

Terms of Use

Effective date: Sep 9, 2024

Welcome to Benable. Please read on to learn the rules and restrictions that govern your use of our website(s), products, services, and applications (the “Services”). If you have any questions, comments, or concerns regarding these terms or the Services, please contact us at:

Email: support@benable.com

Address: 405 E Laburnum Ave Ste 3, Richmond VA 23222

These Terms of Use (the “Terms”) are a binding contract between you and **HAPPY VENTURES PUBLIC BENEFIT CORPORATION DBA BENABLE** (“Benable,” “we”, and “us”). You represent and warrant that you are an individual of legal age to form a binding contract (or if not, you’ve received your parent’s or guardian’s permission to use the Services and have gotten your parent or guardian to agree to these Terms on your behalf) and that you are eligible to participate in the services (as set forth below). If you are agreeing to these Terms on behalf of an organization or entity, you represent and warrant that you are authorized to agree to these Terms on that organization’s or entity’s behalf and bind them to these Terms (in which case, the references to “you” and “your” in these Terms, except for in this sentence, refer to that organization or entity).

Your use of the Services in any way means that you agree to all of these Terms, and these Terms will remain in effect while you use the Services. These Terms include the provisions in this document as well as those in the [Privacy Policy](#), [Copyright Dispute Policy](#), and any other relevant policies. Your use of or participation in certain Services may also be subject to additional policies, rules and/or conditions (“Additional Terms”), which are incorporated herein by reference, and you understand and agree that by using or participating in any such Services, you agree to also comply with these Additional Terms.

Please read these Terms carefully. They cover important information about Services provided to you. These Terms include information about [future changes to these Terms](#), [limitations of liability](#), [a class action waiver and resolution of disputes by arbitration instead of in court](#). PLEASE NOTE THAT YOUR USE OF AND ACCESS TO OUR SERVICES ARE SUBJECT TO THE FOLLOWING TERMS. IF YOU DO NOT AGREE TO ALL OF THE FOLLOWING, YOU MAY NOT USE OR ACCESS THE SERVICES IN ANY MANNER.

ARBITRATION NOTICE AND CLASS ACTION WAIVER: EXCEPT FOR CERTAIN TYPES OF DISPUTES DESCRIBED IN THE ARBITRATION AGREEMENT SECTION BELOW, YOU AGREE THAT DISPUTES BETWEEN YOU AND US WILL BE RESOLVED BY BINDING, INDIVIDUAL ARBITRATION AND YOU WAIVE YOUR RIGHT TO PARTICIPATE IN A CLASS ACTION LAWSUIT OR CLASS-WIDE ARBITRATION.

Table of Contents

[Will these Terms ever change?](#)

[What about my privacy?](#)

[What are the basics of using Benable?](#)

[What about messaging?](#)

[Are there restrictions in how I can use the Services?](#)

[What about anything I contribute to the Services – do I have to grant any licenses to Benable or to other users?](#)

[What if I see something on the Services that infringes my copyright?](#)

[Who is responsible for what I see and do on the Services?](#)

[How Does Benable's Rewards Program Work?](#)

[Will Benable ever change the Services?](#)

[Do the Services cost anything?](#)

[What if I want to stop using the Services?](#)

[What about Mobile Applications?](#)

[I use the Benable App available via the Apple App Store – should I know anything about that?](#)

[What else do I need to know?](#)

[How does Benable's Arbitration Agreement work?](#)

Will these Terms ever change?

We are constantly trying to improve our Services, so these Terms may need to change along with our Services. We reserve the right to change the Terms at any time, but if we make material changes, we will place a notice on our site located at www.benable.com, and/ or send you an email, and/or notify you by some other means as required by law.

If you don't agree with the new Terms, you are free to reject them; unfortunately, that means you will no longer be able to use the Services. If you use the Services in any way after a change to the Terms is effective, that means you agree to all of the changes.

What about my privacy?

Benable takes the privacy of its users very seriously. For the current Benable Privacy Policy,

please click [here](#).

What are the basics of using Benable? (Eligibility to Use the Services, Account Creation, or Access)

You must be 16 years of age or older to use the Services.

You may be required to sign up for an account, select a password and user name (“Benable User ID”), and provide us with certain information or data, such as your contact information. You promise to provide us with accurate, complete, and updated registration information about yourself. You may not select as your Benable User ID a name that you do not have the right to use, or another person’s name with the intent to impersonate that person. You may not transfer your account to anyone else without our prior written permission.

Additionally, you may be able to access certain parts or features of the Services by using your account credentials from other services (each, a “Third Party Account”), such as those offered by Google and Facebook. By using the Services through a Third Party Account, you permit us to access certain information from such account for use by the Services. You are ultimately in control of how much information is accessible to us and may exercise such control by adjusting your privacy settings on your Third Party Account.

You will not share your Benable User ID, account, or password with anyone, and you must protect the security of your Benable User ID, account, password, and any other access tools or credentials. You are responsible for any activity associated with your Benable User ID and account. Please notify us immediately of any compromise or unauthorized use of your account.

You will only use the Services for your own use, and not on behalf of or for the benefit of any third party, and only in a manner that complies with all laws that apply to you. If your use of the Services is prohibited by applicable laws, then you are not authorized to use the Services. We cannot and will not be responsible for your using the Services in a way that breaks the law.

What about messaging?

As part of the Services, you may receive communications through the Services, including messages that Benable sends you (for example, via email). When signing up for the Services, you will receive a welcome message, which may contain instructions on how to stop receiving certain types of messages. You may also change the communications you receive by accessing the Notifications Settings page on your profile and account settings.

Are there restrictions in how I can use the Services?

You represent, warrant, and agree that you will not provide or contribute anything, including any Content or User Submission (as those terms are defined below), to the Services, or otherwise use or interact with the Services, in a manner that:

- (a) infringes or violates the intellectual property rights or any other rights of anyone else (including Benable)
- (b) violates any law or regulation, including, without limitation, any applicable export control laws, privacy laws, or any other purpose not reasonably intended by Benable
- (c) is dangerous, harmful, fraudulent, deceptive, threatening, harassing, defamatory, obscene, or otherwise objectionable
- (d) jeopardizes the security of your Benable User ID, account, or anyone else's (such as allowing someone else to log in to the Services as you)
- (e) attempts, in any manner, to obtain the password, account, or other security information from any other user
- (f) violates the security of any computer network, or cracks any passwords or security encryption codes
- (g) runs Maillist, Listserv, any form of auto-responder or "spam" on the Services, or any processes that run or are activated while you are not logged into the Services, or that otherwise interfere with the proper working of the Services (including by placing an unreasonable load on the Services' infrastructure)
- (h) "crawls," "scrapes," or "spiders" any page, data, or portion of or relating to the Services or Content (through use of manual or automated means)
- (i) copies or stores any significant portion of the Content
- (j) decompiles, reverse engineers, or otherwise attempts to obtain the source code or underlying ideas or information of or relating to the Services

A violation of any of the foregoing is grounds for immediate termination of your right to use or access the Services without notice or warning to you. Benable is also free to terminate (or suspend access to) your use of the Services or your account for any reason in our sole discretion, including your breach of these Terms. Benable has the sole right to decide whether you are in violation of any of the restrictions set forth in these Terms.

What are my rights in the Services?

The materials displayed or performed or available on or through the Services, including, but not limited to, text, graphics, data, articles, photos, images, illustrations, User Submissions (as defined below) and so forth (all of the foregoing, the "Content") are protected by copyright and/or other intellectual property laws. You promise to abide by all copyright notices, trademark rules, information, and restrictions contained in any Content you access through the Services. You will not use, copy, reproduce, modify, translate, publish, broadcast, transmit, distribute, perform, upload, display, license, sell, commercialize, or otherwise exploit for any purpose any Content not owned by you, (i) without the prior consent of the owner of that Content, or (ii) in a way that violates someone else's (including Benable's) rights.

Subject to these Terms, we grant each user of the Services a worldwide, non-exclusive, non-sublicensable and non-transferable license to use (i.e., to download and display locally) Content solely for purposes of using the Services. Use, reproduction, modification, distribution, or storage of any Content for any purpose other than using the Services is expressly prohibited without prior written permission from us. You understand that Benable owns the Services. You

won't modify, publish, transmit, participate in the transfer or sale of, reproduce (except as expressly provided in this Section), create derivative works based on, or otherwise exploit any of the Services. The Services may allow you to copy or download certain content, but please remember that even where these functionalities exist, all the restrictions in this section still apply.

What about anything I contribute to the Services – do I have to grant any licenses to Benable or to other users?

User Submissions

Benable allows you to post content, including photos, comments, links, and other materials. Anything you post, upload, share, store, or otherwise provide through the Services is your "User Submission". User Submissions are not private or confidential and may be read, collected, and used publicly by other users. Do not include information regarding your identity or contact information in User Submissions that you post or upload to the Services. You are solely responsible for all User Submissions you contribute to the Services. You represent that all User Submissions submitted by you are accurate, complete, up-to-date, and in compliance with all applicable laws, rules, and regulations.

You agree that you will not post, upload, share, store, or otherwise provide through the Services any User Submissions that: (i) infringe any third party's copyrights or other rights (e.g., trademark, privacy rights, etc.) (ii) contain sexually explicit content or pornography (iii) contain hateful, defamatory, obscene or discriminatory content or incite hatred against any individual or group (iv) exploit minors (v) depict unlawful acts or extreme violence (vi) depict animal cruelty or extreme violence towards animals (vii) promote fraudulent schemes, misinformation, multi-level marketing (MLM) schemes, get rich quick schemes, online gaming and gambling, cash gifting, work from home scams, or any other dubious money-making ventures or (viii) that violate any law.

Licenses

In order to display your User Submissions on the Services, and to allow other users to enjoy them (where applicable), you grant us certain rights in those User Submissions (see below for more information). Please note that all of the following licenses are subject to our [Privacy Policy](#) to the extent they relate to User Submissions that are also your personal information.

By submitting User Submissions through the Services, you hereby do and shall grant Benable a worldwide, non-exclusive, perpetual, royalty-free, fully paid, sublicensable and transferable license to use, edit, modify, truncate, aggregate, reproduce, distribute, prepare derivative works of, display, perform, and otherwise fully exploit the User Submissions in connection with this site, the Services, and our (and our successors' and assigns') businesses, including without limitation for promoting and redistributing part or all of this site or the Services (and derivative works thereof) in any media formats and through any media channels (including, without limitation, third party websites and feeds), and including after your termination of your account or the Services. You also hereby do and shall grant each user of this site and/or the Services a non-exclusive, perpetual license to access your User Submissions through this site and/or the Services, and to use, edit, modify, reproduce, distribute, prepare derivative works of, display and perform such User Submissions, including after your termination of your account or the

Services. For clarity, the foregoing license grants to us and our users do not affect your other ownership or license rights in your User Submissions, including the right to grant additional licenses to your User Submissions, unless otherwise agreed in writing. You represent and warrant that you have all rights to grant such licenses to us without infringement or violation of any third party rights, including without limitation, any privacy rights, publicity rights, copyrights, trademarks, contract rights, or any other intellectual property or proprietary rights.

Certain features of the Services allow you to share information with others, including through your social networks or other Third Party Accounts. If you share information from the Services with others through your Third Party Accounts, such as your social networks, you authorize Benable to share that information with the applicable Third Party Account provider. Please review the policies of any Third Party Account providers you share information with or through for additional information about their terms and how they may use your information.

Finally, you understand and agree that Benable, in performing the required technical steps to provide the Services to our users (including you), may need to make changes to your User Submissions to conform and adapt those User Submissions to the technical requirements of connection networks, devices, services, or media, and the foregoing licenses include the rights to do so.

Use of Feedback

If you provide us with reports, comments, suggestions, ideas, or other feedback regarding the Services or our business, whether written or oral (collectively “Feedback”), either directly or through any third party, you do so without any expectation of compensation. You hereby grant us a worldwide, irrevocable, perpetual, royalty-free right and license to use the Feedback to improve the Services and for any other purpose, including in all media now known and later developed. Feedback is strictly voluntary and we are not required to hold it in confidence.

What if I see something on the Services that infringes my copyright?

In accordance with the DMCA, we’ve adopted the following policy toward copyright infringement. We reserve the right to (1) block access to or remove material that we believe in good faith to be copyrighted material that has been illegally copied and distributed by any of our advertisers, affiliates, content providers, members, or users and (2) remove and discontinue service to repeat offenders.

- (1) Procedure for Reporting Copyright Infringements. If you believe that material or content residing on or accessible through the Services infringes your copyright (or the copyright of someone whom you are authorized to act on behalf of), please send a notice of copyright infringement containing the following information to Benable’s Designated Agent to Receive Notification of Claimed Infringement (our “Designated Agent,” whose contact details are listed below):
 - (a) A physical or electronic signature of a person authorized to act on behalf of the owner of the copyright that has been allegedly infringed
 - (b) Identification of works or materials being infringed
 - (c) Identification of the material that is claimed to be infringing including information regarding the location of the infringing materials that the copyright

owner seeks to have removed, with sufficient detail so that Company is capable of finding and verifying its existence

- (d) Contact information about the notifier including address, telephone number and, if available, email address
- (e) A statement that the notifier has a good faith belief that the material identified in (1)(c) is not authorized by the copyright owner, its agent, or the law
- (f) A statement made under penalty of perjury that the information provided is accurate and the notifying party is authorized to make the complaint on behalf of the copyright owner

(2) Once Proper Bona Fide Infringement Notification is Received by the Designated Agent. Upon receipt of a proper notice of copyright infringement, we reserve the right to:

- (a) remove or disable access to the infringing material
- (b) notify the content provider who is accused of infringement that we have removed or disabled access to the applicable material
- (c) terminate such content provider's access to the Services if he or she is a repeat offender.

(3) Procedure to Supply a Counter-Notice to the Designated Agent. If the content provider believes that the material that was removed (or to which access was disabled) is not infringing, or the content provider believes that it has the right to post and use such material from the copyright owner, the copyright owner's agent, or, pursuant to the law, the content provider may send us a counter-notice containing the following information to the Designated Agent:

- (a) A physical or electronic signature of the content provider
- (b) Identification of the material that has been removed or to which access has been disabled and the location at which the material appeared before it was removed or disabled
- (c) A statement that the content provider has a good faith belief that the material was removed or disabled as a result of a mistake or misidentification of the material
- (d) Content provider's name, address, telephone number, and, if available, email address, and a statement that such person or entity consents to the jurisdiction of the Federal Court for the judicial district in which the content provider's address is located, or, if the content provider's address is located outside the United States, for any judicial district in which Company is located, and that such person or entity will accept service of process from the person who provided notification of the alleged infringement

If a counter-notice is received by the Designated Agent, Company may, in its discretion, send a copy of the counter-notice to the original complaining party informing that person that Company may replace the removed material or cease disabling it in 10 business days. Unless the copyright owner files an action seeking a court order against the content provider accused of committing infringement, the removed material may be replaced or access to it restored in 10 to 14 business days or more after receipt of the counter-notice, at Company's discretion.

Please contact Benable's Designated Agent at dmca@benable.com or the following address:

Happy Ventures Public Benefit Corporation dba
Benable Attn: DMCA Designated Agent
405 E Laburnum Ave Ste 3
Richmond VA 23222

Who is responsible for what I see and do on the Services?

Any information or Content publicly posted or privately transmitted through the Services is the sole responsibility of the person from whom such Content originated, and you access all such information and Content at your own risk, and we aren't liable for any errors or omissions in that information or Content or for any damages or loss you might suffer in connection with it. We cannot control and have no duty to take any action regarding how you may interpret and use the Content or what actions you may take as a result of having been exposed to the Content, and you hereby release us from all liability for you having acquired or not acquired Content through the Services. We are not responsible for editing, modifying, screening, filtering, endorsing or guaranteeing any Content, though we have the right to do so. We can't guarantee the identity of any users with whom you interact in using the Services and are not responsible for which users gain access to the Services. Benable may, at its sole discretion, display certain badges, awards, or similar markings (together "Badges") on or next to Content posted by some users. The display of Badges does not represent Benable's endorsement of the user or the user's Content and Benable makes no guarantees or representations regarding the same.

You are responsible for all Content you contribute, in any manner, to the Services, and you represent and warrant that you have all rights necessary to do so, in the manner in which you contribute it.

The Services may contain links or connections to third-party websites or services that are not owned or controlled by Benable. When you access third-party websites or use third-party services, you accept that there are risks in doing so, and that Benable is not responsible for such risks.

Benable has no control over, and assumes no responsibility for, the content, accuracy, privacy policies, or practices of or opinions expressed in any third-party websites or by any third party that you interact with through the Services. In addition, Benable will not and cannot monitor, verify, censor, or edit the content of any third-party site or service. We encourage you to be aware when you leave the Services and to read the terms and conditions and privacy policy of each third-party website or service that you visit or utilize. By using the Services, you release and hold us harmless from any and all liability arising from your use of any third-party website or service.

Your interactions with organizations and/or individuals and any products, services, offers, or other content found on or through the Services, including payment and delivery of goods or services, and any other terms, conditions, warranties or representations associated with such dealings, are solely between you and such organizations and/or individuals. You should make whatever investigation you feel necessary or appropriate before proceeding with any online or offline transaction with any of these third parties. You agree that Benable shall not be responsible or liable for any loss or damage of any sort incurred as the result of any such dealings.

If there is a dispute between participants on this site or Services, or between users and any third party, you agree that Benable is under no obligation to become involved. In the event that you have a dispute with one or more other users, you release Benable, its directors, officers, employees, agents, and successors from claims, demands, and damages of every kind or nature, known or unknown, suspected or unsuspected, disclosed or undisclosed, arising out of or in any way related to such disputes and/or our Services. You shall and hereby do waive California Civil Code Section 1542 or any similar law of any jurisdiction, which says in substance: "A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party."

How Does Benable's Rewards Program Work?

Benable may offer one or more rewards programs (each a "Rewards Programs") under which you have the opportunity to earn commissions, prizes, rewards, or other privileges ("Rewards") related to your use of the Services.

Suspension or termination of your participation. Benable may limit, suspend, or terminate your ability to participate in any Rewards Program, and may suspend or void any Rewards or potential Rewards you may have received or accumulated in a Rewards Program but not yet successfully redeemed, if we determine in our sole and absolute discretion that you have not complied with these Terms, require an uncommon or excessive level of customer support, or otherwise are not using and receiving the Rewards Program benefits in a mutually satisfactory way consistent with a typical user of the Services. You agree to abide by the final and binding decisions of Benable regarding any Rewards Program and your participation in it. We reserve the right to change, suspend, or cancel all or a portion of a Rewards Program, including any unredeemed Rewards, at any time, without prior notice or compensation to you.

Receiving Rewards. Benable has partnered with certain third-party sites (each a "Partner Brand") that offer commission payments for purchases made via approved affiliate links. In addition to the Rewards Benable offers, you may receive Rewards in a Rewards Program when someone makes a purchase from a Partner Brand via a list you create on the Services. We reserve the right, at our sole discretion, to add, change, or remove any Partner Brand at any time and with no notice to you. The Rewards available to you may change on the basis of your usage of the Services or for other reasons at Benable's sole discretion.

Rewards are earned once you have fully and properly satisfied all of the requirements of these Terms and Benable and/or our Partner Brand are able to properly validate, track, and record that you have done so. Benable shall not be responsible for, nor shall Benable be obligated to award Rewards to you for, any purchase that is not properly recorded, tracked, validated and/or deemed a successfully completed purchase under Benable's and/or our Partner Brands' policies, procedures, and systems. In some instances, Benable's Partner Brands, rather than Benable, may make the final determination of whether a purchase has been successfully completed and thereby should result in a Reward. We reserve our right to: (1) change or limit the Rewards available or your ability to participate in the Rewards Program, (2) change or limit the eligibility for or allowable frequency of Rewards, (3) claw-back any Rewards earned in violation of our Terms, including through acts of fraud, manipulation, or harassment, and (4) change or limit the number or type of Rewards you can receive during a given time period, including, without limitation, the right to correct any inadvertent error in the number or type of Rewards awarded and to claw-back any unearned or unqualified Rewards deposited in your Account as a result. All such changes or

limitations shall apply to all past, present, or future Rewards, unless otherwise expressly stated.

Benable may, at its sole discretion, add, multiply, or generate Rewards and apply them to your Account. Such Rewards may be redeemed only in accordance with the terms and conditions described herein and any conditions set forth in your Account or at the time the Reward is provided.

Redeeming Rewards. Benable Rewards may be redeemed from your Account settings page using one of the available payout methods. Certain payout methods may be made available for a fee, which will be deducted from the amount of Rewards you redeem. Benable reserves the right to change the available payout methods in our sole discretion, and without notice. You may be required to earn a minimum amount of Rewards before you may redeem Rewards, and redemption of Benable Rewards may be subject to a minimum payout amount. Such minimum amounts may be changed at any time at Benable's sole discretion and without notice.

Inactive Accounts. Any Account that has not been logged into for one (1) year or more may be deemed inactive (an "Inactive Account"). Inactive Accounts with a positive Rewards balance will be assessed an inactivity fee of up to \$25 (and in no event more than your Rewards balance), assessed annually for each year of inactivity. Inactive Accounts without a Rewards balance may be closed by Benable in our sole discretion and without notice. We may modify our Inactive Account rules and policies in our Rewards Programs from time to time, and if your Account becomes inactive pursuant to such then-current rules or policies or is inactive when the rules change, we will treat your Account according to the modified rules.

Rewards Expiration. We may adopt or modify our Rewards expiration rules and policies for any past, present, or future Rewards from time to time, and if your Rewards expire pursuant to such then-current rules or policies, we may remove such Rewards from your Account, without any compensation or further obligation to you regarding the expired Rewards.

Endorsement Disclosures. U.S. federal and state law require you to disclose that your endorsement of a product or service on the Services is being made in exchange for Rewards. You are solely responsible for complying with any such requirements and Benable shall have no duty to participating in making any required disclosures. You agree that for any product or service you endorse a) any statements that you make are factually correct and not misleading, are not disparaging or defamatory, and represent your true opinion, and b) you will comply with all applicable laws, rules, and regulations, including the Federal Trade Commission "Guides Concerning the Use of Endorsements and Testimonials in Advertising," which may require you to make specific disclosures. If you have questions about these requirements, you should consult with an attorney and visit the Federal Trade Commission's [website](#) on endorsements.

Will Benable ever change the Services?

We're always trying to improve our Services, so they may change over time. We may suspend or discontinue any part of the Services, or we may introduce new features or impose limits on certain features or restrict access to parts or all of the Services. We reserve the right to remove any Content from the Services at any time, for any reason (including, but not limited to, if someone alleges that you contributed that Content in violation of these Terms), in our sole discretion, and without notice.

Do the Services cost anything?

The Services are currently free, but we reserve the right to charge for certain or all Services in the future. We will notify you before any Services you are then using begin carrying a fee, and if you wish to continue using such Services, you must pay all applicable fees for such Services.

What if I want to stop using the Services?

You're free to do that at any time by [deleting](#) your account within the application. Please refer to our [Privacy Policy](#), as well as the licenses above, to understand how we treat information you provide to us after you have stopped using our Services.

Account termination may result in destruction of any Content associated with your account, so keep that in mind before you decide to terminate your account.

If you have deleted your account by mistake, contact us immediately at support@benable.com – we will try to help, but unfortunately, we can't promise that we can recover or restore anything.

Provisions that, by their nature, should survive termination of these Terms shall survive termination. By way of example, all of the following will survive termination: any obligation you have to indemnify us, any limitations on our liability, any terms regarding ownership or intellectual property rights, and terms regarding disputes between us, including without limitation the arbitration agreement.

What about Mobile Applications?

You acknowledge and agree that the availability of our mobile application is dependent on the third party stores from which you download the application, e.g., the App Store from Apple or the Android app market from Google (each an "App Store"). Each App Store may have its own terms and conditions to which you must agree before downloading mobile applications from such store, including the specific terms relating to Apple App Store set forth below. You agree to comply with, and your license to use our application is conditioned upon your compliance with, such App Store terms and conditions. To the extent such other terms and conditions from such App Store are less restrictive than, or otherwise conflict with, the terms and conditions of these Terms of Use, the more restrictive or conflicting terms and conditions in these Terms of Use apply.

I use the Benable App available via the Apple App Store – should I know anything about that?

These Terms apply to your use of all the Services, including our iOS applications (the "Application") available via the Apple, Inc. ("Apple") App Store, but the following additional terms also apply to the Application:

- a) Both you and Benable acknowledge that the Terms are concluded between you and Benable only, and not with Apple, and that Apple is not responsible for the Application or the Content.
- b) The Application is licensed to you on a limited, non-exclusive, non-transferrable, non-sublicensable basis, solely to be used in connection with the Services for your private, personal, non-commercial use, subject to all the terms and conditions of these Terms as they are applicable to the Services.
- c) You will only use the Application in connection with an Apple device that you own or

control.

- d) You acknowledge and agree that Apple has no obligation whatsoever to furnish any maintenance and support services with respect to the Application.
- e) In the event of any failure of the Application to conform to any applicable warranty, including those implied by law, you may notify Apple of such failure. Upon notification, Apple's sole warranty obligation to you will be to refund to you the purchase price, if any, of the Application.
- f) You acknowledge and agree that Benable, and not Apple, is responsible for addressing any claims you or any third party may have in relation to the Application.
- g) You acknowledge and agree that, in the event of any third-party claim that the Application or your possession and use of the Application infringes that third party's intellectual property rights, Benable, and not Apple, will be responsible for the investigation, defense, settlement and discharge of any such infringement claim.
- h) You represent and warrant that you are not located in a country subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a "terrorist supporting" country, and that you are not listed on any U.S. Government list of prohibited or restricted parties.
- i) Both you and Benable acknowledge and agree that, in your use of the Application, you will comply with any applicable third-party terms of agreement which may affect or be affected by such use.
- j) Both you and Benable acknowledge and agree that Apple and Apple's subsidiaries are third-party beneficiaries of these Terms, and that upon your acceptance of these Terms, Apple will have the right (and will be deemed to have accepted the right) to enforce these Terms against you as the third-party beneficiary hereof.

What else do I need to know?

Warranty Disclaimer. Benable and its licensors, suppliers, partners, parent, subsidiaries, or affiliated entities, and each of their respective officers, directors, members, employees, consultants, contract employees, representatives, and agents, and each of their respective successors and assigns (Benable and all such parties together, the "Benable Parties") make no representations or warranties concerning the Services, including without limitation regarding any Content contained in or accessed through the Services, and the Benable Parties will not be responsible or liable for the accuracy, copyright compliance, legality, or decency of material contained in or accessed through the Services or any claims, actions, suits procedures, costs, expenses, damages, or liabilities arising out of use of, or in any way related to your participation in, the Services. The Benable Parties make no representations or warranties regarding suggestions or recommendations of services or products offered or purchased through or in connection with the Services. THE SERVICES AND CONTENT ARE PROVIDED BY BENABLE (AND ITS LICENSORS AND SUPPLIERS) ON AN "AS-IS" BASIS, WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR THAT USE OF THE SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE. SOME STATES DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU.

Limitation of Liability. TO THE FULLEST EXTENT ALLOWED BY APPLICABLE LAW, UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY (INCLUDING, WITHOUT LIMITATION, TORT, CONTRACT, STRICT LIABILITY, OR OTHERWISE) SHALL ANY OF THE

BENABLE PARTIES BE LIABLE TO YOU OR TO ANY OTHER PERSON FOR (A) ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING DAMAGES FOR LOST PROFITS, BUSINESS INTERRUPTION, LOSS OF DATA, LOSS OF GOODWILL, WORK STOPPAGE, ACCURACY OF RESULTS, OR COMPUTER FAILURE OR MALFUNCTION, (B) ANY SUBSTITUTE GOODS, SERVICES, OR TECHNOLOGY, (C) ANY AMOUNT, IN THE AGGREGATE, IN EXCESS OF ONE-HUNDRED (\$100) DOLLARS OR (D) ANY MATTER BEYOND OUR REASONABLE CONTROL. SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL OR CERTAIN OTHER DAMAGES, SO THE ABOVE LIMITATION AND EXCLUSIONS MAY NOT APPLY TO YOU.

Indemnity. You agree to indemnify and hold the Benable Parties harmless from and against any and all claims, liabilities, damages (actual and consequential), losses and expenses (including attorneys' fees) arising from or in any way related to any claims relating to (a) your use of the Services (including any actions taken by a third party using your account), (b) your User Submissions, and (c) your violation of these Terms.

Assignment. You may not assign, delegate, or transfer these Terms or your rights or obligations hereunder, or your Services account, in any way (by operation of law or otherwise) without Benable's prior written consent. We may transfer, assign, or delegate these Terms and our rights and obligations without consent.

Choice of Law. These Terms are governed by and will be construed under the laws of the State of Delaware, without regard to the conflicts of laws provisions thereof.

Entire agreement/severability. These Terms, together with the Privacy Policy shall constitute the entire agreement between you and Benable concerning the Services. If any provision of these Terms is deemed invalid, then that provision will be limited or eliminated to the minimum extent necessary, and the remaining provisions of these Terms will remain in full force and effect.

No waiver. No waiver of any term of these Terms shall be deemed a further or continuing waiver of such term or any other term, and Benable's failure to assert any right or provision under these Terms shall not constitute a waiver of such right or provision.

Miscellaneous. You will be responsible for paying, withholding, filing, and reporting all taxes, duties, and other governmental assessments associated with your activity in connection with the Services, provided that the Benable may, in its sole discretion, do any of the foregoing on your behalf or for itself as it sees fit.

You hereby acknowledge and agree that you are not an employee, agent, partner, or joint venture of Benable, and you do not have any authority of any kind to bind Benable in any respect whatsoever.

Except as expressly set forth in the sections above regarding the Apple Application and the arbitration agreement, you and Benable agree there are no third-party beneficiaries intended under these Terms.

How does Benable's Arbitration Agreement work?

PLEASE READ THE FOLLOWING ARBITRATION AGREEMENT CAREFULLY BECAUSE IT

REQUIRES YOU TO ARBITRATE CERTAIN DISPUTES AND CLAIMS WITH BENABLE AND LIMITS THE MANNER IN WHICH YOU CAN SEEK RELIEF FROM BENABLE. Both you and Benable acknowledge and agree that for the purposes of any dispute arising out of or relating to the subject matter of these Terms, Benable's officers, directors, employees, and independent contractors ("Personnel") are third-party beneficiaries of these Terms, and that upon your acceptance of these Terms, Personnel will have the right (and will be deemed to have accepted the right) to enforce these Terms against you as the third-party beneficiary hereof.

(a) Informal dispute resolution procedure. If a dispute arises between you and Benable, we are committed to working with you to reach a reasonable resolution. For any such dispute, both parties acknowledge and agree that they will first make a good faith effort to resolve it informally before initiating any formal dispute resolution proceeding in arbitration or otherwise. This requires first sending a written description of the dispute to the other party. For any dispute you initiate, you agree to send the written description of the dispute along with the email address associated with your Account, if any, to the following email address: legal@benable.com. For any dispute that Benable initiates, we will send our written description of the dispute to the email address associated with your Account (if any) or to any email address we have on file for you. The written description must be on an individual basis and provide, at minimum, the following information: your name, a description of the nature or basis of the claim or dispute, and the specific relief sought. If the dispute is not resolved within sixty (60) days after receipt of the written description of the dispute, you and Benable agree to the further dispute resolution provisions below.

The above process for an informal dispute resolution process is required before you may commence any formal dispute resolution proceeding. The parties agree that any relevant limitations period and filing fees or other deadlines will be tolled while the parties engage in this informal dispute resolution process.

(b) Mutual Arbitration Agreement. You and Benable agree that all claims, disputes, or disagreements that may arise out of the interpretation or performance of these Terms (including its formation, performance, and breach) or payments by or to Benable, or that in any way relate to the provision or use of the Services, your relationship with Benable, or any other dispute with Benable, shall be resolved exclusively through binding arbitration in accordance with this Arbitration Agreement. This includes claims that arose, were asserted, or involve facts occurring before the existence of this Arbitration Agreement or any prior agreement as well as claims that may arise after the termination of this Arbitration Agreement, in accordance with the notice and opt-out provisions set forth below. This Arbitration Agreement is governed by the Federal Arbitration Act ("FAA") in all respects and evidences a transaction involving interstate commerce. You and Benable expressly agree that the FAA shall exclusively govern the interpretation and enforcement of this Arbitration Agreement. If for whatever reason the rules and procedures of the FAA cannot apply, the state law governing arbitration agreements in the state in which you reside shall apply.

Except as set forth in here, the arbitrator or arbitration body, and not any federal, state or local court or agency, shall have exclusive authority to resolve all disputes arising out of or relating to the interpretation, applicability, enforceability, or formation of the agreement (including these Terms) and this Arbitration Agreement, including, but not limited to any claim that all or any part

thereof are void or voidable, whether a claim is subject to arbitration, and any dispute regarding the payment of administrative or arbitrator fees (including the timing of such payments and remedies for nonpayment). The arbitrator or arbitration body shall be empowered to grant whatever relief would be available in a court under law or in equity.

Notwithstanding the parties' decision to resolve all disputes through arbitration, each party retains the right to (i) elect to have any claims resolved in small claims court on an individual basis for disputes and actions within the scope of such court's jurisdiction, regardless of what forum the filing party initially chose; (ii) bring an action in state or federal court to protect its intellectual property rights ("intellectual property rights" in this context means patents, copyrights, moral rights, trademarks, and trade secrets and other confidential or proprietary information, but not privacy or publicity rights); and (iii) seek a declaratory judgment, injunction, or other equitable relief in a court of competent jurisdiction regarding whether a party's claims are time-barred or may be brought in small claims court. Seeking such relief shall not waive a party's right to arbitration under this agreement, and any filed arbitrations related to any action filed pursuant to this paragraph shall automatically be stayed pending the outcome of such action.

You and Benable agree to submit to the personal jurisdiction of (i) a location determined under the National Arbitration and Mediation ("NAM") rules that is reasonably convenient for you and is no more than 100 miles from your home or place of business, or (ii) at another location you and we agree upon. In order to compel arbitration, to stay proceedings pending arbitration, or to confirm, modify, vacate, or enter judgment on the award entered by the arbitrator, and in connection with any such proceeding, further agree to accept service of process by U.S. mail and hereby waive any and all jurisdictional and venue defenses otherwise available.

Except as set forth below, if any provision of this Arbitration Agreement is found by an arbitrator or court of competent jurisdiction to be invalid, the parties nevertheless agree that the arbitrator or court should endeavor to give effect to the parties' intentions as reflected in the provision, and the other provisions thereof remain in full force and effect.

THE PARTIES UNDERSTAND THAT ARBITRATION MEANS THAT AN ARBITRATOR AND NOT A JUDGE OR JURY WILL DECIDE THE CLAIM, AND THAT RIGHTS TO PREHEARING EXCHANGE OF INFORMATION AND APPEALS MAY BE LIMITED IN ARBITRATION. YOU HEREBY ACKNOWLEDGE AND AGREE THAT YOU AND BENABLE ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY TO THE MAXIMUM EXTENT PERMITTED BY LAW.

(c) Arbitration Rules. The arbitration will be administered by NAM and resolved before a single arbitrator. If NAM is not available to arbitrate, the parties will select an alternative arbitration provider, but in no event shall any arbitration be administered by the American Arbitration Association. Except as modified by this Arbitration Agreement provision, NAM will administer the arbitration in accordance with the NAM Comprehensive Dispute Resolution Rules and Procedures, Fees For Disputes When One of the Parties is a Consumer and the Mass Filing Dispute Resolution Rules and Procedures in effect at the time any demand for arbitration is filed with NAM, excluding any rules or procedures governing or permitting class or

representative actions. The applicable NAM rules and procedures are available at www.namadr.com or by emailing National Arbitration and Mediation's Commercial Dept at commercial@namadr.com.

(d) Initiating Arbitration. Only after the parties have engaged in a good-faith effort to resolve the dispute in accordance with the Informal Dispute Resolution Procedure provision, and only if those efforts fail, then either party may initiate binding arbitration as the sole means to resolve claims using the procedures set forth in the applicable NAM rules. If you are initiating arbitration, a copy of the demand shall also be emailed to legal@benable.com. If Benable is initiating arbitration, it will serve a copy of the demand to the email address associated with your Account or the email that Benable has on file for you. The arbitrator has the right to impose sanctions in accordance with the NAM rules and procedures for any frivolous claims or submissions the arbitrator determines have not been filed in good faith, as well as for a party's failure to comply with the Informal Dispute Resolution Procedure contemplated by this Agreement.

(e) Costs of Arbitration. You are responsible for your own attorneys' fees unless the arbitration rules and/or applicable law provide otherwise. The parties agree that NAM has discretion to reduce the amount or modify the timing of any administrative or arbitration fees due under NAM's Rules where it deems appropriate (including as specified in this Arbitration Agreement), provided that such modification does not increase the costs to you, and you further agree that you waive any objection to such fee modification. The parties also agree that a good-faith challenge by either party to the fees imposed by NAM does not constitute a default, waiver, or breach of this Arbitration Agreement while such challenge remains pending before NAM, the arbitrator, and/or a court of competent jurisdiction, and that any and all due dates for those fees shall be tolled during the pendency of such challenge.

(f) Arbitration location and procedure. The arbitration will be conducted in the county of the U.S. state where you reside, unless you and Benable otherwise agree or unless the designated arbitrator determines that such venue would be unreasonably burdensome to any party, in which case the arbitrator shall have the discretion to select another venue. If the amount in controversy does not exceed \$10,000 and you do not seek injunctive or declaratory relief, then the arbitration will be conducted solely on the basis of documents you and Benable submit to the arbitrator, unless the arbitrator determines that a hearing is necessary. If the amount in controversy exceeds \$10,000 or seeks declaratory or injunctive relief, either party may request (or the arbitrator may determine) to hold a hearing, which shall be via videoconference or telephone conference unless the parties agree otherwise.

Subject to the applicable NAM rules and procedures, the parties agree that the arbitrator will have the discretion to allow the filing of dispositive motions if they are likely to efficiently resolve or narrow issues in dispute. Unless otherwise prohibited by law, all arbitration proceedings will be confidential and closed to the public and any parties other than you and Benable (and each of the parties' authorized representatives and agents), and all records relating thereto will be permanently sealed, except as necessary to obtain court confirmation of the arbitration award (provided that the party seeking confirmation shall seek to file such records under seal to the extent permitted by law).

(g) Waiver of Class or Consolidated Actions. YOU AND BENABLE ACKNOWLEDGE AND AGREE THAT, TO THE MAXIMUM EXTENT ALLOWED BY LAW, EXCEPT AS SET OUT OTHERWISE IN THIS SECTION, ANY ARBITRATION SHALL BE CONDUCTED IN AN INDIVIDUAL CAPACITY ONLY AND NOT AS A CLASS OR OTHER CONSOLIDATED ACTION AND THE ARBITRATOR MAY AWARD RELIEF ONLY IN FAVOR OF THE INDIVIDUAL PARTY SEEKING RELIEF AND ONLY TO THE EXTENT NECESSARY TO RESOLVE AN INDIVIDUAL PARTY'S CLAIM, UNLESS BENABLE PROVIDES ITS CONSENT TO CONSOLIDATE IN WRITING.

If there is a final judicial determination that either the Class Arbitration Action and Collective Relief Waiver or the provisions in Arbitration Agreement are not enforceable as to a particular claim or request for relief, then the parties agree that that particular claim or request for relief may proceed in court but shall be severed and stayed pending arbitration of the remaining claims. This provision does not prevent you or Benable from participating in a class-wide settlement of claims.

(h) Batch arbitration. To increase the efficiency of administration and resolution of arbitrations, in the event 100 or more similar arbitration demands (those asserting the same or substantially similar facts or claims, and seeking the same or substantially similar relief) presented by or with the assistance or coordination of the same law firm(s) or organization(s) are submitted to NAM (or another arbitration provider selected in accordance with Section 10.4 if NAM is unavailable) against Benable within reasonably close proximity ("Mass Filing"), the parties agree (i) to administer the Mass Filing in batches of 100 demands per batch (to the extent there are fewer than 100 arbitration demands left over after the batching described above, a final batch will consist of the remaining demands) with only one batch filed, processed, and adjudicated at a time; (ii) to designate one arbitrator for each batch; (iii) to accept applicable fees, including any related fee reduction determined by NAM (or another arbitration provider selected in accordance with this Arbitration Agreement if NAM is unavailable) in its discretion; (iv) that no other demands for arbitration that are part of the Mass Filing may be filed, processed, or adjudicated until the prior batch of 100 is filed, processed, and adjudicated; (v) that fees associated with a demand for arbitration included in a Mass Filing, including fees owed by Benable and the claimants, shall only be due after your demand for arbitration is included in a set of batch proceedings and that batch is properly designated for filing, processing, and adjudication; and (vi) that the staged process of batched proceedings, with each set including 100 demands, shall continue until each demand (including your demand) is adjudicated or otherwise resolved. Arbitrator selection for each batch shall be conducted to the greatest extent possible in accordance with the applicable NAM rules and procedures for such selection, and the arbitrator will determine the location where the proceedings will be conducted. You agree to cooperate in good faith with Benable and the arbitration provider to implement such a "batch approach" or other similar approach to provide for an efficient resolution of claims, including the payment of combined reduced fees, set by NAM in its discretion, for each batch of claims. The parties further agree to cooperate with each other and the arbitration provider or arbitrator to establish any other processes or procedures that the arbitration provider or arbitrator believe will provide for an efficient resolution of claims. Any disagreement between the parties as to whether this provision applies or as to the process or procedure for batching shall be resolved by a procedural arbitrator appointed by NAM. This "Batch Arbitration" provision shall in no way

be interpreted as increasing the number of claims necessary to trigger the applicability of NAM's Mass Filing Supplemental Dispute Resolution Rules and Procedures or authorizing class arbitration of any kind. Unless Benable otherwise consents in writing, Benable does not agree or consent to class arbitration, private attorney general arbitration, or arbitration involving joint or consolidated claims under any circumstances, except as set forth in this Arbitration Agreement. If your demand for arbitration is included in the Mass Filing, your claims will remain tolled until your demand for arbitration is decided, withdrawn, or is settled.

(j) Arbitrator's decision. The arbitrator will render an award within the time frame specified in the applicable NAM rules and procedures. The arbitrator's decision will include the essential findings and conclusions upon which the arbitrator based the award. Judgment on the arbitration award may be entered in any court having jurisdiction thereof. The arbitrator will have the authority to award monetary damages on an individual basis and to grant, on an individual basis, any non-monetary remedy or relief available to an individual to the extent available under applicable law, the arbitral forum's rules, and this Arbitration Agreement. The parties agree that the damages and/or other relief must be consistent with this Arbitration Agreement and also must be consistent with the terms of the "Limitation of Liability" section of the Terms as to the types and the amounts of damages or other relief for which a party may be held liable. No arbitration award or decision will have any preclusive effect as to issues or claims in any dispute with anyone who is not a named party to the arbitration. Attorneys' fees will be available to the prevailing party in the arbitration only if authorized under applicable substantive law governing the claims in the arbitration.

(j) Opt -out. You have the right to opt out of the provisions of this Section by sending written notice of your decision to opt out to the following address: 405 E Laburnum Ave Ste 3, Richmond VA 23222 postmarked within thirty (30) days of first accepting these Terms. You must include (i) your name and residence address, (ii) the email address and/or telephone number associated with your account, and (iii) a clear statement that you want to opt out of these Terms' arbitration agreement. Benable will continue to honor any valid opt outs if you opted out of arbitration in a prior version of the Agreement pursuant to the requirements set forth in that version. If you reject any such changes by opting out of the Arbitration Agreement, you may exercise your right to a trial by jury or judge, as permitted by applicable law. If you do opt out of the Arbitration Agreement, any prior existing agreement to arbitrate disputes under a prior version of the Arbitration Agreement will not apply to claims not yet filed. If you opt out of the Arbitration Agreement, Benable also will not be bound by it. If you do not timely opt out of this Arbitration Agreement, such action shall constitute mutual acceptance of the terms of these provisions by you and Benable.

(k) Changes. Benable will provide thirty (30) days' notice of any changes to this Arbitration Agreement section by posting the change on the Services, or providing any other notice in accordance with legal requirements. Any such changes will go into effect 30 days after Benable provides this notice and apply to all claims not yet filed. If you reject any such changes by opting out of the Arbitration Agreement, you may exercise your right to a trial by jury or judge, as permitted by applicable law, but any prior existing agreement to arbitrate disputes under a prior version of the Arbitration Agreement will not apply to claims not yet filed. If Benable changes

this Arbitration Agreement after the date you first accepted this Agreement (or accepted any subsequent changes to this Agreement), you agree that your continued use of the Services 30 days after such change will be deemed acceptance of those changes. If you do not agree to such change, you may opt out by providing notice as described above.

(l) Governing law and forum choice. To the maximum extent permitted by the mandatory laws in your country of residence, for any dispute not subject to arbitration or under the jurisdiction of a small claims court, you and Benable agree to submit to the personal and exclusive jurisdiction of any venue in Montgomery County, Maryland. You further agree to accept service of process by mail, and hereby waive any and all jurisdictional and venue defenses otherwise available. The Terms and the relationship between you and Benable shall be governed by the laws of the State of Delaware without regard to conflict of law provisions.