

## Benevity Terms of Use

The following terms of use ("**Terms of Use**") apply to the system and services supplied by Benevity Inc. which include Benevity's workplace solutions (including the Spark solution for donations, volunteering and pro-social "Missions" activity measurement) and Benevity's public-facing website and client-sponsored donation and grants management portal (collectively, the "**System**"). The term "**Benevity**" ("we" and "us") refers to Benevity, Inc. and its affiliates. By using our System, you, the System end user ("you" or "your") agree to the following terms. Your continued use of the System will be deemed acceptance by you of these Terms of Use. For assistance with the use of the System, you should consult the user information located under the applicable "Help" section(s) of the System, as well as the applicable FAQ's. For an explanation of Benevity's collection, use and storage of personal information, please read Benevity's privacy policy.


### 1. Your Profile and Account Responsibilities

You warrant that all information you submit to the System profile pages is accurate and agree that you will keep it current. If we have grounds to suspect that your profile information is untrue, inaccurate or incomplete, we have the right to suspend or terminate your System account. It is your responsibility to maintain the confidentiality of your System password, and you are responsible for and you authorize us to effect and act upon any changes, instructions and activities that are made to your System account using your password. You agree that we may send you important information and notices regarding the System and your account via your work email. Each individual person is limited to one account on the System. You are responsible for all activities that occur in your System account. You shall treat other System users with courtesy and respect. You shall not: impersonate any other person or allow any other person to impersonate you or utilize your account on the System; intentionally interfere with the operation of the System; intentionally interfere with any giving program for the facilitation of donations (a "**Giving Program**") such as a public-facing giving program managed by a client sponsor ("**Corporate Sponsor**") or a workplace giving program managed by your employer, in some cases together with a matching partner ("**Matching Partner**") such as a charitable foundation connected with your employer. You shall not submit any link or content: in exchange for payment or other consideration from another person or entity; that infringes or violates the intellectual property or other rights of any person or entity; that breaches any duty of confidentiality that you owe to anyone; that is harassing, defamatory, abusive, lewd, pornographic, obscene or otherwise objectionable or contains or installs any viruses, worms, bugs, Trojan horses, malware or other code, files or programs designed or having the capability to disrupt, damage or limit the functionality of any software or hardware or contains false or deceptive language, unsubstantiated or comparative claims regarding Benevity's or others' products, advertising, commercial referrals, spam, chain letters, or any other solicitation, including solicitation of lawsuits. We reserve the right, in our sole discretion and without prior notice to you, to remove any content submitted or posted by you to the System pages.

### 2. Releases and Limitation of Liability

NEITHER BENEVITY NOR ANY FOUNDATION (AS DEFINED IN SECTION 7.1) IS LIABLE FOR (A) ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, LOSSES OR EXPENSES, HOWEVER CAUSED, INCLUDING ANY LOSS OF USE, LOST OR INCORRECT DATA, LOST PROFITS, OPPORTUNITY COST, BUSINESS INTERRUPTION, PERSONAL INJURY, OR ANY OTHER ECONOMIC LOSS OR (B) ANY RELIANCE ON INFORMATION PROVIDED ON THE SYSTEM OR OTHERWISE OR ANY DAMAGES YOU MAY SUFFER IF YOU TRANSMIT CONFIDENTIAL OR SENSITIVE INFORMATION TO US OR IF WE COMMUNICATE SUCH INFORMATION TO YOU AT YOUR REQUEST OR DAMAGE RESULTING FROM FAILURE OF EQUIPMENT, THE INTERNET OR THIRD PARTY SYSTEM FAILURE.

Notwithstanding the foregoing paragraph, if you suffer loss or damage arising out of our error and such loss or damages were under the sole control of us and due to the negligence of us then we will be liable for such loss or damage to you in an amount not to exceed the equivalent of \$100.00 USD in the aggregate. The limitations of liability and releases in these Terms of Use apply only to the extent permitted by the laws of the jurisdiction which apply to you and shall apply regardless of how caused and under any theory of liability, including without limitation, negligence (in whole or in part),



strict liability, breach of contract, or otherwise of the party whose liability is limited or released, and shall extend to Benevity, the applicable Foundation and its and our directors, officers, employees, agents and representatives and shall survive completion of the services and termination of these Terms of Use for any reason.

Either your employer or the Corporate Sponsor, as applicable, or Benevity may, in its sole discretion, suspend your participation in any Giving Program or your use of the System for any reason with or without notice. Benevity or your employer or the Corporate Sponsor, as applicable will contact you by email at the address provided in your user profile or other contact information on the System to attempt to resolve the matter underlying the suspension. Upon disqualification due to lack of resolution, your account or access may be closed, you will no longer have any rights under these Terms of Use.

### 3. Arbitration

Where enforceable, the following mandatory arbitration provisions apply to you: Any claim, dispute or controversy (whether in contract or tort, pursuant to any statute or regulation, or otherwise, and whether pre-existing, present or future) arising out of or relating to (a) these Terms of Use; (b) the System; (c) any Foundation; (d) oral or written statements, agreements, advertisements or promotions relating to the System and these Terms of Use, a Foundation, any Giving Program, or your employer's, or a Corporate Sponsor's or a Matching Partner's Giving Program agreement with you; or (e) the relationships created as a result of or in connection with these Terms of Use (including, your relationship with Benevity and relationships with third parties) (each such claim, dispute and controversy, a "**Claim**"), shall be referred to and determined by a sole arbitrator, to the exclusion of the courts, and you agree to be bound by the determination of the arbitrator. You hereby waive any right you may have to commence or participate in any class action against Benevity or the Foundation related to any Claim and, where applicable, you also agree to opt out of any class proceedings against Benevity or the Foundation. Arbitration of Claims shall be conducted in the English language and unless otherwise required by a mandatory law of a member state of the applicable jurisdiction, the law to be applied in any arbitration shall be as indicated in Table 1 below, if you have access to donation functionality. If you do not have access to donation functionality, then the governing law of these Terms of Use is the State of New York. The arbitration will be conducted under the Rules of Arbitration to the International Chamber of Commerce (the "**ICC**") in accordance with ICC rules and will be held in the state of New York or another location agreed to by us. Notwithstanding the above, Benevity shall be entitled (without limitation of any other rights or remedies otherwise available to Benevity) to seek an injunction from a court of competent jurisdiction prohibiting the continuance or recurrence of any breach of this Agreement.

### 4. Miscellaneous

- 4.1 Notwithstanding the governing law of any agreement between you and your employer or a Matching Partner or a Corporate Sponsor, as applicable, if you have access to donation functionality through the System, these Terms of Use are governed by the laws that correspond to your "Instance" of the donation solution that is set forth above Table 1 below. (Your "**Instance**" is the version of the donation solution that is set forth above Table 1 below, which corresponds to the jurisdictional location of the Foundation presented to you in such solution.) If you do not have access to donation functionality, the governing law of these Terms of Use is the State of New York. The designated choice of law in this Section 4.1 shall apply without regard to such jurisdiction's conflict of laws rules, and these Terms of Use shall be construed and interpreted in accordance with the applicable law. If any provision of these Terms of Use is invalid or unenforceable, the invalidity or unenforceability of such provision will not affect the validity or enforceability of the remaining provisions of these Terms.
- 4.2 These Terms of Use constitute the entire agreement between you, your employer or Corporate Sponsor, as applicable, Benevity and the Foundation (if applicable) regarding the matters addressed in these Terms of Use and your utilization of the System.
- 4.3 You agree to hold Benevity, the Foundation and your employer or Corporate Sponsor, as applicable, and their

respective directors, officers, agents, employees, affiliates, successors and assigns (collectively, the “**Indemnitees**”) harmless from and against all liability, causes of action, tax liability, penalties, costs and claims, and will reimburse the Indemnitees’ reasonable and actual expenses incurred in connection therewith (including legal fees and costs), arising from or related to your use of the System and/or participation in any Giving Program including, but not limited to, any breach of these Terms of Use or any fraud, misrepresentation or abuse committed by you in connection with your use of the System and/or participation in any Giving Program or by any other person using your account.

## 5. Additional Terms of Use (Missions program)

- 5.1 If you have access as a user to Benevity’s “Missions” solution, then this Section 5 applies. You acknowledge that the accuracy of data utilized or collected and/or presented through the Missions solution is not intended to match that of scientific research. Benevity is not responsible for the accuracy or reliability of the information presented.
- 5.2 You acknowledge that neither Benevity nor any Foundation has any liability for any property damage or personal injury (including death) which you may incur due to participation in a Missions activity presented to you in the System.

## 6. Additional Terms of Use (volunteering program)

If you have access as a user to Benevity’s volunteering solution, then this Section 6 applies.

- 6.1 **Release.** You acknowledge that neither Benevity nor any Foundation has any liability for any property damage or personal injury (including death) which you may incur due to participation in a volunteer opportunity presented to you in the System.
- 6.2 **Giving Accounts.** Your Giving Program with your employer, corporate sponsor or Matching Partner may allow your employer or Matching Partner to provide you with donation currency in a giving account in recognition of volunteer hours that you perform. In such case, you acknowledge that such donation currency is an amount that has been, or will be, donated to the applicable Foundation by your employer, corporate sponsor or Matching Partner, and for which you may only provide Donor Recommendation.

## 7. Additional Terms of Use (Applicable to Spark employee donation programs and to Benevity’s public-facing donation portals)

If you have access as a donor to a Spark employee donation program or to Benevity’s public-facing donation portal(s), then this Section 7 applies.

- 7.1 **Donations to Foundations.** As outlined in the user information and FAQs located under the “Help” section, the Spark employee donation program and other donation programs use one or more charities (each, a “**Foundation**”) to (a) provide timely donation receipts or acknowledgements to you (b) facilitate the aggregation of donations and employer or Matching Partner matching amounts and (c) facilitate monthly distributions to charities in the applicable jurisdiction(s). The current list of Foundations by Instance is outlined in the chart below and your Instance is set forth above Table 1. In order to utilize this aggregating mechanism and ensure adherence to applicable charity and tax laws, you the donor must acknowledge that your selection of the

recipient charity on the Benevity System (the “**Donor Recommendation**”) is a *recommendation only* to the applicable Foundation. Although as a practical matter this Donor Recommendation is generally followed, the Foundation must retain all discretion as to whether to follow such Donor Recommendation. You further acknowledge that no distribution to a charity may be used in whole or in part to discharge an obligation that is legally enforceable against you or any other person, or to pay in full or in part for goods or services of more than nominal value (i.e. club memberships, dinners, tuition etc.) or any other private benefit received by you or any other person affiliated with you. You acknowledge that all donations made through the System are non-refundable. Note that you may at any time change your settings on your Personal Dashboard to stop or change future recurring payroll donations or future recurring credit card donations. Such changes will not be effective for the next scheduled payment if such amounts are committed or in process.

**Your Instance and applicable Foundation:** [INDIA / NASSCOM FOUNDATION](#)

If your employer or the Corporate Sponsor (as applicable) has requested that cross-border donations (“**Benevity One World**”) be activated, you may be able to donate to non-profits or foreign charities through the UK Online Giving Foundation but generally on a non-tax effective basis; and in such case the UK Online Giving Foundation will be the applicable Foundation as related to donations to non-profits that are not registered charities, and to donations to charities outside of the country corresponding to your Instance.

**Table 1: Aggregating and disbursing Foundations**

**The below table is for informational purposes and outlines the different Instances that may be utilized by Benevity’s clients in their Giving Programs:**

Instance/Functionality	Foundation	Currency	Typically tax effective	Governing law
United States	American Online Giving Foundation	USD	Yes – if US taxpayer*	State of New York
Canada	Canadian Online Giving Foundation	CAD	Yes – if Canadian taxpayer*	Province of Alberta
Germany	Haus des Stiftens gGmbH	Euro	Yes – if German taxpayer	Germany
United Kingdom	Charitable Giving	Pound Sterling	Yes – if UK taxpayer*	England and Wales
Ireland	Irish Online Giving Foundation	Euro	No**	England and Wales
Australia	Australian Online Giving Foundation	AUD	Yes – if Australian taxpayer*	England and Wales
India	NASSCOM Foundation	Rupee	Yes – if Indian taxpayer*	England and Wales

Global cross-border donations ("Benevity One World")	UK Online Giving Foundation	[Currency corresponding to your Instance]	No	Governing law of user's Instance
<p>*If you are not a taxpayer in the jurisdiction of the Instance presented to you on the System, you may make donations, but they will not typically be tax-effective. Cross border donations are also typically not tax-effective. Other donations may or may not be tax effective – consult with your own tax advisor.</p> <p>** Tax effective status pending for Irish Instance.</p>				

**7.2 Tax and Tax Receipts.** You should consult your own tax and legal advisors respecting the actual tax or other impact of donations made by you through the System. Information is provided by Benevity for informational purposes only and is not intended to provide any legal or tax advice and may not be relied upon as such. If you are not a taxpayer in the jurisdiction of the Instance you are using, any donations you make through the System may not be tax deductible in the jurisdiction in which you are a taxpayer and you should, therefore, consult your own tax and legal advisors respecting the actual tax or other impact of donations made by you through the System. If you are a taxpayer in the applicable jurisdiction and in compliance with these Terms of Use and all other System requirements, you will normally receive a tax receipt (PDF file accessible through the System or by email) with respect to applicable gifts made by or on your behalf to the Foundation, and such receipt will be made available to you: immediately after the donation is made if a one-time payment is made by credit card or PayPal; or upon different timing if you are utilizing payroll giving or recurring donations by credit card or PayPal, and in any event within two (2) months after the end of the year the donation was made (alternatively, depending upon the configuration of the System by your employer, certain of your gifts may be reflected on your employee payroll record). The relevant date of the tax receipt will be the donation date in the tax year in which the amounts were donated to the Foundation in accordance with these Terms of Use. Please note that if you do not provide the required information for tax receipt issuance on or prior to December 31 in any calendar year in which donations have been made by you, you may not be entitled to a receipt for donations made in that year (see the Special Circumstances in section 7.5 below).

**7.3 Charity Support and Merchant Fees.** All donations by you to the Foundation and disbursed to your selected charity will be subject to a small percentage fee payable by the charities and deducted by the Foundation from the donation amount (the "**Charity Support Fee**") unless paid for by your employer or Corporate Sponsor, as applicable or Matching Partner. **For Benevity's public-facing donation portal, the Charity Support Fee is 2.9% of the donation amount. For Spark, please consult with your employer or Giving Program administrator to obtain information regarding the applicable the Charity Support Fee percentage.** In the event your donations are made by credit or other payment card the applicable merchant account charges ("**Merchant Fees**") will be deducted from the donation amount, unless paid for by employer or Corporate Sponsor, as applicable, or a Matching Partner. To find out the Charity Support Fee percentage applicable to your program and whether your employer or Corporate Sponsor is paying for the Charity Support Fee and/or Merchant Fees check communications from your program administrator. For clarity, the donation amount that will be tax deductible to you, where available, is the amount that you donate before any deductions of any Charity Support Fee or Merchant Fees are applied.

#### **7.4 When will the donation be sent to your selected charity?**

In most circumstances, the Foundation will disburse the donation to your selected charity **during the calendar month that follows the month in which the Foundation received your donation** (e.g. If the Foundation received your donation in January, then it will disburse such donation to your selected charity in February).

- 7.5 Special Circumstances.** There may be certain circumstances where donation amounts cannot be disbursed to your selected charity. In circumstances where: (a) Donor Recommendation is not provided (b) a charity requested as part of Donor Recommendation is no longer registered and in good standing with the relevant regulatory agency or otherwise no longer in our charity database or (c) the Foundation, exercising its discretion, chooses to disagree with or ignore the Donor Recommendation then the Foundation will make the determination of the charity to which such donation will be made (and the Foundation may consult with your employer or applicable Corporate Sponsor in making such determination). There may be circumstances where a tax receipt cannot be provided to you. In the event that required information for tax receipt issuance has not been provided by you by December 31 in any calendar year in which donations have been made by you; or the Foundation determines that the donation is not properly receiptable by it under applicable law, the Foundation may, among other things: (a) issue the tax receipt to the Corporate Sponsor or your employer or other Matching Partner, as applicable or (b) treat the donation as an anonymous donation and no receipt will be issued or accessible to you. In circumstances where you have not provided sufficient funds equal to allocated donation amounts no donation can be deemed effected and no receipt issued unless and until funds representing the allocated donation amounts can be transferred to the Foundation.
- 7.6 Delay of disbursement by check to charity.** Disbursement of funds from the Foundation to your selected charity may be delayed if there are insufficient aggregated donation funds in our System allocated to that charity to justify the administrative costs of creation and delivery of a check. A check will be delivered to such charity when there are sufficient aggregated donations or within 14 months, whichever is earlier. Such a delay will not occur if your selected charity has signed up with us for electronic funds transfer ("**EFT**"), as EFT facilitates monthly transfer of any amount no matter how small, other than in exceptional circumstances.
- 7.7 Your Employer as Agent re Payroll deductions.** If you are participating in a workplace program and are donating by payroll deduction, by accepting these Terms of Use, you irrevocably direct your employer or its designee to transfer wages owing to you from your employer to the Foundation in the amounts you have designated for donation to the Foundation through the System by one-time or recurring payroll deduction. You acknowledge that with respect to the holding by your employer of such funds until transfer to the Foundation: (a) your employer has agreed to act as agent for the Foundation with respect to such funds until transfer (b) such funds may be commingled with funds received from other users on account of donation amounts earned or provided by such users; (c) your employer or its designee, as agent, has all the powers of a natural person with respect to such funds, including, without limitation, all those necessary to deal with and transfer or gift the funds pursuant to the Terms of Use and any Giving Program; (d) your employer or its designee has no duty to invest the funds; (e) in performing its obligations and duties hereunder, your employer or its designee will exercise the care, diligence and skill that a person of ordinary prudence would exercise in dealing with the property of another person; and (f) Benevity or the Foundation has the right to amend the terms of this agency as it may determine in its sole discretion, with or without notice to you.
- 7.8 Release.** You acknowledge that Benevity relies on information provided by the Corporate Sponsor, your employer or Matching Partners (as the case may be) with respect to the donation being made and certain matters relating to the presentation and execution of the Giving Program within the System, and you release and forever discharge Benevity with respect to all claims relating to such matters.

## **8. Additional Terms of Use (Gift Cards)**

If you have access to purchase a Benevity charitable gift card or receive a Benevity charitable gift card, then this Section 8 applies.

- 8.1 Gift Cards.** Your Giving Program may allow for you to purchase gift cards. The purchase of a gift card on the System is a donation by you to the applicable Foundation. When you provide such gift card to your chosen recipient, or if you are a recipient of such a gift card, then the recipient will have the opportunity to provide

Donor Recommendation (as defined above).

If you have any questions regarding these Terms of Use, your use of the System or any other matter relating to Giving Programs, please contact us at [support@benevity.com](mailto:support@benevity.com).