Last updated August 30, 2023

These Developer Terms of Service ("Developer Terms") are an agreement entered into by and between Gusto, Inc., and its subsidiaries and affiliates (collectively, "Gusto") and you (if an individual) or the entity you represent (if registering as or on behalf of a business, or if registering in your capacity as representative of a business) ("Developer" or "you"). These Developer Terms contain the terms and conditions that govern the access to and use of Gusto's application program interface(s) ("Gusto API(s)"), demo API(s), and related tools, programs, utilities, and documentation (collectively, "Developer Tools").

Please review Section 19 of these Developer Terms carefully, as it contains an arbitration provision and class action waiver which requires the user to resolve disputes with Gusto through final, binding arbitration on an individual basis. By entering into the Developer Terms, Developer acknowledges that Developer has read and understands the terms of the Developer Terms and that Developer agrees to be bound by the arbitration provision and class action waiver.

By creating an account in the Gusto Developer Portal at dev.gusto.com, accessing or using the Developer Tools, or by clicking the applicable button to indicate Developer's acceptance of these Developer Terms, Developer agrees, effective as of the date of such action, to be bound by the Developer Terms.

If you are accessing or using the Developer Tools on behalf of Developer as an employee, officer, agent, or authorized representative of Developer, you represent and warrant that you are authorized and lawfully able to bind Developer to these Developer Terms and that Developer agrees to these Developer Terms.

1. License to Access and Use the Developer Tools

Subject to Developer's compliance with these Developer Terms, including any instructions, restrictions, limitations and conditions for access and use of the Developer Tools set forth in the Developer Tools or any other documentation or instructions provided by or made available by Gusto, Gusto grants Developer a limited, revocable, non-exclusive, non-transferable, royalty free, non-sublicensable (subject to Section 2 below regarding Third Party Providers) license to access and use the Developer Tools solely as necessary for developing an integration between Developer's application ("Developer Application") and Gusto's cloud-based payroll, benefits, and human resources platform ("Gusto Platform") through the Gusto API ("Integration") for the benefit of users that (i) are both a current user or customer of the Gusto Platform ("Gusto User") and a current user or customer of the Developer Application ("Developer User"); (ii) have linked such user's Gusto account with such user's Developer Application account; and (iii) have authorized Developer to obtain information from Gusto relating to such user and to provide information to Gusto relating to such user ("Joint User"). Gusto retains the right to limit, modify, or otherwise restrict Developer's access to certain components or elements of the Developer Tools without notice or liability to Developer if Gusto determines, in its sole discretion, that such access is not necessary to support Developer's Application.

Gusto reserves the right to modify, update or discontinue the Developer Tools or versions thereof, with or without notice, and Gusto shall not be liable for any such modification, update or discontinuance. In the event Gusto modifies or updates the Developer Tools, Gusto may require Developer to use the most current version of the Developer Tools at Developer's sole expense.

2. Third Party Providers

Developer may allow unaffiliated third party service providers ("Third Party Providers") to access and use the Developer Tools on Developer's behalf, solely as necessary to provide Developer with development, implementation, and related services for the Integration, provided that Developer shall: (i) ensure that such Third-Party Provider complies with the terms and conditions of these Developer Terms; and (ii) be liable for any breach of these Developer Terms by such Third Party Provider.

3. Developer Credentials and Account Information

If Gusto allows Developer to create a user name and/or password ("Account Information") for access to or use of the Developer Tools, Developer shall hold such Account Information in confidence and not share or transfer such Account Information without Gusto's prior written consent. Developer shall not misrepresent or mask its identity, or the identity of any Third Party Providers, when accessing or using the Developer Tools.

If Gusto issues any tokens or electronic keys ("Credentials") to Developer for access to or use of the Developer Tools, Developer shall hold such Credentials in confidence and not share or transfer such Credentials to any third party without Gusto's prior written consent.

Gusto reserves the right, from time to time, to update Credentials by issuing new Credentials and removing access to Developer Tools for previously-issued Credentials. If Gusto provides Developer with new Credentials, Developer shall commence using the new Credentials immediately upon receipt of such Credentials and shall promptly (i) update and replace any Account Information and (ii) promptly deletethe prior Credentials and any copies thereof.

Developer shall be solely responsible for protecting the confidentiality of Credentials and Account Information, and Developer is solely responsible for all activities or actions taken under Developer's Account Information and Credentials. In the event that Developer becomes aware of any unauthorized access to or use of the Developer Tools, Developer shall promptly give written notice to Gusto of such unauthorized access or use and make all reasonable efforts to eliminate such unauthorized access or use. Developer shall at all times implement and maintain appropriate security policies and procedures and access control methodologies that are at least consistent with prevailing industry standards, but in no case less than reasonable care, to safeguard access to and use of the Developer Tools.

4. Privacy Policy

When Developer or Developer's employees, representatives, or agents access the Developer Tools, Gusto will collect and store certain information about such individuals. Please refer to Gusto's Privacy Policy for information on how Gusto collects, uses, and discloses such information from Developers.

5. Data Privacy & Compliance with Laws

Developer, Developer's use of the Developer Tools, Developer's Application, and the Integration must fully comply with these Developer Terms and all applicable laws, rules, and regulations.

Developer shall be solely responsible for any data, content, and other materials Developer and Developer Users submit, upload, transmit or otherwise make available through the Developer Tools ("Developer User Data"). Developer, Developer User Data, Developer's Application, and the Integration must fully comply with these Developer Terms and all applicable laws, rules, and regulations.

Developer will ensure that Developer User Data and Joint User Data (as defined below) (collectively, "User Data") are collected, processed, transmitted, maintained, and used in compliance with Developer's privacy policy. Developer's privacy policy must be made available to Users and clearly and accurately describe what information Developer collects and how Developer uses and shares that information. Developer must also notify Developer Users, Gusto Users, and Joint Users (collectively, "Users") that Developer is responsible for the privacy, security, and integrity of User Data collected or accessed by Developer. Developer shall only access, store, transfer, and process User Data in accordance with Users' instructions, and shall only use and disclose User Data as authorized by the User. Developer shall not submit, upload, transmit or otherwise make available through the Developer Tools any data, content or other materials not owned by Developer or for which Developer does not have all necessary authorizations (including, without limitation, any necessary consents or authorizations from the applicable Joint User or data subject) to submit, upload, transmit or otherwise make available through the Developer Tools.

6. Required Security Controls and Reviews

Developer's security controls must conform to any reasonable security standards imposed by Gusto. Developer must pass (as determined by Gusto in Gusto's sole discretion) any reasonable security reviews conducted by Gusto or an authorized third party(ies)

selected by Gusto in order to access or use the Gusto API. For any such security review, Gusto may request security information and documentation about Developer, including but not limited to, Developer's penetration test results, penetration test summaries, and/or SOC reports (collectively, "Security Information"), and Developer agrees to (i) reasonably and promptly cooperate with such requests and reviews, (ii) provide full, complete, and accurate information, (iii) authorizes Gusto to share the Security Information with Gusto's authorized third party security reviewer (as applicable). Developer understands and agrees that Gusto may rely on Developer's representations and Security Information provided by Developer during the security review process and Developer will indemnify Gusto against any costs, damages or liability arising from such reliance.

Developer's continued access to the Gusto API is contingent upon Developer completing and passing annual security reviews Gusto may require that Developer undergo additional security reviews if Developer updates or changes the Integration. From time to time Gusto may recommend or request that Developer undertake certain measures to improve Developer's security controls, and/or to remediate security vulnerabilities in the Integration. Developer agrees to implement or perform such requested remediationsat Developer's sole expense, and Developer will be solely responsible and liable for any failure to do so and any results arising therefrom.

Developer shall at all times implement and maintain appropriate security policies and procedures and access control methodologies (including administrative, technical and physical safeguards) that are consistent with prevailing industry standards, but in no case less than reasonable care, to: (i) safeguard Developer User Data and Gusto User Data within its custody or control ("Custodial Data") against unauthorized processing; and (ii) comply with all data privacy and data security laws and regulations applicable to its processing of Custodial Data. Developer shall promptly provide Gusto written notice if Developer becomes aware of any security incident that adversely impacts the security of the Integration or of joint user personal data in Developer's custody or control ("Security Incident"). . Developer shall be solely responsible for remediating the Security Incident. Notwithstanding the foregoing, Gusto has the right to participate in the investigation and response to any Security Incident suffered by Developer, and Developer will fully cooperate with Gusto, including carrying out remedial actions at Gusto's direction and at Developer's cost. Developer shall reimburse Gusto for any costs Gusto incurs as a result of any such Security Incident.

7. Integration Review

Gusto may require that any new Integrations and modified Integrations be submitted to Gusto for review and approval prior to Gusto providing Developer with production access to the Gusto API for the Integration and/or prior to the Integration being made available to Users via the Gusto Platform. By submitting the Integration to Gusto for review, Developer grants Gusto the right to test and evaluate the Integration's compliance with the terms of these Developer Terms and any other criteria set by Gusto in its sole discretion. Developer shall cooperate with Gusto in Gusto's testing and evaluation review, including but not limited to, answering Gusto's questions and providing any information or materials reasonably requested by Gusto. Developer understands that Gusto may, in its sole discretion, reject Developer's Integration for any reason and that Gusto shall have no liability for any costs, expenses, and/or damages, arising out of or resulting from Gusto's review and approval or rejection of Developer's Integration.

8. Proprietary Rights

Gusto and Developer do not anticipate jointly developing any intellectual property under these Developer Terms.

Gusto's Intellectual Property Rights.

Developer acknowledges and agrees that, as between Gusto and Developer, Gusto owns all rights, title and interest, including all intellectual property rights, in and to the Developer Tools and Gusto User Data. Developer shall not remove, obscure, or modify in any way any copyright or trademark notices or other notices or disclaimers that appear within the Developer Tools.

Any suggestions, comments, ideas, improvements or other feedback relating to the Gusto Materials (collectively, "Feedback") from Developer to Gusto is given voluntarily, and Gusto will be free to use, disclose, reproduce, license, or otherwise distribute and exploit such Feedback as it sees fit, entirely without obligation or restriction of any kind and without compensating or crediting Developer.

Developer's Intellectual Property Rights.

Gusto acknowledges and agrees that, as between Developer and Gusto, Developer owns all rights, title and interest (including all intellectual property rights) in and to the Developer Application and Developer User Data.

9. Integration Support

Developer is solely responsible for any user-facing support of the Integration.

10. Gusto's Rights to Monitor the Developer Tools

Developer acknowledges and agrees that Gusto may monitor Developer's use of the Developer Tools (i) to assess compliance with these Developer Terms and the quality of operations of the Developer Tools and (ii) to make improvements to the Developer Tools.

11. No Warranties; Maintenance and Support of Developer Tools

Gusto makes no representations or warranties about the uptime, availability, or permissibility of the Developer Tools. From time to time, Developer may have limited or no access to the Developer Tools due to scheduled or emergency maintenance of the Developer Tools. Gusto shall make commercially reasonable efforts to provide notice of such maintenance to Developer, provided that Gusto shall have no liability to Developer arising from any such maintenance, including any failure or delay of Gusto in providing notice to Developer of such maintenance.

Except as may be agreed to in writing by Gusto or as Gusto may, in its sole discretion, provide, but shall have no obligation to provide, support or maintenance for the Developer Tools.

12. General Prohibitions

Developer shall not itself, nor permit any other party to:

- Reproduce, distribute, modify, translate, adapt, or create derivative works based upon Developer Tools;

- Reverse engineer, decode, decompile, disassemble, or otherwise attempt to access or derive any source code or architecture framework of Developer Tools;

- Access or use the Developer Tools for purposes of benchmarking or developing, marketing, selling, or distributing any product or service that competes with the Developer Tools;

- Make calls through the Developer Tools that exceed limits established by Gusto on the number and frequency of such calls, or take any action that imposes an unreasonable or disproportionately heavy load on the API or the Gusto Platform or that negatively affects the ability of others to access or use the API or Gusto Platform;

- Rent, lease, lend, sell, or sublicense the Developer Tools or otherwise provide access to the Developer Tools as part of a service bureau or similar fee-for-service purpose;

- Bypass any security safeguards or exploit any security vulnerabilities within the API or Gusto Platform;

- Intentionally submit queries through the Gusto API for Gusto's production (non-demo) environment that fail to contain all required parameters;

- Take any action that subject the Developer Tools to any third party terms, including but not limited to, open source software license terms;

- Introduce any virus, worm, Trojan horse, malware, or other malicious code through the Gusto API or to the Gusto Platform;

- Access the Gusto Platform for the purpose of "crawling" or "scraping" content or information without Gusto's express prior written consent;

- Misrepresent the source or ownership of material;

- Remove, obscure, or alter any copyright, trademark, or other proprietary rights notices;

- Falsify or delete any author attributions, legal notice, or other labels of the origin or source of material; or

- Access or use the Developer Tools in any way that does not comply in all material respects with the terms and conditions of these Developer Terms and all applicable laws and regulations.

12. Trademarks, Branding, and Publicity

Trademarks and Branding

All images, trademarks, service marks, product names, company names or logos ("Marks") of each party remain the property of the respective party. Except as may be expressly permitted under this Section 11, any use of such materials, including the reproduction, modification, distribution or republication of the same, without the prior written permission of the applicable owner, is strictly prohibited. All use of Gusto's Marks, including any associated goodwill, will inure to the benefit of Gusto.

Promotional and Marketing Use

Developer agrees to display any attribution(s) required by Gusto as set forth in the documentation for the Developer Tools. During the term of these Developer Terms, Gusto grants to Developer a limited, revocable, non-transferable, non-sublicensable, non-exclusive license to display Gusto's Marks for the purpose of promoting the Integration on Developer's website in a restricted area or behind a log-in or password. Developer shall only use the Gusto Marks in accordance with these Developer Terms. In using Gusto's Marks, Developer must follow Gusto's brand guidelines as may be updated from time to time.

During the term of these Developer Terms, Developer grants to Gusto a limited, revocable, non-transferable, non-sublicensable, non-exclusive license to display Developer's Marks for the purpose of promoting the Integration.

Publicity

Developer shall not make any public announcements (including any written or oral announcements, advertisements, promotions, website notices or press releases) about the Developer Tools or the Integration without Gusto's prior written consent.

13. Confidentiality

"Confidential Information" means any information that a party discloses to the other party that the party identifies in good faith as confidential or proprietary or, given the nature of the information or the circumstances surrounding its disclosure, should reasonably be understood to be confidential or proprietary. The receiving party shall maintain Confidential Information in strict confidence, using the same degree of care that it uses to protect the confidentiality of its own confidential information of like nature but in no case, less than reasonable care. The receiving party shall not: (i) use or disclosure Confidential Information other than as necessary to exercise its rights and fulfill its obligations under these Developer Terms; or (ii) modify, adapt, reverse engineer, decode, decompile, or disassemble Confidential Information or create any derivative work based upon the Confidential Information.

The receiving party shall restrict access to and use of Confidential Information to its directors, officers, employees, contractors, agents and legal and financial advisers who: (i) have a legitimate need to know Confidential Information; (ii) are informed of the confidential nature of Confidential Information; and (iii) have obligations with respect to Confidential Information that are consistent with, and at least as restrictive as, those imposed by these Developer Terms. Notwithstanding the foregoing, Gusto may disclose Confidential Information consisting of Security Information to Gusto's designated third party security review vendor for the purposes of completing any security reviews of Developer or the Integration, as further described in Section 5 herein.

The duties of confidentiality imposed by this Section 12. do not apply to information that: (i) is known or becomes known to the public

in general, other than as a result of a breach of these Developer Terms or any other confidentiality agreement; (ii) was known by or in the lawful possession of receiving party prior to receipt from disclosing party; (iii) is or has been independently developed or conceived by receiving party without use of or reference to Confidential Information; or (iv) is or has been provided or made known to receiving party by a third party without a breach of any obligation of confidentiality to disclosing party. The receiving party may disclose Confidential Information as required to comply with the order of a governmental entity that has jurisdiction over Receiving Party or as otherwise required by law, provided that receiving party: (i) notifies disclosing party in writing of such required disclosure in advance, to the extent permitted by law, to provide disclosing party with an opportunity to seek a protective order; and (ii) takes reasonable steps to minimize the extent of any such required disclosure.

14. Warranty Disclaimers

THE DEVELOPER TOOLS AND ALL OTHER MATERIALS PROVIDED BY GUSTO UNDER THESE DEVELOPER TERMS ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITH ALL FAULTS. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, GUSTO DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED OR ARISING FROM STATUTE, COURSE OF DEALING, USAGE OF TRADE OR OTHERWISE, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, QUALITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. GUSTO MAKES NO WARRANTY OR REPRESENTATION THAT: (i) THE DEVELOPER TERMS OR ANY OTHER MATERIALS PROVIDED BY GUSTO UNDER THESE DEVELOPER TERMS WILL MEET THE REQUIREMENTS OF DEVELOPER, DEVELOPER USERS, OR ANY OF END USERS; (ii) ACCESS TO AND USE OF THE DEVELOPER TOOLS WILL BE UNINTERRUPTED, TIMELY, SECURE OR ERROR-FREE; OR (iii) THE INFORMATION AND ANY RESULTS THAT MAY BE OBTAINED FROM ACCESS TO OR USE OF THE DEVELOPER TOOLS WILL BE ACCURATE, RELIABLE, CURRENT OR COMPLETE.

15. Indemnity

Developer shall indemnify, defend and hold Gusto and its officers, directors, employees, and agents ("the Indemnified Parties") harmless against any and all claims, costs, losses, damages, and expenses (including without limitation reasonable attorneys' fees) to the extent they arise from: (i) access to or use of the Developer Tools in any manner by Developer that does not comply in all material respects with the terms and conditions of these Developer Terms; (ii) access to or use of the Developer Tools by Developer in combination with any hardware or software not provided or approved by Gusto; (iii) modifications to the Developer Tools made by or on behalf of Developer that are not made or authorized by Gusto; or (iv) the Developer Application or any data, content, or other materials Developer and its users submit, upload, transmit, or otherwise make available through the API; (v) Developer's breach of Section 5 (Data Privacy and Security) or Section 12 (Confidential Information) or violation of any applicable law or regulation; (vi) a Security Incident suffered by Developer; or (vii) Developer's gross negligence, fraud or willful misconduct.

16. Limitation of Liability

IN NO EVENT WILL GUSTO BE LIABLE UNDER THESE DEVELOPER TERMS, WHETHER BASED UPON BREACH OF CONTRACT, BREACH OF WARRANTY, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE, FOR ANY INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, OR LOST PROFITS OR COST OF COVER, INCLUDING DAMAGES ARISING FROM ANY TYPE OR MANNER OF COMMERCIAL, BUSINESS OR FINANCIAL LOSS OCCASIONED BY OR RESULTING FROM ANY USE OF OR INABILITY TO USE THE DEVELOPER TOOLS OR ANY OTHER TOOLS OR DOCUMENTATION PROVIDED BY GUSTO UNDER THESE DEVELOPER TERMS, SUCH AS ANY MALFUNCTION, DEFECT OR FAILURE OF SUCH TOOLS OR THEIR DELIVERY VIA THE INTERNET, EVEN IF GUSTO HAD ACTUAL OR CONSTRUCTIVE KNOWLEDGE OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE.

IN NO EVENT WILL GUSTO BE LIABLE FOR ANY (I) ERRORS, MISTAKES, OR INACCURACIES OF THE DEVELOPER TOOLS; (II) PERSONAL INJURY OR PROPERTY DAMAGE RESULTING FROM USER'S OR THIRD PARTY PROVIDER'S ACCESS TO OR USE OF THE DEVELOPER'S TOOLS; (III) ANY DAMAGE, LOSS, OR INJURY RESULTING FROM ANY UNAUTHORIZED ACCESS OR USE OF THE DEVELOPER TOOLS; AND/OR (IV) ANY LOSS OR DAMAGE TO USER DATA RESULTING FROM THE ACCESS TO OR USE OF DEVELOPER TOOLS.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, GUSTO'S TOTAL LIABILITY IS LIMITED TO THE GREATER OF (I) THE AMOUNT OF ANY FEES PAID BY USER TO GUSTO IN CONNECTION WITH USER'S ACCESS TO AND USE OF THE DEVELOPER TERMS DURING THE SIX (6) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE CLAIM FOR LIABILITY OR (II) $100.

THIS LIMITATION OF LIABILITY SECTION APPLIES WHETHER THE ALLEGED LIABILITY IS BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER BASIS, EVEN IF GUSTO HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

17. Term, Termination, and Suspension

The term for these Developer Terms will commence upon Developer's acceptance of these Developer Terms and continue until either party gives written notice of termination effective thirty (30) days after such notice.

Gusto may terminate these Developer Terms in the event of (i) Developer's material breach of these Developer Terms if Developer does not cure the breach within five (5) days after receipt of written notice of such breach from Gusto; or (ii) Developer becomes insolvent or bankrupt; becomes the subject of any proceedings under bankruptcy, insolvency or debtor's relief law; has a receiver or manager appointed; makes an assignment for the benefit of creditors; or takes the benefit of any applicable law or statute in force for the winding up or liquidation of such party's business.

Notwithstanding the expiration or termination of these Developer Terms for any reason, neither party will be relieved of any duty, obligation, debt or liability that arose or accrued prior to the effective date of such expiration or termination. Upon expiration or termination of these Developer Terms for any reason: (i) Developer shall immediately cease all access to and use of the Developer Tools; and (ii) each party shall immediately cease all use of the other party's Confidential Information and return or destroy all copies of such Confidential Information that are within its custody or control. Sections 3, 5, 6, 10, and 12 – 23 and any sections of these Developer Terms which by their nature should survive, will survive and remain in effect even if these Developer Terms expire or terminate.

Gusto reserves the right to suspend Developer's access to and use of the Developer Tools immediately without notice or liability upon the occurrence of a Security Incident, security issue or breach of Section 10 herein. In the event of suspension, Gusto shall make commercially reasonable efforts to limit suspension to the minimum extent and duration necessary to eliminate the Security Incident. Gusto shall make commercially reasonable efforts to provide notice of such suspension to Developer, provided that Gusto will have no liability to Developer arising from any such suspension, including any failure or delay of Gusto in providing notice to Developer of such suspension.

18. Changes to the Developer Terms

Gusto may modify these Developer Terms at any time, in Gusto's sole discretion. If Gusto does so, Gusto shall post the modified Developer Terms on its website. It is important that Developer reviews and accepts any modified Developer Terms because Developer can continue to use the Developer Tools only if Developer accepts the modified Developer Terms, indicating to Gusto that Developer agrees to be bound by the modified Developer Terms. If Developer does not agree to be bound by the modified Developer Terms, then Developer may not continue to use the Developer Tools. Because the Developer Terms may evolve over time, Gusto may change or discontinue all or any part of the Developer Terms at any time and without notice, at Gusto's sole discretion.

19. Governing Law

These Developer Terms shall be interpreted and construed in accordance with the laws of the State of California, without regard to the conflicts of laws principles thereof.

20. Arbitration

Notwithstanding any other provision in these Developer Terms, and except as otherwise set forth in this section, if either Developer or Gusto has any dispute, controversy, or claim, whether founded in contract, tort, statutory, or common law, concerning, arising out of, or

relating to these Developer Terms, the Developer Tools, including any claim regarding the applicability, interpretation, scope, or validity of this arbitration clause and/or these Developer Terms (each of the foregoing, a "Legal Claim") that cannot be resolved directly between Developer and Gusto, then such Legal Claim will be settled by individual (not class or class-wide), confidential, binding arbitration administered by the American Arbitration Association ("AAA") in accordance with the then-current Commercial Arbitration Rules and Mediation Procedures of the AAA (the "AAA Rules"), including any expedited procedures. To initiate an arbitration proceeding, an arbitration claim must be submitted by the claimant (the "Claimant") to the AAA, and a written Demand for Arbitration must be provided to the other party (the "Opposing Party"), pursuant to the AAA Rules. Arbitration hearings will be held in San Francisco, California or any other location that is mutually agreed upon by Developer and Gusto. A single arbitrator will be mutually selected by Gusto and Developer and shall be (i) a practicing attorney licensed to practice law in California or a retired judge; and (ii) selected from the arbitrators on the AAA's roster of commercial dispute arbitrators who have a background in payroll, health insurance, human resources, and/or online commerce law (or if there are no such arbitrators, then from the arbitrators on the AAA's roster of commercial dispute arbitrators) (collectively, the "Arbitrator Requirements"). If Gusto and Developer cannot mutually agree upon an arbitrator within ten (10) days of the Opposing Party's receipt of the Demand for Arbitration from the Claimant, then the AAA shall appoint a single arbitrator that satisfies the Arbitrator Requirements. The arbitrator will follow the law and will give effect to any applicable statutes of limitation. The prevailing party shall be entitled to an award of the costs and expenses of the arbitration, including reasonable attorneys' fees and expert witness fees. The award rendered by the arbitrator shall be final and binding upon Developer and Gusto. A judgment on the award may be entered and enforced in any court of competent jurisdiction.

Either Gusto or Developer may assert claims, if the claims qualify, in small claims court in San Francisco, California. Either Gusto or Developer may bring a lawsuit solely for injunctive relief to stop unauthorized use or abuse of the Developer Tools or intellectual property infringement without first engaging in the above arbitration process. If found that the agreement to arbitrate does not apply to Developer or Developer's Legal Claim, then Developer agrees to the exclusive jurisdiction of the state and federal courts of San Francisco County, California to resolve the Legal Claim.

Developer and Gusto agree and acknowledge that these Developer Terms evidence a transaction involving interstate commerce and that the Federal Arbitration Act (Title 9 of the United States Code) shall govern the interpretation, enforcement, and proceedings pursuant to the arbitration clause in these Developer Terms. DEVELOPER FURTHER ACKNOWLEDGES, UNDERSTANDS, AND AGREES THAT DEVELOPER AND GUSTO ARE EACH WAIVING THEIR RESPECTIVE RIGHTS TO A TRIAL BY JURY AS TO DISPUTES HEREUNDER AND THAT DEVELOPER IS WAIVING ITS RIGHT TO PARTICIPATE IN ANY CLASS ACTION PROCEEDING ARISING FROM THESE DEVELOPER TERMS.

21. Gusto is Not Responsible for Things Gusto Cannot Control

Gusto is not responsible or liable for any delays or failures in performance from any cause beyond Gusto's control, including, but not limited to, acts of God, changes to laws or regulations, embargoes, wars, terrorist acts, acts or omissions of third-party technology providers, riots, fires, earthquakes, floods, power outages, strikes, weather conditions, acts of hackers, acts of internet service providers, acts of any other third party, or acts or omissions of Developer.

22. General

These Developer Terms constitute the entire agreement between Gusto and Developer regarding the Developer Tools and replace all prior understandings, communications, and agreements, oral or written, regarding this subject matter. These Developer Terms may be modified only by a written amendment signed by the parties or as otherwise provided in Section 18. If any part of this Developer Terms is deemed to be unenforceable or invalid, that section will be removed without affecting the remainder of the Developer Terms. The remaining terms will be valid and enforceable. Developer may not assign these Developer Terms, by operation of law or otherwise, without Gusto's prior written consent. Any attempt by Developer to assign or transfer these Developer Terms, without such consent, will be null. Gusto may freely assign or transfer these Developer Terms without restriction. The provisions of these Developer Terms shall inure to the benefit of, and be binding upon, the parties and their respective successors and permitted assigns.

Any notices or other communications provided by Gusto under these Developer Terms, including those regarding modifications to these Developer Terms, will be given: (i) via email; or (ii) by posting to the Gusto website. For notices made by e-mail, the date of receipt

will be deemed the date on which such notice is given. For notices made by posting to the Gusto website, the date of such posting will be deemed the date that notice is given. Gusto's failure to enforce any right or provision of these Developer Terms will not be considered a waiver of such right or provision. The waiver of any such right or provision will be effective only if in writing and signed by a duly authorized representative of Gusto. Except as expressly set forth in these Developer Terms, the exercise by either party of any of its remedies under these Developer Terms will be without prejudice to its other remedies under these Developer Terms or otherwise.

23. Electronic Transmission

These Developer Terms, and any amendments hereto, by whatever means accepted, shall be treated in all manner and respects as an original contract and shall be considered to have the same binding legal effect as if it were an original signed version thereof, delivered in person. Neither party hereto shall argue that a contract was not formed hereunder based on either (i) the use of electronic means to deliver a signature or to indicate acceptance of these Developer Terms or (ii) the fact that any signature or acceptance of these Developer Terms was transmitted or communicated through electronic means; and each party forever waives any related defense.

24. Notice

Except as otherwise set forth in these Developer Terms, all notices, demands and other communications to be given or delivered under or by reason of the provisions of these Developer Terms will be in writing and sent to the parties according to the contact information provided below. Developer is responsible for timely updating the email address affiliated with the Developer Account:

To Developer: At the email address associated with the Developer Account on file with Gusto.

To Gusto: Gusto, Attn: Legal, 525 20th Street, San Francisco, CA 94107, with copy to legal@gusto.com.