

BenefitIQ, LLC  
Terms of Use

At BenefitIQ, LLC (BenefitIQ, we, us), we are committed to providing our users with high quality services and resources intended to facilitate revenue generation using the powerful BenefitIQ Consumer Data infrastructure, next generation website creation technology, and underlying software (the “Software”) supported by appropriate personalized goods and services (the “Service”). To enable you to use our Software and create your own commercially co-branded services, we sometimes need to collect and/or pass along information, and this agreement sets forth the conditions for your use of those services and explains our data collection and use practices.

Before signing up for our services, please review these terms of use. If you agree to be bound by these terms and conditions (“Terms of Use”), please click on the “I accept” button.

PLEASE READ THE FOLLOWING TERMS, CONDITIONS, POLICIES, AND NOTICES CAREFULLY AND IN THEIR ENTIRETY. THESE TERMS OF USE DESCRIBES THE TERMS ON WHICH BENEFITIQ OFFERS YOU ACCESS TO AN ACCOUNT TO USE THE SOFTWARE AND SERVICE. YOUR ACCEPTANCE OF THE TERMS BY CLICKING “I ACCEPT” AT THE BOTTOM OF THESE TERMS OF USE CONSTITUTES YOUR ACCEPTANCE OF ALL SUCH TERMS OF USE. BENEFITIQ MAY, AT ANY TIME, ADD, REMOVE, OR MODIFY THE TERMS OF USE BY POSTING A NOTICE OF SUCH CHANGES. ANY SUCH CHANGES SHALL BECOME PART OF THE TERMS OF USE. YOUR CONTINUED USE OF YOUR ACCOUNT, THE SOFTWARE, THE GENERATED SITE, OR THE SERVICE CONSITUTES YOUR AGREEMENT TO ALL SUCH TERMS. SHOULD YOU CHOOSE TO DECLINE, CLICK THE "I DECLINE" BUTTON, AT WHICH POINT YOU WILL BE UNABLE TO OPEN AN ACCOUNT.

**1. Services.**

**a. Nature of Services**

After accepting these terms of use, you will have several options of services and pricing from which to choose. Our BenefitIQ system allows you to use the Software when you set up an account through the Service (“Account”) and use any software services provided to you as an Account holder through the Service. Using the Software, you will be able to load properly formatted personalized identifiers such as a logo, your name, company name, your photo, contact information and information related to the companies with whom you partner (“Your Data”). Your Data will be to create uniquely co-branded websites (“Generated Sites”) through which employees or affiliates of the companies with whom you partner can enter data that may ultimately lead to a subsequent transaction (the “End User Data”). You will not acquire any ownership interest in your Account, the Software, Generated Sites or the Service. We will not acquire any ownership interest in Your Data or the End User Data.

**b. Your Account**

Your Account is personal to you and may not be transferred, sold or used by anyone else. The Software and Service are intended only for individuals eighteen (18) years of age and older. By clicking the "I Accept" button and providing us with a credit card number when you register, you represent that you are at least eighteen (18) years of age and are accepting these Terms of Use.

## 2. Account Use

**a. No Obscene Materials.** You acknowledge that BenefitIQ does not allow obscene, lewd or scandalous materials on Generated Sites. BenefitIQ reserves the right to determine whether any content posted is of an obscene, lewd or scandalous nature, and reserves the right, at its sole and absolute discretion, to remove such material and take such additional corrective action as it deems necessary.

**b. Support.** BenefitIQ will make reasonable efforts to help you use our services to optimal effect. Basic provisions are provided online. Additional Account holder support includes email correspondence and phone correspondence for production issues or technical assistance as needed. If for any reason you and BenefitIQ cannot agree as to the origin and solution for a problem, BenefitIQ may provide complete or partial (prorated) refunds of services at its discretion, based on the information at hand.

**c. No Unlawful Use.** As a condition of your use of your Account, the Software, the Generated Site, and the Service, you agree you will not use your Account, the Software, the Generated Site, End User Data or the Service for any purpose that is unlawful or prohibited by these terms, conditions, and notices. You may not use your Account, the Software, a Generated Site, End User Data, or the Service in any manner that could damage, disable, overburden, or impair any BenefitIQ website or service (or the network(s) connected to any BenefitIQ website or service) or interfere with any other party's use and enjoyment of any BenefitIQ website or service. You may not attempt to gain unauthorized access to any BenefitIQ website or service, other registrations, accounts, computer systems, or networks connected to any BenefitIQ website or service, through hacking, password mining, or any other means. You may not cheat or steal or obtain or attempt to obtain any materials or information through any means not intentionally made available through any BenefitIQ website or service. You agree to be solely responsible for and assure your use of the Service complies with all applicable laws, ordinances, regulations and other governmental requirements (including, but not limited to complying with the Real Estate Settlement Procedures Act) related to your Account, the Software, a Generated Site, End User Data, and the Service.

**d. Security and Passwords.** Upon registration, you must select a User ID and password. You may not pick a User ID that violates anyone's trademarks, publicity rights or other proprietary materials. You are responsible for maintaining the confidentiality of your password and for any harm resulting from your disclosure or from use by any person of your password to gain access to your Account and User ID. You are responsible for all uses of your user name and password, whether or not authorized by you. BenefitIQ will never ask you for your password; as such you should never disclose your password to anyone. There may be an additional charge to reissue lost passwords. You acknowledge that although we may offer a feature that allows you to "save" or "remember" your password on your hard drive, this feature may make it possible for third

parties to access your computer and thus your Account. Should you choose to use this password memory feature, it will be at your own risk.

**3. Fees and Billing.** After accepting these terms of use, you will have several options of services and pricing from which to choose. You acknowledge and agree in accepting the Terms of Use that you understand the scope of services and billing practices. Your set-up fees (if applicable) are non-refundable. You will select your billing cycle (annual or 3-easy payments) when you set up your Account. Recurring billing starts one month after your Account activation and recurs annually or two months consecutively depending on the chosen cycle. You may cancel service at any time prior to the renewal of your annual agreement, however Services and fees will continue until the end of the applicable billing cycle. Upon completion of a billing cycle, you may change to a different billing cycle to take advantage of discounts. You acknowledge that you will be billed automatically at the beginning of each cycle, and that it is your responsibility to update credit card information to continue services and avoid disruption of service. BenefitIQ will notify you if your card expires or if your creditor refuses payment, but if you do not update your card information or provide an alternate card for billing within 15 days of notice, your services will be cancelled. In the case of cancellation, a Member can reactivate their account for \$49.95 up to 30 days after cancellation. After that, you must sign up for service as a new user (paying the full published price). All fees are stated in U.S. Dollars. Upon your acceptance of these Terms of Use, you authorize us to charge your credit card for any applicable fees plus taxes. Thereafter, on any future due date, you authorize us to charge your credit card for the then-current rate for use of your Account, the Software, Generated Site(s), and the Service plus applicable taxes.

**4. Refunds.** If you are dissatisfied with the Service for any reason and notify us by email addressed to admin@benefitiq.com or in writing within the first twenty-one days after you sign up for the Service, you will receive a refund of your entire subscription fee less the value of the initial supplies provided to you and any applicable shipping charges. Refunds will be made by check payable to the company holding the account and mailed within six weeks after timely receipt of a verified request to terminate the Service.

**5. Relationship of Parties.** You are a valued BenefitIQ business partner. Acceptance of these Terms of Use and use of BenefitIQ services will not create an employment relationship, joint venture, partnership or otherwise provide any right to act on behalf of or bind BenefitIQ in any way.

**Privacy.** Your private communications and other personally identifiable information will not be disclosed to third parties except in furtherance of a transaction or inquiry that you request, or as set forth in this section. We may hire other companies to provide limited services on our behalf, including packaging, mailing and delivering purchases, answering customer questions about products or services, sending postal mail and processing event registration. We will only provide those companies the information they need to deliver the service, and they are prohibited from using that information for any other purpose. You agree that we may communicate with you via email and any similar technology for

any purpose relating to the services. You understand that BenefitIQ or its representatives may monitor all communications made by or received by you while using BenefitIQ service. You hereby consent to the extraction of hardware system profile Your Data and any End User Data related to operation of the service from any computer that logs on to site using your account. BenefitIQ may disclose your personal information if required to do so by law or in the good faith belief that such action is necessary to: (a) conform to the edicts of the law or comply with legal process served on BenefitIQ or the Sites; (b) protect and defend the rights or property of BenefitIQ and its Sites, or (c) act in urgent circumstances to protect the personal safety of users of BenefitIQ, its Internet sites, or the public.

**6. Third Party Links.** BenefitIQ may provide links to or from our website with third party websites. BenefitIQ will generally notify users when they are leaving a BenefitIQ site and we encourage our users to read third party sites' privacy policies before submitting personal information. We have no control over the content, privacy protection practices, or other aspects of any linked site. You acknowledge and agree that BenefitIQ is not responsible for the availability of these resources and does not endorse any of the content, products, advertising or any other materials on or available from such sites or resources. Accordingly, you acknowledge that BenefitIQ is not liable for any loss or damage which occurs as a result of using or relying on the content, goods and services found on these other sites.

**7. No Service Guarantee.** BenefitIQ provides its services on a commercially reasonable basis and does not guarantee that you will be able to access or use the services at times or locations of their choosing. BenefitIQ reserves the right at any time to modify or discontinue (whether temporarily or permanently) the services or any part thereof with or without notice. You agree that BenefitIQ will not be liable to you or to any third party for any modification, suspension or discontinuance of the service.

**8. Indemnification.** You agree to indemnify BenefitIQ, and its affiliates, officers, employees, agents, co-branders, and other partners and hold them each harmless from any and all claims, demands, damages, costs (including attorney's fees), made by any third party due to or arising from your use of the BenefitIQ services, in connection with the BenefitIQ website, your use of your Account, the Software, a Generated Site, End User Data, Your Data and the Service your violation of the Terms of Use, or arising from your violation of any rights of a third party.

**9. Intellectual Property Rights and Grant of License.** Subject to these Terms of Use, BenefitIQ hereby grants you a non-exclusive limited license to use your Account, the Software, Generated Sites, and the Service solely in connection with using the Software via your authorized and fully paid Account. Subject only to the preceding grant of rights, BenefitIQ retains ownership of all intellectual property rights relating to or residing in your Account, the Software, Generated Sites, and the Service. Except as provided by these Terms of Use you may not modify, copy, distribute, transmit, display, perform, reproduce, publish, license, or create derivative works from any information, software, products or services obtained from your Account, the Software, a Generated

Site, or the Service. Your Account, the Software, Generated Sites and the Service are made available solely for use by valid Account holders according to these Terms of Use. Any reproduction or distribution of our Account, the Software, Generated Sites and the Service not in accordance with these Terms of Use is expressly prohibited by law, and may result in severe civil and criminal penalties. Violators will be prosecuted to the maximum extent possible. You may not modify, reverse engineer, disassemble or decompile software used in provision of your Account, the Software, Generated Sites and the Service except to the extent that this restriction is expressly prohibited by applicable law. You may not use the intellectual property contained in your Account, the Software, Generated Sites and the Service to create or provide any other means through which others may play the Software, as through server emulators. You may not take any action that imposes an unreasonable or disproportionately large load on our infrastructure. Should you do so, your Account may be terminated. BenefitIQ may update or otherwise enhance your Account, the Software, Generated Sites and the Service at any time and in doing so incurs no obligation to furnish such updates to you pursuant to these Terms of Use.

**10. Warranties and Representations.**

**a. Disclaimer of Warranties.** You acknowledge and agree that the BenefitIQ services are provided to you on an "AS IS" basis without any warranty whatsoever, and your sole and exclusive remedy, and BenefitIQ's sole obligation to you or any third party for any claim arising out of your use of the BenefitIQ services, is that you are free to discontinue your use of the BenefitIQ services at any time. TO THE FULLEST EXTENT PERMITTED BY LAW, BenefitIQ EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS, IMPLIED, AND STATUTORY OF ANY KIND, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR USE, AND NON-INFRINGEMENT OF PROPRIETARY RIGHTS AND ANY AND ALL LIABILITY FOR DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL (INCLUDING LOST PROFIT), EXEMPLARY OR PUNITIVE DAMAGES (EVEN IF BenefitIQ HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES) ARISING OUT OF THIS AGREEMENT OR ANY CONSEQUENCES WHICH FLOW FROM IT. SOME STATES DO NOT ALLOW LIMITATIONS ON OR EXCLUSION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES. IN SUCH STATES, THE ABOVE EXCLUSIONS MAY NOT APPLY TO YOU. BenefitIQ DISCLAIMS ANY WARRANTIES FOR OTHER SERVICES OR GOODS RECEIVED THROUGH OR ADVERTISED ON THE SITE, AS WELL AS FOR ANY INFORMATION OR ADVICE RECEIVED THROUGH THE SITE OR THROUGH ANY LINKS PROVIDED IN THE SITE. NEITHER BenefitIQ NOR ANY THIRD-PARTY CONTENT PROVIDER MAKES ANY WARRANTY WITH RESPECT TO ANY CONTENT, INFORMATION, SERVICES, OR PRODUCTS PROVIDED THROUGH OR IN CONJUNCTION WITH THE SITE.

**b. No Representations.** BenefitIQ MAKES NO EXPRESS OR IMPLIED REPRESENTATIONS REGARDING YOU, THE SUITABILITY OF THE ACCURACY OR SUFFICIENCY OF ANY INFORMATION PUBLISHED ON THIS SITE FOR ANY PURPOSE, THE SUFFICIENCY OF SITE STORAGE AND BACK-

UP SYSTEMS. ALL SUCH INFORMATION AND RELATED GRAPHICS ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND. BenefitIQ DOES NOT GUARANTEE THAT THE MATERIALS CONTAINED ON THIS SITE ARE FREE FROM VIRUSES, WORMS, OR OTHER POTENTIALLY HARMFUL OR MALICIOUS ATTRIBUTES INCORPORATED IN THIRD PARTY CONTENT.

**11. Technical Difficulties/Software Termination.** While we will make good faith efforts to do so, BenefitIQ does not ensure continuous, error-free, secure, or virus-free operation of your Account, the Software, Generated Sites or the Service. BenefitIQ shall not be liable for any delay or failure to perform resulting from technical difficulties. Further, BenefitIQ cannot and does not promise or ensure that you will be able to access your Account whenever you want, and there may be extended periods of time when you cannot access your Account. BenefitIQ may modify or cancel portions of the Software, Generated Sites and the Service in its sole discretion.

**12. Limitation of Liability.** UNDER NO CIRCUMSTANCES SHALL BenefitIQ BE LIABLE TO ANY ACCOUNT HOLDER ON ACCOUNT OF THAT USER'S USE OR MISUSE OF THE SITE OR RELIANCE ON THE SITE. BenefitIQ DOES NOT GUARANTEE THAT ANY INDIVIDUAL USER WILL USE YOUR ACCOUNT, THE SOFTWARE, GENERATED SITES AND THE SERVICE PROPERLY OR IN COMPLIANCE WITH THE TERMS AND CONDITIONS APPLICABLE TO THEM. YOUR SOLE AND EXCLUSIVE REMEDY FOR ANY DISPUTE WITH BenefitIQ IS THE CANCELLATION OF YOUR ACCOUNT OR THE TERMINATION OF YOUR USE OF THE SERVICE. SUCH LIMITATION OF LIABILITY SHALL APPLY TO PREVENT RECOVERY OF DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE AND EXEMPLARY DAMAGES (EVEN IF BenefitIQ HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES). SUCH LIMITATION OF LIABILITY SHALL APPLY WHETHER THE DAMAGES ARISE FROM THE USE OR MISUSE OF THE SITE OR RELIANCE ON THE SITE, FROM INABILITY TO USE THE SITE OR FROM THE INTERRUPTION, SUSPENSION, OR TERMINATION OF THE SITE OR SERVICES OFFERED ON THE SITE (INCLUDING SUCH DAMAGES INCURRED BY THIRD PARTIES). SUCH LIMITATION SHALL ALSO APPLY WITH RESPECT TO DAMAGES INCURRED BY REASON OF OTHER SERVICES OR GOODS RECEIVED THROUGH OR ADVERTISED ON THE SITE OR RECEIVED THROUGH ANY LINKS PROVIDED ON THE SITE. SUCH LIMITATION SHALL APPLY, WITHOUT LIMITATION, TO THE COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, LOST PROFITS, OR LOST END USER DATA. SUCH LIMITATION SHALL APPLY WITH RESPECT TO THE PERFORMANCE OR NON-PERFORMANCE OF THE SITE OR ANY PRODUCTS, SERVICES, INFORMATION, OR MERCHANDISE THAT APPEARS ON, OR IS LINKED OR RELATED IN ANY WAY TO, THE SITE. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. SUCH LIMITATIONS SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW.

**13. Language.** The parties hereby declare, and by these presents confirm, their express desire that this contract be written in English. Les parties déclarent qu'elles ont demandé et par les présentes confirment leur desir exprés que cette convention soit rédigée en anglais.

**14. Termination.** These Terms of Use are effective unless and until terminated by either you or BenefitIQ. You may terminate these Terms of Use at any time by providing BenefitIQ with written notification. BenefitIQ may terminate these Terms of Use and deny you access to your Account, the Software, a Generated Site, End User Data, or the Service at any time if you (i) breach these Terms of Use, or (ii) infringe any third party intellectual property rights, or (iii) if we are unable to verify or authenticate any information you provide to us, or (iv) for violation BenefitIQ' Privacy Policy. Upon termination of the License by either you or BenefitIQ, you shall immediately discontinue use of your Account, the Software, a Generated Site, or the Service. Any fees associated with your use of your Account, the Software, a Generated Site, or the Service are payable in advance and not refundable in whole or in part. Your obligation to pay accrued charges and fees shall survive any termination of these Terms of Use. If your Account is terminated, you will immediately forfeit the right to use all your End User Data on our system.

**15. Amendment.** BenefitIQ will occasionally update these Terms of Use. When we do, we will also revise the "last updated" date at the bottom of the Terms of Use. For material changes to these Terms of Use, BenefitIQ will notify you by placing prominent notice on the website and/or sending notice to the User via the email addresses they provide in their User profile. There currently are no membership fees for use of the Service. BenefitIQ may change its Service or membership fees and/or billing procedures upon thirty (30) days notice of the changes that shall be posted on the Payment Page. You are responsible for reviewing the Payment Page to obtain timely notice of such changes. If any such change is unacceptable to you, you may terminate your Account as provided in Section 14. Your continued use of your Account, the Software, the Generated Site, or the Service fifteen (15) days after posting of the changes on the Payment Page will indicate acceptance of such changes. You are fully liable for all charges under your account, including any unauthorized charges. When you pay for any charges by credit card, you represent to BenefitIQ that you are the authorized user of such credit card. You agree to promptly notify BenefitIQ of any changes to your credit card account number, its expiration date and/or your billing address, and you agree to promptly notify BenefitIQ if your credit card expires or is canceled for any reason.

**16. Governing Law.** This agreement will be governed by and interpreted in accordance with the local laws of the State of Washington. The parties hereby irrevocably and unconditionally consent to submit to the exclusive jurisdiction of the United States District Court for the Western District of Washington or any Washington State Court in King County having jurisdiction over the subject matter of the dispute or matter, any actions, suits, or proceedings arising out of or relating to this agreement and the transactions contemplated hereby (and agree not to commence any action, suit or proceeding relating thereto except in such courts), and further agree that service of any

process, summons, notice, or document by U.S. registered mail to the addresses set forth herein shall be effective service of process for any action, suit or proceeding brought against either party in any such court. The parties hereby irrevocably and unconditionally waive any objection to the laying of venue of any action, suit, or proceeding arising out of this agreement or the transactions contemplated hereby in the United States District Court for the Western District of Washington or the Washington State Court in King County, and hereby further irrevocably and unconditionally waive and agreed not to plead or claim in any such court that any such action, suit, or proceeding brought in any such court has been brought in an inconvenient forum. The parties hereby irrevocably waive all rights to trial by jury in any action, proceeding or counterclaim (whether based on contract, tort or otherwise) arising out of or otherwise relating to this agreement or the actions of such parties in the administration, performance and enforcement thereof.

**17. U.S. GOVERNMENT RESTRICTED RIGHTS AND EXPORT RESTRICTIONS.** U.S. GOVERNMENT RESTRICTED RIGHTS: Your Account, the Service, the Generated Sites and the Software are provided with RESTRICTED RIGHTS. Use, duplication or disclosure is subject to restrictions set forth in subparagraphs (a) through (d) of the Commercial Computer Software--Restricted Rights at FAR 52.227-19 when applicable, or in subparagraph (c)(1)(ii) of the Rights in Technical Consumer Data and Computer Software clause at DFARS 252.227-7013, and in similar clauses in the NASA FAR supplement, as applicable. Manufacturer is BenefitIQ, LLC, 2110 116<sup>th</sup> Ave. NE, Suite E, Bellevue, Washington 98004. You are responsible for complying with all trade regulations and laws both foreign and domestic. You acknowledge that none of your Account, the Software, the Generated Sites, and the Service or underlying information or technology may be downloaded or otherwise exported or re-exported (i) into (or to a national or resident of) Cuba, Iraq, Libya, Sudan, North Korea, Iran, Syria or any other country subject to a U.S. embargo; or (ii) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Commerce Department's Denied Parties List or Entity List. By using your Account, the Software, the Generated Sites, and the Service you are agreeing to the foregoing and are representing and warranting that (i) no U.S. federal agency has suspended, revoked, or denied you export privileges, (ii) you are not located in or under the control of a national or resident of any such country or on any such list, and (iii) you will not export or re-export your Account, the Software, the Generated Sites, or the Service to any prohibited country, or to any prohibited person, entity, or end-user as specified by U.S. export controls.

**18. Notices.** BenefitIQ welcomes your comments regarding these Terms of Use, please contact us by e-mail, or postal mail.

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Bellevue, Washington 98004

Notices to you may be made via either email or regular mail.

**Last Updated: Monday, April 14, 2008 – 3:07 p.m.**