

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549**

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**FORM 8-K**

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**CURRENT REPORT  
Pursuant to Section 13 or 15(d)  
of the Securities Exchange Act of 1934**

**Date of Report (Date of earliest event reported) January 26, 2021**

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**BENEFITFOCUS, INC.**  
(Exact name of registrant as specified in its charter)

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**Delaware**  
(State or other jurisdiction of incorporation)

**001-36061**  
(Commission File Number)

**46-2346314**  
(IRS Employer Identification No.)

**100 Benefitfocus Way, Charleston, South Carolina 29492**  
(Address of principal executive offices) (Zip Code)

**Registrant's telephone number, including area code (843) 849-7476**

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Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this Chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this Chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, \$0.001 Par Value	BNFT	Nasdaq Global Market

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**Item 1.01      Entry into a Material Definitive Agreement.**

As previously disclosed in the Current Report on Form 8-K filed on June 8, 2020 by Benefitfocus, Inc. (the “Company”), on June 4, 2020, concurrent with the Company closing the transactions contemplated by a preferred stock purchase agreement, the Company entered into a co-sale and voting agreement (the “Voting Agreement”) with BuildGroup LLC, a Delaware limited liability company and significant stockholder of the Company (“BuildGroup”), and Mason R. Holland, Jr., a founder of the Company, the Executive Chairman of the Company’s board of directors (the “Board”) and a significant stockholder of the Company (the Company, BuildGroup and Mr. Holland, collectively, the “Parties”).

On January 26, 2021, and in connection with Mr. Holland entering into an advisory agreement, as disclosed below, the Parties elected to amend the Voting Agreement (the “Amended and Restated Voting Agreement”). Pursuant to the Amended and Restated Voting Agreement, the Parties agreed, among other things, to terminate the provision which required BuildGroup and Mr. Holland to vote their shares in favor of Mr. Holland, as a director, and the directors appointed by the holders of the Company’s Series A Preferred Stock.

The foregoing summary of the material terms of the Amended and Restated Voting Agreement is subject to the full and complete terms of the agreement, a copy of which is filed as Exhibit 10.1 hereto and is incorporated herein by reference.

**Item 5.02      Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.****Mason Holland Advisory Agreement**

On January 26, 2021, the Company decided to eliminate the position of Executive Chairman and announced that Mason R. Holland, Jr. would step down from his position as Executive Chairman and a member of the Board, to be effective at the Company’s 2021 annual stockholder meeting (the “Conversion Date”). On January 26, 2021, the Board determined to appoint current independent member of the Board, Douglas A. Dennerline, to the position of independent Chairman of the Board, to be effective on the Conversion Date. Following the Conversion Date, Mr. Holland will remain an advisor to the Company. Mr. Holland’s transition was not related to any disagreement with the Company on any matter relating to the Company’s operations, policies or practices.

In connection with his transition, the Company and Mr. Holland entered into an advisory and board observation agreement dated January 26, 2021 (the “Advisory Agreement”), which amends certain terms of Mr. Holland’s employment agreement, dated January 19, 2007 (the “Employment Agreement”). Pursuant to the Advisory Agreement, following the Conversion Date and until the one year anniversary of the Conversion Date (the “Advisor Period”), Mr. Holland will serve as an advisor to the Company and Chairman Emeritus of the Board. The Advisor Period can be extended annually by mutual agreement of the Company and Mr. Holland. During the Advisor Period, the Company will pay Mr. Holland 75% of the compensation paid to a non-employee director under the Company’s standard non-employee director compensation program.

Additionally, during the term of the Advisor Period and in accordance with his position as Chairman Emeritus, Mr. Holland may attend meetings of the Board and its committees in a non-voting capacity, subject to certain exceptions, until the date Mr. Holland beneficially owns less than 1,000,000 shares of the Company’s outstanding shares of common stock.

Following the Conversion Date, pursuant to the terms of his Employment Agreement, Mr. Holland will receive certain benefits for termination without cause as a result of the elimination of the position of Executive Chairman, including: (i) a pro rata payment of his 2021 annual bonus, (ii) payment each month, for a period of 36 months, of 1/12 of the sum of his current base salary and a pro rata share of his annual bonus paid at target, and (iii) continuation of his benefits, including life insurance, disability, medical, dental, and hospitalization, for 36 months following the Conversion Date. The material terms of Mr. Holland's previously granted equity awards remain unchanged and will continue vesting during the Advisor Period based on his continued service as an advisor. Pursuant to the Advisory Agreement, if the Advisor Period, after any mutually agreed upon extensions, is terminated prior to the end of the 36-month period, any remaining unvested incentive equity awards previously granted to Mr. Holland will accelerate and become fully vested.

The foregoing summary of the material terms of the Advisory Agreement is subject to the full and complete terms of the agreement, a copy of which is filed as Exhibit 10.2 hereto and is incorporated herein by reference.

*Appointment of Zeynep Young*

On January 26, 2021, Barry Libert, who has served as a member of the Board at the request of BuildGroup since September 2020, informed the Company that he is resigning from the Board effective immediately. Mr. Libert advised the Company that his decision to resign did not involve any disagreement with the Company, but instead reflects BuildGroup's decision to nominate another member to the Board pursuant to the Company's Certificate of Designations of the Series A Convertible Preferred Stock (the "Certificate of Designations"), which permits BuildGroup to request the appointment of up to two members on the Board, subject to certain limitations.

On January 26, 2021, at BuildGroup's request, the Board appointed Zeynep Young as a Class II director to hold office until the Company's 2021 annual meeting of stockholders or until her successor is duly elected and qualified.

Ms. Young was appointed at the request of BuildGroup. As previously reported on the Company's Current Reports on Form 8-K filed with the Securities and Exchange Commission on May 26, 2020 and June 8, 2020, the Company issued and sold 1,777,778 shares of its Series A Convertible Preferred Stock to BuildGroup (the "Preferred Transaction"). Concurrent with the closing of the Preferred Transaction, the Company filed the Certificate of Designations, which, as noted above, permits BuildGroup to request the appointment of up to two members on the Board, subject to certain limitations. Ms. Young is the second director on the Board at the request of BuildGroup, with Mr. Napier being the first.

Ms. Young, age 50, is currently the Strategic Advisor for BuildGroup. She is also a venture partner and advisor for Next Coast Ventures, LLC and has been involved with them since February 2017. Prior to BuildGroup, she was the Chief Executive Officer of Calytera, Inc. from March 2020 until December 2020. Prior to that, she was the Chief Executive Officer of Doubleline Partners LLC.

The Board has determined that Ms. Young is an independent director under relevant SEC and Nasdaq rules. She has not been appointed to any Board committee at this time. There have been no transactions in which the Company has participated and in which Ms. Young had a direct or indirect material interest that would be required to be disclosed under Item 404(a) of Regulation S-K.

**Item 8.01 Other Events.**

On January 26, 2021, the Company issued a press release including the above matters. The press release also included the Company's announcements that:

- It has retained Egon Zehnder, a global executive search firm, to identify and evaluate additional board candidates;
- It will submit a proposal at the June 2021 Annual Meeting of Stockholders to declassify the board and provide for the annual election of directors; and
- It will implement a majority voting standard that would require that directors standing for election receive more votes in favor than against.

**Item 9.01. Financial Statements and Exhibits.**

## (d) Exhibits

<u>Exhibit No.</u>	<u>Description</u>
10.1	<a href="#"><u>Amended and Restated Co-Sale and Voting Agreement, dated January 26, 2021, by and between Benefitfocus, Inc., Mason R. Holland, Jr. and BuildGroup LLC.</u></a>
10.2	<a href="#"><u>Advisory and Board Observation Agreement, dated January 26, 2021, by and between Benefitfocus, Inc. and Mason R. Holland, Jr.</u></a>
99.1	<a href="#"><u>Press release dated January 26, 2021.</u></a>
104	Cover Page Interactive Data File (embedded within the Inline XBRL document).

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

**BENEFITFOCUS, INC.**

Date: February 1, 2021

/s/ Stephen M. Swad

Stephen M. Swad  
Chief Executive Officer

## AMENDED AND RESTATED CO-SALE AND VOTING AGREEMENT

THIS AMENDED AND RESTATED CO-SALE AND VOTING AGREEMENT (the “**Agreement**”) is made and entered into as of this 26th day of January 2021, by and among Benefitfocus, Inc., a Delaware corporation (the “**Company**”), BuildGroup LLC, a Delaware limited liability company (“**BuildGroup**”), and Mason R. Holland, Jr. (“**Holland**” and, together with BuildGroup, the “**Stockholders**”).

### RECITALS

**WHEREAS**, the parties entered into a Co-Sale and Voting Agreement on June 4, 2020;

**WHEREAS**, in connection with governance changes being made at the Company, including to its board of directors (the “**Board**”), the parties now desire to amend and restate the Original Agreement in its entirety as set forth herein.

**NOW, THEREFORE**, in consideration of the mutual promises and covenants set forth herein, and certain other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

#### 1. Voting Provisions Regarding Board of Directors.

1.1. General. Each Stockholder agrees to vote, or cause to be voted, all Shares (as defined below) beneficially owned by such Stockholder, or over which such Stockholder has voting control, from time to time and at all times, in whatever manner as shall be necessary to carry into effect the intent of this Agreement. For purposes of this Agreement, the term “**Shares**” shall mean and include any securities of the Company the holders of which are entitled to vote for members of the Board, including without limitation, all shares of common stock and preferred stock, by whatever name called, now owned or subsequently acquired by a Stockholder, however acquired, whether through stock splits, stock dividends, reclassifications, recapitalizations, similar events or otherwise.

1.2. [Deleted and reserved.]

1.3. [Deleted and reserved.]

1.4. [Deleted and reserved.]

1.5. Vote to Increase Authorized Common Stock. Each Stockholder shall vote or cause to be voted all Shares owned by such Stockholder, or over which such Stockholder has voting control, from time to time and at all times, in whatever manner as shall be necessary to increase the number of authorized shares of common stock from time to time to ensure that there will be sufficient shares of common stock available for conversion of all of the shares of Series A Convertible Preferred Stock outstanding at any given time.

1.6. [Deleted and reserved.]

#### 1.7. Fiduciary Duties; Director Qualifications.

(a) Each Stockholder is entering into this Agreement in his or its capacity as the holder of capital stock of the Company. Any other provision of this Agreement notwithstanding, to the extent a Stockholder or one of its Affiliates serves as an officer or director of the Company, nothing contained herein shall limit the ability of such Stockholder or one of its Affiliates to exercise ordinary and customary duties as an officer or director of the Company, including, without limitation, the exercise of fiduciary obligations to the Company and its stockholders.

(b) Any other provision of this Agreement notwithstanding, the Company’s and each Stockholder’s obligations under this Agreement is subject in all respects to the applicable law (including, without limitation, the directors’ fiduciary duties), the rules and regulations of the Securities and Exchange Commission and the listing requirements or standards of the NASDAQ Stock Market LLC or the requirements or standards of any other exchange, system or market on which the stock of the Company is listed.

1.8. **Stockholder Approval of Transactions**. At any annual or special meeting of stockholders of the Company or in connection with any other action (including the execution of written consent of the stockholders) taken for the purpose of approving the issuance of shares of common stock (the “**Issuance**”) upon conversion of the Series A Convertible Preferred Stock in excess of the limitations imposed by NASDAQ Listing Standard Rule 5635 (or any successor rule thereto), each Stockholder shall vote, or cause to be voted all Shares owned by such Stockholder in favor of the Issuance.

1.9. **Board Size**. Each Stockholder shall vote, or cause to be voted, at any regular or special meeting of stockholders (or by any applicable written consent) at which the size of the Board is set, all Shares owned by such Stockholder (or as to which such Stockholder has voting power) to ensure that the size of the Board shall be no more than ten (10) directors; provided, however, that such Board size may be subsequently increased or decreased pursuant to an amendment of this Agreement in accordance with Section 5.6 hereof.

2. [Deleted and reserved.]

**3. Right of Co-Sale**

3.1. **Exercise of Right**. If a Stockholder proposes to transfer any of its Shares, whether in exchange for cash or other securities, including in a transaction as a result of which the Company would no longer be a publicly traded entity, or for other or no consideration (a “**Transfer**”), other than pursuant to an Exempted Transfer as described in Section 3.3 hereto or in an Exempted Offering as described in Section 3.4 hereto, that Stockholder (the “**Transferring Stockholder**”) must give the other Stockholder 14 calendar days advance written notice thereof describing the proposed terms of the Transfer in detail. Within seven (7) calendar days of receipt of such Transferring Stockholder’s notice, the other Stockholder may elect to participate in the Transfer on a pro rata basis with the Transferring Stockholder based on the number of shares of common stock then beneficially owned by each, on as-converted basis, on the same terms and conditions specified in the Transferring Stockholder’s notice.

**3.2. Effect of Failure to Comply**

(a) **Transfer Void; Equitable Relief**. Any transfer not made in compliance with the requirements of this Agreement shall be null and void *ab initio*, shall not be recorded on the books of the Company or its transfer agent and shall not be recognized by the Company. Each party hereto acknowledges and agrees that any breach of this Agreement would result in substantial harm to the other parties hereto for which monetary damages alone could not adequately compensate. Therefore, the parties hereto unconditionally and irrevocably agree that any non-breaching party hereto shall be entitled to seek protective orders, injunctive relief and other remedies available at law or in equity (including, without limitation, seeking specific performance or the rescission of purchases, sales and other transfers of Shares not made in strict compliance with this Agreement).

(b) **Violation of Co-Sale Right**. If any Stockholder purports to sell any Shares in contravention of this right of co-sale (a “**Prohibited Transfer**”), the other Stockholders may, in addition to such remedies as may be available by law, in equity or hereunder, require the Transferring Stockholder to purchase from the other Stockholder the Shares that he or it would have been entitled to sell had the Prohibited Transfer been effected in compliance with the terms hereof, on the same terms and subject to the same conditions as would have applied, and the non-compliant Stockholder shall also reimburse the other Stockholder for any and all reasonable and documented out-of-pocket fees and expenses, including reasonable legal fees and expenses, incurred in connection therewith.

3.3. **Exempted Transfers**. Notwithstanding the foregoing or anything to the contrary herein, the provisions of Section 3 shall not apply to (a) a transfer to an Affiliate of the transferring Stockholder, (b) a market transaction in compliance with Rule 144 under or Section 4(a)(1) of the Securities Act of 1933, as amended (the “**Securities Act**”), (c) a pledge that creates a mere security interest in the pledged Shares; (d) in the case of a Stockholder that is a natural person, a transfer made for bona fide estate planning purposes, either during his or her lifetime or on death by will or intestacy to his or her spouse, child (natural or adopted), or any other direct lineal descendant (or his or her spouse) (all of the foregoing collectively referred to as “family members”), or any custodian or trustee of any trust, partnership or limited liability company for the benefit of, or the ownership interests of which are owned wholly by such Stockholder or any such family members; or (e) any bona fide gift to any charitable organization described in Section 501(c)(3) of the Internal Revenue Code (an “**Exempted Transfer**”); provided that in the case of clause (a), (c) or (d), the Stockholder shall deliver prior written notice to the other Stockholder and the Shares transferred shall at all times remain subject to the terms and restrictions set forth in this Agreement and such transferee shall, as a condition to such issuance, deliver a counterpart signature page to this Agreement as

confirmation that such transferee shall be bound by all the terms and conditions of this Agreement as a Stockholder (but only with respect to the securities so transferred to the transferee); and, provided further in the case of any transfer pursuant to clause (a) or (d) above, that such transfer is made pursuant to a transaction in which there is no consideration actually paid for such transfer.

**3.4 Exempted Offerings.** Notwithstanding the foregoing or anything to the contrary herein, the provisions of Section 3 shall not apply to the sale of any Shares to the public in an offering pursuant to an effective registration statement under the Securities Act.

**3.5 Legended Certificates.** Each certificate representing any of the Shares shall be marked by the Company with a legend reading as follows:

"THE SHARES EVIDENCED HEREBY ARE SUBJECT TO A CO-SALE AND VOTING AGREEMENT (A COPY OF WHICH MAY BE OBTAINED FROM THE ISSUER) AND BY ACCEPTING ANY INTEREST IN SUCH SHARES THE PERSON HOLDING SUCH INTEREST SHALL BE DEEMED TO AGREE TO AND SHALL BECOME BOUND BY ALL THE PROVISIONS OF SAID CO-SALE AND VOTING AGREEMENT."

#### **4. Remedies.**

**4.1 Covenants of the Company.** The Company agrees to use its best efforts, within the requirements of applicable law, to ensure that the rights granted under this Agreement are effective and that the parties enjoy the benefits of this Agreement. Such actions include, without limitation, the use of the Company's best efforts to cause the nomination of the directors as provided in this Agreement.

**4.2 Irrevocable Proxy.** Each party to this Agreement hereby constitutes and appoints the President and Treasurer of the Company, and each of them, with full power of substitution, as the proxies of such party with respect to the matters set forth herein, including without limitation, election of persons as members of the Board in accordance with Section 1 hereto, and hereby authorizes each of them to represent and to vote, if and only if the party (i) fails to vote or (ii) attempts to vote (whether by proxy, in person or by written consent), in a manner which is inconsistent with the terms of this Agreement, all of such party's Shares in favor of the election of persons as members of the Board determined pursuant to and in accordance with the terms and provisions of this Agreement. The proxy granted pursuant to the immediately preceding sentence is given in consideration of the agreements and covenants of the Company and the parties in connection with the transactions contemplated by this Agreement and, as such, is coupled with an interest and shall be irrevocable unless and until this Agreement terminates or expires in accordance herewith. Each party hereto hereby revokes any and all previous proxies with respect to the Shares and shall not hereafter, unless and until this Agreement terminates or expires in accordance herewith, purport to grant any other proxy or power of attorney with respect to any of the Shares, deposit any of the Shares into a voting trust or enter into any agreement (other than this Agreement), arrangement or understanding with any person, directly or indirectly, to vote, grant any proxy or give instructions with respect to the voting of any of the Shares, in each case, with respect to any of the matters set forth herein.

**4.3 Specific Enforcement.** Each party acknowledges and agrees that each party hereto will be irreparably damaged and will not have an adequate remedy at law in the event any of the provisions of this Agreement are not performed by the parties in accordance with their specific terms or are otherwise breached. Accordingly, it is agreed that each of the Company and the Stockholders shall be entitled to injunctive relief to prevent breaches of this Agreement, and to specific enforcement of this Agreement and its terms and provisions in any action instituted in any court of the United States or any state having subject matter jurisdiction, including, but not limited to, seeking specific performance or the rescission of purchases, sales and other transfers of Shares not made in strict compliance with this Agreement. If any action shall be brought in equity to enforce any of the provisions of this Agreement, none of the parties hereto shall raise the defense that there is an adequate remedy at law.

**4.4 Remedies Cumulative.** All remedies, either under this Agreement or by law or otherwise afforded to any party, shall be cumulative and not alternative.

## 5. Miscellaneous.

**5.1. Successors and Assigns.** The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the parties. Nothing in this Agreement, express or implied, is intended to confer upon any party other than the parties hereto or their respective successors and assigns any rights, remedies, obligations, or liabilities under or by reason of this Agreement, except as expressly provided in this Agreement.

**5.2. Governing Law.** This Agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware, regardless of the laws that might otherwise govern under applicable principles of conflicts of law.

**5.3. Counterparts; Facsimile.** This Agreement may be executed and delivered by facsimile, electronic mail (including pdf or any electronic signature complying with the U.S. federal ESIGN Act of 2000, e.g., www.docusign.com), or other transmission method and in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

**5.4. Titles and Subtitles.** The titles and subtitles used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement.

**5.5. Notices.** All notices and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given: (a) upon personal delivery to the party to be notified, (b) when sent by confirmed electronic mail or facsimile if sent during normal business hours of the recipient, and if not so confirmed, then on the next business day, (c) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (d) one (1) business day after the business day of deposit with a nationally recognized overnight courier, specifying next business day delivery, with written verification of receipt. All communications shall be sent to the respective parties at their address as set forth on the signature page hereto, or in the Company's records, or to such email address, facsimile number or address as subsequently modified by written notice given in accordance with this Section 5.5. If notice is given to the Company, a copy shall also be sent to Wyrick Robbins Yates & Ponton LLP, 4101 Lake Boone Trail, Suite 300, Raleigh, NC 27607, Attn: Donald R. Reynolds. If a notice is given to BuildGroup, a copy shall also be sent to BuildGroup LLC, 3500 Jefferson St., Suite 303, Austin, Texas 78731, Attn: Kenneth Herz, General Counsel.

**5.6. Consent Required to Amend, Terminate or Waive.** This Agreement may be amended or modified only by a written instrument executed by the Stockholders and the Company. Any provision hereof may be waived by the waiving party on such party's own behalf, without the consent of any other parties.

**5.7. Delays or Omissions.** No delay or omission to exercise any right, power or remedy accruing to any party under this Agreement, upon any breach or default of any other party under this Agreement, shall impair any such right, power or remedy of such non-breaching or non-defaulting party nor shall it be construed to be a waiver of any such breach or default, or an acquiescence therein, or of or in any similar breach or default thereafter occurring; nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default previously or thereafter occurring. Any waiver, permit, consent or approval of any kind or character on the part of any party of any breach or default under this Agreement, or any waiver on the part of any party of any provisions or conditions of this Agreement, must be in writing and shall be effective only to the extent specifically set forth in such writing. All remedies, either under this Agreement or by law or otherwise afforded to any party, shall be cumulative and not alternative.

**5.8. Severability.** The invalidity, illegality or unenforceability of any provision hereof shall in no way affect the validity or enforceability of any other provision. Such provision will be enforced to the maximum extent possible and such invalidity, illegality or unenforceability will not affect any other provision of this Agreement. In such event, the parties shall negotiate, in good faith, a legal, valid, and enforceable substitute provision, which most nearly effects the intent of the parties in entering into this Agreement.

**5.9. Entire Agreement.** This Agreement constitutes the full and entire understanding and agreement between the parties with respect to the subject matter hereof, and any other written or oral agreement relating to the subject matter hereof existing between the parties, including the Original Agreement, are expressly canceled.

**5.10. Stock Splits, Stock Dividends, etc.** In the event of any issuance of Shares of the Company's voting securities hereafter to any of the Stockholders (including, without limitation, in connection with any stock split, stock dividend, recapitalization, reorganization, or the like), such Shares shall become subject to this Agreement with the same force and effect as the Shares subject to such rights immediately before such event.

5.11. Manner of Voting. The voting of Shares pursuant to this Agreement may be effected in person, by proxy, by written consent or in any other manner permitted by applicable law.

5.12. Further Assurances. At any time or from time to time after the date hereof, the parties agree to cooperate with each other, and at the request of any other party, to execute and deliver any further instruments or documents and to take all such further action as the other party may reasonably request in order to evidence or effectuate the consummation of the transactions contemplated hereby and to otherwise carry out the intent of the parties hereunder.

5.13. Advice of Counsel. EACH PARTY TO THIS AGREEMENT ACKNOWLEDGES THAT, IN EXECUTING THIS AGREEMENT, SUCH PARTY HAS HAD THE OPPORTUNITY TO SEEK THE ADVICE OF INDEPENDENT LEGAL COUNSEL, AND HAS READ AND UNDERSTOOD ALL OF THE TERMS AND PROVISIONS OF THIS AGREEMENT. THIS AGREEMENT SHALL NOT BE CONSTRUED AGAINST ANY PARTY BY REASON OF THE DRAFTING OR PREPARATION HEREOF.

5.14. Construction. For purposes of this Agreement, an individual, firm, corporation, partnership, association, limited liability company, trust or any other entity (collectively, a “**Person**”) shall be deemed an “**Affiliate**” of another Person who, directly or indirectly, controls, is controlled by or is under common control with such Person, including, without limitation, any general partner, officer, director, stockholder, employee or manager of such Person and any venture capital fund now or hereafter existing that is controlled by one or more general partners of or shares the same management company with such Person, and the holdings of any Person shall include the holdings of its Affiliates.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the parties have executed this Amended and Restated Co-Sale and Voting Agreement as of the date first written above.

THE COMPANY:

**BENEFITFOCUS, INC.**

By: /s/ Stephen M. Swad  
Name: Stephen M. Swad  
Title: Chief Executive Officer  
Address: 100 Benefitfocus Way  
Charleston, SC 29492  
Attn: Steve Swad, CFO

STOCKHOLDERS:

/s/ Mason R. Holland, Jr.  
Name: Mason R. Holland, Jr.

**BUILDGROUP, LLC**

By: BuildGroup Management, LLC, its investment manager

By: /s/ A. Lanham Napier  
Name: A. Lanham Napier  
Title: Chief Executive Officer  
Address: 3500 Jefferson Street, Suite 303  
Austin, Texas 78731

*[Signature Page to Amended and Restated Co-Sale and Voting Agreement]*

## ADVISORY AND BOARD OBSERVATION AGREEMENT

This ADVISORY AND BOARD OBSERVATION AGREEMENT (this “Agreement”) is made by and between Benefitfocus, Inc., a Delaware corporation (the “Company”), Benefitfocus.com, Inc., a South Carolina corporation (the “Employer”), and Mason R. Holland, Jr., an individual resident of Charleston, South Carolina (the “Executive”), as of the 26th day of January 2021 (the “Effective Date”). Company, Employer and Executive are herein referred to each as a “Party” and together as the “Parties.”

Whereas, the Executive presently serves as the Executive Chairman of the Board of Directors and on the Board of Directors of the Company (the “Board”), and the Executive is an employee of the Employer, which is a wholly-owned subsidiary of the Company.

Whereas, the Company and the Employer recognize that the Executive’s contribution to the growth and success of the Company and the Employer is substantial.

Whereas, The Board desires to provide for the continued employment of the Executive and subsequent Advisor Services (as defined below) to promote the best interests of the Company and its shareholders.

Whereas, the Executive is willing to continue to serve the Company on the terms and conditions herein provided.

Whereas, Executive has agreed to provide services to assist in the transition to a new Chairperson and to continue to be available to advise and consult as requested by the Company.

Whereas, Executive and the Employer are party to an Employment Agreement dated January 19, 2007 (the “Employment Agreement”).

WHEREAS, the Parties wish to set forth in this Agreement the terms of Executive’s continued employment, followed by his transition to Advisor and to Board Observer.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements herein contained, the Company and Executive agree as follows:

**1. Executive’s Transition of Roles.**

(a) Transition. Executive agrees to remain as the Company’s Executive Chairman, and as an employee of the Employer, until the date of the Company’s 2021 annual shareholders’ meeting, (the “Conversion Date”). Until the Conversion Date, the Employment Agreement shall remain in full force and effect. Effective as of the Conversion Date, Executive shall be deemed to have voluntarily resigned his employment and all other positions with the Company and/or the Employer and their subsidiaries and to have resigned from the Board.

(b) Advisor Services. From the Conversion Date through the end of the Advisor Period (as defined below), Executive shall serve as an Advisor to the Company on the terms set forth in this Agreement.

(c) Title. Following the Conversion Date, Executive shall have the title of Chairman Emeritus.

2. Compensation Through Conversion Date. Through the Conversion Date, Executive shall continue to receive his current compensation and benefits.

3. Transition Matters.

(a) If Executive signs and does not revoke this Agreement, and if, on the Conversion Date, Executive signs and does not thereafter revoke the Release Agreement that is attached to this Agreement as Exhibit 1 (the “Release”), the Company shall pay Executive the payments and benefits previously agreed to in Sections 4(c)(i-iii) of the Employment Agreement (collectively the “Post-Conversion Benefits”), as provided in this Agreement.

(b) Any outstanding incentive awards (including stock options, restricted stock units or similar) previously granted to the Executive under any incentive plan or arrangement of the Company or the Employer shall continue to vest on the existing schedules notwithstanding the termination of employment, all subject to Executive’s continued service as an Advisor during the Advisor Period, and compliance with the terms hereof. At the later of the end of the Advisor Period and any extensions that are mutually agreed to by the parties, any remaining unvested incentive awards (if any) previously granted to the Executive shall become 100% vested as of the last day of the Advisor Period.

4. Advisor Period, Compensation, and Support.

(a) Duration and Compensation. The Advisor Period shall begin on the Conversion Date and continue through the earlier of (i) the one-year anniversary of the Conversion Date, (ii) Executive’s death or disability (as defined for purposes of Social Security Disability), or (iii) Executive’s resignation for any reason; provided, however that such termination shall not affect any Sections of this Agreement other than Sections 4 and 5. During the Advisor Period, the Company shall pay Executive 75% of the total compensation it pays an independent director, payable in cash in quarterly installments in advance of each calendar quarter beginning on the Conversion Date and continuing through the end of the Advisor Period. By mutual agreement of the Company and the Executive, this Advisor Period can be extended under the same terms annually.

(b) Staff Support. The Company understands that Executive will no longer need dedicated clerical support. Nonetheless, the Company shall provide Executive with reasonable secretarial support from an employee of the Company or the Employer during the Advisor Period on a project-by-project basis as and if needed for his work for the Company.

5. Advisor Services.

(a) Scope of Services. From the Conversion Date to the end of the Advisor Period, the Executive will provide consulting and advisory services (the “Advisor Services”) from time to time as may be reasonably requested by the Company’s Board or the Company’s Chief Executive Officer (with the prior approval of the Company’s non-executive Chairman of the Board, *provided* that Executive shall be entitled to rely on the Chief Executive Officer’s authority with respect to any such request). Such Advisor Services may consist of any matters of concern to the Chief Executive Officer, provided that the Company will take into consideration Executive’s other business and personal commitments that may arise during the Advisor Period. Such matters are expected to include:

- Advice and guidance to the Company's non-executive Chairman;
- Advice and guidance to the Company's Chief Executive Officer;
- Advice and guidance to the Company's Board of Directors;
- Assistance in the outreach to selected major shareholders, as requested by the Board;
- Upon request, participating in the mentoring of the executive team; and
- As Chairman Emeritus, serving as a cultural symbol within Benefitfocus and the community.

(b) Executive's Status. During the Advisor Period, Executive shall not be an employee of the Company and shall not be entitled to receive any fringes, perquisites or benefits from the Company or the Employer except as expressly provided otherwise in this Agreement.

(c) Expenses. During the Advisor Period, the Company or the Employer shall pay or reimburse Executive for reasonable out-of-pocket expenses incurred in connection with Executive's performance of the Advisor Services, upon presentation of written documentation thereof in accordance with Company expense reimbursement policies.

(d) Restrictions. During the Advisor Period, Executive shall continue to be bound by the covenants and obligations set out in Sections 5 and 6 of the Employment Agreement, which are hereby incorporated into this Agreement by reference.

#### 6. Board Observation Rights.

(a) Observation Rights. Effective as of the Conversion Date, Executive will be invited to and shall have the right (but not the obligation) to attend all meetings of the Board and each of its committees, whether held in person or via remote communications, in a non-voting observer capacity (a "Board Observer"). Executive will receive all materials (including Board meeting minutes) sent to members of the Board and its committees in connection with meetings. Executive may be asked not to attend or observe certain portions of meetings, and will not be provided materials, in the following limited situations: (i) to protect the Company's attorney/client privilege, for matters that arise after the Conversion Date with respect to which the Executive is not part of the advisor work group, or (ii) to avoid any actual or potential conflict of interest or potential related-party transaction topics involving the Executive. In no event shall Executive be deemed to be a member of the Board or to have the right to vote on Board matters or to propose or offer any motions or resolutions to the Board. The presence of Executive shall not be required for purposes of establishing a quorum. The Company or the Employer will reimburse Executive for his reasonable, documented, out-of-pocket expenses in attending Board meetings, in accordance with its then-existing policy for independent directors.

(b) Termination. Executive's right to be a Board Observer will terminate and be of no further force and effect on the earlier of the following: (i) the Executive's death or disability (as defined earlier), (ii) the Company's providing him notice of such termination after the date when the Executive beneficially owns less than 1,000,000 shares of the Company's outstanding Common Stock (subject to adjustment for stock splits and the like), or (iii) the Executive's resignation from such role for any reason (the "Board Observer Period"); provided however that such termination shall not affect any other Sections of this Agreement, specifically including but not limited to Sections 2, 4, and 5.

#### 7. Section 409A.

(a) The parties hereby acknowledge and agree that all benefits or payments provided by the Company to Executive pursuant to this Agreement are intended either to be exempt from Section 409A of the Internal Revenue Code of 1986, as amended, and the regulations and other guidance thereunder and any state law of similar effect (collectively "Section 409A"), or to be in compliance with Section 409A, and the Agreement shall be interpreted to the greatest extent possible to be so exempt or in compliance. If there is an ambiguity in the language of the Agreement, or if Section 409A guidance indicates that a change to the Agreement is required or desirable to achieve exemption or compliance with Section 409A, Company and Executive agree to attempt to renegotiate in good faith to clarify the ambiguity or make such change.

(b) Notwithstanding anything to the contrary herein, the Parties intend that the Conversion Date constitutes the date of Executive's "separation from service" (as such term is used in Section 409A) from the Company and the Employer, and the Parties accordingly acknowledge and agree that Executive is not expected or required to perform Advisor Services hereunder exceeding twenty percent (20%) of the average level of bona fide services he performed for the Company and the Employer over the thirty-six (36) month period of Executive's employment with the Employer immediately preceding the Conversion Date.

(c) If any severance or other payments that are required by the Agreement are to be paid in a series of installment payments, each individual payment in the series shall be considered a separate payment for purposes of Section 409A.

(d) If any severance compensation or other benefit provided to Executive pursuant to this Agreement that constitutes "nonqualified deferred compensation" within the meaning of Section 409A is considered to be paid on account of "separation from service" within the meaning of Section 409A, and Executive is a "specified employee" within the meaning of Section 409A, no payments of any of such severance or other benefit shall made for six (6) months plus one (1) day after the "separation from service" (the "New Payment Date"). The aggregate of any such payments that would have otherwise been paid during the period between the "separation from service" and the New Payment Date shall be paid to the Executive in a lump sum on the New Payment Date.

## 8. Indemnity; Insurance.

(a) Indemnity: To the fullest extent permitted by Delaware law, the Company shall indemnify, defend, and hold Executive and his affiliates harmless, at Company's own expense, from and against any and all losses, liability, obligations, damages, third-party claims, demands, causes of action, costs and expenses of whatever form or nature (each a "Claim" and collectively, "Claims"), including reasonable outside attorneys' fees and other costs of legal defense, arising out of or related to: (i) the Executive's rendering of Advisor Services or Board Observer services under this Agreement and/or the Executive's rendering services as an employee of the Company or the Employer under the Employment Agreement or otherwise; (ii) an actual or alleged breach of any of the representations, warranties or covenants of this Agreement by the Company or the Employer; (iii) the Company's or the Employer's negligence, willful misconduct, or willful misrepresentation; or (iv) any other act or omission by or attributable to Company or the Employer in connection with this Agreement except to extent such indemnity is prohibited by law. Company shall give prompt written notice to the Executive of any proposed settlement of any Claim. Company may not, without the Executive's prior written consent, which the Executive shall not unreasonably withhold, condition or delay, settle or compromise any claim or consent to the entry of any judgment regarding which indemnification is being sought hereunder unless such settlement, compromise or consent: (X) includes an unconditional release of Executive from all liability arising out of such claim; (Y) does not contain any admission or statement suggesting any wrongdoing or liability on behalf of Executive; and (Z) does not contain any equitable order, judgment or term (other than the fact of payment or the amount of such payment) that in any manner affects, restrains or interferes with the business of Executive.

(b) Exculpation: Notwithstanding anything to the contrary herein, Executive shall, to the greatest extent permitted by law at the time this clause is construed, be exculpated from any liability whatsoever for any alleged abuse of discretion, tort, breach of fiduciary duty and/or breach of trust caused by any act or omission in connection with this Agreement or any prior agreements with the Company or the Employer, other than a breach by Executive of any such agreement. As a consequence, Executive shall under no circumstances ever be held personally liable to any other person, firm or corporation for any damages directly or indirectly arising out of any act or omission committed in connection with this Agreement, other than a breach by Executive of this Agreement. This exculpation shall not, however, protect the Executive from any liability for a breach of trust committed intentionally or in bad faith.

(c) Insurance: The Company shall maintain liability insurance policies that provides to Executive (and his affiliates and personal representatives or estate) coverage that is at least as favorable as the coverage currently provided to the most senior officers or any Board director of the Company or the Employer.

9. Assignment. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, heirs (in the case of Executive) and permitted assigns. This Agreement is personal to Executive and neither this Agreement nor any rights hereunder may be assigned by Executive. No rights or obligations of the Company under this Agreement may be assigned or transferred by the Company except that such rights or obligations may be assigned or transferred pursuant to a merger or consolidation in which the Company is not the continuing entity, or pursuant to a sale of all or substantially all of the assets of the Company, provided that the assignee or transferee is the successor to all or substantially all of the assets of the Company and such assignee or transferee assumes the liabilities, obligations and duties of the Company, as contained in this Agreement, either contractually or as a matter of law.

10. No Disparagement. Executive agrees that he will not falsely denigrate, defame, disparage or cast aspersions upon the Company, its management, products, services, business and manner of doing business, and that he will use his reasonable best efforts to prevent any member of his immediate family from engaging in any such activity. The Company agrees that its officers and directors will not falsely denigrate, defame, disparage or cast aspersions upon Executive, and that it will use its reasonable best efforts to prevent any of its employees or agents from engaging in any such activity.

11. Notices. Any notice to either party hereunder shall be in writing and shall be deemed to be sufficiently given to or served on such party, for all purposes, if the same shall be personally delivered to such party or sent to such party by registered mail, postage prepaid, at, in the case of the Company or the Employer, the address first given above and, in the case of Executive, his principal residence address as shown in the records of the Company or the Employer. Notices to the Company or the Employer shall be addressed to the Chief Executive Officer. In addition, any such notice shall concurrently be sent to each party at the last known email address for each party; in the case of the Company or the Employer, the email address shall be that of the Chief Executive Officer. Either party hereto may change the address to which notices are to be sent to such party hereunder by written notice of such new address given to the other party hereto.

12. Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of South Carolina applicable to contracts to be performed therein, except that Section 8 shall be governed by the laws of the State of Delaware.

13. Tax Withholding. The Company shall withhold from any payments made to Executive under this Agreement (including without limitation any benefits or payments under Sections 2, 3, or 4 hereof) any amounts determined by the Company to be required to be withheld by applicable federal, state or local tax law.

14. Office Space and Access. The Company understands and agrees that the Executive will continue to maintain his current office space and will continue to have full access to the office for the Executive and any of his non-Company provided support staff.

15. Electronic Access. Company agrees for Executive to maintain his Company email address (for the exclusive use of providing services to the Company under this Agreement) and to provide Executive with Company computers and mobile devices along with IT support as provided to any other Executive of the Company or the Employer through the end of the latter of the Advisor Period or the Board Observer Period.

16. Executive's Book. Executive retains the right but not the obligation to publish a book on the founding and history of the Company and the Employer (the "Book"). Executive shall own all rights and work product with respect to any the Book, including the copyright. The Book shall not be considered work product of the Company or the Employer. The Company shall have no rights with respect to any the Book except that the Company shall have the right to review the manuscript of the Book before publication for up to sixty days after receipt of the manuscript from Executive and to provide comments to Executive with respect to any concerns it may have about any of its content, provided however that Executive is not bound to accept any such comments from the Company.

17. Voluntary Execution. By signing below, Executive acknowledges that he has read this Agreement, that he understands its contents and that he has relied upon or had the opportunity to seek the legal advice of his attorney, who is the attorney of his own choosing.

IN WITNESS WHEREOF, each of the parties hereto acknowledges having read and understood the contents and effect of this Agreement and has executed this Agreement freely and with full authority duly given, all as of the date first above written.

BENEFITFOCUS, INC. and

BENEFITFOCUS.COM, INC.

By: /s/ Stephen M. Swad

Name: Stephen M. Swad

Title: Chief Executive Officer

MASON R. HOLLAND, JR.:

/s/ Mason R. Holland, Jr.

*(Signature Page to Board Advisor Agreement)*

**Exhibit 1**

**RELEASE AGREEMENT**

This RELEASE AGREEMENT (the “Release”) is hereby made and entered into this [\_\_\_\_\_] day of [\_\_\_\_\_\_], 2021, by and between Mason Holland, a citizen and resident of South Carolina (hereinafter “Executive”) and Benefitfocus, Inc., a Delaware corporation, together with its subsidiaries and affiliates, including, without limitation, Benefitfocus.com, Inc., a South Carolina corporation (collectively, the “Company”).

1. Release of Claims. In exchange for the Company’s providing Executive with the Post-Conversion Benefits per Section 3 of the Advisory and Board Observation Agreement between Executive and the Company (hereinafter the “Agreement”), by signing this Release, Executive hereby releases and forever discharges the Company, as well as its parent companies, affiliates, subsidiaries, divisions, officers, directors, stockholders, employees, agents, representatives, attorneys, lessors, lessees, licensors and licensees, and their respective successors, assigns, heirs, executors and administrators (collectively, the “Company Parties”), from any and all claims, demands, and causes of action of every kind and nature, whether known or unknown, direct or indirect, accrued, contingent or potential, which Executive ever had or now has, including but not limited to any claims arising out of or related to his employment with the Company and the termination thereof (except where and to the extent that such a release is expressly prohibited or made void by law). The release includes, without limitation, Executive’s release of the Company and the Company Parties from any claims for lost wages or benefits, stock options, restricted stock, restricted stock units, compensatory damages, punitive damages, attorneys’ fees and costs, equitable relief or any other form of damages or relief. In addition, this release is meant to release the Company and the Company Parties from all common law claims, including claims in contract or tort, including, without limitation, claims for breach of contract, wrongful or constructive discharge, intentional or negligent infliction of emotional distress, misrepresentation, tortious interference with contract or prospective economic advantage, invasion of privacy, defamation, negligence or breach of any covenant of good faith and fair dealing. Executive also specifically and forever releases the Company and the Company Parties (except where and to the extent that such a release is expressly prohibited or made void by law) from: all claims under South Carolina laws prohibiting discrimination, harassment and retaliation, including but not limited to the South Carolina Human Affairs Law and all similar state and local laws; all claims under laws governing the payment of wages or protection of workers seeking payment for work performed and any other federal, state or local statutory and/or common laws governing the payment of wages; and/or and all claims under federal law based on unlawful employment discrimination, harassment or retaliation, including, but not limited to, claims for violation of Title VII of the Civil Rights Act, the Americans with Disabilities Act, the Genetic Information and Discrimination Act, and **the Federal Age Discrimination In Employment Act (29 U.S.C. § 621 et. seq.)**

Executive hereby acknowledges that this release applies both to known and unknown claims that may exist between Executive and the Company and the Company Parties. Executive expressly waives and relinquishes all rights and benefits which he may have under any state or federal statute or common law principle that would otherwise limit the effect of this Release to claims known or suspected prior to the date he executes this Release and does so understanding and acknowledging the significance and consequences of such specific waiver; provided, however, that nothing in this Release extinguishes any rights or claims Executive may have (a) against the Company for breach of the Agreement or to enforce the Agreement, (b) as a shareholder or board member of the Company, or (c) to any vested benefits under any Company plan.

2. No Admissions. Executive understands, acknowledges and agrees that the release set out above in Section 1 is a final compromise of potential claims, and is not an admission by the Company that any such claims exist or that the Company or the Company Parties are liable for any such claims. Unless prohibited by applicable law or regulation, Executive further agrees not to hereafter, directly or indirectly, sue, assist in or be a voluntary party to any litigation against Company or any one or more of the Company Parties for any claims relating to events occurring prior to or simultaneously with the execution of this Release.

Notwithstanding the foregoing, nothing in this Release prohibits Executive from filing a charge with, or participating in any investigation or proceeding conducted by, the U.S. Equal Employment Opportunity Commission or a comparable state or federal fair employment practices agency; provided, however, that this Release fully and finally resolves all monetary matters between Executive and the Company and the Company Parties, and by signing this Release, Executive acknowledges that he is waiving any right to monetary damages, attorneys' fees and/or costs related to or arising from any such charge, complaint or lawsuit filed by Executive or on Executive's behalf, individually or collectively.

3. No Modifications; Governing Law; Entire Agreement. This Release cannot be changed or terminated orally, and no modification or waiver of any of the provisions of this Release is effective unless in writing and signed by all of the parties hereto. The parties agree that this Release is to be governed by and construed in accordance with the laws of the State of South Carolina. This Release, the Agreement, and the surviving provisions of the Employment Agreement, set forth the entire and fully integrated understanding between the parties, and there are no representations, warranties, covenants or understandings, oral or otherwise, that are not expressly set out therein.

4. Right to Revoke. ONCE SIGNED BY EXECUTIVE, THIS RELEASE IS REVOCABLE IN WRITING FOR A PERIOD OF SEVEN (7) DAYS (THE "REVOCATION PERIOD"). IN ORDER TO REVOKE HIS ACCEPTANCE OF THIS RELEASE, EXECUTIVE MUST DELIVER WRITTEN NOTICE TO THE COMPANY'S CHIEF EXECUTIVE, AND SUCH WRITTEN NOTICE MUST ACTUALLY BE RECEIVED WITHIN THE SEVEN (7) DAY REVOCATION PERIOD.

5. Voluntary Execution. By signing below, Executive acknowledges that he has read this Release, that he understands its contents and that he has relied upon or had the opportunity to seek the legal advice of his attorney, who is the attorney of his own choosing.

EXECUTIVE HEREBY ACKNOWLEDGES THAT HE HAS BEEN GIVEN A PERIOD OF AT LEAST TWENTY-ONE (21) DAYS TO CONSIDER WHETHER TO EXECUTE THIS RELEASE. EXECUTIVE ALSO ACKNOWLEDGES THAT HE IS HEREBY ADVISED BY THE COMPANY IN WRITING TO CONSULT WITH AN ATTORNEY BEFORE SIGNING THIS RELEASE.

IN WITNESS WHEREOF, Executive acknowledges he has read and understood the contents and effect of this Release and has executed this Release freely and with full authority duly given, all as of the date first above written.

EXECUTIVE:

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Mason Holland

## **Benefitfocus Provides Corporate Update and Announces Governance Enhancements**

*Company advances its strategic plan  
following successful open enrollment period*

*Independent chairman named, new independent director appointed,  
and steps underway to declassify its board of directors*

**CHARLESTON, S.C., January 26, 2021** – Benefitfocus, Inc. (NASDAQ: BNFT), an industry-leading benefits technology platform that simplifies benefits administration for employers, health plans and brokers, today provides an update on the corporate initiatives undertaken over the past year to maximize operational efficiencies and unlock long-term shareholder value. These initiatives include strengthening the company's balance sheet, enhancing its leadership team, driving increased profitability, investing in customer-led product development, and improving the customer experience through a performance-driven culture.

"Our team is executing on these important initiatives including our obsession with delivering an exceptional customer experience," said Steve Swad, president and chief executive officer. "The success of our recent open enrollment season is a shining example of how good things happen when you put the customer at the center of everything you do. I'm proud of our accomplishments to date, and we have only just begun to deliver on our commitment to increase shareholder value."

The company is also making significant board leadership changes and governance enhancements as part of its ongoing efforts to broaden and diversify its board of directors. Effective immediately, independent director Zeynep Young will succeed Barry Libert as BuildGroup's director designee serving on the Benefitfocus board.

In addition, the board is making a number of other changes to its composition, all of which will be effective at the June 2021 Annual Meeting of Stockholders:

- Doug Dennerline, who has served on the Benefitfocus board of directors since 2014, will become independent chairman of the board.
- Mason Holland will transition to chairman emeritus, a board advisory role, after 20 years of service as a company co-founder and executive chairman. He will not stand for re-election as a director.
- Given the appointment of an independent chair, Lanham Napier will no longer serve as lead independent director. He will stand for re-election to the board as an independent director.

- The company has retained Egon Zehnder, a global executive search firm, to identify and evaluate additional board candidates to enhance and accelerate the company's strategy and further increase diversity on the board.

Both Dennerline and Young will bring valuable insights and extensive industry experience to their new roles on the Benefitfocus board. Dennerline is CEO of Betterworks Systems, and over the last several years, he has served on the audit, compensation and nominating and governance committees of the Benefitfocus board. Young, who has founded and scaled multiple technology and data companies, is expected to bring fresh perspectives and relevant expertise as a business executive and entrepreneur.

Mason Holland said, "Following extensive engagement with BuildGroup and other shareholders, we are excited to announce the appointments of two independent and highly qualified executives to new roles on the board. Over the past 20 years, Benefitfocus has developed the industry-leading benefits management platform, which solves critical needs for employers and health plans. As a company founder and continuing major shareholder, I am confident that the company is poised to drive market leadership, deliver superior financial results and enhance shareholder value. I look forward to supporting the board, management and talented team at Benefitfocus as the company begins an exciting new chapter."

In addition to making substantive changes to its composition and leadership roles, the board of directors has approved the following additional actions to further enhance the company's governance:

- The company will submit a proposal at the June 2021 Annual Meeting of Stockholders to declassify the board and provide for the annual election of directors; and
- The board will implement a majority voting standard that would require that directors standing for election receive more votes in favor than against.

Additional information about these changes can be found in a Form 8-K that the company will file with the Securities and Exchange Commission shortly.

#### **About Doug Dennerline**

Doug Dennerline has served as a member of the Benefitfocus board of directors since August 2014. He is chief executive officer and executive chairman of BetterWorks Systems, Inc. From January 2013 to March 2018, he was chief executive officer of Alfresco Software, Inc. Previously, he was president and a director of SuccessFactors, Inc. Prior to joining SuccessFactors, Dennerline was executive vice president of sales, Americas and EMEA for Salesforce.com, Inc. and formerly served as a general manager and senior executive for over 10 years at Webex, after its acquisition by Cisco. Dennerline holds a B.S. in business administration from Arizona State University.

## About Zeynep Young

Zeynep Young was CEO of Calytera, a Texas-based government technology company, which was acquired in November 2020, by Granicus, Inc. Previously, she was a venture partner at Next Coast Ventures LLC, which she joined in March of 2017. Young was also the founder and CEO of Double Line, Inc., a data management and services company focused on the education and government verticals. She founded Double Line in 2009 and built the company into a leader within the K-12 education sector. She led Double Line to a successful exit in 2016. Young began her career at McKinsey & Company in 1997, where she advanced to associate principal. At McKinsey & Company, she was one of the leaders in the global technology practice, with a focus on revenue growth strategies. Young received her MBA from Northwestern University Kellogg School of Management and her B.A. from Rice University.

## About Benefitfocus

Benefitfocus (NASDAQ: BNFT) unifies the entire benefits industry through innovative technology solutions that bring efficiency, cost savings and simplicity to employee benefits administration. Our powerful cloud-based software, data-driven insights and thoughtfully designed services help employers, insurance brokers, health plans and suppliers address the complexity of benefits enrollment and engagement, while bringing easier access to health, wealth and lifestyle products through a world-class benefits experience. Our mission is simple: to improve lives with benefits. Learn more at [www.benefitfocus.com](http://www.benefitfocus.com), [LinkedIn](#) and [Twitter](#).

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## Forward Looking Statements

*Except for historical information, all of the statements, expectations, and assumptions contained in this press release are forward-looking statements. Actual results or performance might differ materially from those explicit or implicit in the forward-looking statements. Important factors that could cause actual results to differ materially include: our ability to maintain our culture and recruit, integrate and retain qualified personnel, including on our board of directors; our ability to compete effectively; the need to innovate and provide useful products and services; risks related to changing healthcare and other applicable regulations; the immature and volatile nature of the market for our products and services; privacy; security and other risks associated with our business; management of growth; risks related to the evolving COVID-19 pandemic; and the other risk factors set forth from time to time in our SEC filings, copies of which are available free of charge within the Investor Relations section of the Benefitfocus website at <http://investor.benefitfocus.com/sec-filings> or upon request from our investor relations department. Benefitfocus assumes no obligation and does not intend to update these forward-looking statements, except as required by law.*