made and entered into as of _____, 2013 by and among Benefitfocus, Inc., a Delaware corporation (the "**Company**"), and [*director*] ("**Indemnitee**").

RECITALS

[WHEREAS, Indemnitee is a party to that certain **[**Amended and Restated**]** Indemnification Agreement dated as of August 25, 2010, by and between Indemnitee and Benefitfocus.com, Inc., (the "**Prior Agreement**"), the terms of which will be superseded by this Amended and Restated Director Indemnification Agreement upon its becoming effective;

WHEREAS, in connection with its corporate restructuring, Benefitfocus.com, Inc. will become a wholly owned subsidiary of the Company;

WHEREAS, Indemnitee is a former director of Benefitfocus.com and will serve as a director of the Company, and, as a result, the parties desire to enter this Agreement in order to provide Indemnitee with the protections contemplated by the Prior Agreement and any additional protections allowed by applicable state law;**]**

WHEREAS, highly competent persons have become more reluctant to serve corporations as directors, officers or in other capacities unless they are provided with adequate protection through insurance or adequate indemnification against inordinate risks of claims and actions against them arising out of their service to and activities on behalf of the corporation;

WHEREAS, the Board of Directors of the Company (the "**Board**") has determined that, in order to attract and retain qualified individuals, the Company will attempt to maintain on an ongoing basis, at its sole expense, liability insurance to protect persons serving the Company and its subsidiaries from certain liabilities. Although the furnishing of such insurance has been a customary and widespread practice among U.S.-based corporations and other business enterprises, the Company believes that, given current market conditions and trends, such insurance may be available to it in the future only at higher premiums and with more exclusions. At the same time, directors, officers, and other persons in service to corporations or business enterprises are being increasingly subjected to expensive and time-consuming litigation relating to, among other things, matters that traditionally would have been brought only against the Company or business enterprise itself. The Bylaws of the Company require indemnification of the officers and directors of the Company. Indemnitee may also be entitled to indemnification pursuant to the General Corporation Law of the State of Delaware ("**DGCL**"). The Bylaws and the DGCL expressly provide that the indemnification provisions set forth therein are not exclusive, and thereby contemplate that contracts may be entered into between the Company and members of the Board, officers and other persons with respect to indemnification;

WHEREAS, the uncertainties relating to such insurance and to indemnification have increased the difficulty of attracting and retaining such persons;

WHEREAS, the Board has determined that the increased difficulty in attracting and retaining such persons is detrimental to the best interests of the Company's stockholders and that the Company should act to assure such persons that there will be increased certainty of such protection in the future;

WHEREAS, it is reasonable, prudent and necessary for the Company contractually to obligate itself to indemnify, and to advance expenses on behalf of, such persons to the fullest extent permitted by applicable law so that they will serve or continue to serve the Company free from undue concern that they will not be so indemnified;

WHEREAS, this Agreement is a supplement to and in furtherance of the Bylaws of the Company and any resolutions adopted pursuant thereto, and shall not be deemed a substitute therefor, nor to diminish or abrogate any rights of Indemnitee thereunder; and

WHEREAS, Indemnitee does not regard the protection available under the Company's Bylaws and insurance as adequate in the present circumstances, and may not be willing to serve as an officer or director without adequate protection, and the Company desires Indemnitee to serve in such capacity. Indemnitee is willing to serve, continue to serve and to take on additional service for or on behalf of the Company on the condition that he be so indemnified;

NOW, THEREFORE, in consideration of Indemnitee's agreement to serve as director from and after the date hereof, the parties hereto agree as follows:

1. Indemnity of Indemnitee. The Company hereby agrees to hold harmless and indemnify Indemnitee to the fullest extent permitted by law, as such may be amended from time to time. In furtherance of the foregoing indemnification, and without limiting the generality thereof:

(a) Proceedings Other Than Proceedings by or in the Right of the Company. Indemnitee shall be entitled to the rights of indemnification provided in this Section l(a) if, by reason of his Corporate Status (as hereinafter defined), the Indemnitee is, or is threatened to be made, a party to or participant in any Proceeding (as hereinafter defined) other than a Proceeding by or in the right of the Company. Pursuant to this Section 1(a), Indemnitee shall be indemnified against all Expenses (as hereinafter defined), judgments, penalties, fines and amounts paid in settlement actually and reasonably incurred by him, or on his behalf, in connection with such Proceeding or any claim, issue or matter therein, if the Indemnitee acted in good faith and in a manner the Indemnitee reasonably believed to be in or not opposed to the best interests of the Company, and with respect to any criminal Proceeding, had no reasonable cause to believe the Indemnitee's conduct was unlawful.

(b) Proceedings by or in the Right of the Company. Indemnitee shall be entitled to the rights of indemnification provided in this Section 1(b) if, by reason of his Corporate Status, the Indemnitee is, or is threatened to be made, a party to or participant in any Proceeding brought by or in the right of the Company. Pursuant to this Section 1(b), Indemnitee shall be indemnified against all Expenses actually and reasonably incurred by the Indemnitee, or on the Indemnitee's behalf, in connection with such Proceeding if the Indemnitee acted in good faith and in a manner the Indemnitee reasonably believed to be in or not opposed to the best interests of the Company; provided, however, if applicable law so provides, no indemnification against such Expenses shall be made in respect of any claim, issue or matter in such Proceeding as to which Indemnitee shall have been adjudged to be liable to the Company unless and to the extent that the Court of Chancery of the State of Delaware shall determine that such indemnification may be made.

(c) Indemnification for Expenses of a Party Who is Wholly or Partly Successful. Notwithstanding any other provision of this Agreement, to the extent that Indemnitee is, by reason of his Corporate Status, a party to and is successful, on the merits or otherwise, in any Proceeding, he shall be indemnified to the maximum extent permitted by law, as such may be amended from time to time, against all Expenses actually and reasonably incurred by him or on his behalf in connection therewith. If Indemnitee is not wholly successful in such Proceeding but is successful, on the merits or otherwise, as to one or more but less than all claims, issues or matters in such Proceeding, the Company shall indemnify Indemnitee against all Expenses actually and reasonably incurred by him or on his behalf in connection with each successfully resolved claim, issue or matter. For purposes of this Section and without limitation, the termination of any claim, issue or matter in such a Proceeding by dismissal, with or without prejudice, shall be deemed to be a successful result as to such claim, issue or matter.

2. Additional Indemnity. In addition to, and without regard to any limitations on, the indemnification provided for in Section 1 of this Agreement, the Company shall and hereby does indemnify and hold harmless Indemnitee against all Expenses, judgments, penalties, fines and amounts paid in settlement actually and reasonably incurred by him or on his behalf if, by reason of his Corporate Status, he is, or is threatened to be made, a party to or participant in any Proceeding (including a Proceeding by or in the right of the Company), including, without limitation, all liability arising out of the negligence or active or passive wrongdoing of Indemnitee. The only limitation that shall exist upon the Company's obligations pursuant to this Agreement shall be that the Company shall not be obligated to make any payment to Indemnitee that is finally determined (under the procedures, and subject to the presumptions, set forth in Sections 6 and 7 hereof) to be unlawful.

3. Contribution.

(a) Whether or not the indemnification provided in Sections 1 and 2 hereof is available, in respect of any threatened, pending or completed action, suit or proceeding in which the Company is jointly liable with Indemnitee (or would be if joined in such action, suit or proceeding), the Company shall pay, in the first instance, the entire amount of any judgment or settlement of such action, suit or proceeding without requiring Indemnitee to contribute to such payment and the Company hereby waives and relinquishes any right of contribution it may have against Indemnitee. The Company shall not enter into any settlement of any action, suit or proceeding in which the Company is jointly liable with Indemnitee (or would be if joined in such action, suit or proceeding) unless such settlement provides for a full and final release of all claims asserted against Indemnitee.

(b) Without diminishing or impairing the obligations of the Company set forth in the preceding subparagraph, if, for any reason, Indemnitee shall elect or be required to pay all or any portion of any judgment or settlement in any threatened, pending or completed action, suit or proceeding in which the Company is jointly liable with Indemnitee (or would be if joined in such action, suit or proceeding), the Company shall contribute to the amount of Expenses, judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Indemnitee in proportion to the relative benefits received by the Company and all officers, directors or employees of the Company, other than Indemnitee, who are jointly liable with Indemnitee (or would be if joined in such action, suit or proceeding), on the one hand, and Indemnitee, on the other hand, from the transaction or events from which such action, suit or proceeding arose; provided, however, that the proportion determined on the basis of relative

benefit may, to the extent necessary to conform to law, be further adjusted by reference to the relative fault of the Company and all officers, directors or employees of the Company other than Indemnitee who are jointly liable with Indemnitee (or would be if joined in such action, suit or proceeding), on the one hand, and Indemnitee, on the other hand, in connection with the transaction or events that resulted in such expenses, judgments, fines or settlement amounts, as well as any other equitable considerations which applicable law may require to be considered. The relative fault of the Company and all officers, directors or employees of the Company, other than Indemnitee, who are jointly liable with Indemnitee (or would be if joined in such action, suit or proceeding), on the one hand, and Indemnitee, on the other hand, shall be determined by reference to, among other things, the degree to which their actions were motivated by intent to gain personal profit or advantage, the degree to which their liability is primary or secondary and the degree to which their conduct is active or passive.

(c) The Company hereby agrees to fully indemnify and hold Indemnitee harmless from any claims of contribution which may be brought by officers, directors or employees of the Company, other than Indemnitee, who may be jointly liable with Indemnitee.

(d) To the fullest extent permissible under applicable law, if the indemnification provided for in this Agreement is unavailable to Indemnitee for any reason whatsoever, the Company, in lieu of indemnifying Indemnitee, shall contribute to the amount incurred by Indemnitee, whether for judgments, fines, penalties, excise taxes, amounts paid or to be paid in settlement and/or for Expenses, in connection with any claim relating to an indemnifiable event under this Agreement, in such proportion as is deemed fair and reasonable in light of all of the circumstances of such Proceeding in order to reflect (i) the relative benefits received by the Company and Indemnitee as a result of the event(s) and/or transaction(s) giving cause to such Proceeding; and/or (ii) the relative fault of the Company (and its directors, officers, employees and agents) and Indemnitee in connection with such event(s) and/or transaction(s).

4. Indemnification for Expenses of a Witness. Notwithstanding any other provision of this Agreement, to the extent that Indemnitee is, by reason of his Corporate Status, a witness, or is made (or asked) to respond to discovery requests, in any Proceeding to which Indemnitee is not a party, he shall be indemnified against all Expenses actually and reasonably incurred by him or on his behalf in connection therewith.

5. Advancement of Expenses. Notwithstanding any other provision of this Agreement, the Company shall advance all Expenses incurred by or on behalf of Indemnitee in connection with any Proceeding by reason of Indemnitee's Corporate Status within thirty (30) days after the receipt by the Company of a statement or statements from Indemnitee requesting such advance or advances from time to time, whether prior to or after final disposition of such Proceeding. Such statement or statements shall reasonably evidence the Expenses incurred by Indemnitee and shall include or be preceded or accompanied by a written undertaking by or on behalf of Indemnitee to repay any Expenses advanced if it shall ultimately be determined that Indemnitee is not entitled to be indemnified against such Expenses. Any advances and undertakings to repay pursuant to this Section 5 shall be unsecured and interest free.

6. Procedures and Presumptions for Determination of Entitlement to Indemnification. It is the intent of this Agreement to secure for Indemnitee rights of indemnity that are as favorable as may be permitted under the DGCL and public policy of the State of Delaware. Accordingly, the parties agree that the following procedures and presumptions shall apply in the event of any question as to whether Indemnitee is entitled to indemnification under this Agreement:

(a) To obtain indemnification under this Agreement, Indemnitee shall submit to the Company a written request, including therein or therewith such documentation and information as is reasonably available to Indemnitee and is reasonably necessary to determine whether and to what extent Indemnitee is entitled to indemnification. The Secretary of the Company shall, promptly upon receipt of such a request for indemnification, advise the Board in writing that Indemnitee has requested indemnification. Notwithstanding the foregoing, any failure of Indemnitee to provide such a request to the Company, or to provide such a request in a timely fashion, shall not relieve the Company of any liability that it may have to Indemnitee unless, and to the extent that, such failure actually and materially prejudices the interests of the Company.

(b) Upon written request by Indemnitee for indemnification pursuant to the first sentence of Section 6(a) hereof, a determination, if required by applicable law, with respect to Indemnitee's entitlement thereto shall be made in the specific case (i) if a Change of Control has occurred, by Independent Counsel in a written opinion to the Board, a copy of which shall be delivered to Indemnitee, or (ii) if a Change of Control has not occurred, by one of the following four methods, which shall be at the election of the Board: (1) by a majority vote of the disinterested directors, even though less than a quorum, (2) by a committee of disinterested directors designated by a majority vote of the disinterested directors, even though less than a quorum, (3) if there are no disinterested directors or if the disinterested directors so direct, by Independent Counsel in a written opinion to the Board, a copy of which shall be delivered to the Indemnitee, or (4) if so directed by the Board, by the stockholders of the Company. For purposes hereof, disinterested directors are those members of the Board who are not parties to the action, suit or proceeding in respect of which indemnification is sought by Indemnitee.

(c) If the determination of entitlement to indemnification is to be made by Independent Counsel pursuant to Section 6(b) hereof, the Independent Counsel shall be selected as provided in this Section 6(c). If a Change of Control has not occurred, Independent Counsel shall be selected by the Board, with the approval of Indemnitee, which approval will not be unreasonably withheld. If a Change of Control has occurred, Independent Counsel shall be selected by Indemnitee, with the approval of the Board, which approval will not be unreasonably withheld. The party that is not empowered to select the Independent Counsel may, within ten (10) days after such written notice of selection shall have been given, deliver to the other party a written objection to such selection; provided, however, that such objection may be asserted only on the ground that the Independent Counsel so selected does not meet the requirements of "**Independent Counsel**" as defined in Section 13 of this Agreement, and the objection shall set forth with particularity the factual basis of such assertion. Absent a proper and timely objection, the person so selected shall act as Independent Counsel. If a written objection is made and substantiated, the Independent Counsel selected may not serve as Independent Counsel unless and until such objection is withdrawn or a court has determined that such objection is without merit. If, within 20 days after submission by Indemnitee of a written request for indemnification pursuant to Section 6(a) hereof, no Independent Counsel shall have been selected and not objected to, either the Company or Indemnitee may petition the Court of Chancery of the State of Delaware or other court of competent jurisdiction for resolution of any objection which shall

have been made by the Indemnitee to the Company's selection of Independent Counsel and/or for the appointment as Independent Counsel of a person selected by the court or by such other person as the court shall designate, and the person with respect to whom all objections are so resolved or the person so appointed shall act as Independent Counsel under Section 6(b) hereof. The Company shall pay any and all reasonable fees and expenses of Independent Counsel incurred by such Independent Counsel in connection with acting pursuant to Section 6(b) hereof, and the Company shall pay all reasonable fees and expenses incident to the procedures of this Section 6(c), regardless of the manner in which such Independent Counsel was selected or appointed.

(d) In making a determination with respect to entitlement to indemnification hereunder, the person or persons or entity making such determination shall presume that Indemnitee is entitled to indemnification under this Agreement. Anyone seeking to overcome this presumption shall have the burden of proof and the burden of persuasion by clear and convincing evidence. Neither the failure of the Company (including by its directors or independent legal counsel) to have made a determination prior to the commencement of any action pursuant to this Agreement that indemnification is proper in the circumstances because Indemnitee has met the applicable standard of conduct, nor an actual determination by the Company (including by its directors or independent legal counsel) that Indemnitee has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that Indemnitee has not met the applicable standard of conduct.

(e) Indemnitee shall be deemed to have acted in good faith if Indemnitee's action is based on the records or books of account of the Enterprise (as hereinafter defined), including financial statements, or on information supplied to Indemnitee by the officers of the Enterprise in the course of their duties, or on the advice of legal counsel for the Enterprise or on information or records given or reports made to the Enterprise by an independent certified public accountant or by an appraiser or other expert selected with reasonable care by the Enterprise. In addition, the knowledge and/or actions, or failure to act, of any director, officer, agent or employee of the Enterprise shall not be imputed to Indemnitee for purposes of determining the right to indemnification under this Agreement. Whether or not the foregoing provisions of this Section 6(e) are satisfied, it shall in any event be presumed that Indemnitee has at all times acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Company. Anyone seeking to overcome this presumption shall have the burden of proof and the burden of persuasion by clear and convincing evidence.

(f) If the person, persons or entity empowered or selected under Section 6 to determine whether Indemnitee is entitled to indemnification shall not have made a determination within sixty (60) days after receipt by the Company of the request therefor, the requisite determination of entitlement to indemnification shall be deemed to have been made and Indemnitee shall be entitled to such indemnification absent (i) a misstatement by Indemnitee of a material fact, or an omission of a material fact necessary to make Indemnitee's statement not materially misleading, in connection with the request for indemnification, or (ii) a prohibition of such indemnification under applicable law; provided, however, that such 60-day period may be extended for a reasonable time, not to exceed an additional thirty (30) days, if the person, persons or entity making such determination with respect to entitlement to indemnification in good faith requires such additional time to obtain or evaluate documentation and/or information relating thereto; and provided, further, that the foregoing provisions of this Section 6(g) shall not apply if the determination of entitlement to indemnification is to be made by the stockholders

pursuant to Section 6(b) of this Agreement and if (A) within fifteen (15) days after receipt by the Company of the request for such determination, the Board or the Disinterested Directors, if appropriate, resolve to submit such determination to the stockholders for their consideration at an annual meeting thereof to be held within seventy-five (75) days after such receipt and such determination is made thereat, or (B) a special meeting of stockholders is called within fifteen (15) days after such receipt for the purpose of making such determination, such meeting is held for such purpose within sixty (60) days after having been so called and such determination is made thereat.

(g) Indemnitee shall cooperate with the person, persons or entity making such determination with respect to Indemnitee's entitlement to indemnification, including providing to such person, persons or entity upon reasonable advance request any documentation or information which is not privileged or otherwise protected from disclosure and which is reasonably available to Indemnitee and reasonably necessary to such determination. Any Independent Counsel, member of the Board or stockholder of the Company shall act reasonably and in good faith in making a determination regarding the Indemnitee's entitlement to indemnification under this Agreement. Any costs or expenses (including attorneys' fees and disbursements) incurred by Indemnitee in so cooperating with the person, persons or entity making such determination shall be borne by the Company (irrespective of the determination as to Indemnitee's entitlement to indemnification) and the Company hereby indemnifies and agrees to hold Indemnitee harmless therefrom.

(h) The Company acknowledges that a settlement or other disposition short of final judgment may be successful if it permits a party to avoid expense, delay, distraction, disruption and uncertainty. In the event that any action, claim or proceeding to which Indemnitee is a party is resolved in any manner other than by adverse judgment against Indemnitee (including, without limitation, settlement of such action, claim or proceeding with or without payment of money or other consideration) it shall be presumed that Indemnitee has been successful on the merits or otherwise in such action, suit or proceeding. Anyone seeking to overcome this presumption shall have the burden of proof and the burden of persuasion by clear and convincing evidence.

(i) The termination of any Proceeding or of any claim, issue or matter therein, by judgment, order, settlement or conviction, or upon a plea of nolo contendere or its equivalent, shall not (except as otherwise expressly provided in this Agreement) of itself adversely affect the right of Indemnitee to indemnification or create a presumption that Indemnitee did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Company or, with respect to any criminal Proceeding, that Indemnitee had reasonable cause to believe that his conduct was unlawful.

7. Remedies of Indemnitee.

(a) In the event that (i) a determination is made pursuant to Section 6 of this Agreement that Indemnitee is not entitled to indemnification under this Agreement, (ii) advancement of Expenses is not timely made pursuant to Section 5 of this Agreement, (iii) no determination of entitlement to indemnification is made pursuant to Section 6(b) of this Agreement within 90 days after receipt by the Company of the request for indemnification, (iv) payment of indemnification is not made pursuant to this Agreement within ten (10) days after receipt by the Company of a written request therefor or (v) payment of indemnification is not

made within ten (10) days after a determination has been made that Indemnitee is entitled to indemnification or such determination is deemed to have been made pursuant to Section 6 of this Agreement, Indemnitee shall be entitled to an adjudication in an appropriate court of the State of Delaware, or in any other court of competent jurisdiction, of Indemnitee's entitlement to such indemnification. Indemnitee shall commence such proceeding seeking an adjudication within 180 days following the date on which Indemnitee first has the right to commence such proceeding pursuant to this Section 7(a). The Company shall not oppose Indemnitee's right to seek any such adjudication.

(b) In the event that a determination shall have been made pursuant to Section 6(b) of this Agreement that Indemnitee is not entitled to indemnification, any judicial proceeding commenced pursuant to this Section 7 shall be conducted in all respects as a de novo trial on the merits, and Indemnitee shall not be prejudiced by reason of the adverse determination under Section 6(b).

(c) If a determination shall have been made pursuant to Section 6(b) of this Agreement that Indemnitee is entitled to indemnification, the Company shall be bound by such determination in any judicial proceeding commenced pursuant to this Section 7, absent (i) a misstatement by Indemnitee of a material fact, or an omission of a material fact necessary to make Indemnitee's misstatement not materially misleading in connection with the application for indemnification, or (ii) a prohibition of such indemnification under applicable law.

(d) In the event that Indemnitee, pursuant to this Section 7, seeks a judicial adjudication of his rights under, or to recover damages for breach of, this Agreement, or to recover under any directors' and officers' liability insurance policies maintained by the Company, the Company shall pay on his behalf, in advance, any and all expenses (of the types described in the definition of Expenses in Section 13 of this Agreement) actually and reasonably incurred by him in such judicial adjudication, regardless of whether Indemnitee ultimately is determined to be entitled to such indemnification, advancement of expenses or insurance recovery.

(e) The Company shall be precluded from asserting in any judicial proceeding commenced pursuant to this Section 7 that the procedures and presumptions of this Agreement are not valid, binding and enforceable and shall stipulate in any such court that the Company is bound by all the provisions of this Agreement. The Company shall indemnify Indemnitee against any and all Expenses and, if requested by Indemnitee, shall (within ten (10) days after receipt by the Company of a written request therefore) advance, to the extent not prohibited by law, such expenses to Indemnitee, which are incurred by Indemnitee in connection with any action brought by Indemnitee for indemnification or advance of Expenses from the Company under this Agreement or under any directors' and officers' liability insurance policies maintained by the Company, regardless of whether Indemnitee ultimately is determined to be entitled to such indemnification, advancement of Expenses or insurance recovery, as the case may be.

(f) Notwithstanding anything in this Agreement to the contrary, no determination as to entitlement to indemnification under this Agreement shall be required to be made prior to the final disposition of the Proceeding.

8. Non-Exclusivity; Survival of Rights; Insurance; Subrogation.

(a) The rights of indemnification as provided by this Agreement shall not be deemed exclusive of any other rights to which Indemnitee may at any time be entitled under applicable law, the Certificate of Incorporation, the Bylaws, any agreement, a vote of stockholders, a resolution of directors of the Company, or otherwise. No amendment, alteration or repeal of this Agreement or of any provision hereof shall limit or restrict any right of Indemnitee under this Agreement in respect of any action taken or omitted by such Indemnitee in his Corporate Status prior to such amendment, alteration or repeal. To the extent that a change in the DGCL, whether by statute or judicial decision, permits greater indemnification than would be afforded currently under the Certificate of Incorporation, Bylaws and this Agreement, it is the intent of the parties hereto that Indemnitee shall enjoy by this Agreement the greater benefits so afforded by such change. No right or remedy herein conferred is intended to be exclusive of any other right or remedy, and every other right and remedy shall be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other right or remedy.

(b) To the extent that the Company maintains an insurance policy or policies providing liability insurance for directors, officers, employees, or agents or fiduciaries of the Company or of any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise that such person serves at the request of the Company, Indemnitee shall be covered by such policy or policies in accordance with its or their terms to the maximum extent of the coverage available for any director, officer, employee, agent or fiduciary under such policy or policies. If, at the time of the receipt of a notice of a claim pursuant to the terms hereof, the Company has directors' and officers' liability insurance in effect, the Company shall give prompt notice of the commencement of such proceeding to the insurers in accordance with the procedures set forth in the respective policies. The Company shall thereafter take all necessary or desirable action to cause such insurers to pay, on behalf of the Indemnitee, all amounts payable as a result of such proceeding in accordance with the terms of such policies.

(c) **[**The Company hereby acknowledges that Indemnitee has certain rights to indemnification, advancement of expenses and/or insurance provided by [***name of fund***] and certain of its affiliates (collectively, the "Fund Indemnitors"). The Company hereby agrees (i) that it is the indemnitor of first resort (i.e., its obligations to Indemnitee are primary and any obligation of the Fund Indemnitors to advance expenses or to provide indemnification for the same expenses or liabilities incurred by Indemnitee are secondary), (ii) that it shall be required to advance the full amount of expenses incurred by Indemnitee and shall be liable for the full amount of all Expenses, judgments, penalties, fines and amounts paid in settlement to the extent legally permitted and as required by the terms of this Agreement and the Certificate of Incorporation or Bylaws of the Company (or any other agreement between the Company and Indemnitee), without regard to any rights Indemnitee may have against the Fund Indemnitors, and, (iii) that it irrevocably waives, relinquishes and releases the Fund Indemnitors from any and all claims against the Fund Indemnitors for contribution, subrogation or any other recovery of any kind in respect thereof. The Company further agrees that no advancement or payment by the Fund Indemnitors on behalf of Indemnitee with respect to any claim for which Indemnitee has sought indemnification from the Company shall affect the foregoing and the Fund Indemnitors shall have a right of contribution and/or be subrogated to the extent of such advancement or payment to all of the rights of recovery of Indemnitee against the Company. The Company and Indemnitee agree that the Fund Indemnitors are express third party beneficiaries of the terms of this Section 8(c).**]**

(d) **[**Except as provided in Section 8(c) above,**]** in the event of any payment under this Agreement, the Company shall be subrogated to the extent of such payment to all of the rights of recovery of Indemnitee, who shall execute all papers required and take all action necessary to secure such rights, including execution of such documents as are necessary to enable the Company to bring suit to enforce such rights.

(e) **[**Except as provided in Section 8(c) above,**]** the Company shall not be liable under this Agreement to make any payment of amounts otherwise indemnifiable hereunder if and to the extent that Indemnitee has otherwise actually received such payment under any insurance policy, contract, agreement or otherwise.

(f) **[**Except as provided in Section 8(c) above,**]** the Company's obligation to indemnify or advance Expenses hereunder to Indemnitee who is or was serving at the request of the Company as a director, officer, employee or agent of any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise shall be reduced by any amount Indemnitee has actually received as indemnification or advancement of expenses from such other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise.

9. Exception to Right of Indemnification. Notwithstanding any provision in this Agreement, the Company shall not be obligated under this Agreement to make any indemnity in connection with any claim made against Indemnitee:

(a) for which payment has actually been made to or on behalf of Indemnitee under any insurance policy or other indemnity provision, except with respect to any excess beyond the amount paid under any insurance policy or other indemnity provision**[**, provided, that the foregoing shall not affect the rights of Indemnitee or the Fund Indemnitors set forth in Section 8(c) above**]**; or

(b) for an accounting of profits made from the purchase and sale (or sale and purchase) by Indemnitee of securities of the Company within the meaning of Section 16(b) of the Securities Exchange Act of 1934, as amended, or similar provisions of state statutory law or common law; or

(c) in connection with any Proceeding (or any part of any Proceeding) initiated by Indemnitee, including any Proceeding (or any part of any Proceeding) initiated by Indemnitee against the Company or its directors, officers, employees or other indemnitees, unless (i) the Board authorized the Proceeding (or any part of any Proceeding) prior to its initiation or (ii) the Company provides the indemnification, in its sole discretion, pursuant to the powers vested in the Company under applicable law.

10. Duration of Agreement. All agreements and obligations of the Company contained herein shall continue during the period Indemnitee is an officer or director of the Company (or is or was serving at the request of the Company as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise) and for a period of at least five years thereafter, and shall continue thereafter so long as Indemnitee shall be subject to any Proceeding (or any proceeding commenced under Section 7 hereof) by reason of

his Corporate Status, whether or not he is acting or serving in any such capacity at the time any liability or expense is incurred for which indemnification can be provided under this Agreement. This Agreement shall be binding upon and inure to the benefit of and be enforceable by the parties hereto and their respective successors (including any direct or indirect successor by purchase, merger, consolidation or otherwise to all or substantially all of the business or assets of the Company), assigns, spouses, heirs, executors and personal and legal representatives.

11. Security. To the extent requested by Indemnitee and approved by the Board, the Company may at any time and from time to time provide security to Indemnitee for the Company's obligations hereunder through an irrevocable bank line of credit, funded trust or other collateral. Any such security, once provided to Indemnitee, may not be revoked or released without the prior written consent of the Indemnitee.

12. Enforcement.

(a) The Company expressly confirms and agrees that it has entered into this Agreement and assumes the obligations imposed on it hereby in order to induce Indemnitee to serve as an officer or director of the Company, and the Company acknowledges that Indemnitee is relying upon this Agreement in serving as an officer or director of the Company.

(b) This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings, oral, written and implied, between the parties hereto with respect to the subject matter hereof.

(c) The Company shall not seek from a court, or agree to, a "bar order" which would have the effect of prohibiting or limiting the Indemnitee's rights to receive advancement of expenses under this Agreement.

13. Definitions. For purposes of this Agreement:

(a) "**Beneficial Owner**" shall have the meaning given to such term in Rule 13d-3 under the Exchange Act; provided, however, that Beneficial Owner shall exclude any Person otherwise becoming a Beneficial Owner by reason of the stockholders of the Company approving a merger of the Company with another entity.

(b) A "**Change in Control**" shall be deemed to occur upon the earliest to occur after the date of this Agreement of any of the following events:

(i) Acquisition of Stock by Third Party. Any Person (as defined below) is or becomes the Beneficial Owner (as defined below), directly or indirectly, of securities of the Company representing fifteen percent (15%) or more of the combined voting power of the Company's then outstanding securities;

(ii) Change in Board. During any period of two (2) consecutive years (not including any period prior to the execution of this Agreement), individuals who at the beginning of such period constitute the Board, and any new director (other than a director designated by a person who has entered into an agreement with the Company to effect a transaction described in Sections 13(b)(i), 13(b)(iii) or 13(b)(iv)) whose election by the Board or nomination for election by the Company's stockholders was approved by a vote of at least two-thirds of the directors then still in office who either were directors at the beginning of the period or whose election or nomination for election was previously so approved, cease for any reason to constitute a least a majority of the members of the Board;

(iii) Corporate Transactions. The effective date of a merger or consolidation of the Company with any other entity, other than a merger or consolidation which would result in the voting securities of the Company outstanding immediately prior to such merger or consolidation continuing to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity) more than 51% of the combined voting power of the voting securities of the surviving entity outstanding immediately after such merger or consolidation and with the power to elect at least a majority of the Board or other governing body of such surviving entity;

(iv) Liquidation. The approval by the stockholders of the Company of a complete liquidation of the Company or an agreement for the sale or disposition by the Company of all or substantially all of the Company's assets; and

(v) Other Events. There occurs any other event of a nature that would be required to be reported in response to Item 6(e) of Schedule 14A of Regulation 14A (or a response to any similar item on any similar schedule or form) promulgated under the Exchange Act (as defined below), whether or not the Company is then subject to such reporting requirement.

(c) "**Corporate Status**" describes the status of a person who is or was a director, officer, employee, agent or fiduciary of the Company or of any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise that such person is or was serving at the express written request of the Company.

(d) "**Disinterested Director**" means a director of the Company who is not and was not a party to the Proceeding in respect of which indemnification is sought by Indemnitee.

(e) "**Enterprise**" shall mean the Company and any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise that Indemnitee is or was serving at the express written request of the Company as a director, officer, employee, agent or fiduciary.

(f) "**Exchange Act**" shall mean the Securities Exchange Act of 1934, as amended.

(g) "**Expenses**" shall include all reasonable attorneys' fees, retainers, court costs, transcript costs, fees of experts, witness fees, travel expenses, duplicating costs, printing and binding costs, telephone charges, postage, delivery service fees and all other

disbursements or expenses of the types customarily incurred in connection with prosecuting, defending, preparing to prosecute or defend, investigating, participating, or being or preparing to be a witness in a Proceeding, or responding to, or objecting to, a request to provide discovery in any Proceeding. Expenses also shall include Expenses incurred in connection with any appeal resulting from any Proceeding and any federal, state, local or foreign taxes imposed on the Indemnitee as a result of the actual or deemed receipt of any payments under this Agreement, including without limitation the premium, security for, and other costs relating to any cost bond, supersede as bond, or other appeal bond or its equivalent. Expenses, however, shall not include amounts paid in settlement by Indemnitee or the amount of judgments or fines against Indemnitee.

(h) "**Independent Counsel**" means a law firm, or a member of a law firm, that is experienced in matters of corporation law and neither presently is, nor in the past five years has been, retained to represent: (i) the Company or any of its affiliates or Indemnitee in any matter material to either such party (other than with respect to matters concerning Indemnitee under this Agreement, or of other indemnitees under similar indemnification agreements), or (ii) any other party to the Proceeding giving rise to a claim for indemnification hereunder. Notwithstanding the foregoing, the term "Independent Counsel" shall not include any person who, under the applicable standards of professional conduct then prevailing, would have a conflict of interest in representing either the Company or Indemnitee in an action to determine Indemnitee's rights under this Agreement. The Company agrees to pay the reasonable fees of the Independent Counsel referred to above and to fully indemnify such counsel against any and all Expenses, claims, liabilities and damages arising out of or relating to this Agreement or its engagement pursuant hereto.

(i) "**Person**" shall have the meaning as set forth in Sections 13(d) and 14(d) of the Exchange Act; provided, however, that Person shall exclude (i) the Company, (ii) any trustee or other fiduciary holding securities under an employee benefit plan of the Company, and (iii) any corporation owned, directly or indirectly, by the stockholders of the Company in substantially the same proportions as their ownership of stock of the Company.

(j) **Proceeding**" includes any threatened, pending or completed action, suit, arbitration, alternate dispute resolution mechanism, investigation, inquiry, administrative hearing or any other actual, threatened or completed proceeding, whether brought by or in the right of the Company or otherwise and whether civil, criminal, administrative or investigative, in which Indemnitee was, is or will be involved as a party or otherwise, by reason of his or her Corporate Status, by reason of any action taken by him or of any inaction on his part while acting in his or her Corporate Status; in each case whether or not he is acting or serving in any such capacity at the time any liability or expense is incurred for which indemnification can be provided under this Agreement; including one pending on or before the date of this Agreement, but excluding one initiated by an Indemnitee pursuant to Section 7 of this Agreement to enforce his rights under this Agreement.

14. Severability. The invalidity or unenforceability of any provision hereof shall in no way affect the validity or enforceability of any other provision. Without limiting the generality of the foregoing, this Agreement is intended to confer upon Indemnitee indemnification rights to the fullest extent permitted by applicable laws. In the event any provision hereof conflicts with any applicable law, such provision shall be deemed modified, consistent with the aforementioned intent, to the extent necessary to resolve such conflict.

15. Modification and Waiver. No supplement, modification, termination or amendment of this Agreement shall be binding unless executed in writing by both of the parties hereto. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provisions hereof (whether or not similar) nor shall such waiver constitute a continuing waiver.

16. Notice By Indemnitee. Indemnitee agrees promptly to notify the Company in writing upon being served with or otherwise receiving any summons, citation, subpoena, complaint, indictment, information or other document relating to any Proceeding or matter which may be subject to indemnification covered hereunder. The failure to so notify the Company shall not relieve the Company of any obligation which it may have to Indemnitee under this Agreement or otherwise unless and only to the extent that such failure or delay materially prejudices the Company.

17. Notices. All notices and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given: (a) upon personal delivery to the party to be notified, (b) when sent by confirmed electronic mail or facsimile if sent during normal business hours of the recipient, and if not so confirmed, then on the next business day, (c) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (d) one (1) day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt. All communications shall be sent:

(a) To Indemnitee at the address set forth below Indemnitee signature hereto.

(b) To the Company at:

Benefitfocus, Inc.
100 Benefitfocus Way
Charleston, SC 29492
Attention: President

or to such other address as may have been furnished to Indemnitee by the Company or to the Company by Indemnitee, as the case may be.

18. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement. This Agreement may also be executed and delivered by facsimile signature and in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

19. Headings. The headings of the paragraphs of this Agreement are inserted for convenience only and shall not be deemed to constitute part of this Agreement or to affect the construction thereof.

20. Governing Law and Consent to Jurisdiction. This Agreement and the legal relations among the parties shall be governed by, and construed and enforced in accordance with, the laws of the State of Delaware, without regard to its conflict of laws rules. The Company and Indemnitee hereby irrevocably and unconditionally (i) agree that any action or proceeding arising out of or in connection with this Agreement shall be brought only in the Chancery Court of the State of Delaware (the "**Delaware Court**"), and not in any other state or federal court in the United States of America or any court in any other country, (ii) consent to submit to the exclusive jurisdiction of the Delaware Court for purposes of any action or proceeding arising out of or in connection with this Agreement, (iii) appoint, to the extent such party is not otherwise subject to service of process in the State of Delaware, irrevocably Incorporated Services, Ltd., 3500 South DuPont Highway, Dover, Delaware 19901 as its agent in the State of Delaware as such party's agent for acceptance of legal process in connection with any such action or proceeding against such party with the same legal force and validity as if served upon such party personally within the State of Delaware, (iv) waive any objection to the laying of venue of any such action or proceeding in the Delaware Court, and (v) waive, and agree not to plead or to make, any claim that any such action or proceeding brought in the Delaware Court has been brought in an improper or inconvenient forum.

SIGNATURE PAGE TO FOLLOW

IN WITNESS WHEREOF, the parties hereto have executed this **[**Amended and Restated**]** Indemnification Agreement on and as of the day and year first above written.

COMPANY:

BENEFITFOCUS, INC.

By: _____

Name:

Title:

INDEMNITEE:

_____

[Name]

Address:

_____

_____

_____

_____

LEASE AGREEMENT

LESSOR: **Daniel Island Executive Center LLC**

LESSEE: **Benefitfocus.com, Inc.**

STATE OF SOUTH CAROLINA)
)
COUNTY OF BERKELEY)

BENEFITFOCUS BUILDING
LEASE AGREEMENT

THIS LEASE AGREEMENT (the "Lease Agreement") first made and entered into as of the 1st day of January, 2009, by and between **Daniel Island Executive Center, LLC,** hereinafter called "Lessor", and **Benefitfocus.com, Inc.,** hereinafter called "Lessee";

WITNESSETH:

WHEREAS, the Lessor is the owner of certain real property known as the Daniel Island Executive Center in the City of Charleston, South Carolina as shown on a survey a reduced copy of which is attached hereto as **Exhibit A** (herein called "Daniel Island Executive Center"); and,

WHEREAS, the Lessor desires to lease to Lessee and Lessee desires to lease from Lessor the entire second floor of the DIEC Building containing approximately 26,777 square feet of office space with related tenant improvements to be constructed per **Exhibits C and D** (defined hereafter in Paragraph 1.07), as more fully set out below, together with a non-exclusive right or easement to use all driveways, parking areas, retention surface water and other facilities as provided in Covenants (defined hereafter in Paragraph 9.01).

NOW, THEREFORE, Lessor and Lessee covenant and agree as follows:

ARTICLE I
GRANT AND TERM

1.01 Demised Premises. The Lessor, for and in consideration of the rents, covenants, agreements and stipulations hereinafter mentioned reserved and contained, to be paid, kept and performed by the Lessee, by these presents does lease and rent to the said Lessee, and said Lessee hereby agrees to lease and take upon the terms and conditions which hereinafter appear the second floor of the DIEC Building containing approximately 26,777 square feet of office space (hereinafter the "Demised Premises").

1.02 Lessee's Right to Common Improvements. The Lessor hereby grants to Lessee, its employees, visitors and guests a non-exclusive right and easement to use all sidewalks, driveways and parking areas (as shown on the parking layout attached hereto as **Exhibit B**), retention surface water and other facilities, which form a part of the Daniel Island Executive Center, (accumulatively referred to herein as "Common Improvements") at no charge for the term of the Lease Agreement, as same may be extended. Lessee's use of the Common Improvements shall be subject to posted rules and regulations and at the sole risk of each user of said facilities. Lessor warrants that there is full and free ingress, egress and access to and from the Common Improvements from a public highway or road. The parking facility shall not be used for the storage of abandoned or defective vehicles or for any other purpose except transient parking. Neither Lessee nor Lessee's employees, officers, agents, guests, invitees or other persons visiting the Common Improvements shall have any rights to any particular parking space or spaces, and no special markings or signs may be placed on any parking spaces by Lessee.

1.03 Initial Term. The period beginning upon the execution hereof and continuing until delivery of the Demised Premises as evidenced by Lessee's execution of the Confirmation of Lease Term Agreement referenced in Section 1.04 below shall be hereinafter referred to as the "Initial Term".

1.04 Pro-Rata Rent Term. The period beginning upon completion of the tenant improvements (the "Delivery Date") and continuing until the beginning of the Base Term shall be hereinafter referred to as the "Pro-Rata Rent Term".

1.05 Base Term. The base term (hereinafter "Base Term") of this Lease Agreement shall commence on the first day of the first month following the day Lessee accepts the Demised Premises for occupancy, as evidenced by the Confirmation of Lease Term Agreement executed by Lessor and Lessee giving the commencement date of the Base Term (hereinafter "Lease Commencement Date") hereof and certifying that Lessee has accepted the Demised Premises, subject to the terms of Section 1.06 hereinbelow, and shall continue until that date which is fifteen (15) years from the Lease Commencement Date. By occupying the Demised Premises, Lessee shall be deemed to have accepted the same as substantially complying with Lessor's covenants and obligations, subject to any written punchlist of items to be completed. Notwithstanding the foregoing, Lessee reserves all rights against Lessor for any latent defects or nonconformities in construction.

1.06 Renewal Option. Provided and upon the condition that the Lessee shall not then be in default under the terms of this Lease Agreement, this Lease Agreement may be renewed for one (1) additional five (5) year period by the Lessee giving Lessor not less than one hundred eighty (180) days advance notice of its intention to renew.

1.07 Delivery of Demised Premises and Tenant Improvements. Lessor shall complete or cause to be completed within the Demised Premises, tenant improvements, substantially in accordance with the floor plan and specifications (hereinafter "Floor Plan and Specifications") as designed by the Lessee. Lessee shall provide Lessor with the Floor Plan and Specifications no later than six months prior to expected occupancy. Said Floor Plan and Specifications shall be attached hereto as **Exhibits C and D.** Lessor shall commence construction of the tenant improvements within thirty (30) days of receipt of the Floor Plan and Specifications and shall complete the construction of said tenant improvements as soon as possible (herein the "Scheduled Delivery Date").

Lessor shall provide at Lessor's sole expense a building shell which shall include an HVAC and electrical systems for normal office use. The HVAC system will include all high pressure side duct work. Lessor shall pay up to $30.00 per square foot for tenant improvements. Tenant improvements include, but are not limited to, ceiling grid and tile, low pressure duct system to each HVAC box, any additional electric systems or generators above and beyond normal office use, interior walls and floor coverings. Cost for all space planning and construction documents relative to the tenant improvements to be built within the Demised Premises to be paid by the Lessee. Lessor will do complete tenant improvements on a turnkey basis in accordance with the Floor Plan and Specifications attached hereto as **Exhibits C and D**.

1.08 Construction Conditions. Lessee shall bear any expense in excess of tenant improvements specified in the Floor Plan and Specifications previously referred to herein (except as provided in Paragraph 1.07), together with an additional charge of twenty percent (20%) of such excess to cover Lessor's overhead, by payment to Lessor prior to the commencement of such work. If any act or omission by Lessee (including, without limitation, any delay caused in the preparation of Floor Plan and Specifications for the tenant improvements, or any change requested therein) increases the cost of work or materials or the time required for completion of construction, Lessee shall reimburse Lessor for such increase in cost at the time the increased cost is incurred. All amounts payable by Lessee to Lessor under this Paragraph 1.08 shall be included in Rent (hereinafter defined) for all purposes under this Lease Agreement.

Lessor shall bear the risk of loss to the tenant improvements and agrees to maintain builder's risk insurance. Lessee shall not exercise any control over the persons performing construction activities on the tenant improvements or the Common Improvements.

1.09 Lessee's Right to Enter. Lessor agrees that Lessee may, at its option, enter upon the Common Improvements for the purposes of inspecting the tenant improvements during the construction, and that Lessee may, in its discretion and at its own cost, make whatever installations thereof as are necessary as soon as it can do so without unduly interfering with the construction of the tenant improvements; provided, however, that Lessee shall bear the risk of loss caused by the installation of fixtures prior to completion of construction. Lessee understands that Lessee's right hereunder does not allow Lessee the right to open for business until a Confirmation of Lease Term Agreement previously referred to herein has been executed.

1.10 Occupancy. The Demised Premises shall be ready for occupancy on such date that the tenant improvements are substantially completed which shall be defined as either (i) the supervising architect certifies the tenant improvements have been substantially completed in accordance with the Floor Plan and Specifications and a Certificate of Occupancy has been issued, or, (ii) the tenant improvements have been substantially completed in accordance with the Floor Plan and Specifications and a Certificate of Occupancy has not been issued where Lessee causes a delay in preparing the Demised Premises for occupancy by changing the Floor Plan and Specifications, fails to make other decisions necessary for preparation of the Demised Premises for occupancy, Lessee fails to complete work Lessee has contracted for that is necessary for issuance of a Certificate of Occupancy or the date of occupancy by Lessee.

If Lessor fails to have the Demised Premises ready for occupancy by the Scheduled Delivery Date, then (i) the Scheduled Delivery Date shall be extended to the date five (5) days after Lessor shall notify Lessee that the Demised Premises are ready for occupancy (ii) neither Lessor nor Lessor's agent, officers, employees, or contractors shall be liable for any damage, loss, liability or expense caused thereby, (iii) nor shall this Lease Agreement become void or voidable (unless such failure continues for more than forty-five

(45) days, in which case Lessee may, upon twenty (20) days written notice to Lessor, terminate this Lease Agreement). Prior to occupying the Demised Premises, Lessee shall execute and deliver to Lessor, Confirmation of Lease Term Agreement satisfactory to Lessor in its sole discretion, acknowledging the date of all applicable term dates and Rent and certifying that the Demised Premises has been completed and that Lessee has examined and accepted the Demised Premises. Lessee hereby authorizes any agent or employee who receives the keys to the Demised Premises on behalf of Lessee to execute and deliver such Confirmation of Lease Term Agreement. Lessee shall conclusively be deemed to have made such acknowledgment and certification by occupying the Demised Premises.

1.11 Rent Commencement Date The Rent Commencement Date of this Lease Agreement shall be the first day of the first month of the Base Tern of this Lease Agreement as specified in Paragraph 1.05, not to exceed July 1, 2009.

ARTICLE II
RENT

2.01 Rent. Beginning on the Rental Commencement Date (as herein defined) and continuing throughout the full term of this Lease Agreement, Lessee shall pay to Lessor without notice, demand, reduction, abatement, set off or any defense, the rent as specified herein, in advance on or before the first day of each month.

(a) Rent During Initial Term. During the Initial Term, Lessee shall not be required to pay Base Rent.

(b) Rent During Pro-Rata Rent Term. The pro-rata rent shall be $0.00 per day and shall be paid at time of occupancy.

(c) Rent During Base Term. The annual Base Rent during the first (1) year of the Base Term shall be Twenty Six and 70/100 Dollars ($26.70) per square foot. This amount will be payable in equal monthly installments on the first day of each month.

(d) Rent Escalation During Base and Renewal Terms. The Base Rent for each year of the Base Term and each year of the renewal term (hereinafter the "Renewal Term") shall be the previous year's Base Rent plus a three percent (3%) increase per annum.

2.02 Late Payments. All unpaid Rent and other sums of whatever nature owed by Lessee to Lessor under this Lease Agreement and remaining unpaid five (5) days after the due date shall bear a late penalty equal to ten (10%) percent of the then amount due which shall be Additional Rent hereunder. Acceptance by Lessor of any payment from Lessee hereunder in an amount less than that which is currently due shall in no way affect Lessor's rights under this Lease Agreement and shall in no way constitute an accord and satisfaction.

2.03 Other Additional Rent Provisions. Any amounts required to be paid by Lessee under this Article II and any changes or expenses incurred by Lessor on behalf of Lessee (including any construction costs and change orders incurred by Lessor shall be considered Additional Rent. Any failure on the part of Lessee to pay such Additional Rent when and as the same shall become due shall entitle Lessor to the remedies available to it for non-payment of Base Rent.

ARTICLE III
OPERATING EXPENSES

3.01 Operating Expense Escalation. During the Base Term, the annual Base Rent shall be adjusted for increases in Operating Expenses, (as hereinafter defined), in the following manner:

(a) The Base Rent includes an annual expense stop of Five and 05/100 Dollars ($5.05) per rentable square foot. The first year's Estimated CAM and Operating Expenses are attached hereto as **Exhibit E**. Each twelve month period from the beginning of the Base Term shall be a lease year. Lessee shall be responsible for its proportionate share of the cost of Operating Expenses over the expense stop amount stated herein. Operating Expenses which are not directly attributable to the Demised Premises shall be prorated by dividing the total number of rentable square feet in the Demised Premises by the total number of square feet in the DIEC Building.

(b) Lessor shall furnish Lessee, annually, statements prepared by the chief financial officer or general partner of Lessor and certified by such officer, partner or an independent certified public accountant showing Operating Expenses for the lease year. If Operating Expenses during the lease year are greater than the expense stop amount, Lessee shall pay its share of the overage to Lessor within thirty (30) days after receiving such certified statements. As used in this Article, "Operating Expenses" shall include only those items customarily considered in good accounting practice to be building operating expenses, to wit normal repairs not covered by insurance, maintenance, cleaning, janitorial services, utilities, supplies, real estate taxes, Daniel Island Executive Center LLC common area maintenance and assessment charges, premiums for fire, casualty and liability insurance with respect to the building containing the Demised Premises, and management fees not in excess of three percent (3%) of gross collections. Operating Expenses shall not include, among other things, any expenses related to financing, depreciation, amortization, ground rents, costs of a capital nature, costs for which Lessee or other occupants of the Building are charged other than pursuant to the Operating Expense clauses, costs of procuring lessees, attorneys' fees, accounting fees, nor administrative salaries and wages except for personnel working exclusively for the buildings containing the Common Improvements. Operating Expenses shall include only those costs actually paid by Lessor.

ARTICLE IV
SERVICES

4.01 Services. Subject to conditions beyond Lessor's control, Lessor covenants at its expense (up to the annual expense stop) to:

(a) Provide space with common utility metering and control by Lessor.

(b) Maintain the lavatories and toilets in good working order; keep them in a clean and safe condition, well lighted and well ventilated.

(c) Furnish hot and cold water for lavatory purposes.

(d) Furnish electric current for lighting and general office purposes and for parking areas.

(e) Provide and install initial light tubes, flood lamps and bulbs. Tenant responsible for all replacement bulbs and labor, on the second floor.

(f) Keep the sidewalks, corridors, stairways, and all other means of ingress and egress for the Common Improvements clean, in good repair and safe condition, well marked, well lighted and free of ice, snow and debris.

(g) Keep all lawns, shrubbery and trees on the grounds of the building containing the Common Improvements in good order and condition and neat in appearance, and replant grass and shrubbery when necessary to maintain the grounds in good appearance and condition.

(h) Provide Lessee access to the Common Improvements twenty-four (24) hours per day, seven (7) days per week.

4.02 Janitorial Specifications. Lessee will be responsible for all building cleaning including the windows, fixtures and furnishings therein, and during the business week will provide for the daily removal and disposal of wastepaper and rubbish. Lessee will keep the building in good working order by performing the following minimum cleaning services:

(a) Each night Monday through Friday empty wastepaper baskets and remove refuse from the Demised Premises and Common Improvements, dust office furniture, equipment, and sweep non-carpeted floors with chemically treated cloths, vacuum clean the carpeting and clean the toilets and lavatory facilities.

(b) At least once each month or more frequently when necessary wash non-carpeted floors, spot clean the carpeting and dust venetian blinds.

(c) At least once each year, wash windows on both sides.

(e) Provide adequate vermin and pest control services when reasonably necessary in Lessee's judgment.

4.03 Carpet and Window Coverings. Lessee agrees to maintain the carpeting, partition base, and window coverings throughout the Demised Premises in good condition and repair, including but not limited to, spot cleaning and periodic general cleaning and shampooing.

ARTICLE V
HOLDING OVER

5.01 Rent for Holding Over Period. Lessee shall pay any taxes, documentary stamps or assessments of any nature imposed or assessed upon Lessee's occupancy of the Leased Premises or upon Lessee's furniture, furnishings, trade fixtures, equipment, machinery, inventory, merchandise or other personal property located on the Leased Premises and owned by or in the custody of Lessee promptly as all such taxes or assessments may become due and payable without any delinquency. If applicable in the jurisdiction where the Leased Premises are located, Lessee shall pay and be liable for all rental tax (only to the extent such rental tax is levied in lieu of ad valorem property taxes against the Leased Premises), sales, use and inventory taxes or other similar taxes, if any, levied or imposed by any city, state, county or other governmental body having authority, such payments to be in addition to all other payments required to be paid by Lessor by Lessee under the terms of this Lease Agreement. Such payment shall be made by Lessee directly to such governmental body if billed to Lessee, or if billed to Lessor, such payment shall be paid concurrently with the payment of the Base Rent, Additional Rent, or such other charge upon which the tax is based, all as set forth herein. Notwithstanding the foregoing, Lessee shall have the right, at its sole cost and expense, to contest such taxes, and upon contesting the amount of such taxes, Lessee shall deposit the amount of such taxes into an escrow account reasonably acceptable to Lessor.

ARTICLE VI
TAXES/ASSESSMENTS

6.01 Personal Property Taxes. Lessee shall timely pay directly to the applicable governmental taxing authorities any and all taxes with respect to any and all of Lessee's personal property which shall at any time be situated in, at or about the Common Improvements, including, but not limited to Lessee's leasehold improvements, trade fixtures, inventory and personal property.

ARTICLE VII
INSURANCE

7.01 Fire and Extended Coverage Insurance. During the Base Term, and any Renewal Term, Lessor covenants and agrees to maintain in full force a policy or policies of insurance on the DIEC Building, including Improvements therein or contents thereof, providing insurance protection against risks of direct physical loss, specifically including protection against damage or destruction by fire and other casualties excluding flood and earthquake, and vandalism insurance (formerly known as "All Risk Insurance"). Said insurance shall be in the amount equal to a minimum of the Lessor's cost in the building

including the permanent improvements thereon under a policy or policies issued by responsible insurance companies approved by both parties and authorized to do business in the State of South Carolina. The Lessee agrees that it will not do or keep anything in or about the Common Improvements which will contravene the Lessor's policies insuring against loss or damage by fire or other hazards, or which will prevent the Lessor from procuring such policies in companies acceptable to the Lessor.

7.02 Insurance by Lessee. The Lessee covenants and agrees, at its sole cost and expense, to maintain in full force a policy of insurance on the interior of the Demised Premises and upon its personal property, fixtures, equipment and merchandise therein, providing insurance protection against risks of direct physical loss, specifically including protection against damage or destruction by fire and other casualties, excluding flood and earthquake and vandalism insurance (formerly known as All Risk Insurance). Further, Lessor covenants and agrees that it will require all other tenants of Building II to carry, at a minimum, the insurance coverage specified herein. Lessor shall provide evidence of said insurance coverage to Lessee from any and all other tenants of Building III.

7.03 Lessee's Liability Insurance. The Lessee agrees to indemnify and/or hold and save the Lessor harmless, at all times during the primary term and any extension hereof, from and against any losses, damages, costs, or expenses on account of any claim for injury by a third party, including death or damage either to person or property sustained by the Lessor which arises out of the use and occupancy of the Common Improvements by the Lessee, its agents, employees, invitees, and customers (except those resulting from Lessor's willful, unlawful or negligent acts). Lessee shall give Lessor notice of all claims made against the Lessee that come within the scope of the indemnification in this paragraph and shall not settle any such claim without the Lessor's written consent. In connection herewith, Lessee shall, at its own expense, provide and keep in force, for the benefit and protection of the Lessor and Lessee as their respective interests may appear, and with the Lessor as an additional insured, a general liability policy or policies in standard form issued by reliable companies approved by both parties and licensed to do business in the State of South Carolina, protecting both the recovery being waived by the Lessee against Lessor, its successors and assigns against any and all liability occasioned by accident or disaster on the Common Improvements with minimum limits of $500,000 for injury to any one person and $1,000,000 per occurrence. A renewal policy shall be secured not less than ten (10) days prior to the expiration of any policy and a certificate of the insurer evidencing such insurance, with proof of payment of premium, shall be deposited with the Lessor upon the Lessor's request.

7.04 Lessor's Liability Insurance. The Lessor agrees to indemnify and/or hold and save the Lessee harmless, at all times during the Base Term and any extension hereof, from and against any losses, damages, costs, or expenses on account of any claim for injury by a third party, including death or damage either to person or property sustained by the Lessee which arises out of the use and occupancy of the Common Improvements by the Lessor, its agents, employees, invitees, and customers (except those resulting from Lessee's willful, unlawful or negligent acts). Lessor shall give Lessee notice of all claims made against the Lessor that come within the scope of the indemnification in this paragraph and shall not settle any such claim without the Lessee's written consent. In connection herewith, Lessor shall, at its own expense, provide and keep in force, for the

benefit and protection of the Lessee and Lessor as their respective interests may appear, and with the Lessee as an additional insured, a general liability policy or policies in standard form issued by reliable companies approved by both parties and licensed to do business in the State of South Carolina, protecting both the recovery being waived by the Lessor against Lessee, its successors and against any and all liability occasioned by accident or disaster on the Common Improvements with minimum limits of $500,000 for injury to any one person and $1,000,000 per occurrence. A renewal policy shall be secured not less than ten (10) days prior to the expiration of any policy and a certificate of the insurer evidencing such insurance, with proof of payment of premium, shall be deposited with the Lessee upon the Lessee's request.

7.05 Copies to Lessor. All policies required in Paragraphs 7.02, 7.03 and 7.04 shall be in such form and with such insurance company as shall be reasonably satisfactory to both parties with provisions for at least ten (10) days notice to Lessor or Lessee of cancellation. At least ten (10) days before the expiration of any such policy, Lessee shall supply Lessor with a substitute therefor or with evidence of payment of premiums therefor. In the event either party does not maintain the insurance herein called for, the other party may obtain said insurance and the other party shall reimburse the party in default for the premiums due on said insurance on demand.

7.06 Indemnity. Lessee will indemnify and save Lessor harmless from and against any and all claims, actions, damages, liability and expense in connection with loss of life, personal injury and/or damage to property which occur as a result of the operation of Lessee's business in and about the Common Improvements not resulting from any acts or omissions of Lessor or Lessor's employees or agents.

7.07 Subrogation. Lessor and Lessee hereby grant to each other, on behalf of any insurer providing insurance to either Lessor or Lessee as required by this Lease Agreement, improvements thereon or contents thereof, a waiver of any right of subrogation by any such insurer that each may acquire against the other by virtue of payment of any loss under such insurance. Each of the parties hereby waives any rights it may have against the other party on account of any loss or damage to its property (including the Common Improvements and its contents) which arises from any risk ordinarily covered by fire and extended coverage insurance or any other insurance required to be carried hereunder, whether or not such other party may have been negligent or at fault in causing such loss or damage. Each party shall obtain a clause or endorsement in the policies of such insurance, which either party obtains in connection with the Common Improvements to the effect that the insurer waives, or shall otherwise be denied, the right of subrogation against the other party for loss covered by such insurance.

ARTICLE VIII
REPAIRS

8.01 Repairs. All repairs to the Demised Premises, excluding the Common Improvements , including but not limited to, the plumbing, heating, air-conditioning, electric wiring, and lighting apparatus, necessary to keep them in proper order shall be made by Lessee at Lessee's expense. Any repairs, changes, or additions to the Common Improvements which may be required in order to bring the Common Improvements into compliance with any Federal, State, or municipal law, statute, ordinance, decision, rule or regulation shall be made by Lessor at Lessor's expense.

8.02 Alterations and Remodeling. After the commencement of the Base Term, with the permission and prior written consent of the Lessor, which shall not be unreasonably withheld, Lessee may make such alterations, additions, decorations and changes to the interior of the building and exterior lighting of the Common Improvements as it deems necessary for its purposes provided that the value of the buildings and improvements are not thereby diminished subject to the following conditions:

(a) That if any such work increases any insurance premiums, taxes, or other costs or expenses relating to the Common Improvements, Lessee shall timely and fully pay and satisfy same.

(b) That no casualty or mechanics or materialmen's claims or liens shall be created upon the Common Improvements or elsewhere by reason of or with respect to the work or a condition of the Common Improvements thereafter resulting from said work; and

(c) That upon expiration or any earlier termination of the Lease Agreement, Lessee shall, at its cost and expense, upon the election of Lessor, promptly remove the alterations and repairs and restore the Common Improvements the condition existing prior to installation of the same. Any and all alterations, additions and improvements to the Common Improvements (other than inventory and trade fixtures) installed by or on behalf of Lessee shall immediately, at Lessor's option, become part of the Common Improvements and at the expiration or other termination of this Lease Agreement shall be surrendered to the Lessor.

ARTICLE IX
USE AND CONDUCT OF BUSINESS

9.01 Use of the Demised Premises. At the commencement of the Base Term of this Lease Agreement, the Demised Premises may be used by the Lessee for office space and related activities for Lessee. The Demised Premises shall not be used for any illegal purposes, or in violation of any valid regulation of any governmental body, nor in any manner to create any nuisance or trespass.

9.02 Nuisance. Lessee agrees not to create or allow any nuisance to exist on the Premises, and to abate any nuisance that may arise, promptly and free of expense to Lessor.

9.03 Compliance with Regulations. Lessee shall comply with all laws, ordinances, orders, rules and regulations (hereinafter "Rules and Regulations" attached hereto as **Exhibit F**) and requirements of all federal, state and municipal governments and appropriate departments, commissions boards and officers thereof, which may be applicable to any Lessee improvements. Lessee will likewise observe and comply with the requirements of all policies of public liability, fire and all other types of insurance and all other instruments of record at any time in force with respect to the Common Improvements.

9.04 Zoning. Lessee acknowledges that the use of the Common Improvements is subject to any applicable regulations, zoning ordinances, including Planned Development Districts, if applicable, of any governmental authority and Lessee agrees to be bound by all terms and conditions imposed by such governmental authority, including any traffic restrictions, use restrictions and other conditions which plan approval is conditioned upon and all present and future zoning laws, ordinances, resolutions and regulations of any appropriate governmental authority.

9.05 Lessee's Right to Contest Regulations. Lessee shall have the right, after notice to Lessor to contest by appropriate legal proceedings, without cost or expense to Lessor, the validity of any law, ordinance, order, rule, and regulation or requirement of the nature herein referred to and to postpone Lessee's compliance with the same, provided such contest shall be promptly and diligently prosecuted by and at the expense of Lessee so that Lessor shall not thereby suffer any civil, or be subjected to any criminal, penalties or sanctions and that Lessee shall properly protect and save harmless Lessor against any liability and claims for any such non-compliance or postponement of compliance.

ARTICLE X
QUIET ENJOYMENT

10.01 It is a condition of this Lease Agreement that Lessor has a good and marketable title to the Common Improvements free and clear of all liens and encumbrances except those to which Lessee has specifically consented in writing; that Lessor has the right to lease the same; that Lessor warrants and will defend Common Improvements unto Lessee against the lawful claims of all persons whomsoever; that so long as the rents are being paid in the manner herein provided and the covenants, conditions and agreements herein being all and singularly kept, fulfilled and performed by Lessee, Lessee shall lawfully, peacefully and quietly hold, occupy and enjoy the Common Improvements during the term herein granted without any let, hindrance, ejection or molestation by Lessor or any person claiming under Lessor.

ARTICLE XI
ENVIRONMENTAL

11.01 Lessor's Environmental Warranty. Prior to the signing of this Lease Agreement, Lessor has not caused or permitted persons with whom Lessor have contracted to cause (a) any violation of any federal, state or local law, ordinance, or regulation enacted related to environmental conditions on or about the Common Improvements , including, but not limited to soil and groundwater conditions, nor (b) engaged in the use, generation, release, manufacture, production, processing, storage, or disposal of any Hazardous Substance (as hereinafter defined) on, under, or about the Common Improvements . The term "Hazardous Substance" as used herein shall include, without limitation, flammable, explosives, radioactive materials, asbestos, polychlorinated biphenyls (PCB's), chemicals known to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous wastes, toxic products, and substances declared to be hazardous or toxic under any law or regulation promulgated by any governmental authority.

11.02 Hazardous Waste. Lessee covenants and warrants that it will not knowingly cause or permit to be brought upon the Common Improvements or installed in any buildings or improvements thereon any asbestos in any form, urea formaldehyde insulation, transformers or any other equipment which contain dielectric fluid containing levels of polychlorinated biphenyl in excess of fifty parts per million of any other chemical material or substance which is regulated as toxic or hazardous or exposure to which is prohibited, limited or regulated by any federal or state authority or which may or could pose a hazard to the health or safety of the occupants of the Common Improvements or the owners of the property adjacent to the Common Improvements . The Lessee shall not install, store, use, treat, transport or dispose of on the Common Improvements any regulated hazardous or toxic materials or waste, and in the event of any such installation, storage, use, treatment, presence, transportation or disposal during the term of this Lease Agreement, the Lessee shall remove any such hazardous materials or waste and comply with the regulations and orders of any authority having jurisdiction of the same, all at the expense of the Lessee, including necessary removal, cleanup or other remediation, and if Lessee shall fail to proceed with such removal or comply with such regulations or orders, the Lessor may declare this Lease Agreement in default. Lessee shall indemnify Lessor and hold Lessor harmless from any and all losses, damages or expenses which may be incurred by Lessor for the presence or removal from the Common Improvements of any such hazardous materials or waste caused by any activity of Lessee on the Common Improvements and the liability of the Lessee to Lessor under the Covenants hereof shall survive termination of this Lease Agreement or any transfer of the leasehold estate or the fee estate by either Lessor or Lessee.

ARTICLE XII
SIGNAGE

12.01 [Reserved]

ARTICLE XIII
DESTRUCTION

13.01 If, during the Base Term of this Lease Agreement or any extension thereof, the Common Improvements is:

(a) destroyed by fire or any other casualty whatsoever, or;

(b) partially destroyed so as to render the Demised Premises unfit for occupancy or Lessee’s reasonable beneficial use and enjoyment or conduct of Lessee’s usual business therein, or;

(c) destroyed by a casualty which is not covered by Lessor’s insurance, or if such casualty is covered by Lessor’s insurance but a mortgagee of Lessor or other party entitled to insurance proceeds fails to make such proceeds available to Lessor in an amount sufficient for restoration of the Common Improvements (provided, however, that Lessor agrees to make a good faith effort to have such mortgagee make such proceeds available for full restoration or rebuilding);

then Lessor shall make its reasonable determination as to the length of time to complete such repairs within thirty (30) days of the casualty and shall notify Lessee of same as provided herein. In the event restoration is reasonably estimated by Lessor to take more than one hundred twenty (120) days from the date of the destruction or casualty, or in the event the above described destruction or casualty should occur within the last two (2) years of the Base Term or extension thereof, then Lessor or Lessee shall have the right to terminate this Lease Agreement. In the event that the Lease Agreement is terminated in accordance with the foregoing provisions, Lessee shall surrender within thirty (30) days of notification the Common Improvements and interest therein, and Lessee shall pay rent only to the time of such destruction or casualty.

In case of the total or partial damage or destruction to the Common Improvements, Lessor shall re-enter and repossess the same or any part thereof for the purpose of removing or repairing the loss or damage and shall proceed with due diligence to the repair of same unless, under the foregoing provisions of this Article XIII, the Lease Agreement shall have been terminated. The Rent during the period of such repairs shall be wholly abated if all of the Common Improvements have been thus repossessed by Lessor or otherwise made unavailable to Lessee for Lessee's reasonable beneficial use and enjoyment or Lessee's conduct of Lessee's usual business therein for the purpose of repair for the period that Lessee has been dispossessed; and if only a portion of the Common Improvements is thus repossessed or otherwise unavailable to Lessee for Lessee's reasonable beneficial use and enjoyment or Lessee's conduct of Lessee's usual business therein, the Rent shall be abated for such dispossession or unavailability pro rata, based on the portion of the Common Improvements thus repossessed or rendered unavailable during the period of repossession or unavailability. Any Rent abatement under this Article XIII shall commence as of the date of the destruction.

Lessor shall not be required to rebuild, repair, or replace any part of the personal property, furniture, equipment, fixtures, and other improvements which may have been placed by Lessee or other lessees within the DIEC Building or Common Improvements, unless the damage thereto is caused by the sole negligence or willful act or omission or default hereunder of Lessor or Lessor's agents, employees, subtenants, assignees, or independent contractors. Any insurance which may be carried by Lessor or Lessee for damage to the Demised Premises or to any personal property, fixtures, and related items therein shall be for the sole benefit of the party carrying such insurance and under its sole control; provided, however, Lessor shall carry insurance for the benefit of Lessor and Lessee sufficient to cover the full replacement cost of the shell of the Common Improvements and an amount equal to the initial tenant improvements, and other improvements that Lessor shall have liability therefore under Article VII.

Should the DIEC Building or the Common Improvements be destroyed or damaged by fire or other casualty that is due to the direct negligence or willful or wanton conduct of Lessee or Lessee's agents, employees, subtenants, assignees or independent contractors, Lessor may repair such damage, and there shall be no apportionment or abatement of Rent.

ARTICLE XIV
CONDEMNATION

14.01 Lessor, within ten (10) days of Lessor's receipt of any notice of the institution of condemnation proceedings or threat thereof with respect to all or any part of the Common Improvements , shall give written notice to Lessee of the same. Lessee shall have the right, option, to terminate this Lease Agreement within sixty (60) days after receipt of said notice from the Lessor should such condemnation affect twenty percent (20%) or more of the Common Improvements and Lessee determines that such condemnation will interfere with Lessee's ability to continue its business operations in substantially the same manner or space as existed prior to the condemnation or deed in lieu thereof. Lessee's obligation under this Lease Agreement including but not limited to Lessee's obligation to pay rent hereunder, shall cease upon Lessee's termination of this Lease Agreement pursuant to the terms of this paragraph; however, the Lessee shall be obligated to pay all rent due on or before the date of termination down through the date Lessee surrenders possession of the Common Improvements to the Lessor. Lessee may assert a separate claim to the condemning authority for its damages.

ARTICLE XV
DEFAULT

15.01 Default by Lessee. The occurrence of any of the following events shall constitute a default under this Lease Agreement:

(a) Lessee fails to pay any installment of rent within ten (10) business days after such installment is due, and fails to cure such delinquency within five (5) business days after actual receipt of written notice thereof by Lessee from Lessor:

(b) Lessee fails to pay any additional item or any other charge or sum required to be paid by Lessee hereunder within thirty (30) days after actual receipt of written notice thereof by Lessee from Lessor; or

(c) Lessee fails to perform or commence in good faith and proceed with reasonable diligence to perform any of its covenants under this Lease Agreement within thirty (30) days after actual receipt of written notice thereof by Lessee from Lessor.

15.02 Lessor's Remedies. In the event Lessee is in default pursuant to the conditions set forth in Section 15.01 above, Lessor, during the continuation of such default, shall have the option of pursuing either of the following remedies:

(a) Lessor may terminate this Lease Agreement, in which event Lessee immediately shall surrender possession of the Demised Premises. All obligations of Lessee under the Lease Agreement, including Lessee's obligation to pay rent under the Lease Agreement, shall cease upon the date of termination except for Lessee's obligation to pay rent due and outstanding as of the date of termination.

(b) Lessor, without terminating the Lease Agreement, may require Lessee to remove all property from the Common Improvements within thirty (30) days so that Lessor may re-enter and relet the premises to minimize Lessor's damages. In the event Lessee shall fail to remove all property within thirty (30) days after said demand, Lessor shall be entitled to remove Lessee's property to a storage facility, and all reasonable costs of such removal and storage shall be deemed additional rent under the Lease Agreement for which Lessee is responsible for payment. Lessor may enforce all of its rights and remedies under this Lease Agreement, including the right to recover the rent as it becomes due hereunder, provided that Lessor shall have an affirmative obligation to use Lessor's best efforts to re-let the Common Improvements and to mitigate its damages under the Lease Agreement.

(c) If this Lease Agreement is terminated as set forth, Lessor may relet the Common Improvements (or any portion thereof) for such rent and upon such terms as Lessor is able to obtain (which may be for lower or higher rent, and for a shorter or longer term), and Lessee shall be liable for all damages sustained by Lessor, including but not limited to any deficiency in Rent for the duration of the Lease Term (or for the period of time which would have remained in the Lease Term in the absence of any termination, leasing fees, attorneys' fees, other marketing and collection costs and all expenses of placing the Common Improvements in first class rentable condition).

(d) Nothing contained herein diminishes any right Lessor may have under South Carolina law to sue Lessee for damages in the event of any default by Lessee under this Lease Agreement, or from pursuing any other remedy available to Lessor at law or in equity.

ARTICLE XVI
LESSEE'S RIGHT TO SUBLEASE AND ASSIGN

16.01 Lessee may not sublet the Common Improvements or assign this Lease Agreement without the prior written consent of the Lessor, which shall not be unreasonably withheld or delayed and if such consent is granted, Lessee shall remain liable to Lessor for the faithful performance of all of the covenants and conditions, including rental payment, required to be kept and performed under the terms of this Lease Agreement. Any assignment by operation of law as a result of a corporate merger or re-organization shall not require the previous written consent of Lessor. Notwithstanding anything contained in this Lease Agreement to the contrary and provided such transfer does not change the use as allowed in Paragraph 9.01, Lessee shall have the right, without obtaining the consent of Lessor, to assign, sublet or otherwise transfer Lessee's interest in or under this Lease Agreement to Lessee's parent corporation, any subsidiary of Lessee or to any other affiliate of Lessee (collectively, "Permitted Transfer"). In addition, Lessee shall not be required to comply with any other requirements under this Lease Agreement which relates to an assignment, subletting or other transfer of Lessee's interest hereunder (including, without limitation, payment of any transfer fee) if such assignment, subletting or other transfer is a Permitted Transfer. However, no Permitted Transfer shall relieve Lessee from any obligations under this Lease Agreement.

16.02 Violation. Any violation of any provision of this Lease Agreement, whether by act or omission, by any assignee or subtenant of Lessee, shall be deemed a violation of such provision by the Lessee, it being the intention and meaning of the parties hereto that the Lessee shall assume and be liable to the Lessor for any and all acts and omissions of any and all assignees or subtenants of Lessee. If the Common Improvements or any part thereof is sublet or occupied by any person other than the Lessee, Lessor, in the event of Lessee's default, may and is hereby empowered to collect rent from the subtenant or occupant; the Lessor may apply the net amount received by it to the rent herein reserved and no such collection shall be deemed a release of the Lessee from the further performance of the covenants herein contained.

ARTICLE XVII
LESSOR'S RIGHT TO MORTGAGE AND SELL

17.01 Estoppel Certificate. Within five (5) days after written request therefor by either Lessor or Lessee to the other, or in the event that upon any sale, assignment, hypothecation of the Premises, and/or the land thereunder, or a leasehold loan by Lessee of its leasehold estate herein, an estoppel statement shall be required from Lessor or Lessee. Lessor and Lessee agree to deliver to each other, in recordable form, a certificate to any proposed mortgagee or purchaser, certifying that this Lease Agreement is in full force and effect, that there are no defenses thereto, or stating those claimed by Lessor or Lessee, and as to such other matters as may be reasonably requested.

17.02 Subordination and Attornment. Upon Lessor's request, during the term of this Lease Agreement, Lessee shall execute a subordination agreement in recordable form wherein Lessee shall agree that this Lease Agreement is and shall be subordinate to the lien of any mortgages in any amount or amounts on all or any part of the land or buildings comprising the Premises, or on or against Lessor's interest or estate therein; provided that such subordination agreement shall recite that the subordination of Lessee's interests pursuant thereto are subject to the agreement by the mortgagee named in any such mortgage to recognize the Lease Agreement of Lessee in the event of foreclosure of any such mortgage if Lessee is not in default under the Lease Agreement. Lessee covenants and agrees to execute and deliver upon demand such further instruments evidencing such subordination of this Lease Agreement to the lien of any such mortgage as may be required by the Lessor within ten (10) days of demand therefor. Notwithstanding anything hereinabove contained, in the event the holder of any such mortgage shall at any time elect to have this Lease Agreement constitute a prior or superior lien to its mortgage, then and in such event upon any such mortgage holder notifying Lessee to that effect, this Lease Agreement shall be deemed prior and superior in lien to such mortgage irrespective of whether this Lease Agreement is dated prior to or subsequent to the date of such mortgage or lease.

If Lessor enters into one or more mortgages and Lessee is advised in writing of the name and address of the mortgagee under such mortgage, then this Lease Agreement shall not be terminated or canceled on account of any default by the Lessor in the performance of any of the terms, covenants or conditions hereof on its part contained, until Lessee shall have given written notice of such default to such mortgagee, specifying the default, in which event such mortgagee shall have the right to cure Lessor's default as otherwise provided herein and which cure shall be accepted by Lessee.

Lessee shall, in the event any proceedings are brought for the foreclosure of or in the event of sale under any mortgage made by the Lessor covering the Premises, attorn to the purchaser upon any such foreclosure of sale and recognize such purchaser as the Lessor under this Lease Agreement.

17.03 Transfer of Lessor's Interest. Lessor shall have the right to convey, transfer or assign, by sale or otherwise, all or any part of its interest in this Lease Agreement or the Common Improvements at any time and from time to time and to any person, subject to the terms and conditions of this Lease Agreement. All covenants and obligations of Lessor under this Lease Agreement shall not cease upon the execution of such conveyance, transfer or assignment, but such covenants and obligations shall run with the land and shall be binding upon any subsequent owner thereof.

ARTICLE XVIII
SURRENDER OF PREMISES

18.01 Trade Fixtures. All equipment and every other item of property not permanently attached to the Demised Premises and not paid for by Lessor, and any of such items leased by Lessee under bona fide leases from third party owners, are to remain and be the property of Lessee and Lessee is to have the right and privilege of removing any and all such property and equipment at any time during the continuance of this Lease Agreement or any extensions hereof and within thirty (30) days thereafter. In the event the aforesaid equipment is not removed by Lessee within said thirty (30) day period, title thereto shall automatically pass to and vest in Lessor. If said equipment is removed, Lessee shall restore the Demised Premises to their condition prior to the removal of such property. It is further understood and agreed that the buildings and structures installed on the Common Improvements by Lessor, may not be removed by Lessee at the termination of this Lease Agreement.

18.02 Surrender. The Lessee shall on the expiration or the sooner termination of the Lease Agreement surrender to Lessor the Demised Premises, including all buildings, replacements, changes, additions, and improvements constructed or placed by the Lessee thereon, except for all moveable trade fixtures, equipment, and personal property belonging to the Lessee, broom-clean, free of sub-tenancies, and in good condition and repair, reasonable wear and tear excepted.

ARTICLE XIX
LESSOR-AGENT AGREEMENT

19.01 The Lessor and the Lessee each respectively represents and warrants to the other that no real estate broker or other person is entitled to a fee, commission, or any other renumeration in respect of the execution or performance of this Lease Agreement; and each of the Lessor and the Lessee hereby covenants and agrees to hold the other harmless from any fee, commission, cost or damage incurred as a result of any breach of the foregoing warranties.

ARTICLE XX
SECURITY DEPOSIT

Lessee shall pay to Lessor simultaneously with the execution of this Lease Agreement a sum zero and 00/100 Dollars ($0,000.00) (the "Security Deposit") as security for the full and faithful performance by Lessee of each and every term, covenant and condition of this Lease Agreement. Upon an Event of Default by Lessee under this Lease Agreement, or if Lessee fails to perform any of the terms, provisions and conditions of this Lease Agreement, Lessor may use, apply, or retain the whole or any part of the Security Deposit so deposited for the payment of any sum due Lessor or which Lessor may expend or be required to expend by reason of the Lessee's Event of Default or failure to perform including, but not limited to, any damages or deficiency in the reletting of the Leased Premises, provided, however, that any such use, application or retention by Lessor of the whole or any part of the Security Deposit shall not be or be deemed to be an election of remedies by Lessor or viewed as liquidated damages, it being expressly understood and agreed that, notwithstanding such use, application or retention, Lessor shall have the right to pursue any and all other remedies available to it under the terms of this Lease Agreement or otherwise. In the event that Lessee shall comply with all of the terms, covenants and conditions of this Lease Agreement, the Security Deposit shall be returned to Lessee within thirty (30) days after Lessee has vacated and surrendered the Leased Premises in accordance with the terms hereof, so long as no Event of Default by Lessee shall then be existing under the terms of this Lease Agreement. In the event of a sale of the Building or the Project, Lessor shall have the right to transfer the Security Deposit to the purchaser, and Lessor shall thereupon be released from all liability for the return of such Security Deposit. Lessee shall look solely to the new landlord for the return of such Security Deposit. If Lessee shall fail to pay Rent or other sums when due under this Lease Agreement more than three (3) times in any twelve (12) month period, irrespective of whether or not such delinquencies have been cured, then the Security Deposit shall, within ten (10) days after demand by Lessor, be increased to an amount equal to the greater of (i) three (3) times the aforesaid amount or (ii) three (3) months rent.

ARTICLE XXI
MISCELLANEOUS

21.01 Lessor's Entry. The Lessor shall have the right to enter upon the Common Improvements at all reasonable times without prior notice during the term of this Lease Agreement for the purposes of inspection, maintenance, repair and alteration and to show the same to prospective lessees or purchasers.

21.02 Nature and Extent of Agreement. This instrument and exhibits, Rules and Regulations marked as **Exhibit F**, and Riders, if any, attached hereto contain the complete agreement of the parties regarding the terms and conditions of the lease of the Premises, and there are no oral or written conditions, terms, understandings or other

agreements pertaining thereto which have not been incorporated herein. This instrument may be amended from time to time by written addendum signed by both parties. This instrument creates only the relationship of Lessor and Lessee between the parties hereto as to the Premises; and nothing herein shall in any way be construed to impose upon either party hereto any obligations or restrictions not herein expressly set forth. The laws of the State of South Carolina shall govern the validity, interpretation, performance and enforcement of this Lease Agreement.

21.03 Partial Invalidity. If any term, covenant or condition of this Lease Agreement or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder to this Lease Agreement, or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this Lease Agreement shall be valid and be enforceable to the fullest extent permitted by law.

21.04 Recording. This Lease Agreement shall not be recorded, however, upon the request of either party hereto the other party shall join in the execution of a memorandum or so-called "short form" of this Lease Agreement for the purpose of recordation. Said memorandum or short form of this Lease Agreement shall describe the parties, the Common Improvements and the term of this Lease Agreement and shall incorporate this Lease Agreement by reference.

21.05 Attorneys Fees and Expenses. In the event either party commences any action (at law or in equity), the prevailing party in such action shall be entitled to an award of its costs and attorney's fees incurred against the non-prevailing party whether the action be based on contract or tort theory.

21.06 Applicable Law. Any controversy or claim arising out of or relating to this Lease Agreement shall be governed by the substantive law of the State of South Carolina without consideration of the conflicts of law rules of said state.

21.07 Captions. The captions or headings at the beginning of articles and sections of this Lease Agreement are included for convenience only and in no way define, limit or describe the scope of any provision hereof.

21.08 Binding Effect. This Lease Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

21.09 Duplicate Counterparts. This Lease Agreement may be executed in one or more counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

21.10 Additional Documents. Each party shall, at the request of the other, execute, acknowledge, (if appropriate) and deliver such additional documents and instruments, and do such other acts as may be necessary or convenient to call out the purposes and intent of this Lease Agreement and to permit the Lessee to record this Lease Agreement and grant security interests therein. This Lease Agreement may be signed in triplicate originals by the parties.

IN TESTIMONY WHEREOF, the parties hereto have caused these presents to be executed in their respective names by their duly authorized representatives, executing this instrument in triplicate originals, as of the day and year first above written.

IN THE PRESENCE OF:

Lessor: Daniel Island Executive Center LLC

By: /s/ Mason R. Holland, Jr.

Witness

Print Name: Mason R. Holland, Jr.
Its: President
Date of Execution: 1/1/2009

Lessee: Benefitfocus, Inc.

By: /s/ Shawn A. Jenkins

Witness

Print Name: Shawn A. Jenkins
Its: President
Date of Execution: 1/1/2009

EXHIBIT A

SURVEY

A Survey of the property “as built” is on file with Empire Engineering and recorded with the County of Berkeley.

EXHIBIT B
PARKING LAYOUT

A parking layout has been made part of the “as built” drawings of the property delivered to the Lessee on July 1, 2009.

EXHIBIT C

FLOORPLAN

Floor Plans have been made part of the “as built” drawings of the property delivered to the Lessee on July 1, 2009.

EXHIBIT D

SPECIFICATIONS

To be provided by Lessee

Lessor has accepted and completed the building in accordance with the Lessee’s specifications as of the delivery date July 1, 2009

EXHIBIT E

Daniel Island Executive Center
Estimated Real Estate Taxes, Operating Expenses, and Insurance and Common Area Maintenance Expenses
For
DIEC Building

Daniel Island Executive Center
2007 Estimated CAM and Operating Expenses

Real Estate Taxes & DI Association Fees	**$2.00**
Insurance Expense	**$ .73**
Electrical Expense	**$1.40**
Elevator Phone Expense (To be provided by Tenant Phone System)	**$0.00**
Water System Expense	**$0.15**
Fire Monitor	**$0.01**
Prop Mgmt Expense (Estimated 2% on gross collections)	**$0.51**
Janitorial (Paid by Tenant)	**$ .00**
Landscape Expense	**$0.15**
Bldg Upkeep/ Maintenance	**$0.10**
Total Estimated Expenses:	**$5.05**

Actual Expenses above any amounts per category above will be billed to the Tenant annually.

EXHIBIT F

RULES AND REGULATIONS

DANIEL ISLAND EXECUTIVE CENTER
RULES AND REGULATIONS

1) The sidewalks, and public portions of the Project, such as entrances, passages, courts, vestibules, stairways, corridors or halls, and the parking areas, streets, alleys or ways surrounding or in the vicinity of the Project shall not be obstructed, even temporarily, or encumbered by Lessee.

2) No curtains, blinds, shades, louvered openings, tinted coating, film or screens shall be attached to or hung in, or used in connection with, any window, glass surface or door of the Leased Premises, without prior written consent of Lessor, unless installed by Lessor.

3) Without prior written approval of Lessor, no sign, advertisement, notice or other lettering shall be exhibited, inscribed, painted or affixed by Lessee on any part of the outside of the Leased Premises or Project or on corridor walls or windows or other glass surfaces. In the event of the violation of the foregoing by Lessee, Lessor may remove same without any liability, and may charge the expense incurred by such removal, to Lessee. The care and maintenance of any such approved signs shall be the sole responsibility of Lessee.

4) No showcases or other articles shall be put in front of or affixed to any part of the exterior of the Leased premises or the Project.

5) The water and wash closets and other plumbing fixtures shall not be used for any purposes other than those for which they were constructed, and no sweepings, rubbish, rags, or other substances shall be thrown therein. All damages resulting from any misuse of the fixtures shall be borne by Lessee.

6) Lessee shall not in any way deface any part of the Leased Premises or the Project.

7) No bicycles, vehicles, or animals of any kind shall be brought into or kept in or about the Leased premises. No cooking shall be done or permitted by Lessee on the Leased Premises except in conformity to law and then only in the utility kitchen, if any, as set forth in Lessee’s layout, which is to be primarily used by Lessee’s employees for heating beverages and light snacks. Lessee shall not cause or permit any unusual or objectionable odors to be produced upon or permeate from the Leased Premises.

8) Neither Lessee, nor any of Lessee’s employees, agents, visitors, or licensees, shall at any time bring or keep upon the Leased premises any inflammable, combustible or explosive fluid, or chemical substance, other than reasonable amounts of cleaning fluids or solvents required in the normal operation of Lessee’s business offices.

9) No additional locks or bolts of any kind shall be placed upon any of the doors or windows by Lessee, nor shall any changes be made in existing locks or the mechanism thereof, without the prior written approval of Lessor and unless and until a duplicate key is delivered to Lessor. Lessee shall, upon the termination of its tenancy, restore to Lessor all keys of stores, offices and toilet rooms, either furnished to, or otherwise procured by, Lessee, and in the event of the loss of any keys so furnished, Lessee shall pay to Lessor the cost thereof.

10) Lessor shall have the right to prohibit advertising by Lessee which, in Lessor's reasonable judgment, tends to impair the reputation of the Project or its desirability as a center for offices and warehouses, and upon written notice from Lessor, Lessee shall refrain from or discontinue such advertising.

11) All paneling, rounds or other wood products not considered furniture shall be of fire retardant materials. Before installation of any such materials, certification of the materials' fire retardant characteristics shall be submitted to Lessor or its agents, in a manner satisfactory to Lessor.

12) Lessor may waive any one or more of these Rules and Regulations for the benefit of any particular tenant or tenants, but no such waiver by Lessor shall be construed as a waiver of such Rules and Regulations in favor of any other tenant or tenants, nor prevent Lessee from thereafter enforcing any such Rules and Regulations against any or all of the tenants of the Project. Notwithstanding the foregoing, Lessor hereby agrees to equitably enforce the observation and performance of the Rules and Regulations for the best interest of the Project as a whole.

13) These rules and Regulations are in addition to, and shall not be construed to in any way modify or amend, in whole part, the terms, covenants, agreements and conditions of the main text (including Special Provisions) of the Lease Agreement, which text shall control except as to any attempted waiver of any of these Rules and Regulations in the instance of conflict.

14) Lessor reserves the right to make such other and reasonable rules and regulations as in its judgment may from time to time be needed for safety, care and cleanliness of the project, and for the preservation of good order therein. Such other Rules and Regulations shall be effective upon written notification of Lessee.

15) All garbage and refuse containers shall be in approved designated area.

16) Parking Lot Code of Conduct

a) Parking Spaces. Licensed automobiles, SUV's, pickup trucks, and motorcycles must park within one stripped parking space at a time. Negligently using more than one space or parking in unauthorized areas—driveways, sidewalks, landscaped areas, is strictly forbidden and subject to towing at owner's expense without warning.

b) Handicapped Parking. Handicapped Parking Areas are clearly marked and are to be used solely by vehicles displaying the designated handicapped license tag obtained from the appropriate State Department of Motor Vehicles or a hang tag/sticker designating handicap access issued by the City of Charleston. Any unauthorized vehicles found in this area are subject to towing at owner's expense without warning.

c) Oversized Vehicles. City of Charleston Parking Ordinances defines an oversized vehicle as any vehicles exceeding 85 inches in height or 250 inches in length or weighing more than 2 tons. These vehicles are to be safely parked away from the parking spaces closest to office entrances of the buildings. They should be stopped or parked for such length of time as may be necessary for the pick-up and loading or unloading and delivery of passengers or materials.

d) Loitering. The parking lot is designed to serve our Tenants and their visitors with a convenient and close place to park relative to an office entrance. Please advise your visitors that it is not to serve as a place to hangout and subsist. The playing of loud music from car radios and/or other devices is disruptive and will not be tolerated. The dumping of trash, tobacco products and refuse in our parking lots and on our grounds is absolutely forbidden as well as unauthorized use of our Tenant's restroom facilities.

e) Automotive Repairs. Automotive maintenance and/or repair is not to be performed in the parking lot.

f) Vandalism. Tenants and their guests are asked to be vigilant relative to witnessing any perpetrator's damaging of people's property. Please report any acts immediately to this office during normal business hours (8:30 – 5:30) or call the Charleston Police after hours.

g) Speed Limit. Unless otherwise noted, maximum speed limit allowed in the parking lot is restricted to 15 MPH.

h) Unattended Vehicles. Vehicles abandoned or left overnight without the express written permission of property management will be towed at owner's expense without warning. Vehicles displaying "For Sale" signage is absolutely forbidden and will be towed without warning.

FIRST AMENDMENT TO LEASE AGREEMENT

This First Amendment to the Lease Agreement ("First Amendment") is made and entered into as of July 1, 2012 ("Effective Date"), by and between Daniel Island Executive Center, LLC (herein "Lessor") and Benefitfocus.com, Inc. (herein "Lessee"). The Lessor and Lessee may be referred to herein collectively as the "Parties" and either one of them may be referred to herein as a "Party".

WHEREAS, Lessor and Lessee entered into that certain Lease Agreement dated January 1, 2009 ("Lease"), pursuant to which Lessor leased to Lessee and Lessee leased from Lessor such space identified in Exhibits C and D of the Lease; and

WHEREAS, Lessor and Lessee now desire to amend the Lease to enter into lease terms for an additional 24,840 Rentable Square Feet on the third floor of the Daniel Island Executive Center Building (herein the "Additional Space").

NOW THEREFORE, in consideration of the foregoing, the other good and valuable considerations, the receipt and sufficiency of which are acknowledged by the Parties, the Parties agree as follows:

1. Demised Premises. As of the Effective Date hereof, the definition of the Demised Premises as defined in Section 1.01 of the Lease is amended to include the Additional Space. The Additional Space is depicted on Exhibit A to this First Amendment. Except as set forth herein, the demised Premises shall be deemed to include the Additional Space for all purposes under the Lease.
2. Base Term. The Base Term as set forth in Section 1.05 of the Lease shall be applicable to the Additional Space and, therefore, shall end on the fifteenth (15) anniversary of the Lease Commencement Date as set forth in the Lease.
3. Base Term Rent. The Rent During Base Term, as defined in Section 2.01(c) of the Lease, subject to escalation of the rent described in Section 2.01(d) shall apply to the Additional Space. Lessee's obligation to pay Base Term Rent for the Additional Space shall commence on the earlier to occur of (i) the date Lessor begins transacting business in the Additional Space after having substantially completed its build out of the Additional Space, or (ii) September 1, 2012, and shall continue until the end of the Base Term of the Lease.
4. Delivery of Demised Premises and Tenant Improvements. Pursuant to Section 1.07 of the Lease, Lessor shall pay up to $30.00 per square foot for tenant improvements. For the purposes of this First Amendment, the Lessor payment is prorated for the remaining term of the lease and calculated to $24.00 ($30.00 per square foot * 12 years remaining / 15 year Lease term) per square foot.
5. Other Payments. Throughout the Base Term, the Base Term Rent shall be adjusted for increases in Operating Expenses in accordance with Article III of the Lease. As of the Effective Date of this First Amendment, Lessee's proportionate share of the cost of Operating Expenses over the expense stop amount shall be included to include the Additional Space.

Except as otherwise expressly set forth in this First Amendment, and unless inconsistent with the terms hereof, all other terms, conditions, covenants, and provisions of the Lease are hereby ratified and confirmed and shall remain unmodified and in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this First Amendment to the Lease Agreement in their respective names by their duly authorized representatives, executing this instrument in triplicate originals, as of the day and year first above written.

IN THE PRESENCE OF:

Lessor: Daniel Island Executive Center LLC

By: /s/ Mason R. Holland, Jr.

Witness

Print Name: Mason R. Holland, Jr.
Its: President
Date of Execution: 7/1/2012

Lessee: Benefitfocus, Inc.

By: /s/ Shawn A. Jenkins

Witness

Print Name: Shawn A. Jenkins
Its: President
Date of Execution: 7/1/2012

EXHIBIT A

ADDITIONAL SPACE DESCRIPTION

Floor Plans have been made part of the “as built” drawings of the Additional Space delivered to the Lessee on July 1, 2012. The Additional Space is contained on the third floor of the Daniel Island Executive Center (“DIEC”) Building, encompassing 24,840 Rentable Square Feet, which has been accepted by both parties.

SECOND AMENDMENT TO LEASE AGREEMENT

This Second Amendment to the Lease Agreement ("Second Amendment") is made and entered into as of February 1, 2013 ("Effective Date"), by and between Daniel Island Executive Center, LLC (herein "Lessor") and Benefitfocus.com, Inc. (herein "Lessee"). The Lessor and Lessee may be referred to herein collectively as the "Parties" and either one of them may be referred to herein as a "Party".

WHEREAS, Lessor and Lessee entered into that certain Lease Agreement dated January 1, 2009 ("Lease"), pursuant to which Lessor lease to Lessee and Lessee leased from Lessor such space identified in Exhibits C and D of the Lease; and

WEREAS, Lessor and Lessee entered into that certain First Amendment to Lease Agreement dated July 1, 2012, pursuant to which Lessor leased to Lessee and Lessee leased from Lessor such space identified in Exhibit A of the First Amendment to the Lease; and

WHEREAS Lessor and Lessee now desire to amend the Lease to enter into lease terms for an additional 26,777 Rentable Square Feet on the first floor of the Daniel Island Executive Center Building (herein the "Additional Space").

NOW, THEREFORE, in consideration of the foregoing, the other good and valuable considerations, the receipt and sufficiency of which are acknowledged by the Parties, the Parties agree as follows:

1. **Demised Premises.** As of the Effective Date hereof, the definition of the Demised Premises as defined in Section 1.01 of the Lease is amended to include the Additional Space. The Additional Space is depicted on Exhibit A to this Second Amendment. Except as set forth herein, the demised Premises shall be deemed to include the Additional Space for all purposes under the Lease.
2. **Base Term.** The Base Term as set forth in Section 1.05 of the Lease shall be applicable to the Additional Space and, therefore, shall end on the fifteenth (15) anniversary of the Lease Commencement Date as set forth in the Lease.
3. **Base Term Rent.** The Rent During Base Term, as defined in Section 2.01(c) of the Lease, subject to escalation of the rent described in Section 2.01(d) shall apply to the Additional Space. Lessee's obligation to pay Base Term Rent for the Additional Space shall commence on January 1, 2014, and shall continue until the end of the Base Term of the Lease.
4. **Delivery of the Demised Premises and Tenant Improvements.** Lessee shall complete or cause to be completed within the Additional Space, tenant improvements, in accordance with the floor plan and specifications as submitted to and approved by Lessor. Upon substantial completion and approval by Lessor, Lessor shall pay to Lessee a tenant improvement allowance of $331,228.

5. **Other Payments.** Throughout the Base Term, the Base Term Rent shall be adjusted for increases in Operating Expenses over the expense stop amount shall include the Additional Space.

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SIGNATURE PAGE FOLLOWES]

Except as otherwise expressly set forth in this Second Amendment, and unless inconsistent with the terms hereof, all other terms, conditions, covenants, and provisions of the Lease are hereby ratified and confirmed and shall remain unmodified and in full force and effect.

IN THE PRESENCE OF:

Lessor: Daniel Island Executive Center LLC

By: /s/ Mason R. Holland, Jr.

Witness

Print Name: Mason R. Holland, Jr.
Its: President
Date of Execution: 2/1/2013

Lessee: Benefitfocus, Inc.

By: /s/ Shawn A. Jenkins

Witness

Print Name: Shawn A. Jenkins
Its: President
Date of Execution: 2/1/2013

EXHIBIT A

ADDITIONAL SPACE DESCRIPTION

Floor Plans will be made part of the ‘as built’ drawing of the Additional Space delivered to the Lessor by the Lessee. The Additional Space is contained on the first floor of the Daniel Island Executive Center (“DIEC”) Building, encompassing 26,777 Rentable Square Feet, which has been accepted by both parties.

Exhibit 10.13

LEASE AGREEMENT

LESSOR: **Daniel Island Executive Center LLC**

LESSEE: **Benefitfocus.com, Inc.**

STATE OF SOUTH CAROLINA	**)**	
	)	**BENEFITFOCUS BUILDING**
COUNTY OF BERKELEY	**)**	**LEASE AGREEMENT**

THIS LEASE AGREEMENT (the "Lease Agreement") first made and entered into as of the 31 day of May, 2005, by and between **Daniel Island Executive Center, LLC**, hereinafter called "Lessor", and **Benefitfocus.com, Inc**., hereinafter called "Lessee";

WITNESSETH:

WHEREAS, the Lessor is the owner of certain real property known as the Daniel Island Executive Center in the City of Charleston, South Carolina as shown on a survey a reduced copy of which is attached hereto as **Exhibit A** (herein called "Daniel Island Executive Center"); and,

WHEREAS, the Lessor will construct an office building containing approximately – 65,000 square feet with related improvements and appurtenances thereto (herein called "BF Building"); and being located on Fairchild Street, Daniel Island, South Carolina and;

WHEREAS, the Lessor desires to lease to Lessee and Lessee desires to lease from Lessor the BF Building containing approximately 65,000 square feet of office space with related tenant improvements to be constructed per **Exhibits C and D** (defined hereafter in Paragraph 1.07), as more fully set out below, together with a non-exclusive right or easement to use all driveways, parking areas, retention surface water and other facilities as provided in Covenants (defined hereafter in Paragraph 9.01).

NOW, THEREFORE, Lessor and Lessee covenant and agree as follows:

ARTICLE I
GRANT AND TERM

1.01 Demised Premises. The Lessor, for and in consideration of the rents, covenants, agreements and stipulations hereinafter mentioned reserved and contained, to be paid, kept and performed by the Lessee, by these presents does lease and rent to the said Lessee, and said Lessee hereby agrees to lease and take upon the terms and conditions which hereinafter appear the total of the BF Building containing approximately 65,000 square feet of office space (hereinafter the "Demised Premises").

1.02 Lessee's Right to Common Improvements. The Lessor hereby grants to Lessee, its employees, visitors and guests a non-exclusive right and easement to use all sidewalks, driveways and parking areas (as shown on the parking layout attached hereto as **Exhibit B**), retention surface water and other facilities, which form a part of the Daniel Island Executive Center, (accumulatively referred to herein as "Common Improvements") at no charge for the term of the Lease Agreement, as same may be

extended. Lessee's use of the Common Improvements shall be subject to posted rules and regulations and at the sole risk of each user of said facilities. Lessor warrants that there is full and free ingress, egress and access to and from the Common Improvements from a public highway or road. The parking facility shall not be used for the storage of abandoned or defective vehicles or for any other purpose except transient parking. Neither Lessee nor Lessee's employees, officers, agents, guests, invitees or other persons visiting the Common Improvements shall have any rights to any particular parking space or spaces, and no special markings or signs may be placed on any parking spaces by Lessee.

1.03 Initial Term. The period beginning upon the execution hereof and continuing until delivery of the Demised Premises as evidenced by Lessee's execution of the Confirmation of Lease Term Agreement referenced in Section 1.04 below shall be hereinafter referred to as the "Initial Term".

1.04 Pro-Rata Rent Term. The period beginning upon completion of the tenant improvements (the "Delivery Date") and continuing until the beginning of the Base Term shall be hereinafter referred to as the "Pro-Rata Rent Term".

1.05 Base Term. The base term (hereinafter "Base Term") of this Lease Agreement shall commence on the first day of the first month following the day Lessee accepts the Demised Premises for occupancy, as evidenced by the Confirmation of Lease Term Agreement executed by Lessor and Lessee giving the commencement date of the Base Term (hereinafter "Lease Commencement Date") hereof and certifying that Lessee has accepted the Demised Premises, subject to the terms of Section 1.06 hereinbelow, and shall continue until that date which is fifteen (15) years from the Lease Commencement Date. By occupying the Demised Premises, Lessee shall be deemed to have accepted the same as substantially complying with Lessor's covenants and obligations, subject to any written punchlist of items to be completed. Notwithstanding the foregoing, Lessee reserves all rights against Lessor for any latent defects or nonconformities in construction.

1.06 Renewal Option. Provided and upon the condition that the Lessee shall not then be in default under the terms of this Lease Agreement, this Lease Agreement may be renewed for one (1) additional five (5) year period by the Lessee giving Lessor not less than one hundred eighty (180) days advance notice of its intention to renew.

1.07 Delivery of Demised Premises and Tenant Improvements. Lessor shall complete or cause to be completed within the Demised Premises, tenant improvements, substantially in accordance with the floor plan and specifications (hereinafter "Floor Plan and Specifications") as designed by the Lessee. Lessee shall provide Lessor with the Floor Plan and Specifications no later than six months prior to expected occupancy. Said Floor Plan and Specifications shall be attached hereto as **Exhibits C and D**. Lessor shall commence construction of the tenant improvements within thirty (30) days of receipt of the Floor Plan and Specifications and shall complete the construction of said tenant improvements as soon as possible (herein the "Scheduled Delivery Date").

Lessor shall provide at Lessor's sole expense a building shell which shall include an HVAC and electrical systems for normal office use. The HVAC system will include all high pressure side duct work. Lessor shall pay up to $30.00 per square foot for tenant improvements. Tenant improvements include, but are not limited to, ceiling grid and tile, low pressure duct system to each HVAC box, any additional electric systems or generators above and beyond normal office use, interior walls and floor coverings. Cost for all space planning and construction documents relative to the tenant improvements to be built within the Demised Premises to be paid by the Lessee. Lessor will do complete tenant improvements on a turnkey basis in accordance with the Floor Plan and Specifications attached hereto as **Exhibits C and D.**

1.08 Construction Conditions. Lessee shall bear any expense in excess of tenant improvements specified in the Floor Plan and Specifications previously referred to herein (except as provided in Paragraph 1.07), together with an additional charge of twenty percent (20%) of such excess to cover Lessor's overhead, by payment to Lessor prior to the commencement of such work. If any act or omission by Lessee (including, without limitation, any delay caused in the preparation of Floor Plan and Specifications for the tenant improvements, or any change requested therein) increases the cost of work or materials or the time required for completion of construction, Lessee shall reimburse Lessor for such increase in cost at the time the increased cost is incurred. All amounts payable by Lessee to Lessor under this Paragraph 1.08 shall be included in Rent (hereinafter defined) for all purposes under this Lease Agreement.

Lessor shall bear the risk of loss to the tenant improvements and agrees to maintain builder's risk insurance. Lessee shall not exercise any control over the persons performing construction activities on the tenant improvements or the Common Improvements.

1.09 Lessee's Right to Enter. Lessor agrees that Lessee may, at its option, enter upon the Common Improvements for the purposes of inspecting the tenant improvements during the construction, and that Lessee may, in its discretion and at its own cost, make whatever installations thereof as are necessary as soon as it can do so without unduly interfering with the construction of the tenant improvements; provided, however, that Lessee shall bear the risk of loss caused by the installation of fixtures prior to completion of construction. Lessee understands that Lessee's right hereunder does not allow Lessee the right to open for business until a Confirmation of Lease Term Agreement previously referred to herein has been executed.

1.10 Occupancy. The Demised Premises shall be ready for occupancy on such date that the tenant improvements are substantially completed which shall be defined as either (i) the supervising architect certifies the tenant improvements have been substantially completed in accordance with the Floor Plan and Specifications and a Certificate of Occupancy has been issued, or, (ii) the tenant improvements have been substantially completed in accordance with the Floor Plan and Specifications and a Certificate of Occupancy has not been issued where Lessee causes a delay in

preparing the Demised Premises for occupancy by changing the Floor Plan and Specifications, fails to make other decisions necessary for preparation of the Demised Premises for occupancy, Lessee fails to complete work Lessee has contracted for that is necessary for issuance of a Certificate of Occupancy or the date of occupancy by Lessee.

If Lessor fails to have the Demised Premises ready for occupancy by the Scheduled Delivery Date, then (i) the Scheduled Delivery Date shall be extended to the date five (5) days after Lessor shall notify Lessee that the Demised Premises are ready for occupancy (ii) neither Lessor nor Lessor's agent, officers, employees, or contractors shall be liable for any damage, loss, liability or expense caused thereby, (iii) nor shall this Lease Agreement become void or voidable (unless such failure continues for more than forty-five (45) days, in which case Lessee may, upon twenty (20) days written notice to Lessor, terminate this Lease Agreement). Prior to occupying the Demised Premises, Lessee shall execute and deliver to Lessor, Confirmation of Lease Term Agreement satisfactory to Lessor in its sole discretion, acknowledging the date of all applicable term dates and Rent and certifying that the Demised Premises has been completed and that Lessee has examined and accepted the Demised Premises. Lessee hereby authorizes any agent or employee who receives the keys to the Demised Premises on behalf of Lessee to execute and deliver such Confirmation of Lease Term Agreement. Lessee shall conclusively be deemed to have made such acknowledgment and certification by occupying the Demised Premises.

1.11 Rent Commencement Date The Rent Commencement Date of this Lease Agreement shall be the first day of the first month of the Base Tem of this Lease Agreement as specified in Paragraph 1.05, not to exceed October 1, 2006.

ARTICLE II
RENT

2.01 Rent. Beginning on the Rental Commencement Date (as herein defined) and continuing throughout the full term of this Lease Agreement, Lessee shall pay to Lessor without notice, demand, reduction, abatement, set off or any defense, the rent as specified herein, in advance on or before the first day of each month.

(a) **Rent During Initial Term.** During the Initial Term, Lessee shall not be required to pay Base Rent.

(b) **Rent During Pro-Rata Rent Term**. The pro-rata rent shall be $3,562.00 per day and shall be paid at time of occupancy.

(c) **Rent During Base Term**. The annual Base Rent during the first (1) year of the Base Term shall be Twenty One and 50/100 Dollars ($21.50) per square foot. This amount will be payable in equal monthly installments on the first day of each month.

(d) **Rent Escalation During Base and Renewal Terms**. The Base Rent for each year of the Base Term and each year of the renewal term (hereinafter the "Renewal Term") shall be the previous year's Base Rent plus a three percent (3%) increase per annum.

(e) **Building Cost Adjustment**. The Base Rent for this lease is based on the assumption of the building shell cost of $67.00 per square foot to be paid by the Lessor. Any expense in excess of $67.00 per square foot for the shell and $30.00 per square foot for the tenant improvements will be amortized into the Base Rent calculation and become part of the Base Rent over the first term (15 years) of the lease including an 8% interest rate.

2.02 Late Payments. All unpaid Rent and other sums of whatever nature owed by Lessee to Lessor under this Lease Agreement and remaining unpaid five (5) days after the due date shall bear a late penalty equal to ten (10%) percent of the then amount due which shall be Additional Rent hereunder. Acceptance by Lessor of any payment from Lessee hereunder in an amount less than that which is currently due shall in no way affect Lessor's rights under this Lease Agreement and shall in no way constitute an accord and satisfaction.

2.03 Other Additional Rent Provisions. Any amounts required to be paid by Lessee under this Article II and any changes or expenses incurred by Lessor on behalf of Lessee (including any construction costs and change orders incurred by Lessor shall be considered Additional Rent. Any failure on the part of Lessee to pay such Additional Rent when and as the same shall become due shall entitle Lessor to the remedies available to it for non-payment of Base Rent.

ARTICLE III
OPERATING EXPENSES

3.01 Operating Expense Escalation. During the Base Term, the annual Base Rent shall be adjusted for increases in Operating Expenses, (as hereinafter defined), in the following manner:

(a) The Base Rent includes an annual expense stop of Five and 05/100 Dollars ($5.05) per rentable square foot. The first year's Estimated CAM and Operating Expenses are attached hereto as **Exhibit E**. Each twelve month period from the beginning of the Base Term shall be a lease year. Lessee shall be responsible for its proportionate share of the cost of Operating Expenses over the expense stop amount stated herein. Operating Expenses which are not directly attributable to the Demised Premises shall be prorated by dividing the total number of rentable square feet in the Demised Premises by the total number of square feet in the BF Building and the Daniel Island Executive Center Buildings.

(b) Lessor shall furnish Lessee, annually, statements prepared by the chief financial officer or general partner of Lessor and certified by such officer, partner or an independent certified public accountant showing Operating Expenses for the lease year. If Operating Expenses during the lease year are greater than the expense stop amount, Lessee shall pay its share of the overage to Lessor within thirty (30) days after receiving such certified statements. As used in this Article, "Operating Expenses" shall include only those items customarily considered in good accounting practice to be building operating expenses, to wit normal repairs not covered by insurance, maintenance, cleaning, janitorial services, utilities, supplies, real estate taxes, Daniel Island Executive Center LLC common area maintenance and assessment charges, premiums for fire, casualty and liability insurance with respect to the building containing the Demised Premises, and management fees not in excess of three percent (3%) of gross collections. Operating Expenses shall not include, among other things, any expenses related to financing, depreciation, amortization, ground rents, costs of a capital nature, costs for which Lessee or other occupants of the Building are charged other than pursuant to the Operating Expense clauses, costs of procuring lessees, attorneys' fees, accounting fees, nor administrative salaries and wages except for personnel working exclusively for the buildings containing the Common Improvements. Operating Expenses shall include only those costs actually paid by Lessor.

ARTICLE IV
SERVICES

4.01 **Services**. Subject to conditions beyond Lessor's control, Lessor covenants at its expense (up to the annual expense stop) to:

(a) Provide space with individual utility metering and control by Lessee.

(b) Maintain the lavatories and toilets in good working order; keep them in a clean and safe condition, well lighted and well ventilated.

(c) Furnish hot and cold water for lavatory purposes.

(d) Furnish electric current for lighting and general office purposes and for parking areas.

(e) Provide and install initial light tubes, flood lamps and bulbs. Tenant responsible for all replacement bulbs and labor.

(f) Keep the sidewalks, corridors, stairways, and all other means of ingress and egress for the Common Improvements clean, in good repair and safe condition, well marked, well lighted and free of ice, snow and debris.

(g) Keep all lawns, shrubbery and trees on the grounds of the building containing the Common Improvements in good order and condition and neat in appearance, and replant grass and shrubbery when necessary to maintain the grounds in good appearance and condition.

(h) Provide Lessee access to the Common Improvements twenty-four (24) hours per day, seven (7) days per week.

4.02 Janitorial Specifications. Lessee will be responsible for all building cleaning including the windows, fixtures and furnishings therein, and during the business week will provide for the daily removal and disposal of wastepaper and rubbish. Lessee will keep the building in good working order by performing the following minimum cleaning services:

(a) Each night Monday through Friday empty wastepaper baskets and remove refuse from the Demised Premises and Common Improvements, dust office furniture, equipment, and sweep non-carpeted floors with chemically treated cloths, vacuum clean the carpeting and clean the toilets and lavatory facilities.

(b) At least once each month or more frequently when necessary wash non-carpeted floors, spot clean the carpeting and dust venetian blinds.

(c) At least once each year, wash windows on both sides.

(e) Provide adequate vermin and pest control services when reasonably necessary in Lessee's judgment.

4.03 Carpet and Window Coverings. Lessee agrees to maintain the carpeting, partition base, and window coverings throughout the Demised Premises in good condition and repair, including but not limited to, spot cleaning and periodic general cleaning and shampooing.

ARTICLE V
HOLDING OVER

5.01 Rent for Holding Over Period. Lessee shall pay any taxes, documentary stamps or assessments of any nature imposed or assessed upon Lessee's occupancy of the Leased Premises or upon Lessee's furniture, furnishings, trade fixtures, equipment, machinery, inventory, merchandise or other personal property located on the Leased Premises and owned by or in the custody of Lessee promptly as all such taxes or assessments may become due and payable without any delinquency. If applicable in the jurisdiction where the Leased Premises are located, Lessee shall pay and be liable for all rental tax (only to the extent such rental tax is levied in lieu of ad valorem property taxes against the Leased Premises), sales, use and inventory taxes or other similar taxes, if any, levied or imposed by any city, state, county or other governmental body having authority, such payments to be in addition to all other payments required to be paid by Lessor by Lessee under the terms of this Lease Agreement. Such payment shall be made by Lessee directly to such governmental body if billed to Lessee, or if billed to Lessor, such payment shall be paid concurrently with the payment of the Base Rent, Additional Rent, or such other charge upon which the tax is based, all as set forth herein. Notwithstanding the foregoing, Lessee shall have the right, at its sole cost and expense, to contest such taxes, and upon contesting the amount of such taxes, Lessee shall deposit the amount of such taxes into an escrow account reasonably acceptable to Lessor.

ARTICLE VI
TAXES/ASSESSMENTS

6.01 Personal Property Taxes. Lessee shall timely pay directly to the applicable governmental taxing authorities any and all taxes with respect to any and all of Lessee's personal property which shall at any time be situated in, at or about the Common Improvements, including, but not limited to Lessee's leasehold improvements, trade fixtures, inventory and personal property.

ARTICLE VII
INSURANCE

7.01 Fire and Extended Coverage Insurance. During the Base Term, and any Renewal Term, Lessor covenants and agrees to maintain in full force a policy or policies of insurance on the BF Building, including Improvements therein or contents thereof, providing insurance protection against risks of direct physical loss, specifically including protection against damage or destruction by fire and other casualties excluding flood and earthquake, and vandalism insurance (formerly known as "All Risk Insurance"). Said insurance shall be in the amount equal to a minimum of the Lessor's cost in the building including the permanent improvements thereon under a policy or policies

issued by responsible insurance companies approved by both parties and authorized to do business in the State of South Carolina. The Lessee agrees that it will not do or keep anything in or about the Common Improvements which will contravene the Lessor's policies insuring against loss or damage by fire or other hazards, or which will prevent the Lessor from procuring such policies in companies acceptable to the Lessor.

7.02 Insurance by Lessee. The Lessee covenants and agrees, at its sole cost and expense, to maintain in full force a policy of insurance on the interior of the Demised Premises and upon its personal property, fixtures, equipment and merchandise therein, providing insurance protection against risks of direct physical loss, specifically including protection against damage or destruction by fire and other casualties, excluding flood and earthquake and vandalism insurance (formerly known as All Risk Insurance). Further, Lessor covenants and agrees that it will require all other tenants of Building II to carry, at a minimum, the insurance coverage specified herein. Lessor shall provide evidence of said insurance coverage to Lessee from any and all other tenants of Building III.

7.03 Lessee's Liability Insurance. The Lessee agrees to indemnify and/or hold and save the Lessor harmless, at all times during the primary term and any extension hereof, from and against any losses, damages, costs, or expenses on account of any claim for injury by a third party, including death or damage either to person or property sustained by the Lessor which arises out of the use and occupancy of the Common Improvements by the Lessee, its agents, employees, invitees, and customers (except those resulting from Lessor's willful, unlawful or negligent acts). Lessee shall give Lessor notice of all claims made against the Lessee that come within the scope of the indemnification in this paragraph and shall not settle any such claim without the Lessor's written consent. In connection herewith, Lessee shall, at its own expense, provide and keep in force, for the benefit and protection of the Lessor and Lessee as their respective interests may appear, and with the Lessor as an additional insured, a general liability policy or policies in standard form issued by reliable companies approved by both parties and licensed to do business in the State of South Carolina, protecting both the recovery being waived by the Lessee against Lessor, its successors and assigns against any and all liability occasioned by accident or disaster on the Common Improvements with minimum limits of $500,000 for injury to any one person and $1,000,000 per occurrence. A renewal policy shall be secured not less than ten (10) days prior to the expiration of any policy and a certificate of the insurer evidencing such insurance, with proof of payment of premium, shall be deposited with the Lessor upon the Lessor's request.

7.04 **Lessor's Liability Insurance**. The Lessor agrees to indemnify and/or hold and save the Lessee harmless, at all times during the Base Term and any extension hereof, from and against any losses, damages, costs, or expenses on account of any claim for injury by a third party, including death or damage either to person or property sustained by the Lessee which arises out of the use and occupancy of the Common Improvements by the Lessor, its agents, employees, invitees, and customers (except those resulting from Lessee's willful, unlawful or negligent acts). Lessor shall give

Lessee notice of all claims made against the Lessor that come within the scope of the indemnification in this paragraph and shall not settle any such claim without the Lessee's written consent. In connection herewith, Lessor shall, at its own expense, provide and keep in force, for the benefit and protection of the Lessee and Lessor as their respective interests may appear, and with the Lessee as an additional insured, a general liability policy or policies in standard form issued by reliable companies approved by both parties and licensed to do business in the State of South Carolina, protecting both the recovery being waived by the Lessor against Lessee, its successors and against any and all liability occasioned by accident or disaster on the Common Improvements with minimum limits of $500,000 for injury to any one person and $1,000,000 per occurrence. A renewal policy shall be secured not less than ten (10) days prior to the expiration of any policy and a certificate of the insurer evidencing such insurance, with proof of payment of premium, shall be deposited with the Lessee upon the Lessee's request.

7.05 Copies to Lessor. All policies required in Paragraphs 7.02, 7.03 and 7.04 shall be in such form and with such insurance company as shall be reasonably satisfactory to both parties with provisions for at least ten (10) days notice to Lessor or Lessee of cancellation. At least ten (10) days before the expiration of any such policy, Lessee shall supply Lessor with a substitute therefor or with evidence of payment of premiums therefor. In the event either party does not maintain the insurance herein called for, the other party may obtain said insurance and the other party shall reimburse the party in default for the premiums due on said insurance on demand.

7.06 Indemnity. Lessee will indemnify and save Lessor harmless from and against any and all claims, actions, damages, liability and expense in connection with loss of life, personal injury and/or damage to property which occur as a result of the operation of Lessee's business in and about the Common Improvements not resulting from any acts or omissions of Lessor or Lessor's employees or agents.

7.07 Subrogation. Lessor and Lessee hereby grant to each other, on behalf of any insurer providing insurance to either Lessor or Lessee as required by this Lease Agreement, improvements thereon or contents thereof, a waiver of any right of subrogation by any such insurer that each may acquire against the other by virtue of payment of any loss under such insurance. Each of the parties hereby waives any rights it may have against the other party on account of any loss or damage to its property (including the Common Improvements and its contents) which arises from any risk ordinarily covered by fire and extended coverage insurance or any other insurance required to be carried hereunder, whether or not such other party may have been negligent or at fault in causing such loss or damage. Each party shall obtain a clause or endorsement in the policies of such insurance, which either party obtains in connection with the Common Improvements to the effect that the insurer waives, or shall otherwise be denied, the right of subrogation against the other party for loss covered by such insurance.

ARTICLE VIII
REPAIRS

8.01 Repairs. All repairs to the Demised Premises, excluding the Common Improvements , including but not limited to, the plumbing, heating, air-conditioning, electric wiring, and lighting apparatus, necessary to keep them in proper order shall be made by Lessee at Lessee's expense. Any repairs, changes, or additions to the Common Improvements which may be required in order to bring the Common Improvements into compliance with any Federal, State, or municipal law, statute, ordinance, decision, rule or regulation shall be made by Lessor at Lessor's expense.

8.02 Alterations and Remodeling. After the commencement of the Base Term, with the permission and prior written consent of the Lessor, which shall not be unreasonably withheld, Lessee may make such alterations, additions, decorations and changes to the interior of the building and exterior lighting of the Common Improvements as it deems necessary for its purposes provided that the value of the buildings and improvements are not thereby diminished subject to the following conditions:

(a) That if any such work increases any insurance premiums, taxes, or other costs or expenses relating to the Common Improvements, Lessee shall timely and fully pay and satisfy same.

(b) That no casualty or mechanics or materialmen's claims or liens shall be created upon the Common Improvements or elsewhere by reason of or with respect to the work or a condition of the Common Improvements thereafter resulting from said work; and

(c) That upon expiration or any earlier termination of the Lease Agreement, Lessee shall, at its cost and expense, upon the election of Lessor, promptly remove the alterations and repairs and restore the Common Improvements the condition existing prior to installation of the same. Any and all alterations, additions and improvements to the Common Improvements (other than inventory and trade fixtures) installed by or on behalf of Lessee shall immediately, at Lessor's option, become part of the Common Improvements and at the expiration or other termination of this Lease Agreement shall be surrendered to the Lessor.

ARTICLE IX
USE AND CONDUCT OF BUSINESS

9.01 Use of the Demised Premises. At the commencement of the Base Term of this Lease Agreement, the Demised Premises may be used by the Lessee for office space and related activities for Lessee. The Demised Premises shall not be used for any illegal purposes, or in violation of any valid regulation of any governmental body, nor in any manner to create any nuisance or trespass.

9.02 Nuisance. Lessee agrees not to create or allow any nuisance to exist on the Premises, and to abate any nuisance that may arise, promptly and free of expense to Lessor.

9.03 Compliance with Regulations. Lessee shall comply with all laws, ordinances, orders, rules and regulations (hereinafter "Rules and Regulations" attached hereto as **Exhibit F**) and requirements of all federal, state and municipal governments and appropriate departments, commissions boards and officers thereof, which may be applicable to any Lessee improvements. Lessee will likewise observe and comply with the requirements of all policies of public liability, fire and all other types of insurance and all other instruments of record at any time in force with respect to the Common Improvements.

9.04 **Zoning**. Lessee acknowledges that the use of the Common Improvements is subject to any applicable regulations, zoning ordinances, including Planned Development Districts, if applicable, of any governmental authority and Lessee agrees to be bound by all terms and conditions imposed by such governmental authority, including any traffic restrictions, use restrictions and other conditions which plan approval is conditioned upon and all present and future zoning laws, ordinances, resolutions and regulations of any appropriate governmental authority.

9.05 Lessee's Right to Contest Regulations. Lessee shall have the right, after notice to Lessor to contest by appropriate legal proceedings, without cost or expense to Lessor, the validity of any law, ordinance, order, rule, and regulation or requirement of the nature herein referred to and to postpone Lessee's compliance with the same, provided such contest shall be promptly and diligently prosecuted by and at the expense of Lessee so that Lessor shall not thereby suffer any civil, or be subjected to any criminal, penalties or sanctions and that Lessee shall properly protect and save harmless Lessor against any liability and claims for any such non-compliance or postponement of compliance.

ARTICLE X
QUIET ENJOYMENT

10.01 It is a condition of this Lease Agreement that Lessor has a good and marketable title to the Common Improvements free and clear of all liens and encumbrances except those to which Lessee has specifically consented in writing; that Lessor has the right to lease the same; that Lessor warrants and will defend Common Improvements unto Lessee against the lawful claims of all persons whomsoever; that so long as the rents are being paid in the manner herein provided and the covenants, conditions and agreements herein being all and singularly kept, fulfilled and performed by Lessee, Lessee shall lawfully, peacefully and quietly hold, occupy and enjoy the Common Improvements during the term herein granted without any let, hindrance, ejection or molestation by Lessor or any person claiming under Lessor.

ARTICLE XI
ENVIRONMENTAL

11.01 Lessor's Environmental Warranty. Prior to the signing of this Lease Agreement, Lessor has not caused or permitted persons with whom Lessor have contracted to cause (a) any violation of any federal, state or local law, ordinance, or regulation enacted related to environmental conditions on or about the Common Improvements , including, but not limited to soil and groundwater conditions, nor (b) engaged in the use, generation, release, manufacture, production, processing, storage, or disposal of any Hazardous Substance (as hereinafter defined) on, under, or about the Common Improvements . The term "Hazardous Substance" as used herein shall include, without limitation, flammable, explosives, radioactive materials, asbestos, polychlorinated biphenyls (PCB's), chemicals known to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous wastes, toxic products, and substances declared to be hazardous or toxic under any law or regulation promulgated by any governmental authority.

11.02 Hazardous Waste. Lessee covenants and warrants that it will not knowingly cause or permit to be brought upon the Common Improvements or installed in any buildings or improvements thereon any asbestos in any form, urea formaldehyde insulation, transformers or any other equipment which contain dielectric fluid containing levels of polychlorinated biphenyl in excess of fifty parts per million of any other chemical material or substance which is regulated as toxic or hazardous or exposure to which is prohibited, limited or regulated by any federal or state authority or which may or could pose a hazard to the health or safety of the occupants of the Common Improvements or the owners of the property adjacent to the Common Improvements . The Lessee shall not install, store, use, treat, transport or dispose of on the Common Improvements any regulated hazardous or toxic materials or waste, and in the event of any such installation, storage, use, treatment, presence, transportation or disposal

during the term of this Lease Agreement, the Lessee shall remove any such hazardous materials or waste and comply with the regulations and orders of any authority having jurisdiction of the same, all at the expense of the Lessee, including necessary removal, cleanup or other remediation, and if Lessee shall fail to proceed with such removal or comply with such regulations or orders, the Lessor may declare this Lease Agreement in default. Lessee shall indemnify Lessor and hold Lessor harmless from any and all losses, damages or expenses which may be incurred by Lessor for the presence or removal from the Common Improvements of any such hazardous materials or waste caused by any activity of Lessee on the Common Improvements and the liability of the Lessee to Lessor under the Covenants hereof shall survive termination of this Lease Agreement or any transfer of the leasehold estate or the fee estate by either Lessor or Lessee.

ARTICLE XII
SIGNAGE

12.01 Lessee may after Lessor's approval, at Lessee's expense, furnish and install an identification sign in front of or attached to the BF Building, which bears the name of Lessee's business and/or logo occupying the building lot/pad provided, however, such signs shall meet the standards (i.e., color and quality) of the Daniel Island Office Park Guidelines.

ARTICLE XIII
DESTRUCTION

13.01 If, during the Base Term of this Lease Agreement or any extension thereof, the Common Improvements is:

(a) destroyed by fire or any other casualty whatsoever, or;

(b) partially destroyed so as to render the Demised Premises unfit for occupancy or Lessee's reasonable beneficial use and enjoyment or conduct of Lessee's usual business therein, or;

(c) destroyed by a casualty which is not covered by Lessor's insurance, or if such casualty is covered by Lessor's insurance but a mortgagee of Lessor or other party entitled to insurance proceeds fails to make such proceeds available to Lessor in an amount sufficient for restoration of the Common Improvements (provided, however, that Lessor agrees to make a good faith effort to have such mortgagee make such proceeds available for full restoration or rebuilding);

then Lessor shall make its reasonable determination as to the length of time to complete such repairs within thirty (30) days of the casualty and shall notify Lessee of same as provided herein. In the event restoration is reasonably estimated by Lessor to take more than one hundred twenty (120) days from the date of the destruction or casualty, or in the event the above described destruction or casualty should occur within the last two (2) years of the Base Term or extension thereof, then Lessor or Lessee shall have the right to terminate this Lease Agreement. In the event that the Lease Agreement is terminated in accordance with the foregoing provisions, Lessee shall surrender within thirty (30) days of notification the Common Improvements and interest therein, and Lessee shall pay rent only to the time of such destruction or casualty.

In case of the total or partial damage or destruction to the Common Improvements, Lessor shall re-enter and repossess the same or any part thereof for the purpose of removing or repairing the loss or damage and shall proceed with due diligence to the repair of same unless, under the foregoing provisions of this Article XIII, the Lease Agreement shall have been terminated. The Rent during the period of such repairs shall be wholly abated if all of the Common Improvements have been thus repossessed by Lessor or otherwise made unavailable to Lessee for Lessee's reasonable beneficial use and enjoyment or Lessee's conduct of Lessee's usual business therein for the purpose of repair for the period that Lessee has been dispossessed; and if only a portion of the Common Improvements is thus repossessed or otherwise unavailable to Lessee for Lessee's reasonable beneficial use and enjoyment or Lessee's conduct of Lessee's usual business therein, the Rent shall be abated for such dispossession or unavailability pro rata, based on the portion of the Common Improvements thus repossessed or rendered unavailable during the period of repossession or unavailability. Any Rent abatement under this Article XIII shall commence as of the date of the destruction.

Lessor shall not be required to rebuild, repair, or replace any part of the personal property, furniture, equipment, fixtures, and other improvements which may have been placed by Lessee or other lessees within the BF Building or Common Improvements, unless the damage thereto is caused by the sole negligence or willful act or omission or default hereunder of Lessor or Lessor's agents, employees, subtenants, assignees, or independent contractors. Any insurance which may be carried by Lessor or Lessee for damage to the Demised Premises or to any personal property, fixtures, and related items therein shall be for the sole benefit of the party carrying such insurance and under its sole control; provided, however, Lessor shall carry insurance for the benefit of Lessor and Lessee sufficient to cover the full replacement cost of the shell of the Common Improvements and an amount equal to the initial tenant improvements, and other improvements that Lessor shall have liability therefore under Article VII.

Should the BF Building or the Common Improvements be destroyed or damaged by fire or other casualty that is due to the direct negligence or willful or wanton conduct of Lessee or Lessee's agents, employees, subtenants, assignees or independent contractors, Lessor may repair such damage, and there shall be no apportionment or abatement of Rent.

ARTICLE XIV
CONDEMNATION

14.01 Lessor, within ten (10) days of Lessor's receipt of any notice of the institution of condemnation proceedings or threat thereof with respect to all or any part of the Common Improvements , shall give written notice to Lessee of the same. Lessee shall have the right, option, to terminate this Lease Agreement within sixty (60) days after receipt of said notice from the Lessor should such condemnation affect twenty percent (20%) or more of the Common Improvements and Lessee determines that such condemnation will interfere with Lessee's ability to continue its business operations in substantially the same manner or space as existed prior to the condemnation or deed in lieu thereof. Lessee's obligation under this Lease Agreement including but not limited to Lessee's obligation to pay rent hereunder, shall cease upon Lessee's termination of this Lease Agreement pursuant to the terms of this paragraph; however, the Lessee shall be obligated to pay all rent due on or before the date of termination down through the date Lessee surrenders possession of the Common Improvements to the Lessor. Lessee may assert a separate claim to the condemning authority for its damages.

ARTICLE XV
DEFAULT

15.01 Default by Lessee. The occurrence of any of the following events shall constitute a default under this Lease Agreement:

(a) Lessee fails to pay any installment of rent within ten (10) business days after such installment is due, and fails to cure such delinquency within five (5) business days after actual receipt of written notice thereof by Lessee from Lessor:

(b) Lessee fails to pay any additional item or any other charge or sum required to be paid by Lessee hereunder within thirty (30) days after actual receipt of written notice thereof by Lessee from Lessor; or

(c) Lessee fails to perform or commence in good faith and proceed with reasonable diligence to perform any of its covenants under this Lease Agreement within thirty (30) days after actual receipt of written notice thereof by Lessee from Lessor.

15.02 Lessor's Remedies. In the event Lessee is in default pursuant to the conditions set forth in Section 15.01 above, Lessor, during the continuation of such default, shall have the option of pursuing either of the following remedies:

(a) Lessor may terminate this Lease Agreement, in which event Lessee immediately shall surrender possession of the Demised Premises. All obligations of Lessee under the Lease Agreement, including Lessee's obligation to pay rent under the Lease Agreement, shall cease upon the date of termination except for Lessee's obligation to pay rent due and outstanding as of the date of termination.

(b) Lessor, without terminating the Lease Agreement, may require Lessee to remove all property from the Common Improvements within thirty (30) days so that Lessor may re-enter and relet the premises to minimize Lessor's damages. In the event Lessee shall fail to remove all property within thirty (30) days after said demand, Lessor shall be entitled to remove Lessee's property to a storage facility, and all reasonable costs of such removal and storage shall be deemed additional rent under the Lease Agreement for which Lessee is responsible for payment. Lessor may enforce all of its rights and remedies under this Lease Agreement, including the right to recover the rent as it becomes due hereunder, provided that Lessor shall have an affirmative obligation to use Lessor's best efforts to re-let the Common Improvements and to mitigate its damages under the Lease Agreement.

(c) If this Lease Agreement is terminated as set forth, Lessor may relet the Common Improvements (or any portion thereof) for such rent and upon such terms as Lessor is able to obtain (which may be for lower or higher rent, and for a shorter or longer term), and Lessee shall be liable for all damages sustained by Lessor, including but not limited to any deficiency in Rent for the duration of the Lease Term (or for the period of time which would have remained in the Lease Term in the absence of any termination, leasing fees, attorneys' fees, other marketing and collection costs and all expenses of placing the Common Improvements in first class rentable condition).

(d) Nothing contained herein diminishes any right Lessor may have under South Carolina law to sue Lessee for damages in the event of any default by Lessee under this Lease Agreement, or from pursuing any other remedy available to Lessor at law or in equity.

ARTICLE XVI
LESSEE'S RIGHT TO SUBLEASE AND ASSIGN

16.01 Lessee may not sublet the Common Improvements or assign this Lease Agreement without the prior written consent of the Lessor, which shall not be unreasonably withheld or delayed and if such consent is granted, Lessee shall remain liable to Lessor for the faithful performance of all of the covenants and conditions, including rental payment, required to be kept and performed under the terms of this Lease Agreement. Any assignment by operation of law as a result of a corporate merger or re-organization shall not require the previous written consent of Lessor. Notwithstanding anything contained in this Lease Agreement to the contrary and provided such transfer does not change the use as allowed in Paragraph 9.01, Lessee shall have the right, without obtaining the consent of Lessor, to assign, sublet or otherwise transfer Lessee's interest in or under this Lease Agreement to Lessee's parent corporation, any subsidiary of Lessee or to any other affiliate of Lessee (collectively, "Permitted Transfer"). In addition, Lessee shall not be required to comply with any other requirements under this Lease Agreement which relates to an assignment, subletting or other transfer of Lessee's interest hereunder (including, without limitation, payment of any transfer fee) if such assignment, subletting or other transfer is a Permitted Transfer. However, no Permitted Transfer shall relieve Lessee from any obligations under this Lease Agreement.

16.02 Violation. Any violation of any provision of this Lease Agreement, whether by act or omission, by any assignee or subtenant of Lessee, shall be deemed a violation of such provision by the Lessee, it being the intention and meaning of the parties hereto that the Lessee shall assume and be liable to the Lessor for any and all acts and omissions of any and all assignees or subtenants of Lessee. If the Common Improvements or any part thereof is sublet or occupied by any person other than the Lessee, Lessor, in the event of Lessee's default, may and is hereby empowered to collect rent from the subtenant or occupant; the Lessor may apply the net amount received by it to the rent herein reserved and no such collection shall be deemed a release of the Lessee from the further performance of the covenants herein contained.

ARTICLE XVII
LESSOR'S RIGHT TO MORTGAGE AND SELL

17.01 Estoppel Certificate. Within five (5) days after written request therefor by either Lessor or Lessee to the other, or in the event that upon any sale, assignment, hypothecation of the Premises, and/or the land thereunder, or a leasehold loan by Lessee of its leasehold estate herein, an estoppel statement shall be required from Lessor or Lessee. Lessor and Lessee agree to deliver to each other, in recordable form, a certificate to any proposed mortgagee or purchaser, certifying that this Lease Agreement is in full force and effect, that there are no defenses thereto, or stating those claimed by Lessor or Lessee, and as to such other matters as may be reasonably requested.

17.02 Subordination and Attornment. Upon Lessor's request, during the term of this Lease Agreement, Lessee shall execute a subordination agreement in recordable form wherein Lessee shall agree that this Lease Agreement is and shall be subordinate to the lien of any mortgages in any amount or amounts on all or any part of the land or buildings comprising the Premises, or on or against Lessor's interest or estate therein; provided that such subordination agreement shall recite that the subordination of Lessee's interests pursuant thereto are subject to the agreement by the mortgagee named in any such mortgage to recognize the Lease Agreement of Lessee in the event of foreclosure of any such mortgage if Lessee is not in default under the Lease Agreement. Lessee covenants and agrees to execute and deliver upon demand such further instruments evidencing such subordination of this Lease Agreement to the lien of any such mortgage as may be required by the Lessor within ten (10) days of demand therefor. Notwithstanding anything hereinabove contained, in the event the holder of any such mortgage shall at any time elect to have this Lease Agreement constitute a prior or superior lien to its mortgage, then and in such event upon any such mortgage holder notifying Lessee to that effect, this Lease Agreement shall be deemed prior and superior in lien to such mortgage irrespective of whether this Lease Agreement is dated prior to or subsequent to the date of such mortgage or lease.

If Lessor enters into one or more mortgages and Lessee is advised in writing of the name and address of the mortgagee under such mortgage, then this Lease Agreement shall not be terminated or canceled on account of any default by the Lessor in the performance of any of the terms, covenants or conditions hereof on its part contained, until Lessee shall have given written notice of such default to such mortgagee, specifying the default, in which event such mortgagee shall have the right to cure Lessor's default as otherwise provided herein and which cure shall be accepted by Lessee.

Lessee shall, in the event any proceedings are brought for the foreclosure of or in the event of sale under any mortgage made by the Lessor covering the Premises, attorn to the purchaser upon any such foreclosure of sale and recognize such purchaser as the Lessor under this Lease Agreement.

17.03 Transfer of Lessor's Interest. Lessor shall have the right to convey, transfer or assign, by sale or otherwise, all or any part of its interest in this Lease Agreement or the Common Improvements at any time and from time to time and to any person, subject to the terms and conditions of this Lease Agreement. All covenants and obligations of Lessor under this Lease Agreement shall not cease upon the execution of such conveyance, transfer or assignment, but such covenants and obligations shall run with the land and shall be binding upon any subsequent owner thereof.

ARTICLE XVIII
SURRENDER OF PREMISES

18.01 Trade Fixtures. All equipment and every other item of property not permanently attached to the Demised Premises and not paid for by Lessor, and any of such items leased by Lessee under bona fide leases from third party owners, are to remain and be the property of Lessee and Lessee is to have the right and privilege of removing any and all such property and equipment at any time during the continuance of this Lease Agreement or any extensions hereof and within thirty (30) days thereafter. In the event the aforesaid equipment is not removed by Lessee within said thirty (30) day period, title thereto shall automatically pass to and vest in Lessor. If said equipment is removed, Lessee shall restore the Demised Premises to their condition prior to the removal of such property. It is further understood and agreed that the buildings and structures installed on the Common Improvements by Lessor, may not be removed by Lessee at the termination of this Lease Agreement.

18.02 Surrender. The Lessee shall on the expiration or the sooner termination of the Lease Agreement surrender to Lessor the Demised Premises, including all buildings, replacements, changes, additions, and improvements constructed or placed by the Lessee thereon, except for all moveable trade fixtures, equipment, and personal property belonging to the Lessee, broom-clean, free of sub-tenancies, and in good condition and repair, reasonable wear and tear excepted.

ARTICLE XIX
LESSOR-AGENT AGREEMENT

19.01 The Lessor and the Lessee each respectively represents and warrants to the other that no real estate broker or other person is entitled to a fee, commission, or any other renumeration in respect of the execution or performance of this Lease Agreement; and each of the Lessor and the Lessee hereby covenants and agrees to hold the other harmless from any fee, commission, cost or damage incurred as a result of any breach of the foregoing warranties.

ARTICLE XX
SECURITY DEPOSIT

Lessee shall pay to Lessor simultaneously with the execution of this Lease Agreement a sum zero and 00/100 Dollars ($0,000.00) (the “Security Deposit”) as security for the full and faithful performance by Lessee of each and every term, covenant and condition of this Lease Agreement. Upon an Event of Default by Lessee under this Lease Agreement, or if Lessee fails to perform any of the terms, provisions and conditions of this Lease Agreement, Lessor may use, apply, or retain the whole or any part of the Security Deposit so deposited for the payment of any sum due Lessor or which Lessor may expend or be required to expend by reason of the Lessee’s Event of Default or failure to perform including, but not limited to, any damages or deficiency in the reletting of the Leased Premises, provided, however, that any such use, application or retention by Lessor of the whole or any part of the Security Deposit shall not be or be deemed to be an election of remedies by Lessor or viewed as liquidated damages, it being expressly understood and agreed that, notwithstanding such use, application or retention, Lessor shall have the right to pursue any and all other remedies available to it under the terms of this Lease Agreement or otherwise. In the event that Lessee shall comply with all of the terms, covenants and conditions of this Lease Agreement, the Security Deposit shall be returned to Lessee within thirty (30) days after Lessee has vacated and surrendered the Leased Premises in accordance with the terms hereof, so long as no Event of Default by Lessee shall then be existing under the terms of this Lease Agreement. In the event of a sale of the Building or the Project, Lessor shall have the right to transfer the Security Deposit to the purchaser, and Lessor shall thereupon be released from all liability for the return of such Security Deposit. Lessee shall look solely to the new landlord for the return of such Security Deposit. If Lessee shall fail to pay Rent or other sums when due under this Lease Agreement more than three (3) times in any twelve (12) month period, irrespective of whether or not such delinquencies have been cured, then the Security Deposit shall, within ten (10) days after demand by Lessor, be increased to an amount equal to the greater of (i) three (3) times the aforesaid amount or (ii) three (3) months rent.

ARTICLE XXI
MISCELLANEOUS

21.01 Lessor's Entry. The Lessor shall have the right to enter upon the Common Improvements at all reasonable times without prior notice during the term of this Lease Agreement for the purposes of inspection, maintenance, repair and alteration and to show the same to prospective lessees or purchasers.

21.02 Nature and Extent of Agreement. This instrument and exhibits, Rules and Regulations marked as **Exhibit F**, and Riders, if any, attached hereto contain the complete agreement of the parties regarding the terms and conditions of the lease of the Premises, and there are no oral or written conditions, terms, understandings or other agreements pertaining thereto which have not been incorporated herein. This instrument may be amended from time to time by written addendum signed by both parties. This instrument creates only the relationship of Lessor and Lessee between the parties hereto as to the Premises; and nothing herein shall in any way be construed to impose upon either party hereto any obligations or restrictions not herein expressly set forth. The laws of the State of South Carolina shall govern the validity, interpretation, performance and enforcement of this Lease Agreement.

21.03 Partial Invalidity. If any term, covenant or condition of this Lease Agreement or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder to this Lease Agreement, or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this Lease Agreement shall be valid and be enforceable to the fullest extent permitted by law.

21.04 Recording. This Lease Agreement shall not be recorded, however, upon the request of either party hereto the other party shall join in the execution of a memorandum or so-called "short form" of this Lease Agreement for the purpose of recordation. Said memorandum or short form of this Lease Agreement shall describe the parties, the Common Improvements and the term of this Lease Agreement and shall incorporate this Lease Agreement by reference.

21.05 Attorneys Fees and Expenses. In the event either party commences any action (at law or in equity), the prevailing party in such action shall be entitled to an award of its costs and attorney's fees incurred against the non-prevailing party whether the action be based on contract or tort theory.

21.06 Applicable Law. Any controversy or claim arising out of or relating to this Lease Agreement shall be governed by the substantive law of the State of South Carolina without consideration of the conflicts of law rules of said state.

21.07 Captions. The captions or headings at the beginning of articles and sections of this Lease Agreement are included for convenience only and in no way define, limit or describe the scope of any provision hereof.

21.08 Binding Effect. This Lease Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

21.09 Duplicate Counterparts. This Lease Agreement may be executed in one or more counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

21.10 Additional Documents. Each party shall, at the request of the other, execute, acknowledge, (if appropriate) and deliver such additional documents and instruments, and do such other acts as may be necessary or convenient to call out the purposes and intent of this Lease Agreement and to permit the Lessee to record this Lease Agreement and grant security interests therein. This Lease Agreement may be signed in triplicate originals by the parties.

IN TESTIMONY WHEREOF, the parties hereto have caused these presents to be executed in their respective names by their duly authorized representatives, executing this instrument in triplicate originals, as of the day and year first above written.

IN THE PRESENCE OF:

Witness

Witness

Lessor: Daniel Island Executive Center LLC

By: /s/ Mason R. Holland
Print Name: Mason R. Holland Jr.
Its: President

Date of Execution: _____

Witness

Witness

Lessee: Benefitfocus.com, Inc.

By: /s/ Shawn A. Jenkins
Print Name: Shawn A. Jenkins
Its: President

Date of Execution: _____

EXHIBIT A

SURVEY

A Survey of the property “as built” is on file with Empire Engineering and recorded with the County of Berkeley.

EXHIBIT B

PARKING LAYOUT

A parking layout has been made part of the “as built” drawings of the property delivered to the Lessee on December 28, 2006

EXHIBIT C

FLOORPLAN

Floor Plans have been made part of the “as built” drawings of the property delivered to the Lessee on December 28, 2006

EXHIBIT D

SPECIFICATIONS

To be provided by Lessee

Lessor has accepted and completed the building in accordance with the Lessee’s specifications as of the delivery date October 1, 2006.

EXHIBIT E

Daniel Island Executive Center
Estimated Real Estate Taxes, Operating Expenses, and Insurance and Common Area Maintenance Expenses
For
BF Building

Daniel Island Executive Center
2007 Estimated CAM and Operating Expenses

Real Estate Taxes & DI Association Fees	**$2.00**
Insurance Expense	**$ .73**
Electrical Expense	**$1.40**
Elevator Phone Expense (To be provided by Tenant Phone System)	**$0.00**
Water System Expense	**$0.15**
Fire Monitor	**$0.01**
Prop Mgmt Expense (Estimated 2% on gross collections)	**$0.51**
Janitorial (Paid by Tenant)	**$ .00**
Landscape Expense	**$0.15**
Bldg Upkeep/ Maintenance	**$0.10**
Total Estimated Expenses:	**$5.05**

Actual Expenses above any amounts per category above will be billed to the Tenant annually.

EXHIBIT F

RULES AND REGULATIONS

DANIEL ISLAND EXECUTIVE CENTER
RULES AND REGULATIONS

1) The sidewalks, and public portions of the Project, such as entrances, passages, courts, vestibules, stairways, corridors or halls, and the parking areas, streets, alleys or ways surrounding or in the vicinity of the Project shall not be obstructed, even temporarily, or encumbered by Lessee.

2) No curtains, blinds, shades, louvered openings, tinted coating, film or screens shall be attached to or hung in, or used in connection with, any window, glass surface or door of the Leased Premises, without prior written consent of Lessor, unless installed by Lessor.

3) Without prior written approval of Lessor, no sign, advertisement, notice or other lettering shall be exhibited, inscribed, painted or affixed by Lessee on any part of the outside of the Leased Premises or Project or on corridor walls or windows or other glass surfaces. In the event of the violation of the foregoing by Lessee, Lessor may remove same without any liability, and may charge the expense incurred by such removal, to Lessee. The care and maintenance of any such approved signs shall be the sole responsibility of Lessee.

4) No showcases or other articles shall be put in front of or affixed to any part of the exterior of the Leased premises or the Project.

5) The water and wash closets and other plumbing fixtures shall not be used for any purposes other than those for which they were constructed, and no sweepings, rubbish, rags, or other substances shall be thrown therein. All damages resulting from any misuse of the fixtures shall be borne by Lessee.

6) Lessee shall not in any way deface any part of the Leased Premises or the Project.

7) No bicycles, vehicles, or animals of any kind shall be brought into or kept in or about the Leased premises. No cooking shall be done or permitted by Lessee on the Leased Premises except in conformity to law and then only in the utility kitchen, if any, as set forth in Lessee’s layout, which is to be primarily used by Lessee’s employees for heating beverages and light snacks. Lessee shall not cause or permit any unusual or objectionable odors to be produced upon or permeate from the Leased Premises.

8) Neither Lessee, nor any of Lessee's employees, agents, visitors, or licensees, shall at any time bring or keep upon the Leased premises any inflammable, combustible or explosive fluid, or chemical substance, other than reasonable amounts of cleaning fluids or solvents required in the normal operation of Lessee's business offices.

9) No additional locks or bolts of any kind shall be placed upon any of the doors or windows by Lessee, nor shall any changes be made in existing locks or the mechanism thereof, without the prior written approval of Lessor and unless and until a duplicate key is delivered to Lessor. Lessee shall, upon the termination of its tenancy, restore to Lessor all keys of stores, offices and toilet rooms, either furnished to, or otherwise procured by, Lessee, and in the event of the loss of any keys so furnished, Lessee shall pay to Lessor the cost thereof.

10) Lessor shall have the right to prohibit advertising by Lessee which, in Lessor's reasonable judgment, tends to impair the reputation of the Project or its desirability as a center for offices and warehouses, and upon written notice from Lessor, Lessee shall refrain from or discontinue such advertising.

11) All paneling, rounds or other wood products not considered furniture shall be of fire retardant materials. Before installation of any such materials, certification of the materials' fire retardant characteristics shall be submitted to Lessor or its agents, in a manner satisfactory to Lessor.

12) Lessor may waive any one or more of these Rules and Regulations for the benefit of any particular tenant or tenants, but no such waiver by Lessor shall be construed as a waiver of such Rules and Regulations in favor of any other tenant or tenants, nor prevent Lessee from thereafter enforcing any such Rules and Regulations against any or all of the tenants of the Project. Notwithstanding the foregoing, Lessor hereby agrees to equitably enforce the observation and performance of the Rules and Regulations for the best interest of the Project as a whole.

13) These rules and Regulations are in addition to, and shall not be construed to in any way modify or amend, in whole part, the terms, covenants, agreements and conditions of the main text (including Special Provisions) of the Lease Agreement, which text shall control except as to any attempted waiver of any of these Rules and Regulations in the instance of conflict.

14) Lessor reserves the right to make such other and reasonable rules and regulations as in its judgment may from time to time be needed for safety, care and cleanliness of the project, and for the preservation of good order therein. Such other Rules and Regulations shall be effective upon written notification of Lessee.

15) All garbage and refuse containers shall be in approved designated area.

16) Parking Lot Code of Conduct

a) Parking Spaces. Licensed automobiles, SUV's, pickup trucks, and motorcycles must park within one stripped parking space at a time. Negligently using more than one space or parking in unauthorized areas—driveways, sidewalks, landscaped areas, is strictly forbidden and subject to towing at owner's expense without warning.

b) Handicapped Parking. Handicapped Parking Areas are clearly marked and are to be used solely by vehicles displaying the designated handicapped license tag obtained from the appropriate State Department of Motor Vehicles or a hang tag/sticker designating handicap access issued by the City of Charleston. Any unauthorized vehicles found in this area are subject to towing at owner's expense without warning.

c) Oversized Vehicles. City of Charleston Parking Ordinances defines an oversized vehicle as any vehicles exceeding 85 inches in height or 250 inches in length or weighing more than 2 tons. These vehicles are to be safely parked away from the parking spaces closest to office entrances of the buildings. They should be stopped or parked for such length of time as may be necessary for the pick-up and loading or unloading and delivery of passengers or materials.

d) Loitering. The parking lot is designed to serve our Tenants and their visitors with a convenient and close place to park relative to an office entrance. Please advise your visitors that it is not to serve as a place to hangout and subsist. The playing of loud music from car radios and/or other devices is disruptive and will not be tolerated. The dumping of trash, tobacco products and refuse in our parking lots and on our grounds is absolutely forbidden as well as unauthorized use of our Tenant's restroom facilities.

e) Automotive Repairs. Automotive maintenance and/or repair is not to be performed in the parking lot.

f) Vandalism. Tenants and their guests are asked to be vigilant relative to witnessing any perpetrator's damaging of people's property. Please report any acts immediately to this office during normal business hours (8:30 – 5:30) or call the Charleston Police after hours.

g) Speed Limit. Unless otherwise noted, maximum speed limit allowed in the parking lot is restricted to 15 MPH.

h) Unattended Vehicles. Vehicles abandoned or left overnight without the express written permission of property management will be towed at owner's expense without warning. Vehicles displaying "For Sale" signage is absolutely forbidden and will be towed without warning.

Portions of this exhibit marked [*] are requested to be treated confidentially.

MASTER BUSINESS AGREEMENT
BETWEEN
AETNA LIFE INSURANCE COMPANY
AND
BENEFITFOCUS.COM, INC.

This Master Business Agreement (this "MBA") is entered into this day of November 28, 2006 (the "MBA Effective Date") by and between Aetna Life Insurance Company, a Connecticut corporation with its principal place of business located at 151 Farmington Avenue, Hartford, CT 06156 ("Aetna") and Benefitfocus.com, Inc., a South Carolina, corporation with its principal place of business located at 100 Benefitfocus Way, Charleston, South Carolina, 29492, ("Supplier"), (individually a "Party" and collectively the "Parties").

WHEREAS, the purpose of this MBA is to establish legally binding terms and conditions between the Parties for placing and accepting prospective future business engagements as of the MBA Effective Date and occasionally thereafter until otherwise terminated; and

WHEREAS, the Parties may enter into one or more written instruments (each an "Attachment") as may be necessary to encompass certain terms of the business relationship; and

WHEREAS, the Parties may enter into one or more written instruments (each a "Schedule") which shall set forth the business specifications pursuant to an applicable Attachment(s) and this MBA; and

WHEREAS, Supplier understands and agrees that Aetna offers no commitment or guarantee of any minimum purchases or revenues under this MBA and Supplier may not be Aetna's sole supplier.

NOW, THEREFORE, in consideration of the mutual covenants and promises herein recited and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, warrant, covenant, understand and agree as follows:

1. DEFINITIONS. Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in an Attachment or Schedule. For the purposes of this Agreement:

A. "Affiliate" means any company that (i) controls, (ii) is controlled by or (iii) is under common control with either Party or its parent corporation. A company shall be deemed to control a company if it has the power to direct or cause the direction of the management or policies of such company, whether through the ownership of voting securities, by contract, or otherwise.

B. "Agreement" means this MBA and any Attachments, Schedules or any exhibits or appendices hereto.

C. "Attachment" means mutually executed written instruments that, in addition to this MBA, set forth certain relevant terms and conditions regarding the business relationship by and between the Parties, and specifically refer to this Agreement.

D. "Deliverables" may mean the reports, documents, templates, studies, strategies, operating models, technical architectures, design ware, software objects, Programs, source code, object code, specifications, Documentation, abstracts and summaries thereof and other work product and materials originated and prepared for Aetna and to be delivered by Supplier pursuant to this MBA.

E. "Divested Entity" means any subsidiary, Affiliate, division, department or line of business of Aetna or of an Affiliate that loses its relationship with Aetna as a result of divestiture or otherwise.

F. "Force Majeure" means acts of God, civil or military authority, acts of the public enemy, acts of terrorism, war, riots, civil disturbances, insurrections, accidents, fire, explosions, earthquakes, floods, the elements of any other cause beyond the reasonable control of such Party.

G. "Materials" means any and all technical notes, tangible and intangible property, reports, and work products required to be delivered by Supplier in connection with the work hereunder, whether in draft or completed form excluding any Supplier Technology and the Program(s).

H. "Schedule(s)" means a mutually executed written instrument that sets forth the relevant purchase or acquisition information, term, fees, dates for performance and such other information as the Parties deem necessary and appropriate. Schedules shall be consecutively numbered for the purposes of identification. Each Schedule shall be incorporated into and subject to the terms of the Agreement.

I. "Supplier Technology" means Supplier's proprietary technology, including but not limited to, software tools, hardware designs, algorithms, Program (in source and object forms), user interface designs, architecture, class libraries, Documentation (both printed and electronic), network designs, know-how, trade secrets and any related intellectual property rights throughout the world (whether owned by Supplier or licensed to Supplier from a third party) and also includes any derivatives, improvements, enhancements or extensions of Supplier Technology conceived, reduced to practice, or developed during the term of this Agreement by either Party that are not uniquely applicable to Aetna or that have general applicability in the software industry.

2. AFFILIATE RIGHTS. All of the rights and obligations of Aetna hereunder shall extend to all Aetna Affiliates existing on the Effective Date, as well as to any Aetna Affiliates hereafter acquired, but only so long as an Affiliate relationship exists. Supplier agrees that in the event it believes it has an actionable claim against any Aetna Affiliate due to the failure of such Aetna Affiliate to comply with this Agreement, Supplier will only seek to satisfy its claim against Aetna and in consideration Aetna shall indemnify Supplier against all costs, liabilities and damages awarded to Supplier arising out of, or resulting from, any breach, omission or violation of its obligations by any Aetna Affiliate, arising out of, or related to, this Agreement. Excluding the foregoing, any reference to "Aetna" in this Agreement shall be deemed to include all Aetna Affiliates.

3. FEES/PAYMENT OF SERVICES/TAXES

A. Fees. Conditioned upon the prior execution by both Parties of this MBA, the applicable Attachment and/or Schedule, Aetna shall pay to Supplier the fees specified in the applicable Statement of Work in accordance with the invoicing provisions below. Supplier shall receive no compensation in excess of the amount set forth in the applicable Schedule without Aetna's prior written approval. Aetna shall not pay fees in advance unless otherwise agreed to in the applicable Schedule.

B. Invoicing and Payment. Supplier shall electronically invoice Aetna for the fees set forth in the applicable Schedule. All invoices shall (i) reference Aetna's purchase order number; (ii) use the fee or rate specified on the appropriate Schedule; and (iii) be sent in a timely manner to Aetna. Payment terms are [*] ([*]) [*] calculated from the date the invoice was received at Aetna's Accounts Payable Department. Supplier will send all invoices to Aetna's *Accounts Payable* Department Invoices submitted [*] after the invoice due date in the applicable Schedule shall be presumed to have been paid and it shall become Supplier's burden to demonstrate otherwise. Invoices received [*] or more after the due date in the applicable Schedule shall be deemed null and void and Aetna shall be relieved of its obligation to pay them Aetna will electronically pay each invoice that complies with this Section 3.B. unless Aetna has some reasonable basis for non-payment. Failure by Aetna to make payments to Supplier that are reasonably disputed in writing shall not constitute a material breach of the Agreement. Immediately upon Aetna or Supplier determining that Aetna is owed a credit of any kind, Supplier shall itemize each such credit on a separate credit memo and submit the credit memo to Aetna. The Supplier will not apply outstanding credits to unpaid invoices. At Aetna's option, Aetna may request that Supplier submit a check to Aetna in an amount equal to any such credit within [*] ([*]) [*] of Aetna's request to do so.

C. Disputed Payments. If Aetna disputes, in good faith, any amount on a Supplier invoice, Supplier and Aetna will use all reasonable efforts to resolve and settle such dispute within thirty (30) days after invoice date. Each party will provide full supporting documentation concerning any disputed amount within seven (7) business days after receipt of written request for such documentation. Aetna will have no obligation to make any payment of disputed charges on the invoice during the time it is subject to good-faith dispute. Once the invoice dispute is resolved and settled, Aetna will pay any amount due per the payment terms noted in Section 3.B.

[*] Confidential treatment requested; certain information omitted and filed separately with the SEC.

If any payment dispute is not resolved within thirty days after the invoice date, Supplier and Aetna agree to submit the dispute to an expedited arbitration proceeding using the procedures set forth in Section 12.B, as modified by this Paragraph. Each Party agrees to cooperate fully in securing an expedited proceeding. Upon either Party's demand for Arbitration, an Arbitrator shall be appointed within fourteen days from the demand. The fourteen day time limit may be extended only by the written agreement of the Parties. The Arbitrator will give the Parties two potential hearing dates, which dates shall be within sixty days from the date of the demand for Arbitration. Within five calendar days of receipt of the potential dates, the Parties will mutually agree on one of the dates offered, and will so inform the Arbitrator. If neither date is acceptable to both Parties but the Parties can agree on two alternate dates, they will so advise the Arbitrator who will select one, if he/she is available. If no agreement can be made, the Arbitrator will weigh the equities between the Parties and select a date least burdensome on the Parties collectively. The Arbitrator will be responsible for making hearing room arrangements. Within the rules established by this Paragraph, the Arbitrator shall assure a fair and adequate hearing, providing both Parties a sufficient opportunity to present their respective evidence and arguments. The Arbitrator's decision must be made within fourteen days from the date of the adjournment of the hearing. The Arbitrator, by accepting the appointment, agrees to hold the hearing and issue a decision under the procedures and time limits set forth in this Paragraph.

D. Taxes. Aetna shall be responsible for any applicable sales, use and excise taxes, but not for any taxes based upon Supplier's property or net income. Supplier agrees that Aetna shall have the right to bring any action against the taxing authority, when Aetna deems appropriate, to contest any assessment of taxes which Aetna must pay under this Agreement or to obtain a refund of such taxes, either in its own name or in the name of Supplier, provided that Aetna shall conduct such contest in good faith. Supplier agrees to provide Aetna with reasonable cooperation with respect to any such action. Aetna agrees to be solely responsible for determining, calculating and timely remitting the appropriate sales or use tax for any Services performed by Supplier.

4. TERM AND TERMINATION

A. Term. The terms and conditions of this MBA shall become effective as of the MBA Effective Date and shall continue in perpetuity unless terminated pursuant to this Section. The term defined in each Attachment or Schedule shall be the term of that Attachment or Schedule only.

B. Termination.

i. Termination for Convenience. Aetna may terminate this MBA or any Attachment or Schedule attached hereto for any reason with [*] ([*]) [*] prior written notice to Supplier, provided Aetna has paid all unpaid, one-time fees, all outstanding invoices, and all unpaid Services that have been performed. Termination of an individual Attachment or Schedule pursuant to this Section shall not effect the termination of this MBA.

ii. Termination for Cause for Aetna. In addition to any provision of an Attachment or Schedule that provides Aetna with the right to terminate an Attachment or Schedule, in the event that of any one or more of the following occur, Aetna reserves the right to terminate this MBA or any or all Attachments or Schedules and have recourse to any other right or remedy under law and/or equity pursuant to the Agreement for the following conditions:

a. Supplier has materially breached any provision of the Agreement and such breach remains uncured for thirty (30) days following receipt of written notice from Aetna; or

b. any deliverable or service is found to be unsatisfactory or inadequate in quality, condition or nature, in accordance with the business requirements and acceptance criteria set forth in the applicable Schedule; or

[*] Confidential treatment requested; certain information omitted and filed separately with the SEC.

c. Unless specifically prohibited by law, any proceedings under the bankruptcy law or any state or local insolvency statutes are filed against the Supplier which remains undismissed or undischarged for a period of thirty (30) days; or Supplier files a petition in voluntary bankruptcy or seeks relief under any bankruptcy law or any state or local insolvency statutes; or Supplier consents to the appointment of or taking possession by a receiver, trustee or liquidator of itself or its property; or Supplier makes an assignment for the benefit of creditors.

iii. Termination for Cause for Supplier. In addition to any provision of an Attachment or Schedule that provides Supplier with the right to terminate an Attachment or Schedule, in the event of any one or more of the following, Supplier reserves the right to terminate this MBA or any or all Attachments or Schedules and have recourse to any other right or remedy under law and/or equity pursuant to the Agreement for the following conditions:

a. Aetna has materially breached any provision of the Agreement and such breach remains uncured for thirty (30) days following receipt of written notice from Supplier;

b. Aetna has failed to pay an undisputed claim and such claim goes unpaid for fifteen (15) days following receipt of written notice from Supplier.

c. Unless specifically prohibited by law, any proceedings under the bankruptcy law or any state or local insolvency statutes are filed against Aetna which remains undismissed or undischarged for a period of thirty (30) days; or Aetna files a petition in voluntary bankruptcy or seeks relief under any bankruptcy law or any state or local insolvency statutes; or Aetna consents to the appointment of or taking possession by a receiver, trustee or liquidator of itself or its property; or Aetna makes an assignment for the benefit of creditors.

C. Early Termination. Any notice of termination shall specify the Early Termination Date. In the event this Agreement or a Schedule is terminated prior to completion of the Services or delivery of the Program, Supplier's and Aetna's respective rights and duties under shall continue in full force and effect until midnight, Hartford, Connecticut time on the Early Termination Date. As of the Early Termination Date, Supplier shall discontinue all work. Pending Aetna's instructions, Supplier shall preserve and protect all Deliverables and Materials on hand, work in progress, data, and completed work, both in its own and in any third party's facilities. Aetna shall have the immediate right to possession and ownership of the current draft of the Materials produced through the Early Termination Date. If Aetna is terminating for reasons other than convenience, Supplier shall not be entitled to any additional fees or expenses as of the Early Termination Date. Regardless of the reason of such termination, Supplier shall not be entitled to any prospective profits or damages because of such termination and Supplier shall refund promptly to Aetna any undisputed fees paid by Aetna hereunder which Supplier did not earn prior to the Early Termination Date.

D. Termination Transition. In connection with the expiration or termination of this Agreement and any applicable Schedule prior to completion of Services, Supplier will comply with Aetna's reasonable directions to effect the orderly transition and migration to Aetna or Aetna's designee from Supplier of all Services then being performed by Supplier or which Supplier is then responsible for performing under the Agreement or applicable Schedule (the "Termination Transition"). Supplier will assist in the Termination Transition for a period mutually agreed upon in writing by Aetna and Supplier. Aetna's designee and its employees and agents will cooperate in good faith with Supplier in connection with Supplier's obligations under this section and Aetna's designee will perform its obligations under any approved transition plan developed by Aetna. Supplier will develop and submit to Aetna for approval a transition plan setting forth the respective tasks to be accomplished by each party in connection with the orderly transition and a schedule pursuant to which the tasks are to be completed.

E. Effect of Termination. Within [*] ([*]) [*] termination of the Agreement or any Schedule for any reason, Supplier shall promptly refund to Aetna any prepaid fees, excluding Maintenance Services fees, associated with the applicable Schedule. There shall be [*] of any kind [*] for the cancellation or termination of this Agreement and/or any applicable Schedule. Promptly upon termination, or at any time upon Aetna's request, Supplier shall promptly return in a manner, method and format specified by Aetna, [*] to Aetna, or, at Aetna's option, destroy,

[*] Confidential treatment requested; certain information omitted and filed separately with the SEC.

all (or, if Aetna so requests, any part) of Aetna's Confidential Information and/or Materials, and all copies thereof and other materials containing such Confidential Information and/or Materials, and Supplier shall certify in writing its compliance with the foregoing.

5. CONFIDENTIALITY

A. Health Insurance Portability and Accountability Act ("HIPAA"). Supplier will, or is likely to, have access to, create, maintain, transmit and/or receive certain Protected Health Information in conjunction with the Services and/or products being provided under this Agreement. In conformity with the regulations at 45 C.F.R. Parts 160-164, implementing the privacy and security requirements set forth in the Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996 (the "Privacy and Security Rules"), the Parties have entered into a written agreement that meets the applicable requirements of the Privacy and Security Rules and such written agreement is attached hereto and made a part hereof as Exhibit A.

B. Gramm-Leach-Bliley Act ("GLBA"). Supplier will, or is likely to, have access to, create, maintain, transmit and/or receive certain protected Customer Information in conjunction with the Services and/or products being provided under this Agreement. Various state departments of insurance have promulgated regulations regarding the safeguarding of certain Customer Information, as required by the federal Gramm-Leach-Bliley Act ("GLBA"). In conformity with such regulations, implementing the requirements set forth in the Administrative Simplification provisions of the Gramm-Leach-Bliley Act (the "Safeguard Rules"), the Parties have entered into a written agreement that meets the applicable requirements of the Safeguard Rules and such written agreement is attached hereto and made a part hereof as Exhibit B.

C. Definition of Confidential Information. For the purpose of this Agreement, "Aetna Confidential Information" shall include information concerning Aetna's providers and/or suppliers performing services or providing products for or on behalf of Aetna's enrollees or members; shall include all financial, technical and other information in any form (including all copies thereof) which is reasonably considered proprietary to Aetna or any of its Affiliates, including, but not limited to, information or materials related to the business affairs or conditions of Aetna and its Affiliates; policies and/or procedures; Aetna's strategies or initiatives; or to the design, programs, flow charts, and documentation of Aetna's data processing applications and software, whether or not such applications and software are owned by Aetna. "Aetna Confidential Information" also includes any reports, notes, summaries, excerpts, work product, or other documents utilizing or incorporating Aetna Confidential Information whether in whole or in part, and oral presentations or discussions describing, elaborating upon, or otherwise relating to Aetna Confidential Information. Should Aetna disclose to Supplier or a Supplier employee, or should Supplier or Supplier employee learn of Aetna Confidential Information, Supplier agrees that neither Supplier nor the Supplier employee shall, at any time during or after the term of this Agreement, disclose such information to any individual, company or other entity or agency, nor use such Aetna Confidential Information for Supplier's own advantage other than in performance of this or any subsequent similar Agreement with Aetna.

For the purpose of this Agreement, "Supplier Confidential Information" shall include the Program(s), Supplier Technology and other proprietary inventions, source codes, trade secrets, proprietary processes and formulae, patents, financial information, or any other document based thereon which is labeled "Confidential" (or, if disclosed orally, is identified at the time of such oral disclosure as "Confidential" and within five (5) days followed with written notice that such disclosure is Confidential). Should Supplier disclose to Aetna or an Aetna employee, or should Aetna or Aetna employee learn of Supplier Confidential Information, Aetna agrees that neither Aetna nor the Aetna employee shall, at any time during or after the term of this Agreement, disclose such information to any individual, company or other entity or agency, nor use such Supplier Confidential Information for Aetna's own advantage other than in performance of this or any subsequent similar Agreement with Supplier.

D. Non-Disclosure of Confidential Information. The receiving Party agrees to use the Confidential Information solely for the purpose stated above and shall limit disclosure of the Confidential Information solely to those employees who are required to access the Confidential Information. Copying and reproduction shall be done to the minimum extent necessary. Neither Party shall copy, reproduce, sell, assign, license or disclose any Confidential Information it receives from the other Party to any other person, Affiliate, firm, or corporation, or

other entity or agency. Each Party warrants that it will apply commercially reasonable safeguards to protect the Confidential Information received from the other Party against unlawful or otherwise unauthorized access, use and disclosure and to take any other steps reasonably necessary to safeguard Confidential Information. Within thirty (30) days of receipt of written request from the other Party, each Party agrees to return to the other Party, or to destroy and to delete from any of its electronic storage devices, all Confidential Information received from the other, in whatever form.

E. Electronic Transmission. Both Parties acknowledge that neither Party has control over the performance, reliability, availability, or security of Internet e-mail. Supplier will submit Supplier's policies and procedures on Internet communications to Aetna for its review to ensure that such policies and procedures meet Aetna's security and confidentiality requirements. Supplier agrees to follow prudent, industry standard, best practices with regards to maintaining the security of electronic transmissions. In the event that Aetna has not reviewed and accepted Supplier's policies, no Confidential Information shall be transmitted via the Internet.

F. Exceptions. The Parties hereto agree that information shall not be deemed proprietary and each Party shall have no obligation with respect to any information which:

i. is or falls into the public domain through no wrongful act of the receiving Party;

ii. is rightfully received from a third party without restriction and without breach of this Agreement;

iii. is approved for release by written authorization of an officer of the disclosing Party; or

iv. is already in receiving Party's possession as evidenced by its records and is not the subject of a separate non-disclosure agreement.

The receiving Party retains the right to disclose the Confidential Information pursuant to the requirements of a governmental agency or operation of law. If legally permissible and to the extent possible, the receiving Party will give prior notice to the disclosing Party of such disclosure, so that disclosing Party, at disclosing Party's discretion, may seek confidential or protected status for such Confidential Information. If notice to disclosing Party is not legally permissible, receiving Party shall use reasonable efforts to receive confidential or protected status for such Confidential Information.

G. Remedies. Both Parties expressly agree that a breach of any confidentiality obligations by the receiving Party, its Affiliates or subsidiaries, or an employee is highly likely to cause significant, irreparable harm to the disclosing Party and that the disclosing Party shall be entitled, in that case, to temporary, preliminary and/or injunctive relief, or any other equitable remedy deemed appropriate by the reviewing court, to protect its interests in its Confidential Information. Should the receiving Party learn of a breach of this Agreement, the receiving Party shall immediately notify the disclosing Party of the nature of the breach and the Confidential Information that has been disclosed. The receiving Party shall take all necessary steps to immediately cure such breach and to ensure no further release of any Confidential Information. Should either Party learn of a disclosure of the other Party's Confidential Information, such Party shall immediately notify the other Party of the nature of the breach and the Confidential Information that has been disclosed. Such Party shall take all necessary steps to immediately cure such breach and to ensure no further release of any Confidential Information.

H. Survivability. It is expressly agreed by the Parties that the provisions of this Section shall survive the expiration or termination, for any reason, of this Agreement and shall be binding on each Party, its successors and assigns for the benefit of the other Party and its Affiliates, successors and assigns.

6. OWNERSHIP OF MATERIALS

A. Except as otherwise noted in an applicable Schedule, Aetna shall retain all right, title and interest (including, without limitation, all copyrights, patents, service marks, trademarks, trade secret and other intellectual property rights), and will have the right to use for any purpose, all Materials and Aetna Data. Supplier acknowledges that any portions of such Materials which contain or reflect information or materials which were given or disclosed to Supplier by Aetna and information specific to Aetna's employees or business operations contained in the Materials, any proprietary information of Aetna which is incorporated into the Materials, and any conclusions or recommendations therein which are specific to Aetna shall be owned by Aetna. It is the intent of

this Agreement to vest full and exclusive ownership rights of all such portions of the Materials in Aetna, including but not limited to the right to copy and prepare derivative works. Supplier agrees to execute any documents reasonably requested by Aetna to fully vest such rights in Aetna.

B. Supplier shall retain all right, title and interest in Supplier Technology (including, without limitation, all copyrights, patents, service marks, trademarks, trade secret and other intellectual property rights), and will have the right to use for any purpose, in and to all Supplier Technology, all generic text in the Materials, and the format, sequence and structure of the Materials, provided that such materials do not contain any Confidential Information or Aetna Data. Rights and ownership by Supplier of original technical designs, methods, ideas, concepts, know-how, and techniques shall not extend to or include all or any part of Aetna's Data or Confidential Information. Notwithstanding the foregoing, any information specific to Aetna's employees or business operations, confidential Information, and information which a third party provides to Supplier on Aetna's behalf, finding, or recommendations and conclusions which are specific to Aetna, which Supplier incorporates into the Materials shall remain the sole property of Aetna.

C. To the extent that Supplier may include in the Materials any Supplier intellectual property, Supplier agrees that Aetna shall be deemed to have a license subject to the license grant and restrictions on use set forth in the Software License Attachment.

D. Pre-existing Work Product. Nothing contained in this Agreement shall restrict a Party from the use of methods, ideas, concepts, know-how, techniques, program organization, or database structuring techniques that have been previously developed by that Party or in the in the public domain. The developing party may continue to use such methods, concepts, or techniques for its own purposes subject to the confidentiality obligations set forth herein.

7. WARRANTIES AND LIMITATION OF LIABILITY

A. Authority to Contract. Both Parties warrant that they are corporations duly organized, validly existing and in good standing under the laws of the State set forth in the opening paragraph above. The Parties represent and warrant that the Agreement has been duly authorized by all necessary corporate action and constitutes a valid obligation, binding and enforceable in accordance with the terms hereof. Supplier warrants that it has the full and unrestricted power and authority to execute and deliver the Agreement and to carry out the transactions contemplated hereby. Supplier warrants that the execution of this Agreement and Supplier's performance hereunder will not conflict with or violate any commitment, agreement or understanding Supplier has or will have with any other person or entity and there is nothing that will prevent Supplier from performing its obligations under the terms and conditions imposed on it by the Agreement.

B. Standard of Work. Supplier agrees to render all work in a professional and timely manner. Supplier warrants that qualified personnel shall perform all work provided hereunder in a good and workmanlike manner in accordance with professional practices applicable to the work being performed. In the event of a breach of this warranty, Supplier agrees to timely engage in the re-performance of such work at no extra charge until the work performed is in accordance with this warranty. Supplier will perform the work in the capacity of an independent contractor and not as an employee or agent of Aetna.

C. Warranty Limitation. EXCEPT FOR THE WARRANTIES PROVIDED IN THIS AGREEMENT, THE PARTIES SPECIFICALLY DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND/OR FITNESS FOR A PARTICULAR PURPOSE.

D. Limitation of Liability. IN NO EVENT SHALL EITHER PARTY'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, EXCEED [*] UNDER THE AGREEMENT DURING [*].

E. Exclusion of Consequential Damages. IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION ANY LOST PROFITS, OR FOR ANY SPECIAL, OR PUNITIVE, DAMAGES HOWEVER CAUSED AND, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

F. Limitation of Action. Except for actions to enforce either Party's intellectual property rights, no action (regardless of form) arising out of this Agreement may be commenced by either Party more than [*] ([*]) [*] after the cause of action has accrued. Each Party shall have a duty to mitigate damages for which the other Party is responsible.

G. Exclusions on Limitations. The foregoing limitations set forth in Sections 7.D, E and F above will not apply to:

i. Claims by either Party for bodily injury or damage to real property or tangible, personal property for which such Party, its agents or assigns, is legally responsible; or

ii. Claims for breach of confidentiality stated in Section 5, *Confidentiality*, of this MBA; or

iii. To the extent applicable under this Agreement, a Party's obligations to indemnify the other Party as stated in Section 8, *Indemnification*.

8. INDEMNIFICATION. Supplier hereby represents and warrants that it has all the right, title and interest in any goods, Services and/or Deliverables procured under this Agreement. Supplier represents and warrants that any Services performed, Deliverables produced by Supplier, and/or goods procured under this Agreement will not violate any publicity or privacy right, patent, copyright, trade secret or other proprietary or intellectual property right or confidential relationship of any third party.

Supplier shall at its own expense indemnify, defend, settle and hold harmless Aetna and its officers, agents, employees, customers and all persons claiming under Aetna from and against any and all claims, actions, injunctions, damages, losses, liabilities, costs and expenses (including legal fees, costs and expenses) arising in any way out of any claim, suit, proceeding or allegation that the goods, Services and/or Deliverables procured under this Agreement infringe upon or violate patents, copyrights, trade secrets or other proprietary or intellectual property rights of a third party, whether or not such claim, suit, proceeding or allegation is successful. Aetna agrees to send Supplier written notice of any claim, suit, proceeding or allegation relating to such infringement promptly after Aetna receives written notice of the same. Following such notice of a claim or a suit, Supplier shall, upon written notice to Aetna, at Supplier's expense, (i) procure for Aetna the right to continue using the affected Deliverable or Services (ii) replace or modify the affected Deliverable or Services with a functional equivalent so that it does not infringe, or, if either (i) or (ii) is not commercially feasible, (iii) terminate the licenses and refund the fees received for the affected Services or Deliverable on a pro rata basis based upon the date the claim is made.

Supplier shall have no liability for any third party claim of infringement based upon (i) use of other than the then current, unaltered version of the applicable Program made available to Aetna, unless the infringing portion is also in the then current, unaltered release; (ii) use, operation or combination of the applicable Program with non-Supplier programs, data, equipment or Documentation not authorized by Supplier or used or combined with Supplier's knowledge if such infringement would have been avoided but for such use, operation or combination; or (iii) any third party software not provided by Supplier or not embedded in the applicable Program.

In addition, Supplier agrees to indemnify and hold Aetna and its directors, officers, employees, agents, and Affiliates harmless from and against any damages, loss, claim or expense (including reasonable legal and other fees and expenses incurred in investigating and defending against the same) incurred by Aetna, its directors, officers, employees, agents and Affiliates resulting from any negligence, recklessness or willful misconduct of Supplier or its partners, officers, employees, agents, or Affiliates in connection with the provision of the Services, except to the extent that such loss or damage is solely caused by Aetna or its directors, officers, employees, agents or Affiliates.

[*] Confidential treatment requested; certain information omitted and filed separately with the SEC.

Aetna agrees to indemnify, defend, and hold Supplier and its partners, directors, officers, employees, agents and Affiliates harmless from and against any damages, loss, claim or expense (including reasonable legal and other fees and expenses incurred in investigating and defending against the same) incurred by Supplier, its partners, directors, officers, employees, agents and Affiliates resulting from any negligence, recklessness, or willful misconduct of Aetna or its directors, officers, employees, agents, or Affiliates in connection with the Services except to the extent that such loss or damage is caused solely by Supplier or its partners, directors, officers, employees, agents or Affiliates.

9. FORCE MAJEURE. Neither Party shall be liable or deemed to be in default for any delay or failure in performance of any obligation under the Agreement or interruption of service resulting directly or indirectly from a Force Majeure. The Party claiming such Force Majeure event shall give timely written notice to the other Party and shall use due diligence to mitigate the situation. Such Force Majeure shall not relieve the non-performing Party of liability in the event of its concurrent negligence, in the event of its failure to use due diligence to remove the cause of the Force Majeure in an adequate manner and with all reasonable dispatch, or in the event such default or delay could have been prevented by reasonable precautions or could have been circumvented by the non-performing Party through the use of alternate sources, work around plans or other means. Not withstanding any provision contained in this Section to the contrary, Supplier's compliance with its Business Continuity Plan shall be deemed to be conclusive proof of Supplier's compliance with the due diligence requirement set forth in the previous sentence. Aetna may visit Supplier's site to review the Business Continuity Plan.

10. INSURANCE

A. Specifications. Supplier agrees, at its expense and during the term of the Agreement, to procure and maintain at a minimum the following insurance with insurance companies that have an A.M. Best rating of at least A. The insurance coverages and limits set forth do not constitute limitations of the liability the Supplier has assumed under this Agreement.

   i. Workers' Compensation. Workers' compensation insurance sufficient to meet statutory liability limits in the state wherein the work is to be performed and employer's liability insurance with minimum limits of $[*] each accident for bodily injury by accident and $[*] each employee for bodily injury or disease and a policy limit of $[*].

   ii. General Liability. Simplified ISO commercial general liability insurance with coverage on a primary, non-contributing, occurrence basis not endorsed to exclude coverage. The minimum limit for bodily injury and property damage shall be $[*] each occurrence, $[*] aggregate.

   iii. Automobile. Commercial automobile liability insurance covering all owned, non-owned, hired or leased automobiles to be used by Supplier in furtherance of the work with a minimum limit of $[*] each accident for bodily injury and property damage.

   iv. Property. Supplier shall also provide all risk-replacement cost property insurance coverage on tools, equipment, etc., owned or rented by Supplier while on Aetna property, the capital value of which is not included in the cost of the work or service. Such insurance coverage shall include an endorsement providing that the underwriters and Supplier waive their rights of subrogation against Aetna.

   v. Subcontractors. Aetna recognizes that the Supplier may have the need to utilize subcontractor(s) or supplementary provider(s) in providing certain Services pursuant to this Agreement. Subcontractor(s) or supplementary provider(s) shall be bound by all the Insurance provisions of this Agreement otherwise applicable to the Supplier. Should the Subcontractor(s) or supplementary provider(s) insurance not apply for any reason, the Supplier's insurance becomes primary.

[*] Confidential treatment requested; certain information omitted and filed separately with the SEC.

B. Certificate of Insurance. After execution of this Agreement and upon Aetna's request, Supplier shall furnish a Certificate of Insurance evidencing the required insurance. Such certificate shall indicate that cancellation or non-renewal of such insurance shall not be effective sooner than thirty (30) days after Aetna receives written notice. The Certificate of Insurance must state that Aetna and its Affiliates are named as an additional insured per the terms and conditions of Supplier's commercial general liability insurance policy for their interests in the work, service, project or operations for the duration of the Agreement. In the event Supplier fails to furnish such certificates or fails to continue to maintain such insurance during the term of this Agreement, Aetna shall have the right to withhold any or all payments under this Agreement until Supplier has complied with the requirements of this Section.

11. REGULATORY COMPLIANCE & GOVERNING LAW

A. Compliance with Laws. Supplier represents and warrants that work rendered or delivered under any applicable Attachment or Schedule pursuant to this MBA are and will be manufactured, produced, sold and rendered in conformity with all applicable laws, ordinances, orders, directions, rules and regulations of the Federal, state, county and municipal governments applicable thereto, all as they may be amended from time to time including, without limitation, Section 1033 of the Violent Crime Control and Law Enforcement Act of 1994 and all federal and state wage-hour laws. Further, Supplier agrees that it will use its best efforts not to offer to Aetna the services of any person who has been convicted of any criminal felony involving dishonesty or a breach of trust or who has been convicted of an offense involving dishonesty or breach of trust while engaged in the business of insurance or who has been convicted of any offense under 18 U.S.C. Sec. 1033 of the Violent Crime Control and Law Enforcement Act of 1994. Supplier warrants that all Deliverables and/or work acquired hereunder shall conform to the safety regulations established by the Occupational Safety and Health Act of 1970, as amended.

B. Regulatory Approvals. Supplier agrees and covenants that it will obtain all necessary regulatory approvals applicable to its business and all necessary licenses, approvals, and permits, and will comply with any regulatory or legal requirements applicable to the performance of the work.

C. Equal Opportunity Employment. If the Agreement is subject to the requirements of Executive Order 11246, Section 503 of the Rehabilitation Act of 1973, or the Vietnam Era Veterans' Readjustment Act of 1974, Supplier agrees to comply with the equal employment opportunity clause set out at 41 C.F.R. 60-1.4 and the requirements for affirmative action for veterans and disabled persons set out at 41 C.F.R. 60-250.4 and 60-741.4, respectively, which clauses are incorporated herein by reference, and to maintain, provide, or control facilities that are not segregated.

D. Compliance with Employment Laws. Supplier employees shall not be employees of Aetna for any purpose, including, without limitation, federal, state and local taxes, including the Federal Insurance Contribution Act and the Federal Unemployment Tax and all insurance coverage, unemployment compensation and workers' compensation benefits. Supplier represents and warrants that for all Supplier employees, Supplier shall withhold and pay all applicable federal, state and local employment taxes and assessments, including the Federal Insurance Contribution Act and the Federal Unemployment Tax, and that Supplier shall provide any or all applicable insurance coverage, unemployment compensation and workers' compensation benefits. Supplier shall indemnify and hold Aetna harmless from any and all liabilities, complaints, demands, damages, losses, causes of action or suits of any kind or nature whatsoever, including court costs and attorneys' fees, arising out of the breach of these representations and warranties by Supplier.

E. Compliance with Wage Payment and Work Authorization Laws. Supplier shall comply with all applicable federal and state laws regarding payment of employee wages. In addition, all Supplier's employees must have a valid social security number. Supplier further represents and warrants that Supplier's employees are authorized to work in the United States at the job and location to which they are assigned, and that Supplier is in compliance with the Immigration Reform and Control Act of 1986 (IRCA), as amended, with respect to such Supplier's employees.

F. Governing Law. The formation and performance of this Agreement shall be governed and interpreted by the laws of the State of Connecticut, disregarding, however, any applicable conflicts of law provisions that would

require the application of the law of another state. If either Party initiates litigation relating to this Agreement, then, in addition to complying with any applicable statutory notice requirements, such Party shall give the other Party notice thereof by certified mail, return receipt requested, at the most recent address provided by such Party in accordance with Section 15, *Notices*. Supplier consents to the jurisdiction of the courts of Connecticut with respect to any legal action commenced therein arising from or related to this Agreement.

12. DISPUTE RESOLUTION AND BINDING ARBITRATION

A. Dispute Resolution. Prior to the initiation of binding arbitration as detailed below, the Parties shall first attempt to resolve their dispute informally. Every effort should be made to resolve all disputes at the lowest possible level of authority. The Parties will use their best efforts to arrange personal meetings and/or telephone conferences as needed. Each negotiator will have the authority to negotiate and enter into a settlement of the dispute on their respective company's behalf.

B. Binding Arbitration. Any controversy or claim arising out of or relating to the Agreement or the breach, termination, or validity thereof not settled through informal dispute resolution, except for temporary, preliminary, or permanent injunctive relief or any other form of equitable relief which shall be subject to the ruling of an applicable court of competent jurisdiction, shall be settled by binding arbitration in Hartford, Connecticut administered by the American Arbitration Association ("AAA") and conducted by a sole arbitrator in accordance with the AAA's Commercial Arbitration Rules ("Rules"). The Federal Arbitration Act, 9 U.S.C. Sec. 1-16, shall govern the arbitration to the exclusion of state laws inconsistent therewith or that would produce a different result, and any court having jurisdiction thereof may enter judgment on the award rendered by the arbitrator. Except as may be required by law or to the extent necessary in connection with a judicial challenge, or enforcement of an award, neither a party nor the arbitrator may disclose the existence, content, record, or results of an arbitration. At least fourteen (14) calendar days before the hearing, the Parties will exchange and provide to the arbitrator: (a) a list of witnesses they intend to call (including any experts) with a short description of the anticipated direct testimony of each witness and an estimate of the length thereof and (b) premarked copies of all exhibits they intend to use at the hearing. The arbitrator may award only monetary relief and is not empowered to award damages other than compensatory damages. A short statement of the reasoning on which the award rests shall accompany an award for $250,000.00 or more.

13. ASSIGNMENT. Neither Party may assign its rights or delegate its obligations under the Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, either Party may assign its rights and obligations under the Agreement, in whole or in part, to a parent or Affiliate or in the event of a merger or sale of a business unit or majority stock ownership, and such assignment will be effective without the consent of the other Party, provided that the Party assuming obligations agrees to do so in writing and has adequate resources to meet its obligations hereunder. Any attempted assignment not in accordance with this subsection shall be null and void. Upon completion of any assignment under this subsection, the assigning Party shall have no further liability with respect to any of the rights or obligations assigned.

14. DIVESTITURE. Subject to the usage limits provided in this Agreement, the Divested Entity and/or Aetna on behalf of the Divested Entity shall have the use of the Services or Programs provided hereunder for a period of up to [*] ([*]) [*] following divestiture. Such use shall be limited to the [*] and shall be governed by the terms and conditions of this Agreement. At the end of the [*] ([*]) [*] period, the Divested Entity shall [*]. In consideration of Aetna's acquisitions, for a period of up to [*] ([*]) [*] following divestiture, a Divested Entity shall [*]. Aetna shall have no liability whatsoever, whether arising in contract, tort, indemnification or by statute, for any loss or damage arising out of the use of Supplier's Programs or Services by a Divested Entity through an agreement extended by Supplier, where Aetna is not a party to such agreement.

15. OUTSOURCING. Aetna will have the right to designate one or more outsourcers as Aetna's agent(s) for the administration of the relevant purchase or acquisition, including, as way of illustration and not of limitation, the outsourcing of such relevant purchase or acquisition to suppliers of information technology and communication services. Aetna shall also have the right to designate one or more outsourcers as Aetna's agent(s) for the

[*] Confidential treatment requested; certain information omitted and filed separately with the SEC.

administration of this Agreement, and the receipt of such relevant purchase or acquisition under this Agreement from Supplier. Such a designation shall not adversely affect any of Aetna's rights under this Agreement and Supplier shall deal with the designated outsourcer(s) in the same manner and in accordance with this Agreement as it would have dealt with Aetna.

16. NOTICES. All legal notices and other communications required or permitted hereunder shall be in writing and delivered in person, by United States certified mail, return receipt requested, by facsimile with confirmation sheet, or by overnight express mail to the Parties at their addresses set forth below or to such other address as either Party may so designate in writing at least ten (10) days prior to such notice or communication.

If to Aetna:	Aetna Life Insurance Company 151 Farmington Avenue Hartford, CT 06156 Attn. Cost Management, RW51	If to Supplier:	Benefitfocus.com, Inc. 100 Benefitfocus Way Charleston, South Carolina Attn: Mason Holland

17. NON-RECRUITMENT AND NON-HIRE. Both Parties recognize that each Party and its respective Affiliates has made substantial efforts and incurred substantial expense to recruit, employ and train personnel. A Party, and its Affiliates, shall not, without the other Party's prior written consent, actively recruit and employ any person who is employed by the other Party during the term of a Schedule, for a period of [*] ([*]) [*] following termination of such Schedule or within [*] ([*]) [*] of termination of such employment. The following activities will not constitute "active recruitment":

a. a Party receives an unsolicited resume for an employee of the other party, either directly from the employee or from an employment agency or recruiter, and thereafter interviews or negotiates employment with such employee. Resumes shall be unsolicited unless a Party specifically identifies a particular employee by name in its request for resumes; or

b. a Party places a recruiting advertisement directed at the general public and thereafter interviews or negotiates employment with an employee responding to such advertisement; or

c. a Party discusses employment with an employee of the other party prior to the applicable Attachment or Schedule Effective Date and thereafter interviews or negotiates employment with such employee. An affidavit by such employee to the effect that employment was actually discussed on a certain date prior to such Effective Date shall be conclusive proof of this fact.

In the event of a breach of this Section, the injured Party shall have the right to (i) seek an injunction against further violations of this Section; or (ii) pursue whatever other remedies are available under this MBA. In the event of dissolution or cessation of the business of a Party or if Party is in material default of this Agreement, such Party waives all rights in this Section and the other Party may actively recruit and employ such Party's employees.

18. ACCESS. Supplier shall make all Aetna related contracts, copy, files, records, accounts and other documents and materials, including any applicable financial records, in Supplier's possession or under Supplier's control available for Aetna's examination upon at least two (2) business days prior notice during Supplier's regular business hours during the term of an applicable Attachment or Schedule and for a period of one (1) year after the termination of such. Upon Aetna's request, Supplier shall provide Aetna with three years (e.g. 2003, 2004, & 2005) of Supplier's annual audited financial statements.

19. WAIVER. The failure or delay of either Party to insist, in any one or more instances, upon the performance of any of the terms, covenants or conditions of the Agreement or to exercise any right, power or privilege under the Agreement, shall not operate or be construed as a relinquishing of future performance or as a waiver of any of the same or similar rights, powers or privileges in the future, and the obligation of the other Party with respect to such future rights or performance shall continue in full force and effect as if such failure or delay never occurred.

[*] Confidential treatment requested; certain information omitted and filed separately with the SEC.

20. SEVERABILITY. In the event that any one or more of the provisions, or parts thereof, contained in the Agreement shall for any reason be held to be unenforceable in any respect by a court of competent jurisdiction or arbitrator, such unenforceability shall not affect any other provisions, or parts thereof, but shall then be construed as if such unenforceable provision, or parts thereof, had never been contained herein.

21. PARAGRAPH HEADINGS. Paragraph headings used herein are for reference purposes only and shall not be interpreted to limit or affect in any way the meaning of the language contained in such paragraphs.

22. NO CONSTRUCTION AGAINST THE DRAFTER. The Parties agree that the Agreement is the result of careful negotiations between the Parties. Any principle of construction or rule of law that provides that, in the event of any inconsistency or ambiguity in such agreement, an agreement shall be construed against the drafter of the agreement, shall not apply to the terms and conditions of the Agreement.

23. USE OF NAME OR MARK. Neither Party shall use the name, trade name, service marks, trademarks, trade dress or logo of the other in customer lists, publicity releases, advertising, promotional materials, direct mail, seminars, on the other Party's Web site, or in other communications without the express prior written consent of the other's duly authorized representative. Neither Party shall have, or acquire, rights on the trademarks or logos of the other Party.

24. SUPPLIER DIVERSITY PROGRAM. Supplier shall comply with the requirements of Aetna's Supplier Diversity Program as detailed in the Supplier Diversity Exhibit D. Supplier shall submit to Aetna a quarterly report as described in the M/WBE Quarterly Results Report Exhibit.

25. SURVIVABILITY. The provisions which by their respective nature are meant to survive the termination, cancellation or expiration or this Agreement or any Schedule shall survive the termination, cancellation or expiration of the Agreement or Schedule. Such provisions shall be binding on either Party, its successors and assigns for the benefit of the other Party and its Affiliates or subsidiaries and their successors and assigns. Both Parties recognize and acknowledge that breach of such provisions will cause irreparable harm inadequately compensable in damages and that accordingly, the other Party may seek injunctive relief against a breach or threatened breach of the provisions contained in each paragraph in connection with the exercise of any remedies available to such Party at law or in equity pursuant to this MBA.

26. ENTIRE AGREEMENT. The Parties agree that this Agreement, together with its Attachments and Schedules, shall constitute the entire agreement between Supplier and Aetna with respect to the subject matter hereof and supersedes all prior or contemporaneous oral and written proposals, negotiations, representations, commitments and other communications between the Parties, including the Memorandum of Understanding dated October 26, 2006. All prior negotiations between the Parties regarding the subject matter described herein have been merged into the Agreement, and there are no understandings, representations, or agreements, oral or written, express or implied, regarding the subject matter described herein, other than those set forth herein. The Agreement may not be amended, released, discharged, changed, or modified except in a written instrument signed by duly authorized representatives of both Parties that expressly intends such release, discharge, change or modification. The terms and conditions of this Agreement, and any amendment hereto, shall be binding on the Parties, their successors, assigns or other transferees for the benefit of the other Party and its Affiliates and their successors and assigns. All terms and conditions of this Agreement shall be incorporated in and made a part of all Attachments and Schedules. In the event of a conflict between this Agreement, an Attachment or a Schedule, or any other document made a part of this Agreement, the documents shall control in the following priority: the applicable Schedule, the applicable Attachment(s), the MBA, then any other documents.

IN WITNESS WHEREOF, the Parties have hereto by their duly authorized representatives executed this Agreement.

Aetna Life Insurance Company

By: _____
(Authorized Signature)

Name: _____
(Print Name)

Title: _____

Date: _____

Benefitfocus.com, Inc.

By: _____
(Authorized Signature)

Name: _____
(Print Name)

Title: _____

Date: _____

Taxpayer ID #: 57-1099948

EXHIBIT A

Health Insurance Portability and Accountability Act

THIS EXHIBIT is to the Master Business Agreement dated November 28, 2006 (the "Agreement") between Aetna Life Insurance Company (the "Covered Entity") and Benefitfocus.com, Inc. (the "Business Associate"). In conformity with the regulations at 45 C.F.R. Parts 160-164 (the "Privacy and Security Rules") Covered Entity will under the following conditions and provisions have access to, create, maintain, transmit and/or receive certain Protected Health Information (as defined below). Business Associate will have access to, create, maintain, transmit, and/or receive certain Protected Health Information in conjunction with the Services being provided under the Agreement, thus necessitating a written agreement that meets the applicable requirements of the Privacy and Security Rules;

NOW THEREFORE, Covered Entity and Business Associate agree as follows:

1. Definitions. The following terms shall have the meaning set forth below:

(a) C.F.R. "C.F.R." means the Code of Federal Regulations.

(b) Designated Record Set. "Designated Record Set" has the meaning assigned to such term in 45 C.F.R. 164.501.

(c) Electronic Protected Health Information. "Electronic Protected Health Information" means information that comes within paragraphs 1(i) or 1(ii) of the definition of "Protected Health Information", as defined by 45 C.F.R. 160.103

(d) Individual. "Individual" shall have the same meaning as the term "individual" in 45 C.F.R. 164.501 and shall include a person who qualifies as personal representative in accordance with 45 C.F.R. 164.502 (g).

(e) Protected Health Information. "Protected Health Information" shall have the same meaning as the term "Protected Health Information," as defined by 45 C.F.R. 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity.

(f) Required By Law. "Required By Law" shall have the same meaning as the term "required by law" in 45 C.F.R. 164.501

(g) Secretary. "Secretary" shall mean the Secretary of the Department of Health and Human Services or his designee.

(h) Security Incident. "Security Incident" shall have the same meaning as the term "security incident" in 45 C.F.R. 164.304.

(i) Standard Transactions. "Standard Transactions" means the electronic health care standard transactions for which HIPAA standards have been established, as set forth at 45 C.F.R. Parts 160-162.

2. Obligations and Activities of Business Associate

(a) Business Associate agrees to not use or further disclose Protected Health Information other than as permitted or required by this Exhibit or as Required By Law. Business Associate shall also comply with any further limitations on uses and disclosures agreed by Covered Entity in accordance with 45 C.F.R. 164.522 provided that such agreed upon limitations have been communicated to Business Associate according with Section 4.1(c) of this Exhibit.

(b) Business Associate agrees to use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Exhibit.

(c) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Exhibit.

(d) Business Associate agrees to report to Covered Entity any use or disclosure of the Protected Health Information not provided for by this Exhibit.

(e) Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity agrees to the same restrictions and conditions that apply through this Exhibit to Business Associate with respect to such information. In no event shall Business Associate, without Covered Entity's prior written approval, provide Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity to any employee or agent, including a subcontractor, if such employee, agent or subcontractor receives, processes, or otherwise has access to the Protected Health Information outside of the United States.

(f) Business Associate agrees to provide access, at the request of Covered Entity, and in the time and manner designated by Covered Entity, to Protected Health Information in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 C.F.R. 164.524. Covered Entity's determination of what constitutes "Protected Health Information" or a "Designated Record Set" shall be final and conclusive. If Business Associate provides copies or summaries of Protected Health Information to an Individual it may impose a reasonable, cost-based fee in accordance with 45 C.F.R. 164.524 (c)(4).

(g) Business Associate agrees to make any Amendment(s) to Protected Health Information in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 C.F.R. 164.526 at the request of Covered Entity or an Individual, and in the time and manner designated by Covered Entity. Business Associate shall not charge any fee for fulfilling requests for Amendment. Covered Entity's determination of what Protected Health Information is subject to Amendment pursuant to 45 C.F.R. 164.526 shall be final and conclusive.

(h) Business Associate agrees to make (i) internal practices, books, and records, including policies and procedures, relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, Covered Entity, and (ii) policies, procedures, and documentation relating to the safeguarding of Electronic Protected Health Information available to the Covered Entity, or at the request of the Covered Entity to the Secretary, in a time and manner designated by the Covered Entity or the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy and Security Rules.

(i) Business Associate agrees to document such disclosures of Protected Health Information as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. 164.528.

(j) Business Associate agrees to provide to Covered Entity, in the time and manner described below, the information collected in accordance with Section 2(i) of this Exhibit, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. 164.528. Business Associate agrees to provide such information to Covered Entity through a quarterly report.

(k) Business Associate acknowledges that it shall request from the Covered Entity and so disclose to its Affiliates, subsidiaries, agents and subcontractors or other third parties, only the minimum Protected Health Information necessary to perform or fulfill a specific function required or permitted hereunder.

(l) With respect to Electronic Protected Health Information, Business Associate shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the Electronic Protected Health Information that it creates, receives, maintains, or transmits on behalf of Covered Entity, as required by 45 C.F.R. Part 164, Subpart C.

(m) With respect to Electronic Protected Health Information, Business Associate shall ensure that any agent, including a subcontractor, to whom it provides Electronic Protected Health Information, agrees to implement reasonable and appropriate safeguards to protect it.

(n) Business Associate shall report to Covered Entity any Security Incident of which it becomes aware.

(o) If Business Associate conducts any Standard Transactions on behalf of Covered Entity, Business Associate shall comply with the applicable requirements of 45 C.F.R. Parts 160-162.

3. Permitted Uses and Disclosures by Business Associate

3.1 General Use and Disclosure. Except as otherwise limited in this Exhibit, Business Associate may use or disclose Protected Health Information to perform its obligations under the Agreement, provided that such use or disclosure would not violate the Privacy and Security Rules if done by Covered Entity.

3.2 Specific Use and Disclosure Provisions

(a) Except as otherwise prohibited by this Exhibit, Business Associate may use Protected Health Information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.

(b) Except as otherwise prohibited by this Exhibit, Business Associate may disclose Protected Health Information for the proper management and administration of the Business Associate, provided that disclosures are Required By Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

4. Obligations of Covered Entity.

4.1 Provisions for Covered Entity to Inform Business Associate of Privacy Practices and Restrictions

(a) Covered Entity shall notify Business Associate of any limitation(s) in Covered Entity's notice of privacy practices that Covered Entity produces in accordance with 45 C.F.R. 164.520 (as well as any changes to that notice), to the extent that such limitation(s) may affect Business Associate's use or disclosure of Protected Health Information.

(b) Covered Entity shall provide Business Associate with any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, if such changes affect Business Associate's permitted or required uses and disclosures.

(c) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with 45 C.F.R. 164.522.

4.2 Permissible Requests by Covered Entity. Except as may be set forth in Section 3.2, Covered Entity shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy and Security Rules if done by Covered Entity.

5. Term and Termination

(a) Term. The provisions of this Exhibit shall take effect on the Effective Date of the Agreement and shall terminate when all of the Protected Health Information provided by Covered Entity to Business Associate, or created, maintained, transmitted or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the provisions in this Section.

(b) Termination for Cause. Without limiting the termination rights of the Parties pursuant to Section 5 of the Agreement, upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall provide an opportunity for Business Associate to cure the breach or end the violation, or terminate the Agreement, if Business Associate does not cure the breach or end the violation within a reasonable time specified by Covered Entity, or immediately terminate this Exhibit and the Agreement, if Business Associate has breached a material term of this Exhibit and cure is not possible.

(c) Effect of Termination.

(1) Except as provided in Section 5(c), upon termination of this Agreement, for any reason, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or created, maintained, transmitted or received by Business Associate on behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.

(2) In the event the Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the Parties that return or destruction of Protected Health Information is infeasible, per Section 5 (a) above, Business Associate shall continue extend the protection of this Exhibit to such Protected Health Information for so long as Business Associate maintains such Protected Health Information.

6. Indemnification. Business Associate shall indemnify and hold harmless Covered Entity and any of Covered Entity's Affiliates, directors, officers, employees and agents from and against any claim, cause of action, liability, damage, cost or expense (including reasonable attorneys' fees) arising out of or relating to any non-permitted use or disclosure of Protected Health Information, failure to safeguard Electronic Protected Health Information or other breach of this Exhibit by Business Associate or any Affiliate, director, officer, employee, agent or subcontractor of Business Associate.

7. Notices**.** Any notices or communications to be given under this Exhibit shall be made to the address and/or fax to the fax numbers given below:

If to HIPAA Business Associate, to: Attention: Benefitfocus HIPAA Services
Fax: 843-849-9485

If to Covered Entity, to:

Aetna Legal Support Services
151 Farmington Avenue
Hartford, CT 06156
Attn: W121 Aetna Legal Support Services
Fax: (860) 907-3017

Each Party named above may change its address upon thirty (30) days written notice to the other Party.

8. Miscellaneous

(a) Regulatory References. A reference in this Exhibit to a section in the Privacy and Security Rules means the section as in effect or as amended, and for which compliance is required.

(b) Amendment. Upon the enactment of any law or regulation affecting the use or disclosure of Protected Health Information, the safeguarding of Electronic Protected Health Information, or the publication of any decision of a court of the United States or any state relating to any such law or the publication of any interpretive policy or opinion of any governmental agency charged with the enforcement of any such law or regulation, either Party may, by written notice to the other Party, amend the Agreement and this Exhibit in such manner as such Party determines necessary to comply with such law or regulation. If the other Party disagrees with such Exhibit, it shall so notify the first Party in writing within thirty (30) days of the notice. If the Parties are unable to agree on an Exhibit within thirty (30) days thereafter, then either of the Parties may terminate the Agreement on thirty (30) days written notice to the other Party.

(c) Survival. The respective rights and obligations of Business Associate under Sections 5(c) and 6 of this Exhibit shall survive the termination of this Exhibit.

(d) Interpretation. Any ambiguity in this Exhibit shall be resolved in favor of a meaning that permits Covered Entity to comply with the Privacy and Security Rules. In the event of any inconsistency or conflict between this Exhibit and the Agreement, the terms, provisions and conditions of this Exhibit shall govern and control.

(e) No third party beneficiary. Nothing express or implied in this Exhibit or in the Agreement is intended to confer, nor shall anything herein confer, upon any person other than the Parties and the respective successors or assigns of the Parties, any rights, remedies, obligations, or liabilities whatsoever.

(f) Governing Law. This Exhibit shall be governed by and construed in accordance with the same internal laws as that of the Agreement

IN WITNESS WHEREOF, the Parties hereto have executed this Exhibit to the Agreement.

AETNA LIFE INSURANCE COMPANY	BENEFITFOCUS.COM, INC.
By: _____	By: _____
(Authorized Signature)	(Authorized Signature)
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

EXHIBIT B

Gramm-Leach-Bliley Act

THIS EXHIBIT is to the Master Business Agreement dated November 28, 2006 (the "Agreement") between Aetna Life Insurance Company (the "GLBA Licensee") and Benefitfocus.com, Inc. (the "Service Provider"). In conformity with the Safeguard Regulations (the "Safeguard Rules"), Service Provider will under the following conditions and provisions have access to, create, maintain, transmit and/or receive certain Protected Financial Information (as defined below). Service Provider will have access to, create, maintain, transmit, and/or receive certain Protected Financial Information in conjunction with the Services being provided under the Agreement, thus necessitating a written exhibit that meets the applicable requirements of the Safeguard Rules;

WHEREAS, various state departments of insurance have promulgated regulations regarding the safeguarding of certain customer information ("the Safeguard Rules"), as required by the federal Gramm-Leach-Bliley Act ("GLBA");

WHEREAS, GLBA Licensee, as a licensee of state departments of insurance ("DOI"), is required to comply with the Safeguard Rules;

WHEREAS, Service Provider may maintain, process, or otherwise be permitted access to customer information pursuant to an agreement to provide services to GLBA Licensee (the "Business Agreement") and GLBA Licensee desires that Service Provider maintain, process and access such customer information consistent with the Safeguard Rules.

NOW THEREFORE, GLBA Licensee and Service Provider agree as follows:

1. Definitions. The following terms shall have the meanings set forth below:

   (a) Customer Information. "Customer Information" means nonpublic personal financial and health information about a customer, whether in paper, electronic or other form. Customer Information includes any such information provided by the customer as part of a request for information about, or an application for, a GLBA Licensee insurance product or service, even if no such insurance product or service is subsequently provided to the customer.

   (b) Service Provider. "Service Provider" means any person or entity that provides services to GLBA Licensee and maintains, processes or otherwise is permitted access to GLBA Licensee's Customer Information.

2. Obligations of Service Provider.

   (a) Service Provider represents and warrants that it has implemented a comprehensive written information security program that includes administrative, technical and physical safeguards for the protection of Customer Information that are appropriate to Service Provider's size, complexity, nature and scope of activities, and that is designed to:

      (i) ensure the integrity and confidentiality of Customer Information;

      (ii) protect against any anticipated threats or hazards to the security or integrity of Customer Information; and

      (iii) protect against unauthorized access to, or use of, Customer Information that could result in substantial harm or inconvenience to any customer.

   (b) Service Provider agrees to ensure that any agent, including a subcontractor, to whom it provides Customer Information received from, or created or received by Service Provider on behalf of GLBA Licensee, agrees to the same restrictions and conditions that apply through this Agreement to Service Provider with respect to such Customer Information.

   (c) In no event shall Service Provider, without GLBA Licensee's prior written approval, provide Customer Information (received from, or created or received by Service Provider on behalf of GLBA Licensee) to any employee or agent, including a subcontractor, if such employee, agent or subcontractor receives, processes, or otherwise has access to the Customer Information outside of the United States.

   (d) Service Provider agrees to make policies, procedures, and documentation relating to the safeguarding of Customer Information available to the GLBA Licensee, or at the request of the GLBA Licensee to a DOI, in a time and manner designated by the GLBA Licensee or DOI, for purposes of the DOI determining GLBA Licensee's compliance with GLBA.

   (e) Service Provider agrees to affirm in writing, upon request from GLBA Licensee from time to time, Service Provider's continued compliance with its representations, warranties and obligations under this Agreement.

3. Term and Termination

(a) Term. The provisions of this Exhibit shall take effect on the Agreement's Effective Date and shall terminate when all of the Customer Information provided by GLBA Licensee to Service Provider, or maintained, processed or otherwise accessed by Service Provider, is destroyed or returned to GLBA Licensee, or, if it is infeasible to return or destroy Customer Information, protections are extended to such information, in accordance with the provisions of this Agreement.

(b) Termination for Cause. Without limiting the termination rights of the Parties pursuant to the Business Agreement and upon GLBA Licensee's knowledge of a material breach of this Agreement by Service Provider, GLBA Licensee shall either:

(i) Provide an opportunity for Service Provider to cure the breach or end the violation, or terminate the Business Agreement if Service Provider does not cure the breach or end the violation within a reasonable time specified by GLBA License; or

(ii) Immediately terminate the Business Agreement, if cure of such breach is not possible.

(c) Effect of Termination.

(i) Except as provided in Section 3(c), upon termination of the Business Agreement, for any reason, Service Provider shall return or destroy all Customer Information received from GLBA Licensee, or maintained, processed or otherwise accessed on behalf of GLBA Licensee. This provision shall apply to Customer Information that is in the possession of subcontractors or agents of Service Provider. Service Provider shall retain no copies of the Customer Information.

(ii) In the event the Service Provider determines that returning or destroying the Customer Information is infeasible, Service Provider shall provide to GLBA Licensee notification of the conditions that make return or destruction infeasible and the purposes of Service Provider's continued use. Upon mutual agreement of the Parties that return or destruction of Customer Information is infeasible and Service Provider has a legitimate purpose in continued use of the Customer Information, Service Provider shall extend the protection of this Agreement to such Customer Information and limit further uses and disclosures of such Customer Information to those purposes that make the return or destruction infeasible for so long as Service Provider maintains such Customer Information.

4. Indemnification. Service Provider shall indemnify and hold harmless GLBA Licensee and any of GLBA Licensee's Affiliates, directors, officers, employees and agents from and against any claim, cause of action, liability, damage, cost or expense (including reasonable attorneys' fees) arising out of or relating to any failure to safeguard Customer Information, or other breach of this Agreement by Service Provider or any Affiliate, director, officer, employee, agent or subcontractor of Service Provider.

5. Notices**.** Any notices or communications to be given under this Amendment shall be made to the address and/or fax to the fax numbers given below:

If to Service Provider, to:	Attention: Benefitfocus GLBA Services Fax: 843-849-9485
If to GLBA Licensee, to:	Aetna Legal Support Services 151 Farmington Avenue Hartford, CT 06156 Attn: W121 Aetna Legal Support Services Fax: (860) 907-3017

Each Party named above may change its address upon thirty (30) days written notice to the other Party.

6. Miscellaneous.

(a) Regulatory References. A reference in this Exhibit to a section in the Safeguard Rules means the section as in effect or as amended, and for which compliance is required.

(b) Amendment. Upon the enactment of any law or regulation affecting the safeguarding of Customer Information, or the publication of any decision of a court of the United States or any state relating to any

such law or the publication of any interpretive policy or opinion of any governmental agency charged with the enforcement of any such law or regulation, either Party may, by written notice to the other Party, amend the Agreement in such manner as such Party determines necessary to comply with such law or regulation. If the other Party disagrees with such amendment, it shall so notify the first Party in writing within thirty (30) days of the notice. If the Parties are unable to agree on an amendment within thirty (30) days thereafter, then either of the Parties may terminate the Agreement on thirty (30) days written notice to the other Party.

(c) Survival. The respective rights and obligations of Service Provider under Sections 3(c) and 4 of this Exhibit shall survive the termination of this Exhibit.

(d) Interpretation. Any ambiguity in this Exhibit shall be resolved to permit GLBA Licensee to comply with GLBA state regulations. In the event of any inconsistency or conflict between this Exhibit and the Agreement between the Parties, the terms, provisions and conditions of this Exhibit shall govern and control.

(e) No third party beneficiary. Nothing express or implied in this Exhibit is intended to confer, nor shall anything herein confer, upon any person other than the Parties and the respective successors or assigns of the Parties, any rights, remedies, obligations, or liabilities whatsoever.

(f) Governing Law. This Exhibit shall be governed by and construed in accordance with the same internal laws as that of the Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Exhibit to the Agreement.

AETNA LIFE INSURANCE COMPANY	BENEFITFOCUS.COM, INC.
By: _____	By: _____
(Authorized Signature)	(Authorized Signature)
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

EXHIBIT C

SUPPLIER DIVERSITY

1. Supplier Diversity Commitment. It is Aetna's policy to promote and increase participation of M/WBE's in its purchasing and contractual business. Aetna's corporate goal is that a minimum of 10% of all goods and services will be acquired from M/WBE firms. Maximum practicable opportunity shall be given to M/WBEs to participate as Aetna suppliers, but in order to achieve this goal, Aetna is committed to provide additional opportunities for M/WBEs by requiring M/WBE Participation Plans from our suppliers who are not M/WBE firms. Please complete the M/WBE Participation Plan below outlining your M/WBE goals and specific and detailed plans to achieve those goals. Prior to the execution of a Schedule, you must submit a new, or update an existing, Participation Plan for the current fiscal year. For assistance, please call **Kristen Hickey** of Aetna Supplier Diversity at **860-273-6541**.

Possible subcontracting opportunities in ***state business type*** area in direct support of Aetna's Business include:

- To be determined while working with Aetna

The subcontracting plan should include, but not be limited to:

a. The estimated percentage of total subcontracting dollars your company intends to spend with MBE/WBE/SBE firms annually across your entire business.

b. Your corporate plan for progressively increasing utilization of MBE/WBE/SBEs in direct support of Aetna's business.

c. The principal goods and services to be subcontracted to MBE/WBE/SBEs.

d. A statement agreeing to maintain, if awarded business, all necessary documents and records to support your efforts to achieve the estimated MBE/WBE/SBE subcontracting goals.

e. The individual responsible for administering the subcontracting plan and submitting quarterly reports. Quarterly reports are due by the end of the first week following the close of each quarter using the form attached in the M/WBE Report.

Supplier agrees to cooperate in any investigation, studies or audits conducted by Aetna or Aetna's agent to determine Supplier's compliance with this section. Supplier further agrees to provide any documentation required by Aetna to determine compliance. Supplier agrees that the falsification or misrepresentation of, or failure to report a disqualifying change in the M/WBE status of Supplier or any subcontractor utilized by Supplier shall constitute a breach of the Agreement. Supplier agrees that Aetna's right to terminate for failure to comply with the provisions of this Section is absolute and unconditional and that Aetna shall not be subject to liability nor shall Supplier have any right to sue for damages as a result of such termination.

2. Definition. For acquisitions under this Agreement, Aetna defines a Minority Business Enterprise/Women Business Enterprise (M/WBE) as a company which is at least 51 percent owned, controlled, operated and managed by members of a minority group or non-minority women. Minority groups include African-Americans, Hispanic Americans, Native Americans, Asian-Indian Americans and Asian-Pacific Americans. "Control" in this context means exercising the power to make policy decisions. "Operate" in this context means actively involved in the day-to-day management of the business.

3. Certification. Aetna requires that minority and women business enterprises be certified as M/WBEs to participate in Aetna's Supplier Diversity Program. We prefer certification from the National Minority Supplier Development Council (NMSDC), the Women's Business Enterprise National Council (WBENC), or their affiliates. We will evaluate certification from other third-party organizations.

4. Documentation & Supplier Diversity Subcontracting Plan. Supplier agrees that it will maintain and make available to Aetna all necessary documents and records to support its efforts to achieve its M/WBE participation goal(s). Supplier also acknowledges responsibility for identifying and soliciting certified subcontractors.

Supplier Name	**Benefitfocus.com, Inc.**
Compliance Contact Information	843-849-7476
Goods/Services Provided	Software Development
Corporate Supplier Diversity Goals	As of the date of this Agreement, Supplier does not have a formal Diversity Program.
Supplier Diversity Goals in support of Aetna's business	Supplier acknowledges that this program is important to Aetna and Supplier agrees to work with the Aetna Supplier Diversity contact to ensure the goals are met to satisfy the program requirements.

Name: (printed)

Title: Benefitfocus/Aetna Supplier Diversity Administrator Telephone number: 843-849-7476

Authorized signature:

Date: E-mail address:

EXHIBIT D

M/WBE QUARTERLY RESULTS REPORT

Second Tier Request Year 200

Note: Subcontracting results should reflect ONLY M/WBE dollars directly traceable to Aetna purchases during the report quarter.

Date:
Company Name:

Estimated Annual Value of Contract:

M/WBE Program Contact Name:

Services Provided:

Telephone No./ Fax No.:

Aetna Procurement Services Rep.

Email Address:
Address:

Aetna Project/Job Order Number:

Name of MBE	Product/Service	Certification Agency	Dollars Procured ($)

Name of WBE	Product/Service	Certification Agency	Dollars Procured ($)
Total M/WBE purchases for the quarter:			0

Your Company's YTD Total First-Tier purchases supporting Aetna's business needs with:

M/WBE	Ttl YTD	Plan	% of Plan	% of Total Procurement
Minority owned businesses:				
Women-owned businesses:				
Total M/WBE YTD	0			

Your Company's YTD Overall Total First-Tier purchases with:

M/WBE	Ttl YTD	Plan	% of Plan	% of Total Procurement
Minority owned businesses:				
Women-owned businesses:				
Total M/WBE YTD	0			

REVIEW/APPROVAL PROCESS
Prepared By: Date:
Approved By Responsible Customer Management: Date:
Aetna Cost Center Number: Date:

Please forward to your respective Aetna representative each quarter or after project completion with an e-mail copy to: Kristen Hickey, Procurement—Supplier Diversity, hickeyk@aetna.com. Please address any questions to Kristen Hickey at (860) 273-6541.

Portions of this exhibit marked [*] are requested to be treated confidentially.

HOSTING SERVICES ATTACHMENT

This HOSTING SERVICES ATTACHMENT (this "Attachment") to the Master Business Agreement dated November 28, 2006 (the "MBA"), is entered into as of the November 28, 2006 (the "Effective Date"), by and between Aetna Life Insurance Company, a Connecticut corporation with its principal place of business located at 151 Farmington Avenue, Hartford, Connecticut 06156 ("Aetna") and Benefitfocus.com, Inc. a South Carolina corporation with its principle place of business located at 100 Benefitfocus Way, Charleston, South Carolina, 29492, ("Supplier"); (individually referred to as "Party"; collectively the "Parties"). The terms and conditions of this Attachment, in conjunction with each applicable Schedule, are hereby incorporated into and made a part of the Agreement. In case of a conflict, the terms and conditions of this Attachment will control and prevail over those contained in the MBA.

NOW, THEREFORE, in consideration of the mutual covenants and promises herein recited and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledges, the Parties, intending to be legally bound, agree as follows:

1. DEFINITIONS. Capitalized terms not otherwise herein defined shall have the meanings ascribed to them in the Agreement. The terms set forth in this Attachment shall have the following meaning:

A. "Aetna Data" means all information and data, provided by Aetna or an Authorized User in relation to the Hosting Services, any data generated by the Program or Hosting Services in response to such information or data, and any data relating to Aetna or an Authorized User otherwise captured by the Hosting Services.

B. "Guaranteed Response Time" means the time elapsed for Supplier to contact Aetna after a Hosting Support request has been received by Supplier.

C. "Holiday" means a legal holiday as defined by Aetna on an annual basis in advance.

D. "Hosting Services" means the services required to host, operate and support a Program licensed under the Software License Attachment ("SLA"), as more fully described in an applicable Schedule, that are made available to Aetna by means of the Internet or through other electronic means.

E. "Planned Downtime" means any period outside of the Primary Services Hours for which Supplier gives [*] ([*]) [*] or more notice that the Program will be unavailable.

F. "Primary Service Hours" mean the hours for member services, which are Monday through Friday 8:30 AM – 5:30 PM local time in the continental United States., excluding Holidays.

G. "Program" means those certain applications, operating systems, programs, and software that Supplier shall make accessible to Authorized Users through the Hosting Services pursuant to the license granted under the SLA.

H. "Resolution Time" means the time elapsed between the Guaranteed Response Time to a support issue and the time the Program is returned to operational status.

[*] Confidential treatment requested; certain information omitted and filed separately with the SEC.

I. "Servers" means the Application Servers and Infrastructure Servers on which the Program is installed and the Hosting Services support. "Application Server" means any Server whose primary purpose is to serve the Program, other application software or databases. "Infrastructure Server" means any Server whose primary purpose is to serve infrastructure services, including data communication (including via SMTP), gateways, directory services, and system management.

J. "Severity Level 1 Problems (Critical)" means (i) the production system, or environment, or a major portion of the system or environment, is down resulting in an inability to login to the Program or a major portion of the Program or (ii) a Severity 2 problem has remained unresolved for [*]; or (iii) a Severity 3 problem has remained unresolved for [*].

K. "Severity Level 2 Problems" means (i) production system, or environment, or a major portion of the system or environment, is degraded, impeding critical business processing and/or causing disruption to normal production work flow; (ii) development is down, disrupting critical development; or (iii) a Severity 3 problem has remained unresolved for [*].

L. "Severity Level 3 Problems" means non-critical production system, or environment, or a major portion of the system or environment, is down, is degraded, or is experiencing problems.

M. "Severity Level 4 Problems" means non-critical production system, or environment, or a major portion of the system or environment is degraded, or minor production problems and/or questions exist.

N. "System Software" means those programs and programming (including the supporting documentation, media, on-line help facilities and tutorials) that perform tasks basic to the functioning of the Servers and which are required to operate the Program or Hosting Services. System Software includes operating systems, systems utilities and database software.

O. "User Documentation" means all materials supplied under this Attachment, including, without limitation, any and all installer's, operator's and user's manuals, training materials, sales and marketing literature, "technical white papers", guides, functional and/or technical specifications, listings and other materials, (including, without limitation, all materials describing the interoperability of the Hosting Services with other hardware or software), in any or all media, for use in conjunction with the Hosting Services.

2. MAINTENANCE. All technical support provided in connection with the Programs hosted hereunder shall be provided as part of Maintenance as defined in the SLA and applicable Schedule(s).

3. HOSTING SERVICES AVAILABILITY

A. System Availability and Service Interruption. Supplier shall make [*] to provide 24 hours, 7 days a week availability and access to the Hosting Services, excluding the hours of [*], or during Planned Downtime, and will continuously and proactively monitor the Hosting Services and its related environment. Aetna will notify Supplier of service interruptions or delays that may be known to Aetna. Supplier will provide Aetna's technical contact with notice of any Service Outage (as defined in Section 5.C. below) of the Hosting Services after Supplier becomes aware of such Service Outage. Aetna will provide access to its designated contacts to assist Supplier with correcting any Service Outage problems in a timely manner. Supplier will also provide updates to Aetna until the Service Outage has been corrected. Upon learning of any Service Outage, Supplier will correct the Service

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Outage and restore Hosting Services availability. Supplier guarantees [*] percent Program availability excluding the hours of [*], Planned Downtime, and any Force Majeure as measured monthly.

B. Average Server Response Time. Supplier shall make [*] to provide an average Server response time of [*]. Server response time is defined as the elapsed time the Program Application Server spends processing an application request. Average response times are measured each calendar month. Notwithstanding the stated average Server response time, Supplier will endeavor to reasonably assist Aetna with diagnosis and remedy of performance issues.

C. Hosting Support and Guaranteed Response Times. Supplier warrants that Aetna's calls for service will be responded to and resolved in accordance with the terms and conditions set forth below. Aetna and Supplier shall reasonably determine the Severity Level of the problem when Aetna places a service call to Supplier. Supplier warrants that it will use qualified technical personnel with the appropriate technical experience in the operation of the particular Program or resolution of the problem.

i. *Support*: Supplier will provide telephone or pager support 24 hours per day, 7 days per week for Severity 1 problems, [*] a.m. to [*] p.m. Eastern Time, [*] through [*] for Severity 2 problems and, for Severity 3 and Severity 4 problems, [*] a.m. to [*] p.m. Eastern Time, [*] through [*].

ii. *Timeframe for Resolution*: Supplier's service technician will respond to service calls as follows:

Severity	Response Timeframe from receipt of service call	Resolution Timeframe from receipt of service call
Severity 1	[*]	[*]
Severity 2	[*]	[*]
Severity 3	[*]	[*]
Severity 4	[*]	[*]

If Aetna reaches a recorded message when it makes the service call, Supplier must respond back to Aetna by personal telephone call within the Response Timeframe to notify Aetna that Supplier received the service call and Supplier is working on a resolution. If Supplier reaches a recorded message when it responds to Aetna with a resolution within the required Resolution Timeframe, the obligation of Supplier shall be deemed satisfied and Supplier shall not be held further liable so long as Supplier leaves a message with the resolution or otherwise sends the resolution to Aetna within the time frame.

D. Credits. As a Performance Credit, as defined in Section 5.H. below, Supplier will credit to Aetna [*] ([*]) [*] of pro-rated [*] fees for each incident that Supplier fails to meet (a) the Guaranteed Response Time, (b) the average Server response time set forth in Section 3.B., or (c) the guaranteed availability percentage as defined in Section 3.A. with a maximum credit equal to [*]% of the [*] fees for such [*].

E. Reports. Supplier will provide Aetna a service level report at the end of each calendar month, which will include, among other things, an outline of the Aetna's usage of the Hosting Services, as well as the average Server response time for that calendar month.

4. COMPLIANCE WITH AETNA BRAND STANDARDS. If Supplier is performing any Services which would require the use of Aetna's corporate design and/or brand, Supplier shall adhere to Aetna's standards in the completion of the Services. Supplier shall be required to access and to comply with the requirements posted on Aetna's style guide website: http://www.aetna.com/info

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Additionally, Supplier may be required to complete brand standards training sessions coordinated through the Aetna Head of Design Communications, prior to beginning the Services, and shall participate in periodic, on going web based training at the request of Aetna Head of Design Communications. In addition, all Supplier-generated artwork must be submitted to the Aetna Head of Design Communications for approval prior to releasing such artwork to any Aetna Project Coordinator.

5. HOSTING SERVICES

A. Provision of Hosting Services. When Aetna desires to obtain Hosting Services from Supplier, Aetna and Supplier will prepare a Schedule that shall include a detailed description of the Hosting Services, the fee for the Hosting Services, the dates for performance of the Hosting Services, and such other information the Parties deem necessary and appropriate. Supplier shall commence providing the Hosting Services to Aetna no later than the dates set forth in an applicable Schedule and in accordance with the terms of the Agreement.

B. Supplier Employees. If Aetna reasonably determines that a Supplier employee who has significant contact with Aetna is not performing in a reasonably satisfactory manner, then Aetna shall give Supplier written notice to that effect, requesting that the Supplier employee be replaced and stating the reason therefor. Promptly after its receipt of such a request by Aetna, Supplier shall replace that Supplier employee as soon as reasonably practicable with a person of suitable ability and qualifications. Nothing in this provision shall be deemed to give Aetna the right to require Supplier to terminate any Supplier employee's employment; rather it is intended to give Aetna only the right to request that Supplier discontinue using a Supplier employee in the performance of the Services for Aetna. Supplier agrees that it will not offer to Aetna the services of any person whose background report indicates that such person has been convicted of any criminal felony involving dishonestly or a breach of trust, or convicted of any offense involving dishonesty or a breach of trust while engaged in the business of insurance or convicted of any offense under 18 U.S.C. 1033 of the Violent Criminal Control and Law Enforcement Act of 1994. Supplier also agrees that it will not offer to Aetna the services of any person whose background report indicates that within the past seven (7) years such person has been convicted of or released from incarceration or probation for a crime involving injury or threat of injury to a person, a crime of violence or threat of violence, including, but not limited to, crimes in which a weapon was used in the commission of the crime, or a computer-related crime under state or federal law or a crime in which a computer was used in the commission of the crime.

C. Availability Standard. Supplier shall make the Hosting Services available as stated in Section 3.A. Under exceptional circumstances, Supplier may experience the need for emergency Maintenance during which time the Hosting Services will be unavailable to Aetna ("Service Outage"). Supplier will use reasonable efforts to notify Aetna a minimum of [*] ([*]) [*] prior to a Service Outage.

D. Hosting Support. During the Term of this Attachment, as part of the Hosting Services, [*] Aetna or its Affiliates, Supplier shall provide Aetna with technical support in connection with the Hosting Services ("Hosting Support"), Supplier shall not engage in any Hosting Support, upgrades, replacement of Services or System Software, or any other activity that may result in Aetna's inability to use or unavailability to access the Hosting Services, according to the System availability definitions set forth in this Attachment or in any applicable Schedule.

[*] Confidential treatment requested; certain information omitted and filed separately with the SEC.

E. Rights of Use. Aetna shall have the following rights of use to the Programs, User Documentation and Hosting Services:

i. to use the Programs and related User Documentation and have multi-user access to the Hosting Services on an unlimited number of computers or equipment, and at an unlimited number of sites;

ii. when a Program is installed at Aetna, to have multiple authorized Aetna employees use the licensed Program(s) hereunder, including use by authorized Aetna employees on a local area network ("LAN");

iii. when a Program is installed at Aetna, to reproduce, from master media provided directly to Aetna by Supplier, Programs and/or User Documentation for distribution at Aetna and/or the right to have third parties provide reproduction and distribution services; and,

iv. to reproduce the User Documentation and other related materials for its own use provided that all titles, logos and copyrights are also reproduced.

F. Ownership. Not including the Program, System Software or User Documentation, all intellectual property rights in and related to the Aetna Data, any research, or results generated by Aetna shall be the property of Aetna. Supplier acknowledges that any copyrightable works prepared or delivered by Supplier defined as a "work for hire" or any software customized for Aetna's use in any applicable Schedule shall be the property of Aetna. Full and exclusive ownership rights in and to all such materials, including without limitation, whether in whole or in part, any and all intellectual property developed, produced, or generated regardless of the status of any then current copyright related to the Hosting Services being provided to Aetna under this Attachment and any applicable Schedule, shall be vested solely in Aetna. Aetna hereby reserves the exclusive right to copy and prepare derivative works, as that term is defined pursuant to 17 U.S.C. Supplier agrees to execute any documents reasonably requested by Aetna to fully vest such rights in Aetna. Nothing contained in this Attachment and any applicable Schedule shall restrict either a Party from the use of methods, ideas, concepts, know-how, techniques, program organization or database structuring techniques that have been previously developed by such that Party or are from in the public domain. The developing party may continue to use such methods, concepts, or techniques for its own purposes subject to the confidentiality obligations set forth in the MBA.

G. Change Procedure. Either Party may request changes to the scope of the Hosting Services at any time. When a change could affect the cost, delivery schedule or other terms of the Schedule, both Aetna and Supplier must approve the change before the change is implemented. If either Party wishes to make a change, it shall notify the other Party of the requested change in writing, including sufficient details to enable the other Party to evaluate the change. Within a reasonable period of time, Supplier shall deliver a Change Request to Aetna. Upon acceptance and execution of the Change Request by Aetna and Supplier, the Change Request shall be incorporated into the Services. Both Parties shall continue to proceed in accordance with the agreed upon terms and conditions then in effect while Change Requests are being reviewed and approved.

H. Failure to Meet Performance Criteria. Supplier and Aetna agree that the damage resulting from Supplier's failure to meet performance criteria with regards to the Materials and /or Services being rendered provided under this Attachment or an applicable Schedule may be difficult to calculate. In the event that Supplier fails to meet certain performance criteria in conjunction with this Attachment, Supplier and Aetna agree that, as liquidated damages for such failure and not as a penalty, Aetna shall be entitled to receive, with respect to each such failure, a credit as set forth in an applicable Schedule ("Performance Credits"). The Performance Credits shall not be Aetna's sole and exclusive remedy for such failure. Aetna may, in its sole discretion, waive acceptance of and not receive any Performance Credits relating to such failure and may terminate and pursue any other remedies that may be available to it in law or equity pursuant to the Agreement.

I. Alpha/Beta Site. Aetna is not, and will not be, an alpha or beta site for the Hosting Services without the prior written consent of Aetna.

J. Security. The parties expressly recognize that it is impossible to maintain flawless security, but Supplier agrees to adhere to Aetna security standards, to prevent security breaches in Supplier's Server interaction with resources or users outside of any firewall that may be built into Supplier's Server(s). The Aetna security standards will be provided to Supplier no later than 30 days after execution of this Attachment, and annually thereafter, unless changes are made prior to that annual distribution. If changes are made to the Aetna security standards, then, Supplier agrees to be compliant with any such change within [*] of receiving the change. Aetna agrees that it will only access and use the Hosting Services via authorized access provided by Supplier (e.g. password protected access).

K. Accuracy Disclaimer. Aetna is solely responsible for the accuracy and integrity of the Aetna Data. Supplier or third parties may provide links to other World Wide Web sites or resources as part of the Hosting Services. Supplier does not endorse and is not responsible for any data, software, or other content available from such sites or resources. Aetna acknowledges and agrees that Supplier shall not be liable for any damage or loss relating to Aetna's use of or reliance on such data, software or other content unless such damage or loss was directly as a result of a function of or error in the Program or Hosting Services.

6. DOCUMENTATION

A. Delivery. Unless otherwise provided in writing and mutually agreed to, Supplier shall deliver to Aetna two (2) copies of all User Documentation in printed form and one (1) copy in a reproducible electronic form reasonably acceptable to Aetna on or before the date the Hosting Services are first made available to Aetna. If at any time such original User Documentation is revised or supplemented by additional User Documentation, Supplier shall promptly deliver to Aetna copies of such revised or additional User Documentation at no charge, in the quantities and forms set forth above.

B. Copies. Aetna may make such additional copies of the User Documentation as it may deem necessary for its use, and for backup and disaster recovery purposes, provided that Aetna shall not obscure or delete any copyright, trademark and other proprietary notices included therein by Supplier.

7. CUSTOMIZATION & TRAINING

A. Upon Aetna's request, Supplier shall perform customization services, with respect to the Hosting Services pursuant to a mutually agreed-upon Schedule.

B. Supplier shall provide training to Aetna sufficient to adequately train the Authorized Users in the use of the Hosting Services as further described in a Schedule.

8. TESTING & ACCEPTANCE

A. Testing. Supplier shall notify Aetna when the Hosting Services are available for testing and Aetna shall have [*] ([*]) [*], or such other time set forth in a Schedule, to conduct testing of the Program(s) and/or Hosting Services. Supplier shall assist in such testing at no additional cost. If such Program(s) and/or Hosting Services pass all such tests to Aetna's reasonable satisfaction, Aetna shall

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give Supplier written notice of acceptance of such Program(s) and/or Hosting Services. The Program(s) and/or Hosting Services shall not be deemed accepted unless and until Aetna provides Supplier with written notice of such acceptance, Aetna begins to use Program(s) and/or Hosted Services in a production environment, or the period of time granted to Aetna for rejection has elapsed.

B. Failure and Correction. If the Program(s) and/or Hosting Services fail to pass [*] ([*]) [*] of Aetna's tests or otherwise fails to function properly or in conformity with the User Documentation, Aetna shall notify Supplier and Supplier shall correct such defect within [*] ([*]) [*] of receipt of such notice. If the Program(s) and/or Hosting Services do not perform to the service levels contained herein, Aetna may, in its sole discretion and in addition to any other rights and remedies available to it under the Agreement, (i) immediately terminate this Attachment or the applicable Schedule without any further obligation or liability of any kind under this Attachment and Supplier shall immediately refund to Aetna [*] paid by Aetna for managed Services under the applicable Schedule; or (ii) require Supplier to continue to attempt to correct the deficiencies until the Program(s) and/or Hosting Services successfully pass all tests and functions to Aetna's reasonable satisfaction in accordance with the applicable Schedule, reserving the right to terminate this Attachment at any time in accordance with clause (i) above.

9. TERM & TERMINATION. In addition to the terms and conditions in Section 4, *Term & Termination*, of the MBA, the following terms and conditions shall govern any Schedules for Hosting Services.

A. Term. The term for each Hosting Service provided by Supplier to Aetna shall be set forth in the applicable Schedule.

B. Termination Transition. In connection with the expiration or termination of this Attachment and any applicable Schedule prior to completion of Services, Supplier will comply with Aetna's reasonable directions to effect the orderly transition and migration of Aetna Data or the Program to Aetna or Aetna's designee from Supplier of all Services then being performed by Supplier or which Supplier is then responsible for performing under this Attachment or any Schedule (the "Termination Transition"). Supplier will assist in the Termination Transition for a period mutually agreed upon in writing by Aetna and Supplier. Aetna, Aetna's designee and its employees and agents will cooperate in good faith with Supplier in connection with Supplier's obligations under this section and Aetna's designee will perform its obligations under any approved transition plan developed by Aetna. Supplier will develop and submit to Aetna for approval a transition plan setting forth the respective tasks to be accomplished by each Party in connection with the orderly transition and a schedule pursuant to which the tasks are to be completed.

C. Effect of Termination. Within [*] ([*]) [*] after termination of this Attachment or any Schedule for Hosting Services for any reason, Supplier shall promptly refund to Aetna any prepaid, monthly fees associated with this Attachment and/or any managed services under the applicable Schedule. There shall be [*] of any kind [*] Attachment and/or any applicable Schedule. Promptly upon termination of this Attachment, or at any time upon Aetna's request, Supplier shall promptly return [*] to Aetna, or, at Aetna's option, destroy, all (or, if Aetna so requests, any part) of Aetna's Confidential Information and/or Aetna Data, and all copies thereof and other materials containing such Confidential Information and/or Aetna Data, and Supplier shall certify in writing its compliance with the foregoing. Additionally, upon such termination of this Attachment and/or applicable Schedule, and if Aetna has a perpetual license with the Supplier or the term of the license has not yet expired, Supplier shall promptly return the Program to Aetna in a manner, method and format immediately accessible and fully usable by Aetna.

[*] Confidential treatment requested; certain information omitted and filed separately with the SEC.

10. FEES. All Hosting Services fees due hereunder, as set forth in an applicable Schedule, shall be invoiced by Supplier upon the Schedule Effective Date, and are due and payable in accordance with the terms and conditions of Section 3 of the MBA. Payment of the Hosting Services fees shall entitle Aetna to have the right to utilize and have access to the Hosting Services and all relevant User Documentation for the duration of the Term. Such right of utilization shall not be contingent upon additional fees of any kind whatsoever unless mutually agreed to in a Schedule or Change Request.

11. EXPENSES. If approved by Aetna in an applicable Schedule, Aetna will reimburse Supplier for reasonable and verifiable Out-Of-Pocket expenses in accordance with Exhibit A. Aetna shall reimburse such Out-Of-Pocket expenses at cost, no mark-up shall be accepted.

12. REPRESENTATIONS, WARRANTIES, COVENANTS & INDEMNIFICATION. In addition to the warranties in the Agreement, Supplier hereby represents, warrants and covenants to Aetna as follows:

A. User Documentation. Supplier warrants that the User Documentation shall be of sufficient detail so as to allow Aetna's employees to comprehend the operation of the Hosting Services, and Supplier shall, at no additional cost to Aetna, correct any User Documentation that does not conform to this warranty.

B. Disabling Devices. Supplier warrants that it has successfully tested the Programs and warrants that the Hosting Services and the Programs and System Software utilized in the performance of such do not contain threats known as software viruses, time or logic bombs, Trojan horses, worms, timers or clocks, trap doors, keys, node locks, time-outs or other functions, instructions, devices or techniques whether implemented by electronic, mechanical or other means that can or were designed to erase data or programming, infect, disrupt, damage, disable, shut down a computer system or any component of such computer system, including, but not limited to, its security or user data, or otherwise cause any Programs to become inoperable or incapable of being used in accordance with the User Documentation (hereinafter "Disabling Devices").

C. Hosting Services Performance Warranty. During the Term of an applicable Schedule, the Hosting Services and System Software shall function properly and be performed without any malfunction or defect and in conformity with the User Documentation, in accordance with this Attachment, and any specifications set forth in the applicable Schedule.

D. Program Warranties. All warranties, representations, and covenants set forth in Section 8 of the Software License Attachment pursuant to this Agreement are applicable to this Attachment and shall be in full force and effect.

13. BUSINESS CONTINUITY

A. Business Continuity and Disaster Recovery Plans. Supplier is required to have adequate business continuity protection in place that minimizes the impact of disruptions to Aetna's critical business processes, provides coordinated responses to potential or actual disruptions, and coordinates restoration activities once a disruption has ended. Plans must include disaster backup and recovery plans for critical information technology infrastructure (data centers, hardware, software, power systems, etc.) and critical voice, data and e-commerce communications links and plans to restore

production capability within [*] of the point of failure. Additionally, Supplier agrees to have in place business continuity plans for critical personnel, equipment, facilities and third party providers. Supplier shall also have credible plans in place to limit the amount of critical data lost to a maximum of [*]. It is Supplier's responsibility to ensure that plans are in place for any outsourced or subcontracted activity that could impact critical processes and that such third party plans also meet the same standards as required of Supplier. Upon execution of this Attachment may visit the Supplier site and view their Business Continuity Plan that identifies alternate work sites/ hot site contracts and a summary of the testing program, test schedule, and test results.

B. Implementation of Plans. In the event the Supplier is unable to, or is likely to become unable to, perform the Services for any reason, including physical damage to equipment and/or facilities, equipment malfunction, telecommunications links and devices or software failure, Supplier is required to make a best faith effort to notify the appropriate personnel at Aetna within [*] ([*]) [*] of the actual or potential incident or outage. Supplier shall test their Disaster Backup and Business Continuity Plans at least annually and provide written notification to Aetna of test plan and results. In the event that Supplier is unable to comply with the stipulations of their Disaster Backup and Recovery or Business Continuity plans or the stipulations of this Attachment, then they are to notify Aetna in writing promptly, but not to exceed, [*] ([*]) [*], as to the reason and provide a timetable as to when the plans will again be functional.

14. CONTINUITY OF SERVICES. Supplier acknowledges that the performance of its obligations, including without limitation any Hosting Services or Maintenance, pursuant to this Attachment is critical to the business and operations of Aetna and its Affiliates. Accordingly, in the event of a dispute between Aetna or an Affiliate (as the case may be) and Supplier, Supplier shall continue to perform its obligations, including without limitation the Hosting Services, Maintenance under this Attachment in good faith during the resolution of such dispute, as stated in Section 3.C. of the MBA, unless and until this Attachment is terminated in accordance with the provisions hereof.

15. ADDITIONAL ESCROW REQUIREMENTS. In addition to the Escrow Requirements detailed elsewhere in the Agreement, Supplier shall, at Aetna's sole cost and expense, place one (1) complete copy of all object codes and executables with Aetna's escrow agent. Such placement will be governed by the same requirements as the placement of the source code.

16. AUDIT. Supplier shall maintain complete, accurate and detailed records regarding the fees charged to Aetna, and any additional documentation detailed in an applicable Schedule under this Attachment. Supplier shall retain such records and make them available for inspection and audit by Aetna during normal working hours with reasonable advance written notice (or in the case of external regulatory audits, such lesser amount of prior notice given by the applicable regulators or inspectors), to verify compliance with the terms of the Attachment, the integrity and security of Aetna's proprietary Confidential Information and the Aetna Data and to examine the systems that process, store, support and transmit that data during the Term and for a period of [*] ([*]) [*] thereafter. If discrepancies or questions arise with respect to such records, Supplier shall preserve such records until an agreement is reached with Aetna regarding their disposition.

17. SUBCONTRACTORS. Aetna recognizes that Supplier may have the need to utilize subcontractor(s) or supplementary provider(s) in performance of Services pursuant to the applicable Schedule. Subcontractor(s) or supplementary provider(s) may be utilized only upon prior written approval of Aetna, which shall not be unreasonably withheld. The cost of any subcontractor(s) and/or supplementary provider(s) employed or retained by Supplier shall be the sole responsibility of Supplier

[*] Confidential treatment requested; certain information omitted and filed separately with the SEC.

and shall, in no instance, be in addition to the fees hereunder. Upon Aetna's request, Supplier shall provide a detailed report to Aetna of the Services rendered by such subcontractor(s) or supplementary provider(s) pursuant to this Schedule. Subcontractors shall be bound by all the provisions of this Attachment and applicable Schedule as if they were Supplier's employees and shall execute all required documents requested by Aetna.

IN WITNESS WHEREOF, the Parties have hereto by their duly authorized representatives executed this Agreement.

Aetna Life Insurance Company

By: _____
(Authorized Signature)

Name: _____
(Print Name)

Title: _____

Date: _____

Benefitfocus.com, Inc.

By: _____
(Authorized Signature)

Name: _____
(Print Name)

Title: _____

Date: _____

Taxpayer ID #: 57-1099948

SUPPLIER TRAVEL EXPENSE REIMBURSEMENT GUIDELINES

Supplier Employees traveling on behalf of Aetna are required to comply with the following guidelines for the Supplier to receive reimbursement. Whenever possible, travelers must use Aetna's preferred air, hotel and rental car Suppliers. All expenses are subject to audit.

Air Travel. Supplier will be reimbursed for air travel at coach rates only. Wherever possible, trips by Supplier should be planned and booked at least 2 weeks in advance in order to receive the maximum discount rate from the airlines. To reduce costs, all tickets must be the lowest airfare available within 2 hours of stated requested departure time, non-refundable and issued in electronic form whenever possible. No traveler may refuse this option. Supplier Employees must retain electronic or faxed confirmations and submit with reimbursement request in order to be compensated. Airport departure taxes paid in connection with business travel are reimbursable. Excess baggage fees are not reimbursable unless the excess is required specifically for business equipment or supplies. Unused tickets (unless cancellation is directed by Aetna) and/or lost tickets are the Supplier's responsibility. Airline headphones for movies/radio are not reimbursable. Delay en route charges are reimbursable for business purposes only, not for passenger convenience or personal reasons.

Hotel. Supplier will be reimbursed for expenses incurred for hotel costs while traveling in connection with the Services. A standard room (single room rate) is required and is reimbursable. Suites, concierge floor rooms, upgraded rooms or similar luxury accommodations are not reimbursable. Room service is reimbursable as part of the meal allowance described below. Mini-bars, health clubs, safe rentals, valet, concierge services, club memberships, dry cleaning, and movies are not reimbursable and are considered personal expenses. Taxes associated with the daily room rate (i.e. local, county and state) are reimbursable. If engagement is expected to exceed 6 weeks, consultants must use corporate housing as arranged by Aetna.

Car Rental. Supplier will be reimbursed for auto rental at intermediate car rates only, unless 5 or more Supplier Employees are sharing the same auto. The guidelines for the maximum-size car that can be rented depends on the number of people who will be using such vehicle:

Number of people	Car Size	Example
1-2 people	Compact	Ford Focus
3-4 people	Midsize (Intermediate)	Ford Contour
5	Full-size	Ford Taurus

If 6 or more Supplier Employees are traveling on behalf of Aetna, then a second car may be rented using the guidelines above. Supplier Employees must waive all additional insurance when using the preferred vendor. Additional insurance is not reimbursable when using a non-preferred vendor. Insurance is built into the Aetna corporate rate. Supplier Employees should waive the refueling option and return cars fully fueled. Refueling charges incurred with the car vendor are not reimbursable. All rental cars must be returned to the original pick-up location. Many Aetna preferred hotels have shuttle services to and from the airport. The shuttle option should be used instead of renting a car whenever possible.

Meals and Incidentals. Aetna will reimburse the actual cost of meal and incidental expenses up to the dollar limits listed below.

Meals. The actual cost of meals is reimbursed only in conjunction with an overnight stay up to a maximum of $40 per day (including tips). Alcoholic beverages are not reimbursable.

Parking. Reasonable business-related expenses are reimbursable (e.g., airport parking, hotel parking, etc.).

Tips. Reasonable tips are reimbursable up to a maximum of $5.00 per day (excluding meal tips).

Tolls. Highway tolls, whether incurred with a rental or personal car, are reimbursable.

Taxi. Business-related expenses are reimbursable (e.g., airport shuttles, vans) when the lowest option available is used. Aetna will not reimburse for limousine or car service.

Receipts. Supplier must include full explanation and original receipts for all expenses over $10 in order to receive reimbursement from Aetna.

Portions of this exhibit marked [*] are requested to be treated confidentially.

PROFESSIONAL SERVICES ATTACHMENT

This Attachment to the Master Business Agreement dated November 28, 2006 (the "MBA"), for the performance of Professional Services (this "Attachment") is entered into as of the November 28, 2006 (the "Services Effective Date") by and between Aetna Life Insurance Company ("Aetna"), a Connecticut corporation with its principal place of business located at 151 Farmington Avenue, Hartford, Connecticut 06156 and Benefitfocus.com, Inc., a South Carolina corporation with its principal place of business located at 100 Benefitfocus Way, Charleston, South Carolina, 29492 ("Supplier"). The terms and conditions of this Attachment, in conjunction with each applicable Schedule, are hereby incorporated into and made a part of the Agreement. In the event of a conflict between the MBA, this Attachment or a Schedule, or any other document made a part of this Attachment, the documents shall control in the following priority: the applicable Schedule, this Attachment, the MBA, then any other documents.

NOW, THEREFORE, in consideration of the mutual covenants an d promises herein recited and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, warrant, covenant, understand and agree as follows:

1. DEFINITIONS. Capitalized terms not otherwise herein defined shall have the meanings ascribed to them in the Agreement. The terms set forth in this Section shall have the following meaning:

A. "Change Request" means a written instrument by which either Party may request a change or modification to the Services which shall detail the cost of the change and impact of the change on the total cost of the Services, the impact of the change on the Schedule and the technical description or specification of the requested change.

B. "Out-Of-Pocket Expenses" shall mean, but is not limited to, reasonable and verifiable coach class travel, hotel accommodations, meal expenses and other related expenses as defined in the Supplier Travel Expense Reimbursement Guidelines, attached hereto and incorporated herein as Exhibit A, which Supplier incurs that are directly related to this Attachment. If approved by Aetna in writing, including email, and that the expenses are within the guidelines of Exhibit A, Aetna will reimburse Supplier for such expenses at cost, no mark-up shall be accepted.

C. "Services" means professional services provided by the Supplier that shall be as set forth in this Attachment and/or an applicable Schedule.

2. SERVICES

A. Schedules. On each occasion when Aetna desires to obtain Services from Supplier, Aetna will prepare a Schedule which shall include a detailed description of the Services, the fee for the Services, the name of the key Supplier employee(s), the dates for performance of the Services, assignment location, the name of the Aetna Coordinator, and such other information the Parties deem necessary and appropriate.

B. Change Procedure**.** Either Party may request changes to the scope of the Services at any time. When a change could affect the cost, delivery schedule or other terms of the Agreement, both Aetna and Supplier must approve the change before the change is implemented. If either Party wishes to make a change, it shall notify the other Party of the requested change in writing, including sufficient details to enable the other Party to evaluate the change. Within a reasonable period of time, Supplier shall deliver a Change Request to Aetna. Upon acceptance and execution of the Change Request by Aetna and Supplier, the Change Request shall be incorporated into the applicable Schedule. Both Parties shall continue to proceed in accordance with the agreed upon terms and conditions then in effect while Change Requests are being reviewed and approved.

C. Time of Essence**.** Supplier understands and agrees that time is of the essence in meeting the Deliverable date(s) set forth in the applicable Schedule and will provide Aetna with periodic updates.

3. COMPLIANCE WITH AETNA BRAND STANDARDS. If Supplier is performing any Services which would require the use of Aetna's corporate design and/or brand, Supplier shall adhere to Aetna's standards in the completion of the Services. Supplier shall be required to access and to comply with the requirements posted on Aetna's style guide website: http://www.aetna.com/info.

Additionally, Supplier may be required to complete brand standards training sessions coordinated through the Aetna Head of Design Communications, prior to beginning the Services, and shall participate in periodic, on going training at the request of Aetna Head of Design Communications. In addition, all Supplier-generated artwork must be submitted to the Aetna Head of Design Communications for approval prior to releasing such artwork to any Aetna Project Coordinator.

4. ACCEPTANCE. Unless as otherwise defined in the applicable Schedule, if Aetna does not accept the Services, or a portion thereof, then Aetna shall send written notice to Supplier of such non-acceptance no later than [*] after completion of performance of the Services and/or delivery of the Materials and shall provide reasonable detail of the basis for such non-acceptance. Supplier shall promptly correct the Materials or promptly engage in the re-performance of the Services so that the Services are in conformance with any Acceptance Criteria stated in the applicable Schedule. The Parties shall cooperate and exercise all reasonable efforts for the purpose of resolving and correcting all errors or problems. In the event of such non-acceptance, Supplier shall assign additional technical resources to Aetna, at no additional charge, as necessary, in order to complete the project no more than [*] ([*]) [*] later than the performance date listed in the applicable Schedule. If Aetna does not accept the Services, or a portion thereof, the [*] due to Supplier [*] such deficiencies. For Services as it relates to customized code or Programs for Aetna, if Supplier cannot cure deficiencies within [*] ([*]) [*] of notice of such, then Aetna will be entitled to a refund of all fees and expenses paid to Supplier under the applicable Schedule and/or pursue other remedies that may be available to it in law or equity pursuant to the Agreement.

5. FAILURE TO MEET PERFORMANCE CRITERIA. Supplier and Aetna agree that the damage resulting from Supplier's failure to meet performance criteria with respect to Services being provided under this Attachment or an applicable Schedule may be difficult to calculate. In the event that Supplier fails to meet certain performance criteria in conjunction with a Schedule, Supplier and Aetna agree that, as liquidated damages for such failure and not as a penalty, Aetna shall be entitled to receive, with respect to each such failure, a credit as set forth in an applicable Schedule ("Performance Credits"). The Performance Credits shall not be Aetna's sole and exclusive remedy for such failure. Aetna may, in its sole discretion, waive and not receive any Performance Credits relating to such failure and may terminate and pursue other remedies that may be available to it in law or equity pursuant to the Agreement.

6. FEES & PAYMENT OF SERVICES. In the event that the Parties agree that the fees for performance of Services hereunder shall be calculated on time and materials basis, the billable Services to be provided by Supplier are anticipated to consist of 5 person-days each calendar week, Aetna holidays excluded, and shall be performed only within the Assignment Location specified in the Schedule and during the time periods within Aetna's normal office hours. Services in excess of 40 hours per week ("Overtime") shall be billable only if previously approved by the Aetna Coordinator. If under federal or state laws or regulations the Supplier employee is eligible for Overtime pay rates higher than the hourly fee then, prior to the commencement of Services, Supplier must provide Aetna with written documentation of such eligibility.

7. SUPPLIER PERSONNEL

A. Supplier Employees. Without diminishing Supplier's obligation to be primarily responsible for the acts and omissions of its employees, if Aetna reasonably determines that a Supplier employee who has significant contact with Aetna is not performing in a reasonably satisfactory manner, then Aetna shall give Supplier written notice to that effect, requesting that the Supplier employee be replaced, and stating the reason therefore. Promptly after its receipt of such a request by Aetna, Supplier may replace that Supplier employee as soon as reasonably practicable with a person of suitable ability and qualifications. Nothing in this provision shall be deemed to give Aetna the right to require Supplier to terminate any Supplier employee's employment; rather it is intended to give Aetna only the right to request that Supplier discontinue using a Supplier employee in the performance of the Services for Aetna.

B. Safety Requirements. Supplier agrees that its Supplier employees shall at all times comply with the security and safety regulations in effect upon Aetna's premises and maintain security of materials belonging to Aetna. Each Supplier employee shall sign Aetna's I/T Security Statement of Policy, attached hereto as Exhibit C, and Aetna's Code of Conduct, attached hereto as Exhibit D, in advance of the performance of any work.

[*] Confidential treatment requested; certain information omitted and filed separately with the SEC.

C. Background Investigations. Supplier agrees that before deploying any Supplier employee, subcontractor or agent ("Deployed Person") to provide Services to Aetna, Supplier will conduct an investigation of such Deployed Person's background"). Supplier agrees that this investigation will include the following:

i. Verification of employment, salary and prior job performance as claimed by the Deployed Person for the previous five (5) years;

ii. Verification of the Deployed Person's educational attainments (highest degree earned beginning with licenses and/or professional certifications and associates degrees as claimed by the Deployed Person);

iii. To the extent permitted by applicable law, review of appropriate federal, state and local records to determine if the Deployed Person has a criminal record. The investigation shall include all addresses where the Deployed Person resided in the previous ten (10) years and all employer locations where the Deployed Person was employed. When conducting a criminal records check for misdemeanor convictions, Supplier shall review records for the preceding seven (7) years, except in California which is limited to five (5) years. A criminal conviction report shall include the type of offense and whether the listed offense is a felony or misdemeanor. All felony convictions that are disclosed during the investigation must be reported regardless of when the conviction occurred. Where a comprehensive statewide search initially indicates a criminal record the details of which are not available in five (5) business days, county searches will be conducted. County searches shall be provided in all other situations where comprehensive and timely statewide searches are not available.

Supplier further agrees that, without prior consultation with and approval from Aetna, it will not deploy to Aetna any Deployed Person for whom the background report indicates either a discrepancy between the criminal record, employment history, educational attainments, licenses and/or professional certifications claimed by the Deployed Person and what has been verified by Supplier. Supplier also agrees that before deploying any person whom the background report indicates has a criminal record, it will inform Aetna of the nature of the criminal record. Aetna shall have sole discretion as to whether such person is suitable for deployment.

In conducting the background investigations, Supplier agrees to comply with all provisions of applicable law, including, but not limited to, the Fair Credit Reporting Act, as amended, and, to obtain the Deployed Person's explicit written authorization to release information from the background investigation to Aetna. Supplier agrees to indemnify, defend, settle and hold Aetna harmless from and against any and all claims, damages, losses, liabilities, costs and expenses arising from background investigations required herein.

In addition, Supplier represents that at all times it will comply with all state and federal laws and regulations with respect to maintaining a drug-free workforce and that it will disclose its drug testing procedures to Aetna upon request.

Notwithstanding the above provisions, Supplier agrees that it will not deploy any person to provide Services to Aetna whose background investigation reveals that such person has been convicted of any criminal felony involving dishonesty or a breach of trust or that such person has been convicted of any offense under 18 U.S.C. Section 1033 of the Violent Crime Control and Law Enforcement Act of 1994, which section is captioned "Crimes by or Affecting Persons Engaged in the Business of Insurance Whose Activities Affect Interstate Commerce". However, Supplier will not be deemed or considered to be in violation of this Section if applicable law limits access to criminal records to the preceding seven (7) years. Such offenses include, by way of illustration and not of limitation, activities by persons in the insurance industry who willfully and materially overvalue any land, property or securities; embezzlement or misappropriation of insurance premiums and other funds; the making of false entries or statements in reports with the intent to deceive another person engaged in the insurance industry; or the use of threat or force in an attempt to corrupt or obstruct administrative proceedings related to the insurance industry.

Upon Aetna's written request, Supplier shall provide to Aetna written certification that Supplier has performed the background investigations required herein. Said certification shall include, but not be limited to, Deployed Person's name, the types of investigations performed, the time period(s) investigated, the geographic area(s) investigated (where appropriate), and the names and addresses of the agency, if any, utilized in performing the required investigations. Supplier and Aetna agree that Supplier's failure to comply with any of the provisions of this Section 7 shall constitute a material breach of the Agreement.

8. SUBCONTRACTORS. Aetna recognizes that Supplier may have the need to utilize subcontractor(s) or supplementary provider(s) in performance of Services. Subcontractor(s) or supplementary provider(s) may be utilized only upon prior written approval of Aetna, which shall not be unreasonably withheld. The cost of any subcontractor(s) and/or supplementary provider(s) employed or retained by Supplier shall be the sole responsibility of Supplier and shall, in no instance, be in addition to the fees hereunder. Upon Aetna's request, Supplier shall provide a detailed report to Aetna of the Services rendered by such subcontractor(s) or supplementary provider(s) pursuant to this Schedule. Subcontractors shall be bound by all the provisions of this Schedule and applicable Schedule as if they were Supplier's employees and shall execute all required documents requested by Aetna.

9. NON-DISCLOSURE STATEMENT. Each Supplier employee shall execute, prior to performing any work, a non-disclosure statement in the form of the Non-Disclosure Statement attached hereto and made a part hereof as Exhibit B.

10. BUSINESS CONTINUITY

A. Business Continuity and Disaster Recovery Plans. Supplier is required to have adequate business continuity protection in place that minimizes the impact of disruptions to Aetna's critical business processes, provides coordinated responses to potential or actual disruptions, and coordinates restoration activities once a disruption has ended. Plans must include disaster backup and recovery plans for critical information technology infrastructure (data centers, hardware, software, power systems, etc.) and critical voice, data and e-commerce communications links and plans to restore production capability within [*] of the point of failure. Additionally, Supplier agrees to have in place business continuity plans for critical personnel, equipment, facilities and third party providers. Supplier shall also have credible plans in place to limit the amount of critical data lost to a maximum of [*]. It is Supplier's responsibility to ensure that plans are in place for any outsourced or subcontracted activity that could impact critical processes and that such third party plans also meet the same standards as required of Supplier. Upon execution of this Attachment, Aetna may visit the Supplier site and view their Business Continuity Plan that identifies alternate work sites/ hot site contracts and a summary of the testing program, test schedule and test results.

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[*] Confidential treatment requested; certain information omitted and filed separately with the SEC.

IN WITNESS WHEREOF, the Parties have hereto by their duly authorized representatives executed this Agreement.

Aetna Life Insurance Company

By: _____
(Authorized Signature)

Name: _____
(Print Name)

Title: _____

Date: _____

Benefitfocus.com, Inc.

By: _____
(Authorized Signature)

Name: _____
(Print Name)

Title: _____

Date: _____

Taxpayer ID #: 57-1099948

SUPPLIER TRAVEL EXPENSE REIMBURSEMENT GUIDELINES

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Number of people	Car Size	Example
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5	Full-size	Ford Taurus

If 6 or more Supplier Employees are traveling on behalf of Aetna, then a second car may be rented using the guidelines above. Supplier Employees must waive all additional insurance when using the preferred vendor. Additional insurance is not reimbursable when using a non-preferred vendor. Insurance is built into the Aetna corporate rate. Supplier Employees should waive the refueling option and return cars fully fueled. Refueling charges incurred with the car vendor are not reimbursable. All rental cars must be returned to the original pick-up location. Many Aetna preferred hotels have shuttle services to and from the airport. The shuttle option should be used instead of renting a car whenever possible.

Meals and Incidentals. Aetna will reimburse the actual cost of meal and incidental expenses up to the dollar limits listed below.

Meals. The actual cost of meals is reimbursed only in conjunction with an overnight stay up to a maximum $40 per day (including tips). Alcoholic beverages are not reimbursable.

Parking. Reasonable business-related expenses are reimbursable (e.g., airport parking, hotel parking, etc.).

Tips. Reasonable tips are reimbursable up to a maximum of $5.00 per day (excluding meal tips).

Tolls. Highway tolls, whether incurred with a rental or personal car, are reimbursable.

Taxi. Business-related expenses are reimbursable (e.g., airport shuttles, vans) when the lowest option available is used. Aetna will **not** reimburse for limousine or car service.

Receipts. Supplier must include full explanation and original receipts for all expenses over $10 in order to receive reimbursement from Aetna.

EXHIBIT B

NON-DISCLOSURE STATEMENT

CONFIDENTIAL INFORMATION

For the purpose of this Attachment, "Aetna Confidential Information" includes information concerning Aetna's providers and/or suppliers performing services or providing products for or on behalf of Aetna's enrollees or members; shall include all financial, technical and other information in any form (including all copies thereof) which is reasonably considered proprietary to Aetna or any of its Affiliates, including, but not limited to, information or materials related to the business affairs or conditions of Aetna and its Affiliates; policies and/or procedures; Aetna's strategies or initiatives; or to the design, programs, flow charts, and documentation of Aetna's data processing applications and software, whether or not such applications and software are owned by Aetna. "Aetna Confidential Information" also includes any reports, notes, summaries, excerpts, work product, or other documents utilizing or incorporating Aetna Confidential Information whether in whole or in part, and oral presentations or discussions describing, elaborating upon, or otherwise relating to Aetna Confidential Information. Supplier shall not use the Aetna Confidential Information for Supplier's own advantage other than in direct performance of this or any subsequent similar agreement with Aetna. Supplier shall limit disclosure of the Aetna Confidential Information solely to those employees who are necessary for and directly involved in the Supplier's exercise of its rights or performance of its obligations under this Attachment. Copying and reproduction shall be done to the minimum extent necessary. Supplier agrees that neither Supplier nor the Supplier employee shall, at any time during or after the term of this Attachment sell, assign, license or disclose any Aetna Confidential Information it receives from Aetna to any other person, Affiliate, firm, corporation or other entity or agency. Supplier warrants that it will apply commercially reasonable safeguards to protect Aetna Confidential Information against unlawful or otherwise unauthorized access, use and disclosure and to take any other steps reasonably necessary to safeguard Confidential Information. Within thirty (30) days of receipt of written request from Aetna, Supplier agrees to return to Aetna, or to destroy, and to delete from any of its electronic storage devices, all Aetna Confidential Information received from Aetna, in the form it was originally given to Supplier.

Exceptions. Information shall not be deemed to be Confidential Information, and Supplier shall have no obligation with respect to any such information, which:

i. is or falls into the public domain through no wrongful act or negligence of Supplier;

ii. is rightfully received from a third party without restriction and without breach of this Attachment;

iii. is approved for release by written authorization of an officer of Aetna; or

iv. is already in Supplier's possession as evidenced by its records kept in the ordinary course of business and is not the subject of a separate non-disclosure agreement.

Supplier retains the right to disclose Confidential Information pursuant to the requirements of a governmental agency or operation of law. If legally permissible and to the extent possible, Supplier will give prior notice to Aetna of such disclosure so that Aetna, at its discretion, may seek confidential or protected status for such Confidential Information. If notice to Aetna is not legally permissible, Supplier will use reasonable efforts to receive confidential or protected status for such Confidential Information.

It is expressly agreed by you and Supplier that the provisions of this Non-Disclosure Statement shall survive the termination, for any reason, of this Attachment and shall be binding on you and Supplier, its successors and assigns for the benefit of Aetna and its affiliated companies and their successors and assigns.

I hereby acknowledge that I have read, understood and agreed to be bound by this Non-Disclosure Statement.

Consultant name (type/print)	**Date**	**Supplier name (type/print)**

Consultant signature

EXHIBIT C

I/T SECURITY STATEMENT OF POLICY

As a consultant working at Aetna, you need to be aware of and follow Aetna's policies and procedures pertaining to the security of our information and information technology resources. Read and follow the policies and procedures set forth below.

POLICY

Aetna will safeguard its information and information technology resources from the risks of accidental or unauthorized loss, theft, modification, disclosure, or destruction.

Aetna information systems are a critical part of our ability to serve our customers efficiently and effectively. Safeguarding our systems and the information they contain is crucial.

Our goal is to ensure that all workers (employees, consultants, temporaries, etc.) protect Aetna's information systems and electronic information. Protecting them means preventing unauthorized access and disclosure, modification, destruction and/or theft of our systems and information.

ALL consultants must:

- Adhere to all Aetna security policies and standards.
- Never use non-Aetna-owned hardware or software on Aetna's network without prior approval of Integrated User Services management.
- Use Aetna provided information technology equipment and materials, including hardware, software and data, only in the performance of your contractual assignment.
- Restrict access to Aetna equipment and materials, whether on card, disk, tape, printout, or computer terminal display, only to those individuals who are authorized and/or have a business need to know. If you are uncertain as to whether a particular individual has proper authorization, assume that that individual is unauthorized and seek clarification from your Aetna project coordinator.
- Protect all authorization codes and mechanism(s) such as passwords from disclosure and/or unauthorized use. You are accountable for all actions performed under your assigned computer accounts.
- Use Aetna's computer systems only to perform your assigned task.
- Follow backup and recovery procedures. If you are uncertain as to what procedures apply to the systems on which you are working, seek clarification from your Aetna project coordinator.
- Immediately report all known, or suspected, security weaknesses or violations to your Aetna project coordinator.
- Never circumvent the security features of any system, even to expedite task completion.
- Return all company assets, including electronically stored programs and data, upon contract termination.

I, _____

First Middle Initial Last

(Type/print consultant's name)

acknowledge that I have read and understand Aetna's I/T Security Statement of Policy. I understand that I should discuss any parts that are unclear to me with my Aetna project coordinator. I understand that I am responsible for adhering to I/T security policies, standards and procedures issued for the use and safeguarding of Aetna's information and information technology resources.

_____ _____

(Consultant's signature) (Date)

Return this signed form to the business area coordinator for inclusion in consultant's permanent file.

EXHIBIT D

AETNA CODE OF CONDUCT

Statement 1: Conflict of Interest

Employees must conduct themselves in a manner that avoids actual or apparent conflicts of interest and that protects Aetna's business reputation.

Statement 2: Improper use of Aetna property or resources

Illegal or improper use of Aetna property or resource is prohibited.

Statement 3: Fraud, dishonesty or criminal conduct

Fraud, dishonesty or criminal conduct involving company operations is prohibited.

Statement 4: Safeguarding member health information and other proprietary, confidential or nonpublic information

Member health information and other proprietary, confidential or nonpublic information must be handled properly in order to protect such information from inappropriate access, use and disclosure.

Statement 5: Business and trade practices

All employees are expected to comply fully with all federal and state laws and regulations applicable to Aetna's businesses and with all company policies.

Statement 6: Government contracting

Employees must help Aetna meet its objective to be a responsible and reputable government contractor.

Statement 7: Employment practices

Employment decisions must be based only on an employee's or applicant's qualifications, demonstrated skills and achievements without regard to race, color, sex, national origin, religion, age, disability, veteran status, citizenship, sexual orientation, gender identify or marital status.

Statement 8: Securities transactions

Employees are prohibited from trading securities while in possession of material nonpublic information.

Statement 9: Interacting with the media and other outside parties and organizations

Communications made on behalf of Aetna must be approved by senior management, and personal views must be kept separate from company views.

Statement 10: Intellectual property

Intellectual property used by Aetna, whether owned or licensed from others, is a valuable asset and must be protected from unauthorized use or disclosure.

AMENDMENT NO. 1
TO THE
PROFESSIONAL SERVICES ATTACHMENT
TO THE
MASTER BUSINESS AGREEMENT
BETWEEN
AETNA LIFE INSURANCE COMPANY
AND
BENEFITFOCUS.COM, INC.

This amendment ("Amendment") to the Professional Services Attachment ("Attachment" to the Master Business Agreement dated November 28, 2006 ("Agreement") between Benefitfocus.com, Inc. ("Supplier") and Aetna Life Insurance Company (''Aetna") is made this 1st day of November, 2009 (the "Effective Date"). The following amendments are incorporated into and made part of the Attachment as of the Effective Date. All sections and paragraphs of the Agreement not hereby amended shall remain in full force and effect. Capitalized terms not otherwise herein defined shall have the meanings ascribed to them in the Agreement. In the case of a conflict, the terms of this Amendment will control and prevail over those contained in the Agreement.

The Attachment is amended as follows:

l. Add new Section 11 as follows:

"11. **GOVERNANCE OF SIGNIFICANT PROJECTS**.

A. For Schedules executed under this Attachment that require significant expenditure of time and resources, Aetna and Supplier shall form a joint steering committee (''Committee") for purposes of establishing and monitoring timelines and Deliverables and for managing and resolving issues that may arise from time to time.

B. The Committee shall be comprised of Aetna and Supplier employees, at least one of which shall be an Aetna information technology professional and at least one of which shall be a Supplier information technology professional.

C. The Committee shall meet on a regular basis through completion or termination of the applicable Schedule at mutually agreed upon times and locations.

D. Aetna shall assign a Project Coordinator, who shall be a member of the Committee, the primary Aetna business representative, and the single point of contact for project-related status reports, and communication of project-related decisions. Supplier shall assign a counterpart to the Aetna Project Coordinator who shall have the same role and responsibilities.

E. The Supplier Board of Directors will invite an Aetna representative to attend each meeting of the Board that occurs during the term of the project, provided, however, that such representative shall be accorded no voting rights whatsoever.

F. Benefitfocus acknowledges that the value of the Integrated Product and Custom Model to Aetna over time, including Aetna's interest in shared royalties, can be maximized to the extent that Benefitfocus takes into account Aetna's perspective when considering such matters as product enhancement priorities, architectural design strategies, and research

and development directions. Benefitfocus will consult with Aetna quarterly concerning these subjects and will attempt in good faith to incorporate Aetna recommendations where commercially reasonable. Aetna will assign technical personnel with the appropriate level of skill and knowledge to participate in such discussions."

IN WITNESS WHEREOF, the parties have hereto by their duly authorized representatives executed this Agreement.

Aetna Life Insurance Company		**Benefitfocus.com, Inc.**	
By:	/s/ Michael W. Grise (Authorized Signature)	By:	/s/ Andrew L. Howell (Authorized Signature)
Name:	Michael W. Grise (Print Name)	Name:	Andrew L. Howell (Print Name)
Title:	Sr. Procurement Agent	Title:	SVP
Date:	11-24-09	Date:	11/11/09

Portions of this exhibit marked [*] are requested to be treated confidentially.

SOFTWARE LICENSE ATTACHMENT

This Attachment to the Master Business Agreement dated November 28, 2006 (the "MBA"), for the licensing of software (this "Attachment") is entered into as of the November 28, 2006 (the "License Effective Date") by and between Aetna Life Insurance Company ("Aetna"), a Connecticut corporation with its principal place of business located at 151 Farmington Avenue, Hartford, Connecticut 06156 and Benefitfocus.com, Inc., a South Carolina corporation with its principal place of business located at 100 Benefitfocus Way, Charleston, South Carolina, 29492, ("Supplier"). The terms and conditions of this Attachment, in conjunction with each applicable Schedule, are hereby incorporated into and made a part of the Agreement. In case of a conflict, the terms and conditions of this Attachment will control and prevail over those contained in the MBA.

NOW, THEREFORE, in consideration of the mutual covenants and promises herein recited and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, agree as follows:

1. DEFINITIONS. Capitalized terms not otherwise herein defined shall have the meanings ascribed to them in the MBA. The terms set forth in this Section 1 shall have the following meaning:

A. "Authorized User(s)" means any Aetna employee, consultant, agent or carrier client.

B. "Improvements" means all versions, releases, revisions, corrections, modifications, upgrades, updates and enhancements to licensed Program, no matter how numbered or named.

C. "License Term" means the term of the license as set forth in the applicable Schedule.

D. "Maintenance" means all actions to keep the Programs in, or return Programs to, good operating condition in accordance with Supplier's published specifications and any additional specifications contained or referenced in any Schedule, the provision of all Improvements as may be incorporated into the Programs, correction of malfunctions, telephone consultation via a toll free number, and all updates to the User Documentation.

E. "Programs" means the proprietary software programs and User Documentation, as defined below, including, without limitation, each individual component or part thereof, supplied hereunder that are identified on the Schedules, including all Improvements.

F. "Severity 1" means (i) production is down and Aetna is unable to use the Program, resulting in critical impact on operations; (ii) a Severity 2 problem has remained unresolved for [*]; or (iii) a Severity 3 problem has remained unresolved for [*].

G. "Severity 2" means (i) production is degraded, impeding critical business processing and/or causing disruption to normal production work flow; (ii) development is down, disrupting critical development; or (iii) a Severity 3 problem has remained unresolved for [*].

H. "Severity 3" means non-critical development is down, critical development is degraded, or non-critical production is experiencing problems.

I. "Severity 4" means non-critical development is degraded, or minor production problems and/or questions exist.

J. "User Documentation" shall mean user guides, operation manuals, specifications and other related information and documentation, whether in print or machine readable media, supplied to Aetna hereunder, including all additions, updates and modifications thereto.

2. LICENSE GRANT. Upon mutual execution of a Schedule or the Schedule Effective Date, whichever is earlier, Supplier grants to Aetna a license to: (i) access and allow users to access the Programs specified on a Schedule or (ii) install and use on an irrevocable, nonexclusive, worldwide, non-CPU specific, non-location specific

[*] Confidential treatment requested; certain information omitted and filed separately with the SEC.

basis the Programs specified on a Schedule, as applicable, on any Supplier supported operating system pursuant to the terms and conditions specified in the Agreement and this Attachment. Supplier represents that the Programs are trade secrets and proprietary to Supplier. Except as otherwise allowed herein or as authorized by law, Aetna agrees not to sell, lease, rent, assign, or disclose any part of the Programs to any other person or firm during or after the License Term. However, Aetna may disclose the Program to outside consultants or other third parties as long as Aetna agrees to be responsible for any improper disclosures by these Parties. The Parties acknowledge and agree that this Attachment includes a "license of intellectual property" and is and shall be subject to Section 365(n) of the United States Bankruptcy Code, and that Aetna shall be entitled to all rights and benefits of such Section 365(n) in accordance with its terms and conditions.

3. RIGHTS OF USE

A. Specific Rights of Use. Aetna shall have the following rights to use the Programs:

i. to distribute User Documentation to Authorized Users and/or the right to have third parties provide distribution services;

ii. to use a multi-user access Program by Authorized Users on a local area network ("LAN") in which such copy is installed on one or more servers for workload balancing and is accessed by workstations or Web servers comprising the LAN;

iii. to reproduce the User Documentation and other related materials for its own use provided that all titles, logos and copyrights are also reproduced.

B. Reproduction and Compatibility Testing Right. Aetna shall have the right, at its own discretion and at no additional charge, to reproduce and install the Programs on additional CPUs at an Aetna location or that of any third party, which is of the same operating system or its equivalent replacement, and/or CPUs not owned, controlled or leased by Aetna for purposes of performing back-up, disaster recovery, disaster recovery testing, maintenance and/or compatibility testing activities. In the course of such reproduction, Aetna shall ensure that all proprietary, confidential and copyright notices, markings or legends which appear on the Programs to be placed upon each such copy or reproduction. Such software maintenance and compatibility testing activities include, but are not limited to, the following purpose:

i. Program Defect Resolution: verification, diagnosis and resolution of potential defects in the Program. Upon resolution, the corrected copy would replace the production copy.

ii. Application of Service: installation of program temporary fixes or bypasses on a copy of the Program before it replaces the production copy.

iii. New Release Testing: for Programs installed by Aetna, testing of a new release of the Program provided by Supplier to verify that it operates according to specifications before it replaces the production copy.

iv. New Operating System or Environment: for Programs installed by Aetna, installation of a new operating system (such as Sysplex, etc.), a new release of an operating system or a third party utility with which the Program must interface to verify that both the new system, release or utility and the Program operate according to specifications before the new operating system or utility is placed into production.

C. Restrictions on Use. Aetna agrees that neither Aetna or it's subcontractors shall (a) reverse engineer, decompile, disassemble or otherwise attempt to determine source code from the Program or disclose the results of Program performance, statistics, or tests to any third party without Supplier's prior written consent or unless otherwise allowed by law; (b) create or attempt to create derivative works from the Program; or (c) remove or modify any Program markings or notices of Supplier's proprietary rights.

D. Responsibilities of Aetna. Aetna shall: (a) use commercially reasonable efforts to prevent unauthorized access to or use of the Program, and notify Supplier immediately of any such unauthorized use; (b) comply with all applicable local, state, federal, and foreign laws in using the Program.

E. Usage Guidelines. Aetna agrees to use the Program solely for their business purposes as contemplated by this Agreement, and agree not to use the Program to (i) send spam or any other form of duplicative and unsolicited messages other than marketing and promotional messages to Carrier Clients and prospective clients as contemplated by the Program; (ii) knowingly transmit through or post on the Program unlawful, immoral, libelous, tortuous, infringing, defamatory, threatening or harassing material or material harmful to minors; (iii)

knowingly transmit material containing software viruses or other harmful or deleterious computer code, files, scripts, agents, or programs; (iv) knowingly interfere with or disrupt the integrity or performance of the Program or the data contained therein, excluding the intended use of the Program; (v) attempt to gain unauthorized access to the Program, computer systems or networks related to the Program; or (vi) harass or interfere with another person's use of the Program, excluding the intended use of the Program.

F. Audit. Upon written request by the Supplier, but no more than [*] per year, Aetna will perform a self-audit based on the reasonable requirements provided by the Supplier in accordance with the terms stated in Section 3. Upon completion of this self-audit, the results will be certified by an officer of Aetna and delivered to Supplier. Aetna agrees to promptly remedy any discrepancies or breaches revealed during the audit.

G. Hosting. Should Aetna desire to install the Program at Aetna's location Aetna will be responsible for the purchase and maintenance of third party software and hardware to support the Program and Services. Supplier will not be held liable for any damages resulting from Aetna's mismanagement of the hosting infrastructure.

4. FEES. Payment of the license fee shall entitle Aetna to the right to use the Program for the duration of the License Term. Such right to use the Program shall not be contingent upon additional license fees of any kind whatsoever, including the following, without limitation:

i. Program license transfer or relocation fees;

ii. CPU upgrade fees;

iii. software operating system upgrade fees; or

iv. re-licensing fees brought about by the renumbering or renaming of Program enhancements, updates, releases or versions or by the combining of Programs separately licensed hereunder (all "Replaced Programs") with existing or new programs not licensed hereunder ("Replacing Programs"). If Aetna subscribes to Maintenance, then Aetna shall be entitled to the Replacing Programs at no additional charge.

There shall be one annual Maintenance Service fee per Program for which Supplier shall invoice Aetna thirty (30) days prior to the Maintenance Anniversary Date, as defined below in the Section 10, *Maintenance*, regardless of the number of computers on which the Programs are operating or the number of licensed copies of each Program.

5. DELIVERY & INSTALLATION. Supplier agrees that all Programs including the User Documentation and Improvements shall be delivered to Aetna electronically. Installation of the Programs shall be as set forth in an applicable Schedule. During the period the Program(s) are in transit or in possession of Supplier, up to the time of receipt by Aetna, Supplier and its insurers, if any, relieve Aetna of and assume responsibility for all risk of loss or damage to the Programs which shall be shipped F.O.B. destination to the locations specified on an applicable Schedule.

6. ACCEPTANCE. Commencing with successful installation of each Program, Aetna shall have a period of [*] ([*]) [*], or such other time designated in a Schedule, to perform an acceptance test of the newly installed Program (the "Acceptance Period") as may be set forth in the applicable Schedule. Unless otherwise agreed to in the applicable Schedule, in the event that Supplier is unable, within [*] ([*) [*] of written notice from Aetna, to correct any and all deficiencies, Aetna shall thereupon have the right to terminate this Attachment and/or an applicable Schedule and return the Programs to Supplier at Supplier's expense (provided that Aetna has installed, configured and loaded the Program and data according to Supplier's guidelines on supported third party software and hardware). Upon such termination, Aetna shall have no obligation to Supplier to pay for the Program and, within [*] ([*]) [*], Supplier shall refund to Aetna all monies previously paid for such Program, pursuant to the applicable Schedule. In the event of acceptance of the Program by Aetna, such acceptance is expressly made official by either forwarding a notice of acceptance to Supplier, or by allowing a two (2) business day period following the Acceptance Period to lapse without sending notice of non-acceptance. If there is no notice of acceptance, the Acceptance Date will be the first business date following such two (2) business day acceptance period. Upon such acceptance as set forth, in this Attachment, Aetna shall be obligated to pay as provided in Section 4, *Fees*, of this Attachment, and Section 3.B., *Invoicing and Payment*, of the MBA. Supplier agrees to provide Maintenance as set forth in the Schedule during all Acceptance Testing. Such Services shall be provided at no expense to Aetna.

[*] Confidential treatment requested; certain information omitted and filed separately with the SEC.

7. TERM & TERMINATION. Program licenses granted under this Attachment shall continue in effect for the duration of the License Term as specified in a Schedule. The License Term shall commence on the Effective Date specified on the applicable Schedule. For those licenses that are not perpetual, Supplier shall provide a minimum of [*] ([*]) [*] written notice prior to the expiration of the License Term. Aetna shall have [*] ([*]) [*] thereafter to notify Supplier if it does not agree to a renewal of the license under the same terms and conditions ("Renewal Term"). Upon termination, Aetna will promptly destroy all copies of the Program and User Documentation and, upon request by Supplier, will provide Supplier with written confirmation of such destruction.

8. WARRANTIES AND INDEMNIFICATION. In addition to the warranties in the MBA, Supplier provides the following warranties:

A. User Documentation. Supplier warrants that the User Documentation shall be of reasonably sufficient detail so as to allow Aetna's employees or users to comprehend the operation of the Program, and Supplier shall, at no additional cost to Aetna, correct any User Documentation that does not conform to this warranty.

B. Disabling Devices. Supplier warrants that it has successfully tested the Programs to determine if such Programs contain threats known as software viruses, time or logic bombs, trojan horses, worms, timers or clocks, trap doors, keys, node locks, time-outs or other functions, instructions, devices or techniques, whether implemented by electronic, mechanical or other means, that can or were designed to erase data or programming, infect, disrupt, damage, disable, shut down a computer system or any component of such computer system, including, but not limited to, its security or user data, or otherwise cause any Programs to become inoperable or incapable of being used in accordance with the User Documentation (hereinafter "Disabling Devices"). Supplier further warrants that such Programs are free and clear of and contain no Disabling Devices and that Supplier will maintain clean copies that are free and clear of and contain no Disabling Devices. Upon Aetna's request, Supplier shall provide a clean copy to Aetna for comparison with and correction of copies in Aetna's custody or possession and, upon Aetna's request, Supplier shall correct such copies.

C. Program Warranties. Supplier warrants that, at the time of delivery, the Programs will be true copies of Supplier's most recently released, standard version of the Programs. For a period of [*] from the Acceptance Date (the "Warranty Period"), and during Maintenance, Supplier warrants that:

i. the Programs will function as set forth in the User Documentation, including, but not limited to, operating performance, memory requirements, response and run times and timing characteristics, documentation, compatibility and modularity; and

ii. an Improvement will not eliminate, reduce, or degrade the performance capabilities of the Programs from the corresponding level of performance or diminish the features or functions of or the specifications of the Programs as they existed on the Acceptance Date; and

iii. the Programs will be compatible with the computers and operating systems and their equivalent replacements, as set forth in an applicable Schedule; and

iv. Supplier will have completed all prudent testing on Improvements required to maintain such compatibility to ensure that such Improvements are in compliance with the foregoing warranties; and

v. during the Warranty Period and Maintenance, in accordance with (ii) immediately above, each new Improvement will be compatible with the immediate prior version of that particular Program(s).

For a period of [*] ([*]) [*] after the date a new Improvement has been released, Supplier shall provide maintenance for the Program(s) in the form in effect immediately prior to the release of the new Improvement. Aetna agrees to insure that it will not fall more than two major releases behind Supplier's release upgrade schedule. Supplier warrants that it shall continue to maintain the Programs in a form compatible with the most current equivalent form of the third party software or operating system supported by, interfaced with or supporting the Program(s) and that Improvements incorporating changes to maintain such compatibility shall be made available to Aetna within a period of [*] ([*]) [*] following the general availability of such changes in the third party licensor software or operating system.

D. Date Related Warranties. Supplier represents and warrants that all deliverables will accurately recognize and process (including, but not limited to, calculating, comparing and sequencing) calendar related (date/time) data.

[*] Confidential treatment requested; certain information omitted and filed separately with the SEC.

9. REMEDIES. In the event that the Program fails to satisfy any warranties in the Agreement or Supplier ceases to provide Maintenance for the Programs in accordance with this Attachment or applicable Schedule(s), Supplier shall, at Aetna's sole discretion: (a) promptly replace the Program with software that satisfies all such warranties and that conforms to the specifications set forth in the Schedule and User Documentation; (b) repair the Program, at Supplier cost, so that it satisfies all such warranties and conforms to the specifications set forth in the Schedule and User Documentation in accordance with the resolution time frames shown in Section 10, *Maintenance*, below for the relevant severity level or (c) refund the license fee and other monies received by Supplier for the Program. In the event Supplier fails to comply with these remedies, or in the event of a material breach of the Agreement, Aetna may exercise all available rights and remedies under the MBA.

10. MAINTENANCE

A. Maintenance Term and Fee. Supplier covenants that it will provide Maintenance for the Programs without charge to Aetna during the Warranty Period and thereafter so long as Aetna has contracted with Supplier for Maintenance. Upon expiration of the Warranty Period, and if the Program resides in either a Supplier hosted environment dedicated to Aetna, or an Aetna environment, Aetna shall have the option to receive Maintenance by payment of the annual Maintenance fee set forth in the applicable Schedule. If Aetna exercises such option, Supplier will continue to provide Maintenance for the designated Programs. Warranty Periods shall expire individually on the [*] anniversary of the Acceptance Date of each Program. Notwithstanding the foregoing, all Programs shall have a common, coterminous Maintenance anniversary date (the "Anniversary Date") that shall be the date that Aetna's payment for Maintenance is due and payable. The Anniversary Date shall be the anniversary of the initial Acceptance Date under this Attachment. On the Anniversary Date, the Maintenance fee for all Programs, which, at Aetna's election, are to receive Maintenance during the subsequent 12 months, shall be determined as follows:

a) for Programs no longer within the Warranty Period, an amount equal to the annual Maintenance fee, plus;

b) for Programs still within the Warranty Period, a portion of the annual Maintenance fee, prorated on the basis of the number of full months during the Maintenance Period that the Warranty Period for such Programs will have expired.

Supplier may increase the annual Maintenance fee for the Programs on each Anniversary Date with at least [*] prior written notice to Aetna. In no event shall the annual Maintenance fee (i) increase more frequently than [*], and (ii) increase more than [*]% over the previous year's charge.

B. Termination & Reinstatement of Maintenance. At the expiration of annual Maintenance period, Aetna shall have the option to terminate Maintenance for individual Program licenses or for entire Schedules with [*] ([*]) [*] prior written notice to Supplier. Aetna may subsequently recommence Maintenance and shall be responsible for full payment of Maintenance including the lapsed period.

C. Program Maintenance Service Levels. Supplier warrants that Aetna's calls for service will be responded to and resolved in accordance with the terms and conditions set forth below. Aetna and the Supplier shall reasonably determine the severity level of the problem when Aetna places a service call to Supplier. Supplier warrants that it will use qualified technical personnel with the appropriate technical experience in the operation of the particular Program or resolution of the problem.

i. ***Support***: Supplier will provide telephone or pager support 24 hours per day, 7 days per week for Severity 1 problems, 8:00 a.m. to 8:00 p.m. Eastern Time, Monday through Friday for Severity 2 problems and, for Severity 3 and Severity 4 problems, 8:00 a.m. to 5:00 p.m. Eastern Time, Monday through Friday.

ii. ***Resolution***: Problem resolution is defined as a reasonable workaround to restore production services or a permanent fix.

[*] Confidential treatment requested; certain information omitted and filed separately with the SEC.

iii. ***Timeframe for Resolution***: Supplier's service technician will respond to service calls as follows:

Severity	*Response Timeframe from receipt of service call*	*Resolution Timeframe from receipt of service call*
Severity 1	[*]	[*]
Severity 2	[*]	[*]
Severity 3	[*]	[*]
Severity 4	[*]	[*]

If Aetna reaches a recorded message when it makes the service call, or pages the Supplier, Supplier must respond back to Aetna by personal telephone call within the Response Timeframe to notify Aetna that Supplier received the service call and Supplier is working on a resolution. If Supplier reaches a recorded message when it responds to Aetna with a resolution within the required Resolution Timeframe, the obligation of Supplier shall be deemed satisfied and Supplier shall not be held further liable so long as Supplier leaves a message with the resolution or otherwise sends the resolution to Aetna within the time frame.

Supplier will provide Aetna with a patch or adequate work-around to the problem while working on resolution during the initial response to the service call. Such patch or work-around shall render the Program usable until a permanent resolution is provided by Supplier.

D. Performance Credits. Supplier and Aetna agree that the damage resulting from Supplier's failure to meet the Service Levels set forth herein may be difficult to calculate. If Supplier fails to meet such Service Levels, Supplier and Aetna agree that, as liquidated damages for such failure, and not as a penalty, Aetna shall be entitled to receive, with respect to each such failure, an amount specified on the applicable Schedule (each a "Performance Credit") for each [*] Supplier is not in compliance with the Maintenance Resolution Time Frames. Performance Credits will begin to accrue at [*] from Supplier's receipt of the service call for Severity 1 problems, [*] from a Severity 2 service call, and [*] for Severity 3 problems. Such Performance Credits may, at Aetna's sole discretion, be paid by Supplier to Aetna as a credit to be applied against the Maintenance fee next due. Aetna may, in its sole discretion, waive acceptance of, and not receive, any Performance Credits relating to such failure and may pursue any other remedies that may be available to it in law or equity or otherwise.

11. TRAINING & OWNERSHIP OF TRAINING MANUAL. Training and ownership of any training manuals, including, but not limited to, Aetna's right to copy such manuals, shall be as specified in the Schedules.

12. OPEN SOURCE. Supplier understands that Aetna carefully manages and controls the use of open source program code ("Open Source") in the Aetna systems environment. Supplier shall notify Aetna, in writing, of any Open Source in any Programs.

13. ESCROW REQUIREMENTS. Supplier shall place one (1) complete copy of the source code, including all compilation and execution procedures, identity of required third party software, necessary compilers, passwords or encryption keys and User Documentation necessary for the use thereof (the "Source Code") and at no additional cost from Supplier to Aetna and under the terms and conditions of Aetna's source code escrow agreement, (i) for the current version of each Program within [*] of the Effective Date of each Schedule licensing Aetna's first order of such Program and (ii) for all Improvements to the Programs within [*] of release of the Improvements, with Aetna's escrow agent who will, in writing, notify Aetna upon receipt of such Source Code. Aetna shall assume all costs associated with such escrow. Aetna shall have the right at any time to verify that the copy of the Source Code placed in escrow is the correct version and functions in accordance with the User Documentation applicable Schedule and Supplier shall cooperate fully with such verification.

Within 15 days of the occurrence of any of the following, Aetna shall, without charge, receive its copy of the Source Code from Aetna's escrow agent: (a) dissolution or other cessation of business of Supplier; (b) Supplier is in material breach of this Attachment and such breach is not cured as provided herein; (c) Maintenance is no longer made available by Supplier prior to the agreed term in the applicable Statement of Work for a reason other than Aetna's refusal of Maintenance or non-payment; or (d) Aetna prevails on its quiet enjoyment rights under Section 14, *Quiet Enjoyment*, of this Attachment. After receiving its copy of the Source Code, as provided in this Section,

[*] Confidential treatment requested; certain information omitted and filed separately with the SEC.

Aetna, its agents, third party maintenance providers, and/or employees shall have the right to alter and use the Source Code as Aetna deems appropriate in accordance with the terms and conditions of the Agreement. If Aetna obtains the Source Code, then any license of the Program from Supplier hereunder shall automatically be converted to a perpetual license at the costs that are identified in the fees section of the applicable Schedule.

14. QUIET ENJOYMENT. Aetna shall be entitled during the License Term to use the Program and any part thereof without disturbance subject only to its obligation to abide by the terms and conditions of this Agreement. In the event of dissolution or other cessation of business of Supplier, or in the event Supplier terminates Maintenance prior to the agreed term in the applicable Statement of Work for a reason other than Aetna's refusal of Maintenance or non-payment and there is no successor in interest by merger, assignment or otherwise, Supplier warrants Aetna's right to continued, uninterrupted use of the Program as set forth in the applicable Schedule. If there is a successor in interest by merger, operation of law, assignment, purchase or otherwise, Supplier warrants that such merger, or such other event, shall not affect the terms and conditions of this Agreement, which shall remain in full force and effect unless Aetna and Supplier's successor mutually agree to modify or amend them. Termination of this Agreement for any reason, except as provided herein for Aetna's default, shall not affect Aetna's right to quiet enjoyment and use of the Programs.

15. TRANSFER OF LICENSES. In addition to the terms of Section 13, *Assignment*, of the MBA, Aetna may transfer individual Program licenses and any and all terms and conditions of the Agreement and this Attachment to an assignee so long as (i) the assignee agrees in writing to be bound by the terms and conditions that govern the Program, (ii) the terms of the Agreement remain in effect, and (iii) any required customizations for assignee's use of the Program may require additional fees by assignee to Supplier. This Attachment will continue to govern Aetna's remaining Program licenses and future Program acquisitions.

16. GOVERNING LAW, UCITA OPT-OUT. The terms and conditions of this Attachment shall be governed by and construed in accordance with the laws of the State of Connecticut without regard or reference to principles of conflicts of laws. For the purpose of enforcing the rights and remedies of the Parties under Article 2 of the Uniform Commercial Code, it is mutually agreed and the Parties hereby stipulate that all Programs shall be deemed and construed to constitute goods and that all licenses shall be deemed to constitute sales transactions in goods. THE PARTIES HERETO VOLUNTARILY, EXPRESSLY, IRREVOCABLY AND PERPETUALLY OPT-OUT OF ANY AND ALL APPLICABLE PROVISIONS OF THE UNIFORM COMPUTER INFORMATION TRANSACTIONS ACT AND ALL SUCCESSOR OR AMENDED ACTS WHICH ARE OR MAY BE ADOPTED IN ANY JURISDICTION.

17. OTHER SUPPLIER LICENSE AGREEMENTS. The Parties agree that the MBA together with this Attachment and the relevant Schedules shall constitute the entire Agreement between Supplier and Aetna with respect to the subject matter hereof and supersedes all other license agreements, now or in the future, including any shrink-wrap agreement, click-wrap, or "click to approve" agreement or other terms and conditions which may appear when electronically downloading the Programs, irrespective of whether such license agreement has been proposed prior to or after this Agreement is signed or that it is delivered with or affixed to the Program(s).

IN WITNESS WHEREOF, the Parties have hereto by their duly authorized representatives executed this Agreement.

Aetna Life Insurance Company

By: _____
(Authorized Signature)

Name: _____
(Print Name)

Title: _____

Date: _____

Benefitfocus.com, Inc.

By: _____
(Authorized Signature)

Name: _____
(Print Name)

Title: _____

Date: _____

Taxpayer ID #: 57-1099948

Portions of this exhibit marked [*] are requested to be treated confidentially.

AMENDMENT NO. 1
TO THE
SOFTWARE LICENSE ATTACHMENT
TO THE
MASTER BUSINESS AGREEMENT
BETWEEN
AETNA LIFE INSURANCE COMPANY
AND
BENEFITFOCUS.COM, INC.

This amendment ("Amendment") to the Software License Attachment ("License Attachment") to the Master Business Agreement dated November 28, 2006 between Benefitfocus.com, Inc. ("Supplier") and Aetna Life Insurance Company ("Aetna") is made this 1st day of November, 2009. The following amendments are incorporated into and made part of the Agreement. All sections and paragraphs of the Agreement not hereby amended shall remain in full force and effect. Capitalized terms not otherwise herein defined shall have the meanings ascribed to them in the Agreement. In the case of a conflict, the terms of this Amendment will control and prevail over those contained in the Agreement.

The License Attachment is amended as follows:

1. In section 1, insert the following new definitions alphabetically and re-letter the existing definitions accordingly:

"Aetna Competitor" means [*] and [*], including any current or future respective Competitor Affiliates.

"Competitor Affiliate" means any company that (i) Controls, (ii) is Controlled by or (iii) is under common Control with an Aetna Competitor or its parent corporation.

"Control" means the power to direct or cause the direction of the management or policies of a company, whether through ownership of voting securities, by contract, or otherwise."

2. In section 13, second paragraph, fifth line, before "(d)", delete "or".

3. In section 13, second paragraph, delete the period at the end of the first sentence and append the following:

"; or (e) Supplier is acquired by, merges with, or otherwise comes under the Control of an Aetna Competitor."

IN WITNESS WHEREOF, the parties have hereto by their duly authorized representatives executed this Agreement.

Aetna Life Insurance Company		**Benefitfocus.com, Inc.**	
By:	/s/ Michael W. Grise (Authorized Signature)	By:	/s/ Andrew L. Howell (Authorized Signature)
Name:	Michael W. Grise (Print Name)	Name:	Andrew L. Howell (Print Name)
Title:	Sr. Procurement Agent	Title:	SVP
Date:	11-24-09	Date:	11/11/09

[*] Confidential treatment requested; certain information omitted and filed separately with the SEC.

AMENDMENT NO. 1
TO
MASTER BUSINESS AGREEMENT
BETWEEN
AETNA LIFE INSURANCE COMPANY
AND
BENEFITFOCUS.COM, INC.

This amendment ("Amendment") to the Master Business Agreement dated November 28, 2006 between Benefitfocus.com, Inc. ("Supplier") and Aetna Life Insurance Company ("Aetna") ("Agreement") is made on this 29th day of December, 2008. The following amendments are incorporated into and made a part of the Agreement. All sections and paragraphs of the Agreement not hereby amended shall remain in full force and effect. Capitalized terms not otherwise herein defined shall have the meanings ascribed to them in the Agreement. In the case of a conflict, the terms of this Amendment will control and prevail over those contained in the Agreement.

WHEREAS, the parties agree to add the following language to the above referenced Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties agree to amend the Agreement as follows:

1. The language in Section, 18, *Access* is hereby deleted in its entirety and replaced with the following:

"ACCESS. Supplier shall maintain and make all Aetna related contracts, copy, files, records, accounts and other documents and materials, including any applicable records regarding the fees charged to Aetna and any other applicable financial records, in Supplier's possession or under Supplier's control, available for Aetna's examination upon five (5) business days advance written notice (or in the case of external regulatory audits, such lesser amounts of prior notice given by the applicable regulators or inspectors) during Supplier's regular business hours during the term of an applicable Schedule and for a period of one (1) year thereafter. Upon Aetna's request, Supplier shall provide Aetna with three years (e.g. 2005, 2006 & 2007) of Supplier's audited financial statements. If discrepancies or questions arise with respect to such records, Supplier shall preserve such records until an agreement is reached with Aetna regarding the disposition.

In addition, when Supplier maintains or has access to Aetna Confidential Information, Supplier agrees that Aetna shall have access to all data and information obtained, created, or collected by Supplier related to such Confidential Information. Supplier further agrees that Aetna shall have the right to audit Supplier to assure that Aetna's Confidential Information is adequately protected. During an audit, Supplier shall; (i) permit Aetna and/or any applicable party, including but not limited to federal, state and local governmental authorities having jurisdiction to conduct operational, performance, and/or security inspections: (ii) provide Aetna reasonable assistance and access to all books, records, and other papers (including, but not limited to, medical and financial records and contracts) and information relating to the Agreement and to the services rendered or deliverables provided by Supplier, and (iii) permit Aetna to interview Supplier or Supplier's employees as reasonably necessary to complete an audit. Following an audit, Supplier and Aetna may conduct an exit conference to inform Supplier of any deficiencies identified during audit. Supplier shall promptly make available to Aetna the results of any additional reviews or audits conducted by or on behalf of Supplier (including internal and external auditors) relating to Supplier's operating practices and procedures to the extent relevant to Aetna.

Further, Supplier agrees that, upon Aetna's request and at Aetna's expense, Supplier shall have an independent third party audit Supplier's statements in a security survey and/or attestation documents completed as part of Aetna's HIPAA and GLBA requirements and shall provide Aetna the results of said audit within 45 days of completion of said audit."

The effective date of this Amendment No. 1 is December 29, 2008.

The Agreement shall remain in full force and effect, and except as hereby amended, is ratified and confirmed.

IN WITNESS WHEREOF, the Parties have hereto by their duly authorized representatives executed this Agreement.

Aetna Life Insurance Company	**Benefitfocus.com, Inc.**
By: _____	By: /s/ Andrew L. Howell
(Authorized Signature)	(Authorized Signature)
Name: _____	Name: Andrew L. Howell
(Print Name)	(Print Name)
Title: _____	Title: SVP
Date: _____	Date: 12/29/08
	Taxpayer ID#: 57-1099948

AMENDMENT NO. 2
TO THE
MASTER BUSINESS AGREEMENT
BETWEEN
AETNA LIFE INSURANCE COMPANY
AND
BENEFITFOCUS.COM, INC.

This amendment ("Amendment") to the Master Business Agreement dated November 28, 2006 ("MBA") between Benefitfocus.com, Inc. ("Supplier") and Aetna Life Insurance Company ("Aetna") is made this 1st day of November, 2009 (the "Effective Date"). The following amendments are incorporated into and made part of the Agreement as of the Effective Date. All sections and paragraphs of the Agreement not hereby amended shall remain in full force and effect. Capitalized terms not otherwise herein defined shall have the meanings ascribed to them in the Agreement. In the case of a conflict, the terms of this Amendment will control and prevail over those contained in the Agreement.

The MBA is amended as follows:

1. In Section l.D, replace "may mean" with "means".

2. In Section 3 B, third line, change the payment terms to read, "Payment terms are sixty (60) days calculated from the date the invoice was received at Aetna's Accounts Payable Department."

3. In Section 4.C, third line, replace "under" with "hereunder''.

4. Amend section 8 as follows: Replace the first paragraph of Section 8 in its entirety with the following:

> "8 INDEMNIFICATION. Supplier hereby represents and warrants that its delivery of Services, Materials and/or Deliverables under this Agreement will not violate any publicity or privacy right, patent, copyright, trade secret or other proprietary or intellectual property right or confidential relationship of any third party."

In the fourth line of paragraph 2, replace "goods, Services and/or Deliverables" with "Services, Materials and/or Deliverables".

Replace the last sentence of paragraph 2 in its entirety with the following:

> "Following such notice of a claim or suit, Supplier shall, upon written notice to Aetna, at Supplier's expense, (i) procure for Aetna the right to continue using the affected Services, Materials and/or Deliverable, (ii) replace or modify the affected Services, Materials and/or Deliverable with a functional equivalent so that it does not infringe, or, if neither (i) nor (ii) is commercially feasible, (iii) terminate the licenses and refund the fees received for the affected Services, Materials and/or Deliverable on a pro rata basis beginning from the date the claim is made."

5. In Section 11.E., replace the last sentence in its entirety with following language:

> "Supplier further represents and warrants that Supplier's employees are authorized to work in the United States at the job and location to which they are assigned, and that Supplier is in compliance with the Immigration Reform and Control Act of 1986 (IRCA), as amended, including the E-Verify rules at 48 C.F.R. 22.1800 *et seq.;* 48 C.F.R. 52.222-54, with respect to such Supplier's employees."

6. Add the following sentence at the end of Section 22, *Use of Name:*

> ''Each party shall have the right to revoke any permission granted hereunder, whereupon the other party shall promptly cease and desist from the revoked use."

7. Replace Exhibit A in its entirety with the following:

EXHIBIT A

BUSINESS ASSOCIATE AGREEMENT
HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA)

This Business Associate Agreement (the "Agreement") is made and entered into this 1st day of November, 2009 (the "Effective Date"), by and between Aetna Life Insurance Company ("Aetna"), a corporation organized under the laws of Connecticut and having its principal address at 151 Farmington Avenue, Hartford, CT 06156 (hereinafter, the "Covered Entity") and Benefitfocus.com, Inc., a corporation organized under the laws of South Carolina and having its principal address at 100 Benefitfocus Way, Charleston, South Carolina 29492 (hereinafter, the "Business Associate"). In conformity with the regulations at 45 C.F.R. Parts 160-164 (the "Privacy and Security Rules"), Covered Entity will provide Business Associate with access to, or have Business Associate create, maintain, transmit and/or receive certain Protected Health Information (as defined below), thus necessitating a written agreement that meets the applicable requirements of the Privacy and Security Rules. Covered Entity and Business Associate agree as follows:

1. Definitions. The following terms shall have the meaning set forth below:

(a) ARRA. "ARRA" means the American Recovery and Reinvestment Act of 2009.

(b) C.F.R. "C.F. R." means the Code of Federal Regulations.

(c) Designated Record Set. "Designated Record Set" has the meaning assigned to such term in 45 C.F.R. 160.501.

(d) Discovery. "Discovery" shall mean the first day on which a Security Breach is known to Business Associate (including any person, other than the individual committing the breach, that is an employee, officer, or other agent of Business Associate), or should reasonably have been known to Business Associate, to have occurred.

(e) Electronic Health Record. "Electronic Health Record" means an electronic record of health-related information on an individual that is created, gathered, managed and consulted by authorized health care clinicians and staff.

(f) Electronic Protected Health Information. "Electronic Protected Health Information" means information that comes within paragraphs 1 (i) or 1 (ii) of the definition of "Protected Health Information", as defined in 45 C.F.R. 160.103.

(g) Individual. "Individual" shall have the same meaning as the term "individual" in 45 C.F.R. 164.501 and shall include a person who qualifies as personal representative in accordance with 45 C.F.R. 164.502 (g).

(h) Protected Health Information. "Protected Health Information" shall have the same meaning as the term "Protected Health Information", as defined by 45 C.F.R. 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity.

(i) Required by Law. "Required by Law" shall have the same meaning as the term "required by law" in 45 C.F.R. 164.501.

(j) Secretary. "Secretary" shall mean the Secretary of the Department of Health and Human Services or his designee.

(k) Security Breach. "Security Breach" means the unauthorized acquisition, access, use or disclosure of Protected Health Information which compromises the security or privacy of such information, except where an unauthorized person to whom such information is disclosed would not reasonably have been able to retain such information. Security Breach does not include:

(i) any unintentional acquisition, access, or use of Protected Health Information by an employee or individual acting under the authority of Business Associate if:

(I) such acquisition, access or use was made in good faith and within the course and scope of the employment or other professional relationship of such employee or individual, respectively, with Business Associate; and

(II) such information is not further acquired, accessed, used or disclosed by any person; or

(ii) any inadvertent disclosure from an individual who is otherwise authorized to access Protected Health Information at a facility operated by Business Associate to another similarly situated individual at the same facility; and

(iii) any such information received as a result of such disclosure is not further acquired, accessed, used or disclosed without authorization by any person.

(l) Security Breach Compliance Date. "Security Breach Compliance Date" means the date that is thirty (30) days after the Secretary publishes interim final regulations to carry out the provisions of Section 13402 of Subtitle D (Privacy) of ARRA.

(m) Security Incident. “Security Incident” shall have the same meaning as the term “security incident” in 45 C.F.R. 164.304.

(n) Standard Transactions. “Standard Transactions” means the electronic health care transactions for which HIPAA standards have been established, as set forth in 45 C.F.R., Parts 160-162.

(o) Unsecured Protected Health Information. “Unsecured Protected Health Information” means Protected Health Information that is not secured through the use of a technology or methodology specified by guidance issued by the Secretary from time to time.

2. Obligations and Activities of Business Associate

(a) Business Associate agrees to not use or disclose Protected Health Information other than as permitted or required by this Agreement or as Required By Law. Business Associate shall also comply with any further limitations on uses and disclosures agreed to by Covered Entity in accordance with 45 C.F.R. 164.522 provided that such agreed upon limitations have been communicated to Business Associate according with Section 4.l(c) of this Agreement.

(b) Business Associate agrees to use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Agreement.

(c) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement.

(d) Business Associate agrees to report to Covered Entity any use or disclosure of the Protected Health Information not allowed by this Agreement of which it becomes aware.

(e) Beginning on the later of the Effective Date of this Agreement or the Security Breach Compliance Date, Business Associate agrees to report to Covered Entity any Security Breach of Unsecured Protected Health Information without unreasonable delay and in no case later than sixty (60) calendar days after Discovery of a Security Breach. Such notice shall include the identification of each individual whose Unsecured Protected Health Information has been, or is reasonably believed by Business Associate, to have been, accessed, acquired, or disclosed In connection with such Security Breach. In addition, Business Associate shall provide any additional information reasonably requested by Covered Entity for purposes of investigating the Security Breach. Business Associate’s notification of a Security Breach under this section shall comply in all respects with each applicable provision of Section 13400 of Subtitle D (Privacy) of ARRA and related guidance issued by the Secretary from time to time.

(f) Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity, agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information. In no event shall Business Associate, without Covered Entity’s prior written approval, provide Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity, to any employee or agent, including a subcontractor, if such employee, agent or subcontractor receives, processes or otherwise has access to the Protected Health Information outside of the United States.

(g) Business Associate agrees to provide access, at the request of Covered Entity, and in the time and manner designated by Covered Entity, to Protected Health Information in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 C.F.R. 164.524. Covered Entity’s determination of what constitutes “Protected Health Information” or a “Designated Record Set” shall be final and conclusive. If Business Associate provides copies or summaries of Protected Health Information to an Individual it may impose a reasonable, cost-based fee in accordance with 45 C.F.R. 164.524 (c)(4).

(h) Business Associate agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 C.F.R. 164.526 at the request of Covered Entity or an Individual, and in the time and manner designated by Covered Entity. Business Associate shall not charge any fee for fulfilling requests for amendments. Covered Entity’s determination of what Protected Health Information is subject to amendment pursuant to 45 C.F.R. 164.526 shall be final and conclusive.

(i) Business Associate agrees to make (i) internal practices, books, and records, including policies and procedures, relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, Covered Entity, and (ii) policies, procedures, and documentation relating to the safeguarding of Electronic Protected Health Information available to the Covered Entity, or at the request of the Covered Entity to the Secretary, in a time and manner designated by the Covered Entity or the Secretary, for purposes of the Secretary determining Covered Entity’s compliance with the Privacy and Security Rules.

(j) Business Associate agrees to document such disclosures of Protected Health Information as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. 164.528.

(k) Business Associate agrees to provide to Covered Entity, in the time and manner designated by Covered Entity, the information collected in accordance with Section 2(i) of this Agreement, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. 164.528. In addition, with respect to information contained in an Electronic Health Record, Business Associate shall document, and maintain such documentation for three (3) years from date of disclosure, such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of information contained in an Electronic Health Record, as required by Section 13405(c) of Subtitle D (Privacy) of ARRA and related regulations issued by the Secretary from time to time.

(l) Business Associate acknowledges that it shall request from the Covered Entity and so disclose to its affiliates, agents and subcontractors or other third parties, only (i) the information contained in a "limited data set," as such term is defined at 45 C.F.R. 164.514(e)(2), or, (ii) if needed by Business Associate, to the minimum necessary to accomplish the intended purpose of such requests or disclosures. In all cases, Business Associate shall request and disclose Protected Health Information only in a manner that is consistent with guidance issued by the Secretary from time to time.

(m) With respect to Electronic Protected Health Information, Business Associate shall implement and comply with (and ensure that its subcontractors implement and comply with) the administrative safeguards set forth at 45 C.F.R. 164.308, the physical safeguards set forth at 45 C.F.R. 310, the technical safeguards set forth at 45 C.F.R. 164.312, and the policies and procedures set forth at 45 C.F.R. 164.316 to reasonably and appropriately protect the confidentiality, integrity, and availability of the Electronic Protected Health Information that it creates, receives, maintains, or transmits on behalf of Covered Entity. Business Associate acknowledges that, effective the later of the Effective Date of this Agreement or February 17, 2010, (i) the foregoing safeguards, policies and procedures requirements shall apply to Business Associate in the same manner that such requirements apply to Covered Entity, and (ii) Business Associate shall be liable under the civil and criminal enforcement provisions set forth at 42 U.S.C. 1320d-5 and 1320d-6, as amended from time to time, for failure to comply with the safeguards, policies and procedures requirements and any guidance issued by the Secretary from time to time with respect to such requirements.

(n) With respect to Electronic Protected Health Information, Business Associate shall ensure that any agent, including a subcontractor, to whom it provides Electronic Protected Health Information, agrees to implement reasonable and appropriate safeguards to protect it.

(o) Business Associate shall report to Covered Entity any Security Incident of which it becomes aware.

(p) If Business Associate conducts any Standard Transactions on behalf of Covered Entity, Business Associate shall comply with the applicable requirements of 45 C.F.R. Parts 160-162.

(q) During the term of this Agreement, Business Associate may be asked to complete a security survey and/or attestation document designed to assist Covered Entity in understanding and documenting Business Associate's security procedures and compliance with the requirements contained herein. Business Associate's failure to complete either of these documents within the reasonable timeframe specified by Covered Entity shall constitute a material breach of this Agreement.

(r) Business Associate acknowledges that, effective the later of the Effective Date of this Agreement or February 17, 2010, it shall be liable under the civil and criminal enforcement provisions set forth at 42 U.S.C. 1320d-5 and 1320d-6, as amended from time to time, for failure to comply with any of the use and disclosure requirements of this Agreement and any guidance issued by the Secretary from time to time with respect to such use and disclosure requirements.

3. Permitted Uses and Disclosures by Business Associate

3.1 General Use and Disclosure Except as otherwise limited in this Agreement, Business Associate may use or disclose Protected Health Information to perform its obligations and services to Covered Entity, provided that such use or disclosure would not violate the Privacy and Security Rules if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity.

3.2 Specific Use and Provisions

(a) Except as otherwise prohibited by this Agreement, Business Associate may use Protected Health Information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.

(b) Except as otherwise prohibited by this Agreement, Business Associate may disclose Protected Health Information for the proper management and administration of the Business Associate, provided that disclosures

are Required By Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached in accordance with the Security Breach and Security Incident notifications requirements of this Agreement.

(c) Business Associate shall not directly or indirectly receive remuneration in exchange for any Protected Health Information of an individual without Covered Entity's prior written approval and notice from Covered Entity that it has obtained from the individual, in accordance with 45 C.F.R. 164.508, a valid authorization that includes a specification of whether the Protected Health Information can be further exchanged for remuneration by Business Associate. The foregoing shall not apply to Covered Entity's payments to Business Associate for services delivered by Business Associate to Covered Entity.

(d) Except as otherwise prohibited by this Agreement, Business Associate may use Protected Health Information to provide data aggregation services to Covered Entity as permitted by 42 C.F.R. 164.504(e)(2)(i)(B).

(e) Business Associate may use Protected Health Information to report violation of law to appropriate Federal and State authorities, consistent with 164.502(j)(l).

4. Obligations of Covered Entity.

4.1 Provisions for Covered Entity to Inform Business Associate of Privacy Practices and Restrictions

(a) Covered Entity shall notify Business Associate of any limitation(s) in Covered Entity's notice of privacy practices that Covered Entity produces in accordance with 45 C.F.R. 164.520 (as well as any changes to that notice), to the extent that such limitation(s) may affect Business Associate's use or disclosure of Protected Health Information.

(b) Covered Entity shall provide Business Associate with any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, to the extent that such changes affect Business Associate's use or disclosure of Protected Health Information.

(c) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with 45 C.F.R. 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of Protected Health Information.

4.2 Permissible Request by Covered Entity. Except as may be set further in Section 3.2, Covered Entity shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy and Security Rules if done by Covered Entity.

5. Term and Termination

(a) Term. The provisions of this Agreement shall take effect on the Agreement's Effective Date and shall terminate when all of the Protected Health Information provided by Covered Entity to Business Associate, or created, maintained, transmitted or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, in accordance with Section 5(c)(2).

(b) Termination for Cause. Without limiting the termination rights of the parties pursuant to the Agreement and upon either party's knowledge of a material breach of this Agreement by the other party, , the non-breaching party shall provide an opportunity for the breaching party to cure the breach or end the violation, or terminate the Agreement, if the breaching party does not cure the breach or end the violation within the time specified by the non-breaching party, or immediately terminate this Agreement, if, in the non-breaching party's reasonable judgment, cure is not possible.

(c) Effect of Termination.

(1) Except as provided in Section 5(c), upon termination of this Agreement, for any reason, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or created, maintained, transmitted or received by Business Associate on behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.

(2) In the event the Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the parties that return or destruction of Protected Health Information is infeasible, per Section 5(a) above, Business Associate shall continue to extend the protection of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information for so long as Business Associate maintains such Protected Health Information.

6. Indemnification. Business Associate shall indemnify and hold harmless Covered Entity and any of Covered Entity's affiliates, directors, officers. employees and agents from and against any claim, cause of action, liability, damage, cost or expense (including reasonable attorneys' fees) arising out of or relating to any non-permitted use or disclosure of Protected Health Information, failure to safeguard Electronic Protected Health Information, or other breach of this Agreement by Business Associate or any affiliate, director, officer, employee, agent or subcontractor of Business Associate.

7. Notices. Any notices or communications to be given under this Agreement shall be made to the address and/or fax numbers given below:

To Covered Entity:
Aetna Legal Support Services
151 Farmington Avenue- Attn: W121
Hartford, CT 06156
Fax: (860) 907-3017

To Business Associate:
Benefitfocus.com, Inc.
100 Benefitfocus Way
Charleston, SC 29492
Phone: (843) 849-7476
Fax: (843) 849-9298

Each party named above may change its address upon thirty (30) days written notice to the other party.

8. Miscellaneous.

(a) Regulatory References. A reference in this Agreement to a section in the Privacy and Security Rules means the section as in effect or as amended.

(b) Amendment. Upon the enactment of any law or regulation affecting the use or disclosure of Protected Health Information, the safeguarding of Electronic Protected Health Information, or the publication of any decision of a court of the United States or any state relating to any such law or the publication of any interpretive policy or opinion of any governmental agency charged with the enforcement of any such law or regulation, either party may, by written notice to the other party, amend the Agreement in such manner as such party determines necessary to comply with such law or regulation. If the other party disagrees with such amendment, it shall so notify the first party in writing within thirty (30) days of the notice. If the parties are unable to agree on an amendment within thirty (30) days thereafter, then either of the parties may terminate the Agreement on thirty (30) days written notice to the other party.

(c) Survival. The respective rights and obligations of Business Associate under Sections 5(c) and 6 of this Agreement shall survive termination of this Agreement.

(d) Interpretation. Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the Privacy and Security Rules. In the event of any inconsistency or conflict between this Agreement and any other agreement between the parties, the terms, provisions and conditions of this Agreement shall govern and control.

(e) No third party beneficiary. Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than the parties and the respective successors or assigns of the parties, any rights, remedies, obligations, or liabilities whatsoever.

(f) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of Connecticut.

IN WITNESS WHEREOF, the Parties have hereto by their duly authorized representatives executed this Agreement.

Aetna Life Insurance Company

By: /s/ Michael W. Grise
(Authorized Signature)

Name: Michael W. Grise
(Print Name)

Title: Sr. Procurement Agent

Date: 11-24-09

Benefitfocus.com, Inc.

By: /s/ Andrew L. Howell
(Authorized Signature)

Name: Andrew L. Howell
(Print Name)

Title: SVP

Date: 11/11/09

Taxpayer ID#: 57-1099948

Portions of this exhibit marked [*] are requested to be treated confidentially.

SCHEDULE NO. 8
to the
MASTER BUSINESS AGREEMENT ("MBA")
between
AETNA LIFE INSURANCE COMPANY ("AETNA")
and
BENEFITFOCUS.COM, INC. ("Supplier" or "Benefitfocus")

The Parties agree that the terms and conditions of the MBA dated November 28, 2006, the Professional Services Attachment dated November 28, 2006 and the Software License Attachment dated November 28, 2006 shall govern this Schedule, except that, in the event of a conflict between the relevant documents, the terms and conditions of this Schedule shall control and prevail over the applicable Attachment and the MBA. Furthermore, in the event of a conflict between the applicable Attachment and the MBA, the terms and conditions of this Attachment shall control and prevail over the MBA.

1. **Effective Date**: November 1, 2009

2. **Aetna Coordinators**: [*]
[*]

3. **Assignment Description**: The parties are concurrently executing and delivering three schedules (Schedules 8, 9 and 10). Together, these Schedules express an overall relationship under which the parties will collaborate on enhancing and extending Benefitfocus' current offerings as more fully described in these Schedules and the accompanying Statements of Work. Aetna will pay Benefitfocus a fixed price of $[*] for the collection of services and software licenses described in detail in the three Schedules. Schedules 9 and 10 respectively address the subjects of software licensing and hosting to be supplied by Benefitfocus.

The subject of this Schedule 8 is Services and software development work. In the initial phase, Benefitfocus shall provide subject matter experts in information technology design, development, and deployment in sufficient numbers and with sufficient knowledge and expertise to work with Aetna in the development of the specification of the information technology components of the Business Needs Analysis ("BNA") documents for Chunk 1 of the projects identified in the Integrated Product Statement of Work, dated October 5, 2009, and as the parties subsequently may expand or modify ("Integrated Product Statement of Work"), attached hereto and incorporated herein by reference as Exhibit B. In later phases, using the BNA results, Benefitfocus shall contribute subject matter experts in information technology design, development, and deployment in sufficient numbers and with sufficient knowledge and expertise to define and develop application solutions that meet the needs defined in the BNAs.

[*] Confidential treatment requested; certain information omitted and filed separately with the SEC.

The Business Needs Analysis shall conform to the Aetna project development framework, a template for which is attached hereto as Exhibit A.

"Integrated Product" shall mean (1) the collection of products, functionality, services and features which support an integrated "Aetna experience" from the perspective of current or prospective Aetna brokers, plan sponsors and members, (collectively, the "Constituents"), combined with (2) the technical capability to host those services and features within the Aetna environment. The Integrated Product Statement of Work expresses the parties' shared vision for the Integrated Product as the parties are able to express it at this time. The parties jointly are committed to modifying the Integrated Product Statement of Work as needed during the course of development as needed to realize that shared vision.

"Chunk 1" means the following Projects (Ref. Chunk 1 details in Statement of Work):

[*]

"Chunk 2" means the following Projects (Ref. Chunk 2 details in Statement of Work):

[*]

"Chunk 3" means the following Projects (Ref. Chunk 3 details in Statement of Work):

[*]

4. **Materials**:

Material 1: Provide all Benefitfocus product knowledge necessary to enable Aetna to define High Level Business Needs (HLBNs) and Expanded Business Needs ("EBNs) for each Project component of Chunk 1 of the Integrated Product to complete the BNAs. Participate in working sessions via teleconference and on-site at Aetna. Draft components of the HLBNs and EBNs as requested by Aetna.

Material 2: Using the completed BNAs, define application solutions for each Project component of Chunk 1 and develop a delivery schedule for completion of the application solutions. The delivery schedule will establish Supplier's Deliverables and Materials obligations under the subsequent Schedule for Phase IV through VII of Chunk 1.

5. **Delivery Schedule**: In accordance with the agreed upon Program Plan.

6. **Acceptance**: Material 1 and Material 2 will be accepted in accordance with the Aetna Project Life Cycle ("APLC") process.

7. **Fees**: Aetna will pay Benefitfocus $6.6 million for the development Services contemplated by this Schedule 8 and the accompanying Integrated Product Statement of Work. For this Schedule 8, $[*] is due upon contract execution and receipt of a correct invoice, in accordance with the payment terms in Section 3.B. of the MBA. The Parties will agree to a payment stream for the remaining $[*] as more specifically set forth in subsequent development Schedules. Such payment stream will be tied to completion and acceptance of Services, Deliverables, Materials, and/or significant milestones. The current anticipated allocation of payments is:

2009:	$	[*]
2010:	$	[*]
2011:	$	[*]
2012:	$	[*]
Total:		**$6,600,000**

[*] Confidential treatment requested; certain information omitted and filed separately with the SEC.

(For Administrative Purposes Only) UNSPSC: 80101507

8. Supplier Employee(s):

A. Names and Title of Supplier Employee(s) assigned under this Schedule:

B. Supplier Employee Type:

i. Supplier intends on utilizing one or more H-1b employee(s) in the performance of this Schedule.

_____ Yes __X__ No

ii. If "Yes", this/these employee(s) will be on Aetna's site(s) for thirty (30) days or more.

_____ Yes _____ No

Supplier must comply with all applicable laws and regulations regarding the utilization of H-1 b employee(s).

9. Sales & Use Taxes. Supplier is not currently registered to collect sales tax in the state of Connecticut, where the Services will be delivered. Aetna will self-assess and remit the appropriate use tax to the taxing jurisdiction. Within a reasonable time after execution of this Schedule, Supplier will register with the state of Connecticut. Supplier will provide notice to Aetna when it is registered in Connecticut. Upon registration in Connecticut, Supplier will include in all invoices and collect the tax at the current rate of 1%.

10. **Access to Health Care Benefits**. N/A - Benefitfocus completed Aetna Supplier Health Care Survey in November 2008.

11. Aetna Notification Addresses:

Electronic Invoices
AWBII

Business Notices
151 Farmington Avenue
Procurement, RT32
Hartford, CT 06156

[*] Confidential treatment requested; certain information omitted and filed separately with the SEC.

12. **Other Provisions**

A. **Termination**.

1. *Aetna's Right to Terminate Without Cause.* Notwithstanding any other provision in the MBA, its Attachments or Schedules, Aetna may terminate Schedule 8 and/or Schedule 10 at any time for convenience after Aetna has paid in full all of the License Fees identified in Schedule 9. Any termination shall be effective [*] ([*]) [*] from the date of notice. If Aetna terminates Schedule 8 for convenience, Aetna shall pay for any work performed through the notice date and ordered after the notice date but shall not be obligated to order any further work performed under this schedule for the subsequent [*] ([*]) [*]. If Aetna terminates Schedule 10 for convenience, Aetna shall pay the hosting fees due under Schedule 10 for the [*] ([*]) [*] notice period.

2. *Cross Default.* Any material breach by Benefitfocus of its obligations under either Schedule 8 or Schedule 10 shall, at Aetna's election, constitute a default under the Agreement. In the event of such default, Aetna may terminate [*] in accordance with the rights and obligations in [*].

B. Exclusivity And Royalty

1. Definitions.

1.1 "Aetna Competitor" means [*], and [*], including any Competitor Affiliates.

1.2 "Aetna Processes" means Aetna software, business processes and requirements that support the administration of health (including dental and behavioral health), life, and disability benefit plans, pet insurance plans or other insurance products or related services. Aetna Processes may or may not be unique to Aetna, but are exclusive of any software or services provided to Aetna by Benefitfocus prior to the date of this Agreement.

1.3 "Custom Model" means (i) the combination of a substantial amount of the Software, Services, Materials and Deliverables described in the Integrated Product Statement of Work which supports or enables a unified user experience from the perspective of any of a carrier's brokers, plan sponsors and members, and is seamlessly and tightly integrated with a customer's infrastructure, or (ii) a set of services, product features or functions, including, without limitation, the integration of Benefitfocus products with a customer's infrastructure, which provides substantially equivalent capabilities.

1.4 "Standard Model" means (i) any Benefitfocus customer business solution currently sold or marketed together with any updates, modifications, routine enhancements or patches provided as part of the regular maintenance schedule to Benefitfocus' clients, and (ii) any subsequent Benefitfocus customer business solution that is not a Custom Model.

2. Exclusivity.

2.1 This is a limited exclusivity restriction intended to be consistent with two goals: (1) Enable Aetna to obtain "first mover" competitive advantage as to Aetna Competitors

[*] Confidential treatment requested; certain information omitted and filed separately with the SEC.

from the Integrated Product resulting from the Aetna-Benefitfocus collaboration; and (2) Permit Benefitfocus to market its Standard Model without limitation and permit Benefitfocus to market the Integrated Product except to Aetna Competitors. Accordingly, the parties agree that (i) until November 1, 2011 (the "Exclusivity Period"), Benefitfocus will not enter into any agreement with, an Aetna Competitor to develop a Custom Model, or conduct work for any Aetna Competitor, or take any other steps toward, the creation of a Custom Model for any Aetna Competitor; but (ii) Benefitfocus shall have complete freedom to take any steps toward marketing, selling or delivering a Standard Model to any customer, including any Aetna Competitor.

2.2 During the Exclusivity Period, Benefitfocus shall notify Aetna not less than [*] ([*]) [*] before Benefitfocus enters into any agreement with any Aetna Competitor ("Competitor Agreement). A press release or similar communication concerning any relationship between Benefitfocus and an Aetna Competitor shall be treated as a Competitor Agreement.

2.3 If Aetna determines in good faith that a Competitor Agreement would conflict with Benefitfocus' exclusivity undertaking in Section 2.1, above, Aetna may so advise Benefitfocus. Upon receipt of such advice, and whether or not it agrees with Aetna's determination, Benefitfocus shall immediately cease and desist from taking any action in furtherance of such Competitor Agreement until such time (if any) that (i) Aetna comes to believe that the Competitor Agreement would not conflict with Benefitfocus' exclusivity undertaking in Section 2.1, above after following dispute resolution procedures in Section 12.A. of the MBA, or (ii) an arbitration panel convened pursuant to the procedures specified in Section 12.B. of the MBA determines that the Competitor Agreement would not conflict with Benefitfocus' exclusivity undertaking in Section 2.1, above.

3. Royalty. The parties anticipate that the collaboration between Benefitfocus and Aetna will enable Benefitfocus to generate substantial sales from the Integrated Product and/or the Custom Model and agree that Aetna should share in that resulting revenue.

Accordingly, Benefitfocus shall pay Aetna a royalty of [*]% of all license fees and [*]% of all other fees (including development fees and ongoing servicing and maintenance fees) of revenues Benefitfocus earns from sales of a Custom Model (i) to customers other than Aetna Competitors, on any sale made in the first [*] ([*]) [*] following the deployment of the Integrated Product; and (ii) to Aetna Competitors, on any sale made in the first [*] ([*]) [*] following end of the Exclusivity Period.

C. **Resolution of Existing Disputes**. Schedules 8, 9, and 10 shall replace all schedules currently in effect between Benefitfocus and Aetna (the "Existing Schedules"). Any and all disputed claims for fees between the parties relating to services provided by Benefitfocus to Aetna under the Existing Schedules will be settled by and upon the execution of Schedules 8, 9, and 10. Neither party will be obligated to pay any amounts to the other party for such fees in the Existing Schedules under the terms of this settlement.

[*] Confidential treatment requested; certain information omitted and filed separately with the SEC.

IN WITNESS WHEREOF, the parties have hereto by their duly authorized representatives executed this Agreement.

Aetna Life Insurance Company		**Benefitfocus.com, Inc.**	
By:	/s/ Joseph C. Black (Authorized Signature)	By:	/s/ Shawn A. Jenkins (Authorized Signature)
Name:	Joseph C. Black (Print Name)	Name:	Shawn A. Jenkins (Print Name)
Title:	Chief Procurement Officer	Title:	President and CEO
Date:	11-24-09	Date:	11/11/09

Portions of this exhibit marked [*] are requested to be treated confidentially.

AMENDMENT NO 1
TO
SCHEDULE NO. 8
To The
MASTER BUSINESS AGREEMENT ("MBA")
BETWEEN
AETNA LIFE INSURANCE COMPANY ("Aetna")
AND
BENEFITFOCUS.COM, INC. ("Supplier")

This amendment (the "Amendment'') to Schedule No. 8 to the Master Business Agreement (the "Agreement) dated November 28, 2006, the Professional Services Attachment dated November 28, 2006 and the Software License Attachment dated November 28, 2006 between Benefitfocus.com Inc. (the "Supplier") and Aetna Life Insurance Company ("Aetna") is made as of this 17th day of May, 2010. The following revisions supplement and are incorporated into and made a part of Schedule No. 8. All sections and paragraphs of Schedule No. 8 not hereby appended shall remain in full force and effect. Capitalized terms not otherwise herein defined shall have the meanings ascribed to them in the Agreement. In case of a conflict, the terms of this Amendment will control and prevail over those contained in Schedule No. 8.

WHEREAS, pursuant to Paragraph 7 of Schedule No. 8, the Parties shall agree to a payment stream for the remaining $[*] as more specifically set forth in subsequent development Schedules; and

WHEREAS, such payment stream will be tied to completion and acceptance of Services, Deliverables, Materials, and/or significant milestones; and

WHEREAS, the parties desire to establish the payment stream for calendar year 2010 tied to the completion and acceptance of certain Services, Deliverables, Materials, and significant milestones.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties agree to amend Schedule 8 of the MBA as follows:

l. The parties previously anticipated within Section 7 of Schedule 8 that $[*] would be allocated to 2010, which, upon payment, shall be deducted from the amounts due for services under Schedule 8.

2. Milestones, related deliverables, and associated amounts due are shown in Exhibits A-N to this Amendment 1, attached hereto and incorporated by reference.

3. The parties acknowledge and agree that the following is the anticipated monthly payment schedule based upon the underlying milestones and deliverables defined by Benefitfocus and associated with each Aetna project Chunk as those amounts are itemized within the attached Exhibits A through N:

a.	January 31, 2010:	$	[*]
b.	February 28, 2010:	$	[*]
c.	March 31, 2010	$	[*]
d.	April 30, 2010:	$	[*]
e.	May 31, 2010:	$	[*]
f.	June 30, 2010:	$	[*]
g.	July 31, 2010:	$	[*]
h.	August 31, 2010:	$	[*]
i.	September 30, 2010:	$	[*]
j.	October 31, 2010:	$	[*]
k.	November 30, 2010:	$	[*]
l.	December 31, 2010:	$	[*]
	Total	$	[*]

4. The above payment schedule reflect the approximate dates on which Supplier will achieve certain milestones and provide the associated deliverables as detailed in Exhibits A through N, and shall be entitled to invoice Aetna for the above 2010 fees. As with any project, these dates may change from time to time depending on the progress of the project, therefore, actual deliverables and payments will be tied to the latest Project Plan that is in effect and mutually agreed to by the parties

[*] Confidential treatment requested; certain information omitted and filed separately with the SEC.

in writing as well as any mutual written agreements in accordance with change control procedures. For each invoice noted above, Aetna shall reasonably cooperate with Supplier to review deliverables and milestones related thereto and to accept or reject each deliverable or milestone as appropriate according the respective acceptance criteria.

5. Each milestone and related deliverable shall be accompanied by an Acceptance Form, substantially in the form attached hereto as Exhibit O.

6. Acceptance of the individual deliverables will be determined by review and sign off provided by the Aetna Coordinator. By accepting the respective milestones and deliverables, Aetna agrees to pay Benefitfocus in accordance with Section 3 above. If, after acceptance, Aetna determines that these deliverable and milestones do not meet the requirements set forth in this Agreement, Aetna shall be entitled to the rights and remedies set forth in the Agreement, including Section 7, *Warranties and Limitation of Liability*, subsection B. *Standard of Work* of the MBA and Section 9, *Remedies* of the Software License Attachment.

7. Upon acceptance of each milestone or deliverable, Supplier shall invoice Aetna the respective amount, and Aetna shall pay such amount in accordance with the payment terms outlined in Amendment 2, Section 2 to the MBA.

8.

The effective date of this Amendment No. 001 is May 17, 2010.

All Sections, terms and conditions not appended hereby shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties have hereto by their duly authorized representatives executed this Amendment.

Aetna Life Insurance Company	Benefitfocus.com, Inc.
By: /s/ Michael W. Grise	By: /s/ Andrew L. Howell
(Authorized Signature)	(Authorized Signature)
Name: Michael W. Grise	Name: Andrew L. Howell
(Print Name)	(Print Name)
Title: Sr. Procurement Agent	Title: SVP
Date: 5-27-10	Date: 5/25/10
	Taxpayer ID # 57-1099948

Attachments

Exhibit A:	eBilling ‘Third billing cycle’ (8019a)
Exhibit B:	AGI/iCAP iMax integration (7542e)
Exhibit C:	AGI/iCAP gMax integration (7842a)
Exhibit D:	eBilling for Individual (BEAR 7934b)
Exhibit E:	eDirect for Individual (BEAR 7934c)
Exhibit F:	AGI\iCAP Service Fee Billing (7597a)
Exhibit G:	Enterprise Portal Framework (8166a) November 2010 Release
Exhibit H:	Plan Sponsor Portal (8167a) November 2010 Release
Exhibit I:	Broker Portal (8168a) November 2010 Release
Exhibit J:	eSales for Small Group segment (8176a) February 2011 Release
Exhibit K:	Enhanced eEnrollment (8180a) February 2011 Release
Exhibit L:	Enterprise Portal Framework (8166b) February 2011 Release
Exhibit M:	Plan Sponsor Portal (8167b) February 2011 Release
Exhibit N:	Broker Portal (8168b) February 2011 Release
Exhibit O:	Sample of Acceptance Form

Portions of this exhibit marked [*] are requested to be treated confidentially.

AMENDMENT NO 2
TO
SCHEDULE NO 8
To The
MASTER BUSINESS AGREEMENT ("MBA")
BETWEEN
AETNA LIFE INSURANCE COMPANY ("Aetna")
AND
BENEFITFOCUS.COM, INC. ("Supplier")

This Amendment (the "Amendment'') to Schedule No. 8 to the Master Business Agreement (the "Agreement) dated November 28, 2006 between Benefitfocus.com Inc. (the "Supplier") and Aetna Life Insurance Company ("Aetna") is made as of this March 8, 2011. The following revisions supplement and are incorporated into and made a part of Schedule No. 8. All sections and paragraphs of Schedule No. 8 not hereby appended shall remain in full force and effect. Capitalized terms not otherwise herein defined shall have the meanings ascribed to them in the Agreement. In case of a conflict, the terms of this Amendment will control and prevail over those contained in Schedule No. 8.

WHEREAS, pursuant to Paragraph 7 of Schedule No. 8, the Parties shall agree to a payment stream for the remaining $[*] as more specifically set forth in subsequent development Schedules; and

WHEREAS, such payment stream will be tied to completion and acceptance of Services, Deliverables, Materials, and/or significant milestones; and

WHEREAS, the parties desire to establish the payment stream for calendar year 2011 tied to the completion and acceptance of certain Services, Deliverables, Materials, and significant milestones.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties agree to amend Schedule 8 of the MBA as follows:

l. The parties previously anticipated within Section 7 of Schedule 8 that $[*] would be allocated to 2011, which upon payment shall be deducted from the amounts due for services under Schedule 8.

2. The parties have agreed to defer to 2011, certain payments due in 2010 pursuant to Amendment No. 1 to Schedule No. 8 in the amount of $[*], for the project milestones known as BEAR 2010 Deferred (Feb & May 2011) and Aetna has agreed to pay those amounts according to the terms contained herein.

3. Milestones, related deliverables, and associated amounts due are shown in Exhibit A to this Amendment 2 (Payment Schedule and Anticipate Milestones), attached hereto and incorporated by reference.

4. The parties acknowledge and agree that the following is the anticipated monthly payment schedule based upon the underlying milestones and deliverables defined by Benefitfocus and associated with each Aetna project Chunk as those amounts are itemized within the attached Exhibits A:

a.	February 28, 2011:	$	[*]	
b.	March 31, 2011:	$	[*]	
c.	April 30, 2011:	$	[*]	
d.	May 31, 2011:	$	[*]	
e.	June, 2011		[*]	
f.	July 31, 2011:	$	[*]	
g.	August 31, 2011:	$	[*]	
h.	September, 2011		[*]	
i.	October 31, 2011:	$	[*]	To be paid on the sooner of Code Drop or October 31, 2011
j.	November 30, 2011:	$	[*]	
k.	December 31, 2011:	$	[*]	To be paid on the sooner of Code Release or December 31, 2011
	TOTAL	$	[*]	

5. The above payment schedule reflect the approximate dates on which Supplier will achieve certain milestones and provide the associated deliverables as detailed in Exhibits A, and shall be entitled to invoice Aetna for the above 2011 fees. As with

[*] Confidential treatment requested; certain information omitted and filed separately with the SEC.

any project, these dates may change from time to time depending on the progress of the project, therefore, actual deliverables and payments will be tied to the latest Project Plan that is in effect and mutually agreed to by the parties in writing as well as any mutual written agreements in accordance with change control procedures. For each invoice noted above, Aetna shall reasonably cooperate with Supplier to review deliverables and milestones related thereto and to accept or reject each deliverable or milestone as appropriate according the respective acceptance criteria.

6. Each milestone and related deliverable shall be accompanied by an Acceptance Form, substantially in the form attached hereto as Exhibit B.

7. Acceptance of the individual deliverables will be determined by review and sign off provided by the Aetna Coordinator. By accepting the respective milestones and deliverables, Aetna agrees to pay Benefitfocus in accordance with Section 3 above. If, after acceptance, Aetna determines that these deliverable and milestones do not meet the requirements set forth in this Agreement, Aetna shall be entitled to the rights and remedies set forth in the Agreement, including Section 7, Warranties and Limitation of Liability, subsection B. Standard of Work of the MBA and Section 9, Remedies of the Software License Attachment.

8. Upon acceptance of each milestone or deliverable, Supplier shall invoice Aetna the respective amount, and Aetna shall pay such amount in accordance with the payment terms outlined in Section 3 to the MBA.

9. The effective date of this Amendment No. 2 to Schedule No. 8 shall be January 1, 2011.

All Sections, terms and conditions not appended hereby shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties have hereto by their duly authorized representatives executed this Amendment.

Aetna Life Insurance Company	Benefitfocus.com, Inc.
By: /s/ Wanda Borotto (Authorized Signature)	By: /s/ Andrew L. Howell (Authorized Signature)
Name: Wanda Borotto (Print Name)	Name: Andrew L. Howell (Print Name)
Title: Procurement Manager	Title: COO
Date: Apr 12, 2011	Date: Apr 12, 2011
	Taxpayer ID # 57-1099948

Exhibit A: Payment Schedule and Anticipate Milestone

Project/Activity	Weight	2010 Deferred	Feb-11	Mar-11	Apr-11	May-11	Jul-11	Aug-11	TBD* Code Drop *Paid before or in Oct 2011	Nov-11	TBD* Release *Paid before or in Dec 2011	
BEAR 2010 Deferred (Feb & May 2011)		$680,000										
7934f May Release Code Drop 1 to JCT – 2/15/11	10%		$ 68,000									
7934f May Release Code Drop 2 to JCT – 3/18/11	10%			$ 68,000								
7934j November Release Design Signoff – 4/7/11	10%				$68,000							
7934k February Release Design Signoff – 5/6/11	10%					$ 68,000						
7934j November Release Code Drop to JCT – 7/15/11	20%						$136,000					
7934i August Release UAT Signoff – 8/15/11	20%							$136,000				
7934j November Release UAT Signoff – 11/4/11	20%									$136,000		
Totals			**$ 68,000**	**$ 68,000**	**$68,000**	**$ 68,000**	**$136,000**	**$136,000**	**$ 0**	**$136,000**	**$ 0**	**$0**
Plan Sponsor Portal	**20%**		**$380,000**									
7842b eEnrollment	**10%**			**$190,000**								
Core Small Group Release	**35%**					**$ 665,000**						
7842c eEnrollment						*$16,625.00*						
eSales						*$16,625.00*						
Broker Portal						*$16,625.00*						
eBilling						*$16,625.00*						
May Release Follow-up/	**10%**							**$190,000**				
Learning												
eSales Follow-on	**10%**								**$ 95,000**		**$ 95,000**	
2nd Edition									*$47,500.00*		*$47,500.00*	
3rd Edition									*$47,500.00*		*$47,500.00*	
eEnrollment Enhancements	**5%**								**$ 47,500.0**		**$ 47,500.0**	

SG Follow-up							*$11,875.00*		*$11,875.00*	
Middle Market							*$35,625.00*		*$35,625.00*	
Enhancements										
Portal Follow-on							**$ 95,000**		**$ 95,000**	
Middle Market Capabilities							*$ 9,500.00*		*$ 9,500.00*	
Totals	**$380,000**	**$190,000**	**—**	**$665,000**	**—**	**$190,000**	**$237,500.0**	**—**	**$237,500.0**	**$1,900,000**
Percent of 2011 total	20%	10%		35%		10%	12.5%		12.5%	—
Cumulative Percent of 2011 Total	20%	30%		65%		75%	88%		100%	—
Grand Total	**$448,000**	**$258,000**	**$68,000**	**$733,000**	**$136,000**	**$326,000**	**$ 237,500**	**$136,000**	**$ 237,500**	**$2,580,000**

EXHIBIT B – ACCEPTANCE FORM

For Use Only With Schedule No. 8 To The Master Business Agreement Between Aetna Life Insurance Company ("Aetna") And Benefitfocus.Com, Inc. ("Benefitfocus") Dated November 1, 2009

PLEASE PROCESS THIS FORM WITHIN FIVE (5) DAYS OF THE DATE SUBMITTED

DATE	PROJECT NAME	BENEFITFOCUS MILESTONE	DELIVERABLE NAME AND DESCRIPTION	ACCEPTANCE CRITERIA	AMOUNT COMPLETED & EARNED	APPROVAL*
<Enter the date of delivery.>	<Enter the Aetna project name and number .>	<List the Benefitfocus milestone that has been met qualifying the deliverable for submission.>	<List the deliverable and any references that point to the deliverable that is being submitted. State the receiving individual or organization.>	<List the acceptance (success) criteria for the deliverable.>	<List the amount completed and earned under the Benefitfocus Project Schedule for this discrete milestone.>	☐ Accepted ☐ Rejected
						☐ Accepted ☐ Rejected
						☐ Accepted ☐ Rejected
						☐ Accepted ☐ Rejected
						☐ Accepted ☐ Rejected

* Any rejection must be accompanied by an explanation for the reasons for the rejection including specific references to those portions of the Schedule, Milestone, Deliverable and Acceptance Criteria which are the basis for the rejection, including identifying those deficiencies that must be corrected in order for the Deliverable to be accepted. AETNA shall not offer as the basis for any rejection, and Benefitfocus shall not be required to correct, any minor imperfections or defects that do not materially impair the operation or utility of any Deliverable

By accepting the respective Milestones and Deliverables, Aetna agrees that Benefitfocus has performed the work identified herein and has fully earned the amounts specified. For these deliverable and milestones accepted, rights to further reject, refund, offset, rebate or discount of the amounts earned related to these milestones are hereby waived.

Accepted on behalf of Aetna by:

Date Submitted: _____ Print Name _____

Benefitfocus Project Manager: _____ Print Title _____

Due Date: _____ Signature: _____

Portions of this exhibit marked [*] are requested to be treated confidentially.

AMENDMENT NO. 03
TO
SCHEDULE NO 8
To The
MASTER BUSINESS AGREEMENT ("MBA")
BETWEEN
AETNA LIFE INSURANCE COMPANY ("Aetna")
AND
BENEFITFOCUS.COM, INC. ("Supplier")

This Amendment (the "Amendment'') to Schedule 8 to the Master Business Agreement (the "Agreement) dated November 28, 2006 between Benefitfocus.com Inc. (the "Supplier") and Aetna Life Insurance Company ("Aetna") is made as of April 14, 2012. The following revisions supplement and are incorporated into and made a part of Schedule No. 8. All sections and paragraphs of Schedule No. 8 not hereby appended shall remain in full force and effect. Capitalized terms not otherwise herein defined shall have the meanings ascribed to them in the Agreement. In case of a conflict, the terms of this Amendment will control and prevail over those contained in Schedule No. 8.

WHEREAS, pursuant to Paragraph 7 of Schedule No. 8, the Parties shall agree to a payment stream for the remaining $[*] as more specifically set forth in subsequent development Schedules; and

WHEREAS, such payment stream will be tied to completion and acceptance of Services, Deliverables, Materials, and/or significant milestones; and

WHEREAS, the parties desire to establish the payment stream for calendar year 2010 tied to the completion and acceptance of certain Services, Deliverables, Materials, and significant milestones

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties agree to amend Schedule 8 of the MBA as follows:

l. The parties previously anticipated within Section 7 of Schedule 8 that $[*] would be allocated to 2012, which upon payment shall be deducted from the amounts due for services under Schedule 8.

2. Milestones, related deliverables, and associated amounts due are shown in Exhibit A to this Amendment (Payment Schedule and Anticipate Milestones), attached hereto and incorporated by reference.

3. The parties acknowledge and agree that the following is the anticipated monthly payment schedule based upon the underlying milestones and deliverables defined by Benefitfocus and Aetna and associated with each Aetna project Chunk as those amounts are itemized within the attached Exhibit A:

a.	January 31, 2012	$ [*]
b.	February 29, 2011:	$ [*]
c.	March 31, 2011:	$ [*]
d.	April 30, 2011:	$ [*]
e.	May 31, 2011:	$ [*]
f.	August 31, 2011:	$ [*]
g.	November 30, 2011:	$ [*]
	TOTAL	$ [*]

4. The above payment schedule reflect the approximate dates on which Supplier will achieve certain milestones and provide the associated deliverables as detailed in Exhibits A, and shall be entitled to invoice Aetna for the above 2011 fees. As with any project, these dates may change from time to time depending on the progress of the project, therefore, actual deliverables and payments will be tied to the latest Project Plan that is in effect and mutually agreed to by the parties in writing as well as any mutual written agreements in accordance with change control procedures. For each invoice noted above, Aetna shall reasonably cooperate with Supplier to review deliverables and milestones related thereto and to accept or reject each deliverable or milestone as appropriate according the respective acceptance criteria.

5. Each milestone and related deliverable shall be accompanied by an Acceptance Form, substantially in the form attached hereto as Exhibit B.

[*] Confidential treatment requested; certain information omitted and filed separately with the SEC.

6. Acceptance of the individual deliverables will be determined by review and sign off provided by the Aetna Coordinator. By accepting the respective milestones and deliverables, Aetna agrees to pay Benefitfocus in accordance with Section 3 above. If, after acceptance, Aetna determines that these deliverable and milestones do not meet the requirements set forth in this Agreement, Aetna shall be entitled to the rights and remedies set forth in the Agreement, including Section 7, Warranties and Limitation of Liability, subsection B. Standard of Work of the MBA and Section 9, Remedies of the Software License Attachment.

7. Upon acceptance of each milestone or deliverable, Supplier shall invoice Aetna the respective amount, and Aetna shall pay such amount in accordance with the payment terms outlined in Section 3 to the MBA.

8. The Effective Date of this Amendment No. 3 is January 1, 2012.

All Sections, terms and conditions not appended hereby shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties have hereto by their duly authorized representatives executed this Amendment.

Aetna Life Insurance Company	Benefitfocus.com, Inc.
By: /s/ Benjamin Diamond	By: /s/ Andrew L. Howell
(Authorized Signature)	(Authorized Signature)
Name: Benjamin Diamond	Name: Andrew L. Howell
(Print Name)	(Print Name)
Title: Senior Contract Agent	Title: COO
Date: Apr 19, 2012	Date: Apr 19, 2012
	Taxpayer ID # 57-1099948

Attachments

Exhibit A: Payment Schedule and Anticipate Milestones
Exhibit B: Acceptance Form

EXHIBIT A
2012 Payment Schedule
Schedule 8 Deliverables

eBusiness Project	Weight	Jan 2012	Feb 2012	Mar 2012	Apr 2012	May 2012	Jun 2012	Jul 2012	Aug 2012	Sep 2012	Oct 2012	Nov 2012	Dec 2012
eSales 2011 State Rollout Completion	10%	$132,000											
7842g (Service Areas) + 8388 Go-Live	15%		$198,000										
2012.1 Release Items (PSP, Broker Portal HCR item)	5%			$66,000									
7842g (Categories Go- Live	5%				$66,000								
2012.2 Release Items	5%					$66,000							
Support Allstate Integration (this is dependent on Allstate participation. This could be rebalanced if Allstate doesn't fully engage)	20%								$264,000				
2012.3 Release Items –eSales	5%								$ 66,000				
2012.3 Release Items – enrollment	5%								$ 66,000				
2012.3 Release Items – Broker Portal	5%								$ 66,000				
2012.3 Release Items – PSP	5%								$ 66,000				
2012.4 Release Items – eSales	5%											$ 66,000	
2012.4 Release Items – enrollment	5%											$ 66,000	
2012.4 Release Items – Broker Portal	5%											$ 66,000	
2012.4 Release Items – PSP	5%											$ 66,000	
Group Market Totals	100%	$132,000	$198,000	$66,000	$66,000	$66,000	$ 0	$ 0	$528,000	$ 0	$ 0	$264,000	$ 0
Schedule 8 total $	**$1,320,000**												

Assumptions:

1 – This payment schedule does not include integration to support SRC (or other partner carriers) as a managed voluntary benefit integration with Aetna's instance of Enrollment. Since each will require integration with the partner carrier and modifications to the Aetna instance, these will be handled separately through CRs as identified.

2 – This payment schedule does not include the addition of configuring new eSales states outside of the ones already live in eSales today. Configuring new states will require a separate CR to Schedule 8.

EXHIBIT B – ACCEPTANCE FORM

For Use Only With Schedule No. 8 To The Master Business Agreement Between Aetna Life Insurance Company ("Aetna") And Benefitfocus.Com, Inc. ("Benefitfocus") dated November 1, 2009

PLEASE PROCESS THIS FORM WITHIN FIVE (5) DAYS OF THE DATE SUBMITTED

DATE	PROJECT NAME	BENEFITFOCUS MILESTONE	DELIVERABLE NAME AND DESCRIPTION	ACCEPTANCE CRITERIA	AMOUNT COMPLETED & EARNED	APPROVAL*
<Enter the date of delivery.>	<Enter the Aetna project name and number. >	<List the Benefitfocus milestone that has been met qualifying the deliverable for submission.>	<List the deliverable and any references that point to the deliverable that is being submitted. State the receiving individual or organization.>	<List the acceptance (success) criteria for the deliverable.>	<List the amount completed and earned under the Benefitfocus Project Schedule for this discrete milestone.>	☐ Accepted ☐ Rejected
						☐ Accepted ☐ Rejected
						☐ Accepted ☐ Rejected
						☐ Accepted ☐ Rejected
						☐ Accepted ☐ Rejected

* Any rejection must be accompanied by an explanation for the reasons for the rejection including specific references to those portions of the Schedule, Milestone, Deliverable and Acceptance Criteria which are the basis for the rejection, including identifying those deficiencies that must be corrected in order for the Deliverable to be accepted. AETNA shall not offer as the basis for any rejection, and Benefitfocus shall not be required to correct, any minor imperfections or defects that do not materially impair the operation or utility of any Deliverable.

By accepting the respective Milestones and Deliverables, Aetna agrees that Benefitfocus has performed the work identified herein and has fully earned the amounts specified. For these deliverable and milestones accepted, rights to further reject, refund, offset, rebate or discount of the amounts earned related to these milestones are hereby waived.

Accepted on behalf of AETNA by:

Date Submitted: _____ Print Name _____

Benefitfocus Project Manager: _____ Print Title _____

Due Date: _____ Signature: _____

Portions of this exhibit marked [*] are requested to be treated confidentially.

SCHEDULE NO. 9
TO THE
SOFTWARE LICENSE ATTACHMENT
TO THE
MASTER BUSINESS AGREEMENT
BETWEEN
AETNA LIFE INSURANCE COMPANY
AND
BENEFITFOCUS.COM, INC.

This Schedule No. 9 ("Schedule") to the Software License Attachment ("Attachment") to the Master Business Agreement dated November 28, 2006 ("MBA") between Benefitfocus.com, Inc. ("Supplier") and Aetna Life Insurance Company ("Aetna") is made this 1st day of November, 2009. Capitalized terms not otherwise herein defined shall have the meanings ascribed to them in the Attachment and/or Agreement. In the case of a conflict, the terms of this Schedule will control and prevail over those contained in the Attachment and Agreement.

1. **Effective Date**: November 1, 2009

2. **Aetna Coordinators**: [*]
[*]

3. **License Term**: Term for each license pack shall begin on the respective date set forth in Section 4 below and shall be perpetual.

4. **License Fees**: License fees for each license pack will be paid in annual installments, payable on the dates set forth below, in accordance with the payment terms in Section 3.B. of the MBA, as amended:

January 1, 2010	$ [*] (Pack 1 for up to an aggregate of [*] Contracts)
January 1, 2011	$ [*] (Pack 2 for an additional [*] Contracts)
January 1, 2012	$ [*] (Pack 3 for an additional [*] Contracts)
Total License Fee:	**$ 17,340,000 (For an aggregate of 5M Contracts)**

(For Administrative Purposes Only) UNSPSC: 81112106

5. **Program Description**: Program licenses for [*] Contracts for the following products:

A. eSales – This platform provides insurance agents and carrier underwriters with tools to simplify the steps of the pre-sales process necessary in managing a group from quote to live.

B. eEnrollment – An online enrollment system which integrates with insurance carrier, payroll and HRIS systems to form the one-to-many platform. It supports open enrollment, new hire enrollment, ongoing maintenance and COBRA administration.

[*] Confidential treatment requested; certain information omitted and filed separately with the SEC.

C. eBilling – A comprehensive Electronic Invoice Presentment and Payment system that provides secure and direct access to invoice, payment and reporting information.

D. eCDH – A consumer-directed healthcare platform that guides subscribers through the process of comparing plans.

E. eDirect – A system integrates enrollment, underwriting, direct marketing and sales components into one application, offering sales automation, rating tools, marketing campaigns and paperless application processing with a convenient plan shopping experience system.

Together, these Programs form the Benefitfocus commercial product framework for the Integrated Product, defined in Schedule 8.

For purposes of these licenses, a "Contract" shall mean any one unique Aetna subscriber, regardless of how many products and/or services that subscriber purchases.

At any time after full payment of the License Fees set forth in Section 4 above, for a one-time payment of $[*], Aetna may elect to convert the above [*] Contract license into an unlimited, enterprise-wide license ("Site License") to use all then-current components of the Integrated Product for unlimited users for all Aetna products and services.

6. **Installation**: Prior to migration, as referenced in Schedule 10, installation shall be at Benefitfocus' Charlotte, North Carolina data center. After migration, installation shall be at Aetna's facilities in Connecticut. All Programs shall be delivered to Aetna electronically.

7. **Supplier Employee(s):**

A. Names and Title of Supplier Employee(s) assigned under this Schedule:

B. Supplier Employee Type:

i. Supplier intends on utilizing one or more H-1b employee(s) in the performance of this Schedule.

_____ Yes __X__ No

ii. If "Yes", this/these employee(s) will be on Aetna's site(s) for thirty (30) days or more.

_____ Yes _____ No

Supplier must comply with all applicable laws and regulations regarding the utilization of H-1 b employee(s).

8. Acceptance Period: To be set forth in the BNAs and Program Plan as set forth in Schedule .

9. **Open Source**:

Do the Programs contain open source?

[*] Confidential treatment requested; certain information omitted and filed separately with the SEC.

_____ Yes __X__ No

If “Yes”, please describe:

10. **Sales & Use Taxes.** Supplier is not currently registered to collect sales tax in the state of Connecticut where the Services will be delivered. Aetna will self-assess and remit the appropriate use tax to the taxing jurisdiction. Within a reasonable time after execution of this Schedule, Supplier will register with the state of Connecticut. Benefitfocus will provide notice to Aetna when it is registered in Connecticut. Upon registration in Connecticut, Benefitfocus will collect the tax at the current rate of 1%.

11. **Access to Health Care Benefits.** N/A - Benefitfocus completed Aetna Supplier Health Care Survey in November 2008.

12. **Aetna Notification Addresses**:

Electronic Invoices
AWBII

Business Notices
151 Farmington Avenue
Procurement, RT32
Hartford, CT 06156

IN WITNESS WHEREOF, the parties have hereto by their duly authorized representatives executed this Agreement.

Aetna Life Insurance Company		**Benefitfocus.com, Inc.**	
By:	/s/ Joseph C. Black (Authorized Signature)	By:	/s/ Shawn A. Jenkins (Authorized Signature)
Name:	Joseph C. Black (Print Name)	Name:	Shawn A. Jenkins (Print Name)
Title:	Chief Procurement Officer	Title:	President and CEO
Date:	11-24-09	Date:	11/11/09

Portions of this exhibit marked [*] are requested to be treated confidentially.

AMENDMENT NO. 1 TO SCHEDULE NO. 9
TO THE MASTER BUSINESS AGREEMENT BETWEEN
AETNA LIFE INSURANCE COMPANY AND BENEFITFOCUS.COM, INC.

This Amendment (the "Amendment") to Schedule No. 9, dated November 1, 2009, to the Mater Business Agreement (the "Agreement) dated November 28, 2006 between Benefitfocus.com Inc. (the "Supplier") and Aetna Life Insurance Company ("Aetna") (collectively the "Parties") is made as of March 29, 2013 ("Effective Date"). The following revisions supplement and are incorporated into and made a part of Schedule No. 9. All sections and paragraphs of Schedule No. 9 not hereby amended shall remain in full force and effect. Capitalized terms not otherwise herein defined shall have the meanings ascribed to them in the Agreement. In case of a conflict, the terms of this Amendment will control and prevail over those contained in Schedule No. 9.

WHEREAS, the Parties entered into Schedule No. 9 in order for Supplier to license to Aetna certain Supplier software as defined therein; and

WHEREAS, the Aetna desires to license from Supplier the Benefitfocus Marketplace Sales Automation software ("Sales Automation"), and Benefitfocus® Marketplace Enrollment software ("Enrollment") (collectively, the "Marketplace") pursuant to the terms and conditions of Schedule No. 9

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Parties agree to the following:

1. Section 5, is amended to add new Section 5(F) to read as follows:

   F. Benefitfocus® Marketplace Sales Automation ("Sales Automation"), for the for small sized group markets, including the following functionality:
      a. Broker small group prospect registration
      b. Broker shopping for groups
      c. Quoting and proposal generation
      d. Broker assisted group application
      e. Application processing and case load functionality

2. Section 5, is amended to add new Section 5(G) to read as follows:

   G. The Benefitfocus® Marketplace Enrollment ("Enrollment") enhancements for small sized groups, including:
      a. Guided Shopping
      b. Standard Video Integration
      c. Plan Shopping App ("Plan Shopping")
      d. Defined contribution
      e. Tax account contribution
      f. PCP Directory Link to Aetna Docfind.

   The licenses described in Sections 5(F) and (G) are collectively the "Marketplace Licenses".

3. Section 3 is amended to add the following provision:

   Notwithstanding anything to the contrary contained herein, and for the avoidance of doubt, the term of the Marketplace Licenses shall not be perpetual.

   The term of the Marketplace Licenses shall commence as of the successful placement of the Marketplace in Aetna's production environment, and shall expire on October 31, 2014. The cost of the Marketplace licenses for any renewal term shall not exceed the cost stated in paragraph 5 of this Amendment.

4. The provision of Section 5 which reads as follows shall not apply to the licenses granted hereunder:

   At any time after full payment of the License Fees set forth in Section 4 above, for a one-time payment of $[*], Aetna may elect to convert the above [*] Contract license into an unlimited, enterprise-wide license ("Site License") to use all then-current components of the Integrated Product for unlimited users for all Aetna products and services.

5. Commencing upon the date which Supplier successfully places the Marketplace into Aetna's production environment, and for every [*] thereafter during the term defined in Section 3. Supplier shall invoice Aetna a fee of $[*] for the Marketplace licenses.

All Sections, terms and conditions of Schedule No. 9 not expressly amended hereby shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have hereto by their duly authorized representatives executed this Agreement.

Aetna Life Insurance Company	Benefitfocus.com, Inc.
By: /s/ Alan Byrne	By: /s/ Andrew L. Howell
(Authorized Signature)	(Authorized Signature)
Name: Alan Byrne	Name: Andrew L. Howell
(Print Name)	(Print Name)
Title: Procurement Manager	Title: COO
Date: Mar 30, 2013	Date: Mar 29, 2013
	Taxpayer ID #: 57-1099948

(Signature Page to Amendment No. 1 to Schedule No. 9)

[*] Confidential treatment requested; certain information omitted and filed separately with the SEC.

Portions of this exhibit marked [*] are requested to be treated confidentially.

SCHEDULE NO. 10
to the
MASTER BUSINESS AGREEMENT ("MBA")
between
AETNA LIFE INSURANCE COMPANY ("Aetna")
and
BENEFITFOCUS.COM, INC. ("Benefitfocus")

The parties agree that the terms and conditions of the MBA dated November 28, 2006 and the Hosting Services Attachment ("Hosting Attachment"), the Software License Attachment ("License Attachment"), and the Professional Services Attachment ("Services Attachment") dated November 28, 2006 shall govern this Schedule. In the event of a conflict between the relevant documents, the terms and conditions of this Schedule shall control and prevail over its associated Attachment and the underlying MBA. Furthermore, in this regard, the Attachments shall take precedence over the underlying MBA.

1. **Effective Date**: November 1, 2009

2. Aetna Coordinator: [*], Project Manager
[*], Procurement Senior Agent

3. Definitions:

A. "Existing Programs" means the Benefitfocus enterprise Programs currently in use by Aetna and licensed under Schedules 1, 5, and 6,

B. "Hosting Services" is defined in the Hosting Attachment.

C. "Integrated Product" is defined in Schedule 8.

D. "Maintenance" is defined in the License Attachment.

E. "Operational Services" means the Hosting Services more fully set forth in Section 1.5 of the attached Statement of Work.

E. "Remediation" means the Services more fully set forth in Section 1.3 of the attached Statement of Work.

4. Assignment Description: This Schedule addresses hosting and certain maintenance and support services to be performed by Benefitfocus as part of the overall relationship described collectively in this Schedule and Schedules 8 and 9 for a full suite of online tools to support new and existing Aetna customers. Benefitfocus will continue to provide Hosting Services for the Existing Programs until migration to Aetna's data center, and thereafter, will maintain and host development and testing within the Benefitfocus environment. Additionally, Benefitfocus will collaborate with Aetna to plan and, as needed, support implementation of that migration effort, including, but not limited to the Remediation of the Integrated Product. Benefitfocus will provide Maintenance to Aetna for the Existing Programs prior to migration and will provide Maintenance for the Integrated Products following their transition to an Aetna-hosted environment. The Statement of Work ("SOW"), attached as Exhibit A, sets forth the requirements for the Hosting Services and Maintenance of the Program.

This assignment can not be altered without the consent of both Aetna and Benefitfocus. Benefitfocus shall provide any supervision of a Benefitfocus employee's day-to-day services.

(For Administrative Purposes Only) UNSPSC: 81112106

5. **Acceptance Criteria**: Acceptance Criteria will be developed and mutually agreed upon by the Parties during the planning phases for remediation and migration more fully described in Section 1 of the SOW.

6. **Assignment Location** (Where Services will be delivered)**:** Benefit of the Services will be in Hartford, CT. All Improvements will be delivered electronically.

[*] Confidential treatment requested; certain information omitted and filed separately with the SEC.

7. Supplier Employee(s):

A. Names and Title of Supplier Employee(s) assigned under this Schedule: To be determined during project planning.

B. Supplier Employee Type:

i. Benefitfocus intends on utilizing one or more H-1b employee(s) (as defined above) in the performance of this Schedule. _____ Yes __X__ No

ii. If "Yes", this/these employee(s) will be on Aetna's site(s) for thirty (30) days or more.

_____ Yes _____ No

Benefitfocus must comply with all applicable laws and regulations regarding the utilization of H-1b employee(s).

8. **Term/Schedule/Fees:** The initial term of this assignment will run for [*] ([*]) [*] from the Effective Date of this Schedule (the "Initial Term"). The fees for the Schedule 10 Services during the Initial Term are fixed and are set for the in the table below:1FNREF

Services	Total Fees
2009	$ [*]
2010	$ [*]
2011	$ [*]
2012	$ [*]
2013	$ [*]
2014	$ [*]
Total Fees	**$24,060,000**

Notwithstanding the foregoing, Aetna will pay an additional fee if Aetna is unable to host the Existing Programs by [*]. The additional fee will be $[*] per [*] until Aetna is able to host the Existing Programs.

Following expiration of the Initial Term, Aetna, at its election, may renew annually the Maintenance Services and/or the Operational Services for the test and development environment (each annual renewal referred to as a "Renewal Term"). The fees for the Services listed below for the first Renewal Term shall be no more than the following:

Operational Services and Maintenance:	$[*]
Maintenance only:	$[*]

The fees for subsequent Renewal Terms for such Services shall be no more than the fees set forth above plus an amount equal to the increase in the Revised Consumer Price Index (CPI) as reported on the US Department of Labor BLS website; all urban consumers; not seasonally adjusted; US city average; all items; base period 1982-84=100 for the most recent 12 month period ending on the day immediately preceding the commencement of the Renewal Term.

9. **Sales & Use Taxes.** Supplier is not currently registered to collect sales tax in the state of Connecticut where the Services will be delivered. Aetna will self-assess and remit the appropriate use tax to the taxing jurisdiction. Within a reasonable time after execution of this Schedule, Supplier will register with the state of Connecticut. Benefitfocus will provide notice to Aetna when it is registered in Connecticut. Upon registration in Connecticut, Benefitfocus will include in all invoices and collect the tax at the current rate of 1%.

[*] Confidential treatment requested; certain information omitted and filed separately with the SEC.

10. **Performance Credits.** If the Benefitfocus has not met the Performance Criteria set forth below, the Aetna Coordinator shall promptly advise Benefitfocus in writing of such non-performance. The Performance Criteria are as follows:

Performance Criteria Prior to Migration

Performance Criteria	Service Level	Performance Credit
Maintenance Resolution Timeframe for Severity 1 as set forth in Sec. 10.C. of the License Attachment	[*] from receipt of service call	$[*] per [*] in accordance with Sec. 10.D. of the License Attachment
Maintenance Resolution Timeframe for Severity 2 as set forth in Sec. 10.C. of the License Attachment	[*] from receipt of service call	$[*] per [*] in accordance with Sec. 10.D. of the License Attachment
Maintenance Resolution Timeframe for Severity 3 as set forth in Sec. 10.C. of the License Attachment	[*] from receipt of service call	$[*] per [*] in accordance with Sec. 10.D. of the License Attachment
Hosting Guaranteed Response Time	In accordance with Sec. 3.C. of the Hosting Attachment	[*] prorated [*] in accordance with Sec. 3.D. of the Hosting Attachment
Average Server response time	[*] per page in accordance with Sec. 3.B. of the Hosting Attachment	[*] prorated [*] in accordance with Sec. 3.D. of the Hosting Attachment
System availability of 24x7	[*]% in accordance with Sec. 3.A. of the Hosting Attachment	[*] prorated [*] in accordance with Sec. 3.D. of the Hosting Attachment
For reports with agreed upon submittal schedule (for example hourly/daily/weekly/monthly). Reports include, but are not limited to, fall-out, error, reconciliation reports.	Benefitfocus shall submit required reports by the specified date/time	$[*] each time Benefitfocus misses a report date.
Customer Service	Failure to respond to a service call for Severity 1 within [*] and for Severity 2 or 3 within [*]	$[*] for each hour Benefitfocus exceeds [*]
Constituent Call Center	• Answer [*]% of Constituent call within [*] • Maintain average abandonment rate of [*]% • Resolve Constituent issues on first call on average [*]% of the time • Member call quality [*]% based on feed back and call monitoring	[*] prorated [*] for each incident

Performance Criteria after Migration to Aetna

Performance Criteria	Service Level	Performance Credit
Maintenance Resolution Timeframe for Severity 1 as set forth in Sec. 10.C. of the License Attachment	[*] from receipt of service call	$[*] per [*] in accordance with Sec. 10.D. of the License Attachment
Maintenance Resolution Timeframe for Severity 2 as set forth in Sec. 10.C. of the License Attachment	[*] from receipt of service call	$[*] per [*] in accordance with Sec. 10.D. of the License Attachment
Maintenance Resolution Timeframe for Severity 3 as set forth in Sec. 10.C. of the License Attachment	[*] from receipt of service call	$[*] per [*] in accordance with Sec. 10.D. of the License Attachment
Test & Development environment availability of XX	[*]% in accordance with Sec. 3.A. of the Hosting Attachment	[*] prorated [*] in accordance with Sec. 3.D. of the Hosting Attachment
For reports with agreed upon submittal schedule (for example hourly/daily/weekly/monthly). Reports include, but are not limited to, fall-out, error, reconciliation reports.	Benefitfocus shall submit required reports by the specified date/time	$[*] each time Benefitfocus misses a report date.

[*] Confidential treatment requested; certain information omitted and filed separately with the SEC.

Performance Credits shall be paid in accordance with Section 10.D. of the License Attachment and Section 3.D. of the Hosting Attachment.

11. Aetna Notification Addresses:	Aetna Life Insurance Company [Department/Mail Code below] 151 Farmington Avenue Hartford, CT 06156	Electronic Invoices AWBII	Business Notices Procurement RT32

12. **Access to Health Care Benefits.** N/A - Benefitfocus completed Aetna Supplier Health Care Survey in November 2008.

IN WITNESS WHEREOF, the Parties have hereto by their duly authorized representatives executed this Agreement.

Aetna Life Insurance Company	**Benefitfocus.com, Inc.**
By: /s/ Joseph C. Black (Authorized Signature)	By: /s/ Shawn A. Jenkins (Authorized Signature)
Name: Joseph C. Black (Print Name)	Name: Shawn A. Jenkins (Print Name)
Title: Chief Procurement Manager	Title: President & CEO
Date: 11-24-09	Date: 11/11/09 Taxpayer ID #: 57-1099948

[*] Confidential treatment requested; certain information omitted and filed separately with the SEC.

Portions of this exhibit marked [*] are requested to be treated confidentially.

AMENDMENT NO. 01 TO SCHEDULE NO. 10
TO THE MASTER BUSINESS AGREEMENT BETWEEN
AETNA LIFE INSURANCE COMPANY AND BENEFITFOCUS.COM, INC.

This Amendment (the "Amendment") to Schedule No. 10, dated November 1, 2009, to the Mater Business Agreement (the "Agreement) dated November 28, 2006 between Benefitfocus.com Inc. (the "Supplier") and Aetna Life Insurance Company ("Aetna") (collectively the "Parties") is made as of July 30, 2012. The following revisions supplement and are incorporated into and made a part of Schedule No. 10. All sections and paragraphs of Schedule No. 10 not hereby amended shall remain in full force and effect. Capitalized terms not otherwise herein defined shall have the meanings ascribed to them in the Agreement. In case of a conflict, the terms of this Amendment will control and prevail over those contained in Schedule No. 10.

WHEREAS, the Parties entered into Schedule No. 10 in order for Supplier to provide Aetna with maintenance and support for the Existing Programs; and

WHEREAS, the Parties desire to have Supplier provide maintenance and support for certain functionality developed for [*] ("[*]") under a separate agreement between Supplier and [*] in support of an Aetna/[*] combined product offering to permit data exchange as part of the Existing Programs ("VB Functionality").

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Parties agree to the following:

1. The Statement of Work is hereby amended to add the following Section:

   6. [*] Functionality

   Supplier shall support the following VB Functionality for the remaining term of Schedule No. 10:

   a. Aetna private label [*].

   b. A single interface file feed in iMax format to send seed file Enrollment record and Enrollment updates from the [*] membership system. Supplier will receive Enrollment updates via a file interface (iMax format) from [*] for Aetna private label [*] product records.

   c. Updates of enrollment records from Enrollment to [*]. Supplier will provide an enrollment record interface in iMax format to [*] for Enrollment records of Aetna private label [*] products for [*] only. [*] will be solely responsible for developing an interface to accept Enrollment records for Aetna private label [*] product records via the file interface (iMax format).

   d. Integration of EOI Application to support [*]'s external EOI application and underwriting process as part of the Aetna member enrollment workflow.

2. For the services described in this Amendment, Supplier shall invoice Aetna a base [*] fee of $[*] for up to [*] Contracts ("Contracts" as defined in Schedule 09 between the Parties) for the Aetna/[*] combined product offering within eEnrollment ("eEnrollment'' as defined within Schedule 09 between the Parties). Upon the first anniversary of this Amendment, and provided that the number of Contracts for the Aetna/[*] combined product offering within eEnrollment exceeds [*] Contracts, and/or the number of Contracts for the Aetna/[*] combined product offering within eEnrollment at the end of any anniversary of this Amendment exceeds the prior year's number of Contracts by [*]% or more the Parties agree in to negotiate in good faith an increase in the base [*] fee due to Supplier for the services described in this Amendment.

3. The value of this Amendment, assuming no increase in base [*] fees, is $[*] ([*] through [*] = [*] at $[*])

4. **Records Retention** - No Aetna Business Records will be retained by Supplier pursuant to this Schedule.

[*] Confidential treatment requested; certain information omitted and filed separately with the SEC.

5. The Effective Date of this Amendment No. 01 is August 1. 2012.

All Sections, terms and conditions of Schedule No. 10 not expressly amended hereby shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have hereto by their duly authorized representatives executed this Amendment.

Aetna Life Insurance Company	Benefitfocus.com, Inc.
By: /s/ Benjamin Diamond (Authorized Signature)	By: /s/ Andrew L. Howell (Authorized Signature)
Name: Benjamin Diamond (Print Name)	Name: Andrew L. Howell (Print Name)
Title: Senior Contract Agent	Title: COO
Date: Jul 31, 2012	Date: Jul 30, 2012 Taxpayer ID #: 57-1099948

Portions of this exhibit marked [*] are requested to be treated confidentially.

AMENDMENT NO. 2 TO SCHEDULE NO. 10
TO THE MASTER BUSINESS AGREEMENT BETWEEN
AETNA LIFE INSURANCE COMPANY AND BENEFITFOCUS.COM, INC.

This Amendment (the "Amendment") to Schedule No. 10, dated November 1, 2009, to the Mater Business Agreement (the "Agreement) dated November 28, 2006 between Benefitfocus.com Inc. (the "Supplier") and Aetna Life Insurance Company ("Aetna") (collectively the "Parties") is made as of March 29, 2013 ("Effective Date"). The following revisions supplement and are incorporated into and made a part of Schedule No. 10. All sections and paragraphs of Schedule No. 10 not hereby amended shall remain in full force and effect. Capitalized terms not otherwise herein defined shall have the meanings ascribed to them in the Agreement. In case of a conflict, the terms of this Amendment will control and prevail over those contained in Schedule No. 10.

WHEREAS, the Parties entered into Schedule No. 10 in order for Supplier to provide Aetna with maintenance and support for the Existing Programs; and

WHEREAS, Aetna has licensed the Benefitfocus Marketplace Sales Automation ("Sales Automation"), and Benefitfocus® Marketplace Enrollment ("Enrollment") (collectively, the "Marketplace"), pursuant to Amendment No. 1 to Schedule No. 9; and

WHEREAS, the Parties desire to have Supplier provide hosting, maintenance and support for the Marketplace Licenses described in Amendment 01 to Schedule 09.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Parties agree to the following:

1. Supplier shall provide the maintenance, operational support and hosting services for the Marketplace for the remaining term of, and pursuant to the terms and conditions of Schedule No. 10.
2. Manual Group Load Functionality. As part of the maintenance, support, and hosting of the Marketplace, Supplier will provide Manual Group Load (which shall be defined as the manual configuration of the groups sold via Marketplace) services [*] charge for Aetna clients sold through Marketplace through July 31, 2014. Thereafter, any Manual Group Load services to be provided by Supplier shall be subject to mutual agreement between Aetna and Supplier.
3. Supplier shall invoice Aetna a [*] fee of $[*] for Maintenance services and a [*] fee of $[*] for Operational Support & Hosting, for a total of $[*] per [*] for the services defined in Section 2 and 3 of this Amendment.
4. Supplier may invoice the fees due under this Amendment upon Aetna's final acceptance of the Marketplace in a production environment, as acceptance is defined in Schedule No. 28, which is anticipated to be on or about July 1, 2013.
5. Assuming Supplier begins invoicing Aetna pursuant to No.4, above, on July 1, 2013, the dollar value of this Amendment is $[*] ($[*]/month for [*] months).

All Sections, terms and conditions of Schedule No. 10 not expressly amended hereby shall remain in full force and effect.

<<SIGNATURE PAGE FOLLOWS>>

[*] Confidential treatment requested; certain information omitted and filed separately with the SEC.

IN WITNESS WHEREOF, the parties have hereto by their duly authorized representatives executed this Amendment.

Aetna Life Insurance Company	Benefitfocus.com, Inc.
By: /s/ Alan Byrne (Authorized Signature)	By: /s/ Andrew L. Howell (Authorized Signature)
Name: Alan Byrne (Print Name)	Name: Andrew L. Howell (Print Name)
Title: Procurement Manager	Title: COO
Date: Mar 30, 2013	Date: Mar 29, 2013 Taxpayer ID #: 57-1099948

(Signature Page to Amendment No. 2 to Schedule No. 10)

Exhibit 21.1

Benefitfocus, Inc.,
A Delaware corporation
List of subsidiaries[1]

- Benefitfocus.com, Inc.
- Benefit Informatics, Inc.
- BenefitStore, Inc.

[1] This exhibit gives effect to the corporate restructuring as more fully described in “Certain Relationships and Related—Party Transactions—Corporate Restructuring.”