

## RETAILER PARTICIPATION AGREEMENT

THIS RETAILER PARTICIPATION AGREEMENT ("Participation Agreement") contains the terms and conditions that govern your participation in the Benefactory Program described in this Participation Agreement (the Program). "We," "us," "our", or "Benefactory" refers to Benefactory Ventures, Inc., and "you" or "your" refers to the retailers participating or seeking to participate in the Program.

By creating a retailer administration account ("Program Account") on the [www.benefactory.live] website ("Program Site"), you agree to these terms and conditions. Please read them carefully.

**1. Description of Program:** Benefactory works closely with charitable organizations ("Participating Organizations") to host fundraising campaigns ("Campaign") that support targeted charitable causes. Benefactory provides a seamless solution that allows its retailer partners ("Participating Retailers") to raise funds for a selected Campaign using one or more of the following Activations:

a) Customer Donations: Customers will be invited to add a specified micro-donation (e.g., \$1) at checkout when shopping with participating Retailers ("Customer Donation Activation").

b) Retailer Match Donations: Retailers can offer to make matching contributions based on customer donations (e.g., Retailer will make a \$1 donation for every \$1 donated by a customer, with a possible matching donation cap) ("Retailer Match Activation").

Benefactory will develop and maintain donation payment tools for integration into Retailer's e-commerce transaction flows, and assist with technical set-up and integration of Benefactory's giving platform into Retailer's e-commerce transaction flow.

**2. Registration:** To register, you must accept this Retailer Participation Agreement without modification, complete registration through the Program Site and provide all requested information and send collected donations through the Program Account. We reserve the right to reject or suspend your registration if any of the requested information is inaccurate or incomplete or if you are otherwise not in compliance with this Participation Agreement. You will ensure that all information you provide to us is at all times complete, accurate, and up-to-date, and agree that failure to keep such information up to date may result in you no longer being a Participating Retailer under the Program. You consent to us sending you communications relating to the Program and this Retailer Participation Agreement to the email address then-currently associated with your Program account.

**3. License:** Retailer hereby grants to Benefactory a limited, non-exclusive, nontransferable, royalty-free right and license to use, reproduce and publicly display Retailer's name, logo, solely in connection with the Program. Retailer represents and warrants to Benefactory that, as of the date hereof, it has the power and authority to license the Retailer Content pursuant to the terms and conditions of this Agreement.

**4. Responsibility for Your Participation and Actions:** You agree that you are solely responsible for your participation in the Program, including any actions taken by you or on your behalf, including:

a) The development and maintenance of your Retailer Profile information in your Program

account, including;

- b) Compliance with all applicable laws, regulations, and other requirements applicable to your participation in the Program;
- c) Only providing Retailer Content for use in the Program that does not infringe or violate the rights of any other person or entity (including copyrights, trademarks, privacy, publicity, or other intellectual property or proprietary rights);
- d) Ensuring that all information provided by you is complete, accurate, and up to date;
- e) Ensuring you are duly authorized to enter into and perform your obligations under this Participation Agreement; and
- f) Ensuring that you are in compliance with all of the terms and conditions of this Participation Agreement throughout your participation in the Program.
- g) Ensuring that your privacy policy includes appropriate disclosures regarding the data to be collected by Benefactory.

**5. Retailer Action Required:** The Retailer chooses the Campaign it wishes to support (subject to approval by the applicable benefiting charity), the specific micro-donation amount, which of the Activations to implement. Retailer must select its Customizations at least 24 hours prior in which such Activation(s) will go live. Retailer agrees to embed Benefactory's proprietary widget on its retail website to allow Benefactory to collect data regarding Customer Donations from the Customer Donation Activation.

**6. Transfer of Funds:** Donations associated with each Activation will be transferred as follows:

- a) Customer Donations: Customers will make their purchase payments and donations directly to each retailer. Within 15 days of the Participating Charity requesting donations raised, the Retailer will transfer the requested donations to the Benefactory Stripe merchant account. This can be accessed through the Retailer Program account. The donations transferred will be less third party credit card and processing fees ("Net Donations").
- b) Retailer Match Donations: Retailers will track customer donations. When customers' Net Donations are transferred to Benefactory, Retailer will also transfer any Retailer Match payments to Benefactory based on customer's donations, up to any specified cap. For the avoidance of doubt, Retailer Match Donations shall be based on the gross customer donation amounts, not Net Donations.

**7. Activation Data** Retailer agrees to provide Benefactory with the following Activation Data with each transfer of funds, which will be provided to the applicable charity beneficiary: 1. Customer Donations: # of micro-donations made, broken out by date, name, phone number, email address, address.

2. Retailer Match Donations: # of micro-donations made, broken out by date, name, phone number, email address, address.

**8. Fees** Retailer is not subject to any fees in connection with its participation in the Program, and understands that each Participating Organization has engaged Benefactory to provide certain fundraising services, and pays Benefactory a standard fee for the development of Campaigns and their participation as a beneficiary of the Program.

**9. Term and Termination.** The term of this Participation Agreement will begin upon acceptance of this Program and will end when terminated by either you or us. Either you or we may terminate this Program at any time, with or without cause, by giving the other party written notice of termination, which for your termination notice will require sending a written request by email to [info@benefactory.in](mailto:info@benefactory.in) requesting termination of your participation in the Program, and for our termination notice will require sending an email to the email address then-currently associated with your Program account. We also reserve the right, in our sole discretion, to cancel or otherwise terminate the Program at any time. Upon any termination of this Participation Agreement and/or the Program, all rights and obligations of the parties will be extinguished, except that donations made to the Participating Charity through the date of termination shall be transferred in accordance with the schedule set forth herein, and any rights and obligations of the parties that, by their nature, survive termination of this Agreement, shall do so. No termination of this Participation Agreement will otherwise relieve either party for any liability for any breach of, or liability accruing under, this Participation Agreement prior to termination.

**10. Modification:** We reserve the right to modify any of the terms and conditions contained in this Participation Agreement at any time and in our sole discretion by posting a change notice or revised agreement on the Program Site or by sending notice of such modification to you by email to the email address then-currently associated with your Program account (any such change will be effective on the date specified in such notice).

**11. No Reverse Engineering:** In order to protect the trade secrets and other proprietary information of Benefactory, the Retailer warrants that, except as expressly permitted under applicable law, it will not reverse engineer, disassemble, or otherwise attempt to derive the source code form of the licensed materials.

**12. Confidentiality:** Benefactory acknowledges that certain information received under this Agreement, including, but not limited to, non-public information concerning Retailer's business, methods, programs, activities, services, donors, members, clients, or finances ("Confidential Information"), is confidential and proprietary. Benefactory agrees to hold any and all Confidential Information of Retailer in strict confidence and not disclose such Confidential Information to any third party, except as required by law or as authorized by Retailer. Prior to any disclosure which is required by law, Benefactory shall notify Retailer of such requirement and cooperate with Retailer in any objection Retailer shall choose to make to such requirement. Benefactory shall provide Retailer a reasonable opportunity to review any such disclosure before the disclosure is made. Confidential Information does not include any information that: (i) is or becomes publicly available without breach of this Agreement; (ii) was known to Benefactory at the time of its receipt from Retailer; (iii) is rightfully received from a third party who did not acquire or disclose such information by a wrongful or tortious act; (iv) is independently developed by Benefactory without reference to any Confidential Information; or (v) is inherently non-distinctive or non-proprietary in nature. This confidentiality provision shall survive termination or expiration of the Agreement.

**13. Indemnification:** Each party (the "Indemnifying Party") hereby agrees to indemnify, defend and hold harmless the other party, its shareholders, equity holders, officers, directors, employees, agents, affiliates, successors and assigns, from and against any and all claims, losses, liabilities,

damages or expenses (including attorneys' fees and costs) of any nature whatsoever incurred or suffered by such other party (collectively the "Losses"), to the extent such Losses (or actions in respect thereof) arise out of or are based on: (a) the breach of any representation or warranty made by the Indemnifying Party herein, or any of Indemnifying Party's obligations herein; or (b) any claim arising from the fraud, gross negligence or wilful misconduct of such Indemnifying Party. You further agree to indemnify, defend and hold Benefactory and its affiliates, and their respective officers, directors, employees and agents, harmless from and against any and all claims, demands, actions, costs, liabilities, losses, injuries, and damages of any kind (including attorney's fees) resulting from your use, misuse or abuse of the Program or Program Site, including any Retailer Content provided or otherwise authorized by you for use in connection with the Program.

**14. Limitation of Liability** NEITHER PARTY SHALL BE LIABLE HEREUNDER (WHETHER IN AN ACTION IN NEGLIGENCE, CONTRACT OR TORT OR BASED ON A WARRANTY OR OTHERWISE) FOR ANY LOSS OF PROFIT, ANTICIPATED PROFITS, REVENUES, ANTICIPATED SAVINGS, GOODWILL OR BUSINESS OPPORTUNITY, OR FOR ANY INDIRECT OR CONSEQUENTIAL LOSS OR DAMAGE ARISING OUT OF OR RELATED TO THIS AGREEMENT. SUBJECT TO THE ABOVE, AND EXCEPT FOR LIABILITY ARISING FROM A PARTY'S INDEMNIFICATION OBLIGATIONS UNDER THIS AGREEMENT, THE MAXIMUM TOTAL, AGGREGATE LIABILITY OF EACH PARTY FOR ANY AND ALL CLAIMS AND ACTIONS ARISING FROM OR RELATED TO THIS AGREEMENT SHALL NOT EXCEED \$50. YOU AGREE THAT ANY CAUSE OF ACTION ARISING OUT OF OR RELATED TO THIS PARTICIPATION AGREEMENT OR THE PROGRAM MUST COMMENCE WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES. NOTWITHSTANDING THE FOREGOING, CERTAIN JURISDICTIONS DO NOT PERMIT THE EXCLUSION OR LIMITATION OF CERTAIN LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, AND, AS SUCH, SOME PORTION OF THE ABOVE LIMITATION MAY NOT APPLY.

**15. Disputes** Any controversy or claim arising out of or relating to this Participation Agreement shall be settled by binding arbitration in New York, New York, and administered by the American Arbitration Association ("AAA") or similar arbitration body and conducted by a sole arbitrator in accordance with the AAA's Commercial Arbitration Rules or the arbitration rules of a similar arbitration body. The arbitration shall be governed by the Federal Arbitration Act, codified in chapter 1 of Title 9 of the United States Code, as amended, to the exclusion of state laws inconsistent therewith or that would produce a different result, and judgment on the award rendered by the arbitrator may be entered by any court having jurisdiction thereof. Except as may be required by law or to the extent necessary in connection with judicial challenge, or enforcement of an award, neither a party nor the arbitrator may disclose the existence, content, record, or results of an arbitration.

Before commencing any action pertaining to a controversy or claim arising out of or relating to this Participation Agreement, the party wishing to commence the action shall provide reasonable notice to other party before commencing the action, in order to allow the parties an opportunity to resolve the dispute before resorting to legal action.

**16. Miscellaneous** By accepting this Participation Agreement, you hereby consent to us sending your organization emails from time to time relating to the Program. You may not assign this Participation Agreement, by operation of law or otherwise, without our express prior written approval. Subject to that restriction, this Participation Agreement will be binding on, inure to the benefit of, and be enforceable against the parties and their respective successors and assigns. Our failure to enforce your strict performance of any provision of this Participation Agreement will not constitute a waiver of our right to subsequently enforce such provision or any other provision of this Participation Agreement. This Participation Agreement (including the Program Terms of Use and Privacy Policy) constitutes the entire agreement between you and us regarding the Program and supersedes all prior agreements and discussions.