

**AGREEMENT
BETWEEN
Ballston Spa Central School District
AND
Benetech, Inc.
FOR
SELF-INSURED WORKERS' COMPENSATION
THIRD PARTY ADMINISTRATION SERVICES**

AGREEMENT, made this 18th day of January, 2023 between the Ballston Spa Central School District, with its principal place of business located at 70 Malta Avenue, Ballston Spa, New York 12020 (hereinafter called the "District") and Benetech, Inc., with its principal place of business located at One Dodge Street, PO Box 348, Wynantskill, New York 12198-0348, (hereinafter called "Benetech, Inc.").

WITNESSETH:

WHEREAS, the **District** has accepted the offer of **Benetech, Inc.** for such Self-Insured Workers' Compensation Third Party Administration Services.

NOW, THEREFORE, THE PARTIES HERETO DO MUTUALLY COVENANT AND AGREE AS FOLLOWS:

ARTICLE I -- SERVICES TO BE PERFORMED

For consideration set forth below, Benetech, Inc. shall perform the Self-Insured Workers' Compensation Third Party Administration Services hereinafter set forth under Article III of the AGREEMENT.

ARTICLE II -- DEFINITIONS

The following definitions shall apply to terms, which appear in this Agreement in proper case.

2.1. "Record-Only Claim" shall mean the creation and maintenance of a data file in those instances in which an accident (first or third party) involving only actual or alleged minor injury or property damage requiring minimal or no medical treatment or remedy has come to the District's attention and, even though no injury or property damage has been formally reported, claimed or is anticipated, the District requests the maintenance of a record of the incident and associated data for informational tracking purposes (to determine frequency of incidents, safety awareness, possible repeat occurrences, etc.).

2.2. "Medical-Only claims" shall mean any reported Workers' Compensation accident or claim involving an injured worker who is, will, or may be entitled to medical benefits but has not lost and does not appear likely to lose time from work or submit a claim for indemnity benefits.

2.3. "Indemnity Claims" shall mean:

- a) any reported Workers' Compensation accident or claim with respect to which the injured worker will not only be entitled to medical benefits but in addition has lost or appears likely to lose time from work or submit or has submitted a claim for indemnity benefits, including any claim originally classified as a Medical-Only Claim which becomes an Indemnity Claim because the injured worker claims or becomes eligible for indemnity benefits;
- b) any claim in litigation;
- c) claims which would otherwise be classified as Medical-Only Claims involving an injured

worker who has returned to work on alternative or “light” duty due to restrictions from the work-related injury, but follow-up by a claims representative will be needed to facilitate a return to full duty; and,

d) claims which merit investigation by a claims representative or private investigator due to questions regarding compensability.

2.4. “Qualified Claim or Loss” shall mean any claim, loss, monetary demand, occurrence or suite occurring within the Term of this Agreement, provided the type of claim or loss is one which is to be administered hereunder.

2.5. “Late Reported Claims” shall mean claims which are within the definition of Claims, and which are reported after the cancellation or expiration of this Agreement and any renewals hereof.

2.6. “Discretionary Authority Limit” shall mean the agreed upon limit Benetech, Inc. shall be authorized to pay on the District’s behalf for any particular loss or Allocated Loss Adjustment Expense without the express prior approval of the District.

2.7 “Allocated Loss Adjustment Expenses” shall mean any cost or expense incurred by Benetech, Inc. in connection with administration, investigation, adjustment, settlement, or defense of claims on behalf of the District, including, but not limited to, any of the following:

- a) subrogation;
- b) automobile or other physical damage appraisal;
- c) all court costs, fees, and expenses;
- d) fees for services of process;
- e) fees and expenses to attorneys for legal services;
- f) the cost of services of undercover operations and detectives;
- g) fees to obtain medical cost containment services, including, but not limited to, bill review or opinion;
- h) the cost of employing experts for the purpose of preparing maps, photographs, diagrams, and chemical or physical analysis, or for expert advice or opinion;
- i) the cost of obtaining copies of any public records, and the cost of depositions and court reporters or recorded statements; and,
- j) and any other similar cost, fee, or expense reasonably chargeable for the investigation, negotiation, settlement or defense of a Qualified Claim or Loss or the protection or perfection of subrogation, contribution, indemnification and/or salvage rights of the Allocated Loss Adjustment Expenses shall not include any fee, cost, or expense which this Agreement specifically provides. Such expenses shall be included in the services to be provided by Benetech, Inc. hereunder at no additional or separate cost to the District.

ARTICLE III -- SCOPE OF WORK

During the term of this AGREEMENT, Benetech, Inc. shall provide the following services:

3.1. All customary and appropriate Workers’ Compensation Claim handling functions for all Qualified Claims or Losses. Such claim handling functions generally include but are not limited to the investigation of each Qualified Claim or Loss to the extent deemed necessary by Benetech, Inc., or as otherwise directed in writing by the District; adjusting, settling or litigating all Qualified Claims within the stated discretionary settlement authority limit or with specific approval of the District if outside the stated authority limit; investigation and pursuit of subrogation activities on behalf of the District; determination of appropriate claim reserves; and the performance of necessary and customary administrative and clerical work in connection with each Qualified Claim or Loss. In particular, the following services classes will apply:

3.1.1. Record-Only Claims. With respect to Record-Only Claims, no services will be provided with the exception of recording and maintaining the relevant data, and no medical bills will be paid.

3.1.2 Medical-Only Claims. With respect to Medical-Only Claims, services will be limited to the recording of the claim and associated data, contract with the DISTRICT to verify Medical-Only claim status, and the payment of medical bills and expenses in accordance with the terms of this Agreement.

3.1.3. Lost-Time Claims. With respect to Lost-Time Claims, Professional will provide whatever services may reasonably be required to make a determination regarding compensability, pay the appropriate level of indemnity benefits, and attempt to achieve a return to full active duty.

3.1.4. Late Reported Claims. In no event shall Benetech, Inc. have any obligation or liability with respect to any Late Reported Claims resulting from the District's untimely handling of said claim. However, Benetech, Inc. shall assume responsibility for any fines, penalties, or costs, including legal fees imposed by any regulatory body, agency, or third-party from errors omission, or non-compliance by the Benetech, Inc.

3.2. Benetech, Inc. shall prepare and issue indemnity payments to the District's injured employees, subject to the Discretionary Authority Limit.

3.3. Benetech, Inc. shall provide the District with an explanation of services, claim reporting information and forms, and location coding schemes.

3.4. Benetech, Inc. shall complete all forms required to be used in the adjustment of Workers' Compensation Claims by the New York Sate Workers' Compensation Board (the "Board") and the New York State Workers' Compensation Act (the "Act") with the exception of the Employer's First Report of Injury, which shall be prepared by the District.

3.5. Benetech, Inc. shall be entitled to engage outside vendors when deemed necessary and by mutual consent with the District to handle or defend a claim.

3.6. Benetech, Inc. shall communicate to the District in a manner mutually agreed to by the parties and make recommendations regarding proposals to resolve any Workers' Compensation Claims in excess of the Discretionary Authority Limit, with final approval residing with the District.

3.7. Should Benetech, Inc. determine that a particular claim meets any of the District's excess insurance reporting requirements about which it has been specifically informed by the District in writing, then Benetech, Inc. shall notify the District and the District's excess insurance carrier accordingly.

3.8. The District shall promptly report all claims to Benetech, Inc., and Benetech, Inc. shall acknowledge receipt thereof in writing.

3.9. At the District's request, Benetech, Inc. shall meet with the District to review open claims and other matters related to the Workers' Compensation Plan.

3.10. Benetech, Inc. shall provide weekly or bi-weekly statements of funds drawn from the funding account. Said funding shall be in the form of a zero-balance account.

3.11. Make necessary paid-claims and reserve reports available to the Workers' Compensation Board government agencies. Provide monthly loss runs by year, delineated by department/division/fund, type of injury, and cause of injury. In addition, Benetech, Inc. will provide quarterly claim review reports.

ARTICLE IV- FEES

In consideration of the terms and obligations of this AGREEMENT, the District agrees to pay and Benetech, Inc. agrees to accept as full compensation for all services rendered under this AGREEMENT. The annual fees are specified in "Schedule A" of this agreement.

The following services, arranged for by Benetech, Inc. only as needed, and on a claim-by-claim basis, to aid in the reduction of claims expensed, are not included in the fee set forth above. Benetech, Inc. specifically agrees that the fees for these services to the District shall be provided at their cost to the District and that Benetech, Inc. shall not receive any income or benefit from these service fees.

- A. Hearing Representation
- B. Private investigation
- C. Consultant Medical Exams
- D. Medical Rehabilitation
- E. Vocational Rehabilitation
- F. Managed Care Program
- G. Banking Charge

Before any payments can be made Benetech, Inc. shall submit invoices, in a form and manner to be mutually agreed to by the parties, to the District Treasurer for review and approval. Each invoice and Claim form shall itemize and detail the services rendered and any necessary disbursements, if applicable. The approval of invoices and payment of fees shall not be unreasonably delayed or withheld.

ARTICLE V – TERM OF THE AGREEMENT

This AGREEMENT shall commence on July 1, 2022. and will continue in effect until June 30, 2023.

ARTICLE VI -- REPRESENTATIONS

In order to induce the District to enter into the AGREEMENT, Benetech, Inc. has made the following representations:

- 6.1 Benetech, Inc. is familiar with the nature and extent of this AGREEMENT, the services contemplated by this AGREEMENT, the locality and all local conditions, and all federal, state, and local laws, ordinances, rules, regulations, and orders of public authorities that in any manner affect cost, progress, or performance of the services contemplated by this Agreement;
- 6.2 Benetech, Inc. shall give notices and comply with all laws, ordinances, rules, regulations, and orders of public authorities bearing on the performance of the services contemplated by this AGREEMENT;
- 6.3 Benetech, Inc. will meet with the representative of the District to formulate a specific return-to-work program for each department;
- 6.4 Benetech, Inc. will train employees charged with processing Workers' Compensation claims;
- 6.5 Benetech, Inc. shall provide the required notification to the District's excess insurance and excess employer's liability insurance carriers;

ARTICLE VII -- AVAILABLE DATA

All technical or other data relative to the work in the possession of the District or in the possession of Benetech, Inc. shall be made available to the other party to this AGREEMENT without expense to the other party.

ARTICLE VIII -- COOPERATION

Benetech, Inc. shall cooperate with representatives, agents and employees of the District, and the District shall cooperate with representatives, agents, and employees of Benetech, Inc. to the end that work may proceed expeditiously and economically.

ARTICLE IX -- EXTRA WORK

If Benetech, Inc. is of the opinion that any work it has been directed to perform is beyond the scope of the AGREEMENT and constitutes Extra Work, Benetech, Inc. shall promptly notify the District of the fact. In the event that it is determined that such work does constitute extra work, it shall provide extra compensation to Benetech, Inc. on a negotiated basis.

ARTICLE X -- RIGHT TO AUDIT

10.1. Whenever it is deemed appropriate, the District reserves the right to audit the claim record and other records of the selected carrier, as they pertain to the Workers' Compensation Program. The District also reserves the right to assign outside auditors and to conduct on-site audits of Benetech, Inc. records and files.

10.2. Benetech, Inc. may not charge extra fees for providing data tape(s) or for space and equipment utilized by outside auditors. Upon completion of the audits, the Benetech, Inc. representatives should make themselves available to the District and its representatives in order to resolve any deficiencies and shortcomings of the Benetech, Inc. services.

ARTICLE XI -- ACCOUNTING RECORDS

Benetech, Inc shall maintain proper and full accounting records. The records shall clearly identify the costs of the work performed under the AGREEMENT and shall be subject to periodic and final audit by the District upon request. The records shall be accessible to the District for two (2) years following the date of final payment by the District to Benetech, Inc. for the performance of the services contemplated herein.

ARTICLE XII -- ASSIGNMENTS

Benetech, Inc. specifically agrees as required by Section 109 of New York General Municipal Law that it is prohibited from assigning, transferring, conveying, subcontracting, or otherwise disposing of this AGREEMENT, or of its right, title, or interest therein without the previous consent in writing of the District.

ARTICLE XIII -- MODIFICATIONS

This AGREEMENT may only be modified by a formal written amendment executed by both the District and Benetech, Inc.

ARTICLE XIV -- MATERIALS

All rights, title, and ownership in and to all materials, including open and closed claims files and historical data, prepared under the provisions of this AGREEMENT shall be in the District, including the right of republication. The District reserves the right to take custody of the claims files and/or make copies of any information deemed appropriate. The District reserves the right to monitor and audit claims files.

ARTICLE XV -- RELATIONSHIP

Benetech, Inc. is, and will function as, an independent contractor under this AGREEMENT for any purpose. The employees of Benetech, Inc. shall not in any manner be, or be held out to be, agents or employees of the District.

ARTICLE XVI -- INDEMNIFICATION

Benetech, Inc. shall defend, indemnify and save harmless the District, its employees and agents, from and against all claims, damages, losses and expenses (including, but not limited to, reasonable attorney's fees) arising out of, or in consequence of, any negligent or intentional act or omission of Benetech, Inc., its employees, or its agents, to the extent of its or their responsibility for such claims, damages, losses and expenses.

ARTICLE XVII -- INSURANCE

Benetech, Inc. agrees to maintain for the entire term of this AGREEMENT, without additional expense to the District, insurance policies of the kinds and in the amounts provided under the prior agreement. The insurance policies shall name the District as an additional insured and may only be changed upon thirty (30) days prior written approval by the District. Benetech, Inc. shall,

upon request, furnish to the District Certificates of Insurance showing that the requirements of the Article have been met.

ARTICLE XVIII -- TERMINATION OF CONTRACT

The District and Benetech, Inc. shall have the right at any time to terminate the services required of Benetech, Inc. upon ninety (60) day written notice.

In the event of the termination of this AGREEMENT under this Article, Benetech, Inc. shall be entitled to compensation for all work theretofore authorized and performed pursuant to this AGREEMENT in accordance with Article IV of this AGREEMENT. Additionally, in the event of the termination of this AGREEMENT under this Article, all historical data and records, including claim files, pertaining to this AREEMENT shall be delivered within twenty (20) days to the District or its duly authorized representative. In case of the failure of Benetech, Inc. to make such delivery on demand, Benetech, Inc. shall be liable for additional costs the District may sustain by reason thereof.

ARTICLE XIX -- DISSOLUTION

In the events of dissolution of Benetech, Inc. as a partnership or corporation during the term of this AGREEMENT, Benetech, Inc. shall give thirty (30) days advance notice in writing to the District of any such dissolution.

ARTICLE XX -- LICENSES

Benetech, Inc shall at all times obtain and maintain all licenses required by New York State to perform the services required under this AGREEMENT.

ARTICLE XXI -- NON-DISCRIMINATION REQUIREMENT

In accordance with Article 15 of the Executive Law and all other State and Federal statutory and constitutional non-discrimination provisions, Benetech, Inc. agrees that it shall not, by reason of race, creed, color, national origin, age sex or disability: (a) discriminate in hiring against any person who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the work contemplated by this AGREEMENT.

ARTICLE XXII -- NON-APPROPRIATIONS CLAUSE

Notwithstanding anything contained herein to the contrary, no default shall be deemed to occur in the event that no funds or insufficient funds are appropriated and budgeted by or are otherwise unavailable to the District for payment. In that event, the District will immediately contact Benetech, Inc. of such occurrence and this AGREEMENT shall terminate, without penalty or expense to the District of any kind whatsoever, on the last day of the fiscal period in which appropriated and budgeted.

ARTICLE XXIII -- INVALID PROVISIONS

If any term, part, provision, section, subdivision, or paragraph of this AGREEMENT shall be held to be unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not invalidate the remaining terms, parts, provisions, sections, subdivisions, or paragraphs thereof.

ARTICLE XXIV -- NOTICE

All notices and documents required to be given or made by Benetech, Inc. pursuant to this AGREEMENT shall be given or made to:

Ballston Spa Central School District
70 Malta Avenue
Ballston Spa, New York 12020

ARTICLE XXV -- APPLICABLE LAW

This AGREEMENT shall be construed for all purposes under the law of the State of New York.

ARTICLE XXVI -- GOVERNING LAW AND VENUE

This Agreement shall be governed and construed in accordance with the laws of the State of New York AGREEMENT without reference to conflict of laws and principles. No provision of this Agreement shall be applied or construed in any manner inconsistent with applicable federal or state laws and regulations. Notwithstanding the provisions of this section, the parties hereby agree that all standards with respect to the license and conduct of Benetech, Inc. as a professional Worker's Compensation Third Party Administrator will be strictly governed by the law of the State of New York. Any action concerning this Agreement shall be brought in the Supreme Court of New York in Rensselaer County.

ARTICLE XXVII -- ENTIRE AGREEMENT

This Agreement sets forth all promises, covenants, agreements, conditions and understandings between the parties hereto and supersedes all prior to contemporaneous agreements, oral or written, except as herein contained. This Agreement may not be modified other than by an agreement in writing signed by each of the parties hereto.

ARTICLE XXVII -- TITLES NOT TO AFFECT INTERPRETATION

Titles of paragraphs contained in this Agreement are inserted for the convenience of reference only. They neither form a part of this Agreement, nor are they used in construction of interpretation thereof.

IN WITNESS THEREOF, the parties hereto have caused this Agreement to be executed as follows:

Benetech, Inc.

By: _____

Date

Ballston Spa CSD

By: _____

Date

SCHEDULE A

The following annual fees are for providing the aforementioned services contained within this agreement.

Plan Year	Annual Fee
7/1/22-6/30/23	\$ 13,877