



Version: 2024.02.12

## User Agreement

This User Agreement ("Agreement") is entered into by and between Benefit Communications Inc. ("BCI"), a Tennessee corporation, and you, the user ("you", "your", "user", or "users"), and governs the use of the BCI Internet websites ("BCI Sites") available on the World Wide Web at the Uniform Resource Locator ("URL") <http://www.electbenefits.com> or <https://connect.electbenefits.com/bcicc> ("electbenefits.com"), and <http://benefitcommunications.com/> ("benefitcommunications.com"). This Agreement defines the terms and conditions that apply to all users of the BCI Sites, including but not limited to office administrators, benefit plan administrators, employers, client employees, and registered users.

By using the BCI Sites or the services available on the BCI Sites, users agree to the terms of this agreement just as if the user had signed the agreement. If a user does not agree to be bound by this agreement, the user may not use any of the services available through the BCI Sites.

### 1. Agreement.

The BCI Sites are Internet services operating under the name of and ownership of Benefit Communications, Inc. BCI grants users a limited, non-exclusive, non-assignable and non-transferable license to access and use the on-line services available at the BCI Sites if users acknowledge and agree that access and utilization of the site is governed by each term and condition in this Agreement.

### 2. Information Use.

A. The term "Information" means all content, data and the related services and information provided by BCI or obtained through the BCI Sites. BCI may have agreements with certain sponsors, third-party website operators and other third-party providers whereby BCI displays information, products, goods, or services offered by the third-party providers, either independently or in conjunction with BCI, and provides links from the BCI Sites to third-party websites. The term "Information" also refers to Information of the same nature described in the Agreement that is offered by Third-Party Providers and in this Agreement, the term "BCI" shall also include Third-Party Providers.

B. Although BCI facilitates services and the use of Information from Third-Party Providers, there is no legal affiliation, nor any intent for affiliation, between BCI and such Third-Party Providers. BCI is not liable, directly or indirectly, for any loss or damage caused using any external website, Third-Party Provider Information, product, or service.

### 3. Ownership.

A. All pages of the BCI Sites are considered exclusive property of BCI or its licensors, licensees or Third-Party Providers and are copyrighted material.

B. Unless users have prior permission, users may not copy, reproduce, republish, upload, post, transmit, adapt, distribute, commercially exploit, or publicly display any portion of the Information

contained in the BCI Sites. Additionally, users may not remove, alter, use, display, modify, copy, or obscure any copyright, Trademarks, legal or proprietary notices in or on any portions of the Information.

#### **4. Restrictions.**

Information from the BCI Sites may not be stored in a user's computer's memory and neither can it be manipulated in any manner inconsistent with this Agreement. Information cannot be redistributed or used in a searchable, machine-readable database or file. Unless users have separate and specific written authorization signed by BCI, users may not rent, lease, sublicense, distribute, transfer, copy, reproduce, publicly display, publish, adapt, store, or time-share any portion of the BCI Sites. Users agree to use the BCI Sites and the Information for lawful purposes only. Users agree not to post or transmit any information through the BCI Sites which (1) infringes the rights of others or violates their privacy or publicity rights, (2) is unlawful, threatening, abusive, defamatory, libelous, vulgar, obscene, profane, indecent, or otherwise objectionable, or (3) is protected by copyright, trademark, or other proprietary right without the express permission of the owner of such right. Users are solely liable for any damages resulting from any infringement of copyright, trademark or other proprietary right, or any other harm resulting from any uploading, posting or submission and shall indemnify BCI for any claims or actions brought by third parties who allege that users have violated this Section.

#### **5. Separate Website Links**

BCI may offer direct links to other separate and individual websites, which may offer information considered helpful to registered users. Since these direct links are separate websites independent of the BCI Sites, they may not follow the same privacy guidelines described in this User Agreement and BCI's separate Privacy Policy. BCI assumes no responsibility or control over the acts or the privacy policies of the third-party websites to which BCI provides direct links. We suggest that users contact the appropriate controlling authorities of these websites or review their privacy policy.

#### **6. Agreement Revisions.**

BCI reserves the right to revise this Agreement and the BCI Sites. Our revisions may include but are not limited to changes in services, implementation of user priorities or rules, and discontinuance of functional aspects of the BCI Sites. BCI may also add, withdraw, or change Information within the BCI Sites or services provided throughout the BCI Sites at any time in its sole discretion or cancel any link to a Third-Party Provider website.

#### **7. Important Information about user Password.**

If at any time a user learns or suspects that their username or login password has been disclosed or otherwise made known to any person other than the user, users agree to immediately notify the employer via e-mail or in writing within twenty-four (24) hours. Upon receiving such notice, the user's employer will notify BCI to assign a new password within a reasonable period. If a user's employer provides a Single Sign On (SSO) link to BCI, and a user feels this link has been compromised, please notify BCI.

#### **8. Service Delays.**

Neither BCI nor any of its licensors, licensees and Third-Party Providers (including their officers, directors, employees, affiliates, agents, representatives or subcontractors) will be liable for any loss or liability resulting, directly or indirectly, from delays or interruptions due to system failures, data processing failures, telephone or communication issues, Internet outage, utility failures or problems, defects, weather, strikes, walkouts, fire, acts of God, riots, armed conflicts, acts of war, pandemic, or to other like causes. BCI will make every reasonable effort to provide access to the BCI Sites while any such interruption continues.

### **9. Agreement Cancellation or Termination.**

Termination or cancellation of this Agreement will not affect any legal or equity right or relief to which BCI may be entitled. If this Agreement is terminated all rights granted to users will immediately terminate and revert to BCI. BCI may immediately terminate this Agreement for any of the following reasons: (a) any unauthorized access or use by users including but not limited to: (i) concurrent access of the BCI Sites with identical user identification numbers; (ii) permitting another person or entity to a user's personal user identification number or password to access the BCI Sites, except for human resources staff of client-employer; or (iii) any other access or use of the BCI Sites which is not authorized by this Agreement; (b) any assignment or transfer of, or attempt by users to assign or transfer, any rights granted to a specific user under this Agreement; (c) a user's failure to abide by the rules and regulations relating to the use of, or tamper with or alter any of the Information contained in, or accessed through, the BCI Sites; (d) any transmission or receipt of, or attempt by users to transmit or receive submissions or "Ideas" using the BCI Sites. BCI will solely determine whether any information transmitted or received violates this provision); or (e) any violation of any of the other terms and conditions of this Agreement.

### **10. Monitoring.**

BCI reserves the right to monitor all Information or transmissions sent or received through the BCI Sites. BCI has sole discretion and without further notice to users, to (but is not obligated to) review, censor or prohibit the transmission or receipt of any Information or transmission which BCI deems as inappropriate or as violating any term or condition of this Agreement. During monitoring, Information or transmission may be examined, recorded, copied, and used for authorized purposes. By using the BCI Sites, authorized or unauthorized, users consent to such monitoring. Unauthorized uses and unauthorized users of the BCI Sites will be prosecuted to the full extent of the law. Use of Information associated with monitoring the BCI Sites is subject to BCI's Privacy Policy.

### **11. Equipment and Operation.**

Registered user will provide and maintain all telephone, Internet, communication, software, computer hardware, license, and other equipment necessary to access the BCI Sites, and the costs of any necessary equipment, Internet, and/or telephone connections or use, including applicable taxes, will be the registered user's responsibility. Users are responsible for operating their own equipment and for familiarity with the Information used with or available through the BCI Sites.

### **12. Disclaimer of Warranties.**

Registered users acknowledge that the Third-Party Provider Information, websites, and links provided through the BCI Sites are sources beyond the control of BCI. Though such information is recognized by the parties to be generally reliable, the parties acknowledge that inaccuracies may occur and BCI and its licensors and Third-Party Providers do not warrant the accuracy or suitability of the Information. For this reason, users acknowledge that the services available through the BCI Sites are provided to users on an "as is," "where is" basis. BCI and its licensors and third-party providers expressly disclaim all warranties, whether express, oral, implied, statutory, or otherwise, including any implied warranty of fitness for a specific purpose or application and any implied warranty of merchantability, any warranties arising by custom of trade or course of dealing and any implied warranties of title or non-infringement or adequacy to produce any result. BCI strives to ensure that the BCI Sites are uninterrupted and error-free. BCI will make every effort to correct any defects and to maintain the BCI Sites and/or serves so that it remains free of viruses or other harmful components.

Under this Agreement, clients assume all risk of errors and/or omissions in the BCI Sites, including the transmission or translation of Information. Clients assume full responsibility for implementing sufficient procedures and checks to satisfy their requirements for the accuracy and suitability of the BCI Sites and its associated services, and for maintaining any means which may be required for the reconstruction of lost data or subsequent manipulations, or analyses of the Information provided under the Agreement.

Some states do not allow certain limitations on implied warranties, including without limitation, the duration of effective warranties and/or their disclaimers, so the above limitation may not apply to all users. This warranty gives users specific legal rights, and a user may also have other rights that vary from state-to-state.

### **13. Limitation of Liability.**

In no cases shall BCI's total liability for all damage, losses, and causes of action (whether in contract, tort, or negligence, including without limitation, the negligence of BCI, or otherwise) exceed the amount paid by users, if any, for accessing the BCI Sites, even if BCI or its affiliates have been advised of the possibility of such damages. If the above limitation of liability should fail in its essential purpose for any reason, such liability is and shall be limited to a sum equal in amount to ten (10%) percent of the sums paid to BCI by users under the terms of this agreement, any agreement with an individual third-party provider or the sum of \$100.00, whichever is greater, as liquidated damages and not as a penalty, even if BCI or its affiliates have been advised of the possibility of such damages. This liability shall be complete and exclusive.

### **14. Indemnification.**

Users agree to release, indemnify, defend and hold harmless BCI, its licensors, and third-party providers (including their officers, directors, employees, affiliates, agents, representatives or contractors) from and against all claims brought by any persons arising from or relating to user access and use of the BCI Sites, including but not limited to, the access to and use of the information, services and/or products obtained through or provided by the BCI Sites, including authorized access or use.

### **15. Privacy.**

Users hereby acknowledge having read and accept and agree to all terms and conditions of BCI's Privacy Policy.

### **16. No Conflicting Terms.**

If there is any conflict between this Agreement and any other documents regarding the subject matter of this Agreement or the services, products, or Information users' access, acquired, or received through the BCI Sites, then the provisions of this Agreement govern, whether other documents are prior to or after this Agreement, or are signed or acknowledged by any director, officer, employee, representative or agent of BCI.

### **17. Minors.**

If users have agreed to allow a minor child or a child for whom a user is a legal guardian ("Minor") to access the BCI Sites or any of the services or Information offered or through the BCI Sites, the user agrees that they are solely responsible for: (a) verifying that the age of the minor is compliant with the BCI Privacy Policy; (b) assuming accountability for the on-line conduct of the Minor; (c) monitoring the Minor's access to and use of the BCI Sites; and (d) accepting the consequences of any use of the BCI Sites by such Minor.

**18. Attorney's Fees.**

If BCI acts and prevails (by itself or through its representatives) to enforce any of the provisions of this Agreement, including collection of damages or any amounts due hereunder, BCI shall be entitled to recover from users (and users agree to pay), in addition to all sums to which it is entitled or any other relief, at law or in equity, reasonable and necessary attorney's fees and any costs of any litigation.

**19. Governing Law; Limitations; Venue.**

This Agreement is governed by the laws of the State of Tennessee excluding any rule or principle that would refer to and apply the substantive law of another state or jurisdiction. To the extent allowed by applicable law, any claims or causes of action arising from or relating to user access and utilization of the BCI Sites contemplated by this Agreement must be instituted within one (1) year from the date upon which such claim or cause arose or accrued. Further, any such claim or cause of action may only be brought in the state or federal courts located in Nashville, Davidson County, Tennessee, and users agree to submit to the exclusive personal jurisdiction of such courts and hereby appoint the Secretary of State of the State of Tennessee as the user's agent for service of process. Users agree to waive any objection that the state or federal courts of Tennessee are an inconvenient forum.

**20. Jurisdictional Issues.**

Unless otherwise specified, the materials in the BCI Sites are presented solely for providing employee self-service benefit enrollment programs for client-employers. The BCI Sites are controlled and operated by BCI from its offices within the State of Tennessee, United States of America. BCI makes no representation that material and Information found at or accessible through the BCI Sites are appropriate or available for use in other locations or other countries outside the United States of America. Those who choose to access the BCI Sites from other locations do so on their own initiative and are responsible for compliance with local laws, if and to the extent local laws are applicable.

**21. Assignment.**

Users may not assign any rights, obligations, or privileges hereunder without the prior written consent of BCI. Any assignment other than as provided for in this Section shall be null and void, ab initio.

**22. Severability.**

If any provision of this Agreement is found to be unlawful or unenforceable in any respect, the court shall reform such provision to render it enforceable or, if it is not possible to reform such provision to make it enforceable, then delete such provision. As so reformed or modified, the court shall fully enforce this Agreement.

**23. Entire Agreement.**

This agreement is complete and effective at the time a user agrees to it by clicking on the button indicated for acceptance with the user registration procedures or, in the event such registration does not occur, at the time users attempt to enroll in or make changes to a benefit(s) through the BCI Sites. This agreement constitutes the entire agreement between the parties, and no other agreement, written or oral, exists between users and BCI with respect to the subject matter addressed herein.

**24. Child Online Protection Act Notification.**

Pursuant to 47 U.S.C. Section 230(d) as amended, BCI hereby notifies users that parental control protections (such as computer hardware, software, or filtering services) are commercially available that may assist a user in limiting access to material that is harmful to minors.

**25. Notice and Procedure for Copyright Infringement Claim.**

BCI, pursuant to 17 U.S.C. Section 512, as amended by Title II of the Digital Millennium Copyright Act (the "Act"), reserves the right, but not the obligation, to terminate a user's license to use the BCI Sites and any services or Information provided through the BCI Sites, if it determines in its sole and absolute discretion that users are involved in any activity which may be infringing, including alleged acts of first time or repeat infringement, regardless of whether the material or activity is ultimately determined to be infringing.

**26. Consent to Electronic Signatures.**

Users consent to the use of electronic signatures with documents related to this agreement, acknowledge the right to receive the record in a non-electronic form, and have the right to withdraw consent to the use of electronic signatures. Users are aware that such consent to the use of electronic signatures is applicable to transactions consummated using the BCI Sites. The individual consent to use electronic signatures can be withdrawn by providing a request in writing to the human resources representative.

Users may also obtain a paper copy of any electronic record by visiting the enrollment website or contacting the human resources representative. Users acknowledge full responsibility for all hardware and software necessary to access the service and use the electronic signature function.

For this Agreement, "Electronic Signature" means an electronic symbol or process attached to or logically associated with a document or record and executed or adopted by a specific user with the intent to sign the record.

**27. Use of Cookies.**

By using the BCI Sites, users acknowledge that the BCI Sites may use cookies to facilitate their benefits enrollment. Potential uses may include web browser identification, user authentication to prevent fraudulent of user profile, third-party verification, or other uses deemed necessary to provide the website features. Cookies on the BCI Sites are not used for advertising purposes. If users choose to disable cookies or instruct the web browser to delete or refuse cookies, users will not be able to use all the features on the BCI Sites.

**28. Termination of Services.**

BCI can terminate user access to the BCI Sites if users materially breach this User Agreement. If users object to any provision of this User Agreement, or any subsequent modification to this User Agreement, users can immediately terminate use of the BCI Sites.