

# International Contractor Payments Beta Terms of Service

*Last Updated: March 24, 2021*

These Gusto International Contractor Payments Beta Terms of Service (the “*International Contractor Payments Beta Terms of Service*”), together with the Gusto Terms of Service Agreement available at <https://gusto.com/about/terms> (the “*Gusto Terms*”) and the Gusto Payroll Service Terms available at <https://gusto.com/about/terms/payroll> (the “*Payroll Terms*”) (collectively, the “*International Contractor Payments Beta Agreement*”), set forth the terms and conditions under which Gusto, Inc. (“*Gusto*”) at <https://gusto.com> (the “*Gusto Platform*”), agrees to provide eligible customers (each, a “*Customer*”) with the opportunity to process wire payments to independent contractors that are non-United States citizens that both have a permanent residence and are being paid for work performed outside the United States (each recipient, an “*International Contractor*” and each payment, an “*International Contractor Payment*”) (the “*International Contractor Payments Beta Service*”).

These International Contractor Payments Beta Terms of Service are “Terms of Service” under the Gusto Terms. Capitalized terms used but not otherwise defined in these International Contractor Payments Beta Terms of Service have the meanings ascribed to such terms in the Gusto Terms and the Payroll Terms, as applicable. The International Contractor Payments Beta Agreement is a legally binding agreement between Gusto and both the Customer and International Contractor, as applicable. Both the International Contractor and the individual agreeing to these International Contractor Payments Beta Terms of Service on behalf of Customer (the “*Authorized Signatory*”) are encouraged to read the International Contractor Payments Beta Agreement carefully and to save a copy of it for their records. The Authorized Signatory represents and warrants that such Authorized Signatory has the authority to bind Customer to the International Contractor Payments Beta Agreement. By (i) checking the box presented with these International Contractor Payments Beta Terms of Service, (ii) initiating a payment to using the International Contractor Payments Beta Service, or (iii) onboarding as an International Contractor for the purpose of receiving a payment using the International Contractor Payments Beta Service, effective as of the date of such action, International Contractor and Customer agree to be bound by the International Contractor Payments Beta Agreement.

## 1. These International Contractor Payments Beta Terms of Service are Part of and Governed by the Gusto Terms and the Payroll Terms

The terms and conditions of the Gusto Terms and the Payroll Terms, including but not limited to all representations, warranties, covenants, disclaimers, limitations on liability, agreements, and indemnities relating to the Payroll Service, are incorporated herein by reference. International Contractor and Customer acknowledge and agree that the representations, warranties, covenants, disclaimers, limitations on liability, agreements, and indemnities contained in the Gusto Terms and the Payroll Terms shall apply to International Contractor and Customer’s use of the International Contractor Payments Beta Service in full force and effect.

If the terms and conditions of these International Contractor Payments Beta Terms of Service conflict with the terms and conditions of the Gusto Terms or the Payroll Terms, then the order of precedence with respect to which terms and conditions control Customer’s or International Contractor’s use of the International Contractor Payments Beta Service will be as follows: the terms and conditions of these International Contractor Payments Beta Terms of Service, followed by the terms and conditions of the Payroll Terms, and lastly, followed by the terms and conditions of the Gusto Terms.

THE GUSTO TERMS, AVAILABLE AT [HTTPS://GUSTO.COM/ABOUT/TERMS](https://gusto.com/about/terms), CONTAIN IMPORTANT INFORMATION REGARDING LIMITATIONS OF GUSTO’S LIABILITY, GUSTO’S WARRANTY DISCLAIMERS, CUSTOMER’S INDEMNIFICATION OBLIGATIONS, CUSTOMER’S AND INTERNATIONAL CONTRACTOR’S DUTY TO MITIGATE DAMAGES, THE LAW GOVERNING GUSTO’S PROVISION OF THE INTERNATIONAL CONTRACTOR PAYMENTS BETA SERVICE, AND DISPUTE RESOLUTION PROCEDURES THEREUNDER.

## 2. Gusto Provision of the International Contractor Payments Beta Service is Governed by the

## International Contractor Payments Beta Agreement

Subject to the terms and conditions of the International Contractor Payments Beta Agreement, Gusto agrees to use commercially reasonable efforts to provide Customers and International Contractors with the International Contractor Payments Beta Service in accordance with the International Contractor Payments Beta Agreement.

### 3. Obligations Under the Gusto Terms

In addition to the obligations specified in these International Contractor Payments Beta Terms of Service, Customers and International Contractors have certain obligations under the Gusto Terms, including but not limited to obligations to (i) if a Customer, designate an Account Administrator; (ii) be responsible for actions taken under Customer's or International Contractor's Account; (iii) follow instructions Gusto provides to Customer and International Contractor with respect to the Services; (iv) provide accurate, timely, and complete information, and maintain the accuracy and completeness of such information, in order for Gusto to perform the Services; and (v) abide by certain obligations and refrain from taking certain prohibited actions, as described in further detail in Section 8 (User Is Responsible for Certain Information and Obligations Relating to the Services), Section 13 (General Prohibitions), and Section 21 (Duty to Mitigate) of the Gusto Terms.

### 4. International Contractor Payments Beta Service

Provided that Customer and International Contractor meet their obligations and comply with the terms of the International Contractor Payments Beta Agreement, Gusto will provide Customers and International Contractors with the International Contractor Payments Beta Service. The International Contractor Payments Beta Service shall be limited to (i) allowing Customers to submit basic information on behalf of and electronically send invitations to International Contractors to onboard to Gusto; (ii) collecting personal information from International Contractors as necessary to perform identity screening, such screening as described in Section 6 of this Agreement; (iii) assisting Customers with United States Internal Revenue Service recordkeeping requirements for International Contractor Payments through the mandatory intake of the [W-8BEN](#) or [W-8BEN-E](#) tax forms, as applicable; and (iv) provided that International Contractors successfully complete Sanctions Screening, allowing Customers to process wire payments to International Contractors on the Gusto Platform.

### 5. Currency Conversion

When processing an International Contractor Payment, Customer may submit amounts to be paid to an International Contractor in either a foreign currency ("*Foreign Currency*") or United States Dollars ("*USD*"). Gusto will convert the International Contractor Payment using the then-current foreign exchange rate provided to Gusto by its applicable payment partners. Customer acknowledges that Gusto may implement minimum payment thresholds, which may vary by country and be updated from time to time. If Customer believes that the currency conversion of the International Contractor Payment presented is incorrect, Customer should not submit the International Contractor Payment. Once an International Contractor Payment is submitted, Gusto will (i) debit Customer's designated bank account for the International Contractor Payment in USD; and (ii) initiate a wire payment to the International Contractor in either the Foreign Currency or USD, as selected by the Customer.

Customer acknowledges and agrees that Customer will be unable to modify or delete an International Contractor Payment after 4pm (Pacific Time) on the business day on which an International Contractor Payment is submitted. As such, Customer should carefully review all information and amounts before submitting the International Contractor Payment, including but not limited to: bank institution number, bank name, transit number, bank account number, and Swift code. Failure to do so may result in the forfeiture of an International Contractor Payment to the extent that an International Contractor Payment is routed to an incorrect bank account.

### 6. Eligibility and Sanctions Screening

In order to qualify as an International Contractor and be eligible to receive payments through the International Contractor Payments

Beta Service, the recipient of any payment must: (i) be classified as an independent contractor and not as an employee under applicable employment laws; (ii) be at least eighteen years of age; (iii) permanently reside and perform the work to be paid via the International Contractor Payments Beta Service in an eligible foreign country; (iv) provide Mandatory Personal Information (as defined below), either directly or through Customer, for the purposes of identity verification, fraud protection, risk assessment, permissible payment review, provision of the International Contractor Payments Beta Service, and compliance with Applicable Laws; and (v) successfully pass Gusto and its payment partner's screenings related to identity verification, fraud protection, and risk assessment. If an International Contractor does not successfully pass sanctions or related screenings, then International Contractor cannot be paid via the International Contractor Payments Beta Service. "**Mandatory Personal Information**" is defined as an International Contractor's: full legal name, full business name (if applicable), date of birth, permanent residence, mailing address (if different from permanent residence address), foreign tax identifying number, and bank account information. Additional information may be requested and required to confirm eligibility and to complete the sanctions or related screenings.

## 7. Provision and Certification of Required United States Tax Forms

In addition to the eligibility requirements set forth in Section 6 of these International Contractor Payments Beta Terms of Service, International Contractor must fill out, sign and upload to the Gusto Platform an accurate, complete, and certified copy of either IRS Form [W-8BEN](#) or [W-8BEN-E](#) for the purposes of Gusto and Customer's recordkeeping. International Contractor should carefully read the instructions associated with the [Instructions for Form W-8BEN](#) or Instructions for [Form W-8BEN-E](#), as applicable.

If completing IRS Form W-8BEN or W-8BEN-E, International Contractor must certify under penalties of perjury that: (i) International Contractor is not a U.S. person; (ii) International Contractor is a resident of an eligible foreign country within the meaning of the income tax treaty between the United States and said eligible foreign country; and (iii) the income to which payment is sought via the International Payments Beta Service is: (a) not effectively connected with the conduct of a trade or business in the United States; (b) effectively connected but is not subject to tax under an applicable income tax treaty; or (c) the partner's share of a partnership's effectively connected income.

Once submitted, International Contractor will be unable to modify IRS Form W-8BEN or W-8BEN-E on the Gusto platform. If International Contractor changes their permanent address or otherwise needs to amend IRS Form W-8BEN or W-8BEN-E, International Contractor agrees to work directly with Customer to provide Customer and Gusto with such amended Forms.

## 8. Service Fees and Charges

As part of the International Contractor Payments Beta Service, Gusto will invoice and debit Customer on a monthly basis. Customer agrees to pay Gusto (i) in accordance with the plan pricing listed at <https://gusto.com/product/pricing> (as such list may be updated, modified, or otherwise changed from time to time); in addition to (ii) the "**International Contractor Payments Beta Services Fees**" as displayed by Gusto and agreed to be paid by Customer upon Customer's submission of an International Contractor Payment. Customer further authorizes Gusto to debit Customer's designated bank account, as specified by Customer through the Gusto Platform, for all International Contractor Payments Beta Services Fees as they become payable during the Term.

Additionally, Customer agrees to reimburse Gusto for any sales, use, and similar taxes arising from the provision of the International Contractor Payments Beta Service that any federal, state, or local governments may impose. Any such taxes will be included on Customer's monthly invoice.

Gusto does not invoice or charge International Contractors fees for their receipt of payments through the International Contractor Payments Beta Service. Gusto is not responsible and will not reimburse International Contractor for any fees directly incurred as a result of an International Contractor Payment, such as but not limited to transaction or foreign exchange fees imposed by International Contractor's financial institution.

## 9. Compliance with Laws

Customers and International Contractors must comply with any and all laws, rules, or regulations applicable to the International Contractor Payments Beta Service (collectively, the "**Applicable Laws**"). Customer and International Contractor acknowledge and agree that the International Contractor Payments Beta Service does not include: (a) payments to International Contractors not residing and performing work in eligible foreign countries; (b) employment law guidance as it relates to contractor classification; or (c) tax guidance as it relates to U.S. or foreign tax withholding or reporting. Any information that Gusto provides in connection with the International Contractor Payments Beta Service is for informational purposes only and should not be construed by Customer as legal, tax, or accounting advice. Gusto highly recommends that Customer consult with a legal counsel or tax expert prior to Customer's use of the International Contractor Payments Beta Service.

Customer acknowledges and agrees that it is solely responsible for reviewing any tax documentation provided by International Contractor for accuracy and completeness.

International Contractor acknowledges and agrees that it is solely responsible for calculating, filing, and/or remitting taxes owed to any domestic or foreign tax agency related to its receipt of International Contractor Payments.

## 10. Modifications

Because the International Contractor Payments Beta Service is still under development, Gusto may change or discontinue all or any part of the International Contractor Payments Beta Service at any time, with or without notice, at Gusto's sole discretion. Gusto may also modify, amend, or restate the International Contractor Payments Beta Agreement at any time, in Gusto's sole discretion. If Gusto does so, Gusto shall let Customer know either by posting the modified International Contractor Payments Beta Agreement on the Gusto Platform or through other electronic communications. It is important that Customer review and agree to the International Contractor Payments Beta Agreement whenever Gusto modifies it because if Customer continues to use the International Contractor Payments Beta Service after Gusto has notified Customer of the modified Customer Agreement, Customer agrees to be bound by the modified International Contractor Payments Beta Agreement. If Customer does not agree to be bound by the modified International Contractor Payments Beta Agreement, then Customer may not continue to use the International Contractor Payments Beta Service.

## 11. Term and Termination

The International Contractor Payments Beta Agreement will commence when Customer agrees to the International Contractor Payments Beta Agreement, and it will terminate upon the earlier to occur of (a) the initial commercial release by Gusto of a generally available version of the International Contractor Payments Beta Service; and (b) termination of the International Contractor Payments Beta Agreement by Gusto or Customer in accordance with this Section 11 (the "**Term**").

Gusto reserves the right to suspend or terminate any Customer from the International Contractor Payments Beta Service or the Gusto Services, in accordance with this Section 11 of this International Contractor Payments Beta Agreement, to the extent that Customer or International Contractor utilizes the International Contractor Payments Beta Service in a manner that is inconsistent with these International Contractor Payments Beta Terms of Service.

Gusto may immediately (i) suspend or restrict Customer's Account; (ii) suspend or restrict Customer's or International Contractor's access to the Gusto Platform or the International Contractor Payments Beta Service; (iii) block Customer's or International Contractor's ability to use any particular feature of the International Contractor Payments Beta Service; or (iv) terminate the International Contractor Payments Beta Service and the International Contractor Payments Beta Agreement, in each case with or without notice to Customer or International Contractor, in the event that: (i) Gusto has reason to suspect that Customer or International Contractor may be in violation of the International Contractor Payments Beta Agreement or any Applicable Laws; (ii) Gusto determines that Customer's or International Contractor's actions are likely to cause legal liability for or negative impact to Gusto; or (iii) Gusto believes that Customer or International Contractor has misrepresented any data or information or that Customer or International Contractor has engaged in fraudulent or deceptive practices or illegal activities.

Upon any expiration or termination of the International Contractor Payments Beta Agreement, Customer's right to access and use the International Contractor Payments Beta Service will automatically terminate; provided, however, that Gusto will generally continue to

provide Customer with the Limited Access Rights described in Section 22 (Term; Termination; Suspension) of the Gusto Terms, subject to the terms and conditions therein.

## 12. 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, pandemics, 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 Customer.

## 13. Indemnification

Customer will indemnify and hold harmless Gusto and its officers, directors, employees, and agents (the "*Indemnified Parties*") from and against any claims, disputes, demands, liabilities, damages, losses, costs, judgements, penalties, fines, and expenses (including, without limitation, reasonable legal and accounting fees) arising out of or in any way connected with Customer's or International Contractor's (i) access to the International Contractor Payments Beta Service; (ii) violation or alleged violation of the International Contractor Payments Beta Agreement; (iii) violation or alleged violation of any third-party right, including any right of privacy or publicity; (iv) breach of covenants, representations, or warranties; (v) violation of any law, regulation, or treaty; (vi) negligence, fraudulent activity, or willful misconduct; (vii) failure to follow Gusto's instructions with respect to the International Contractor Payments Beta Service. Lastly, Customer shall indemnify and hold harmless Indemnified Party's use of or reliance on information or data furnished by Customer or International Contractors in providing the International Contractor Payments Beta Service.

## 14. Limitation of Liability

Gusto is not responsible or liable for: (i) Customer's or International Contractor's use or inability to use the International Contractor Payments Beta Service; (ii) any information obtained from or relied upon as a result of the International Contractor Payments Beta Service; (iii) any interruption, error, delay, or failure arising out of or in connection with the International Contractor Payments Beta Service; or (iv) Customer's or International Contractor's violation of Applicable Law arising out of or in connection with the International Contractor Payments Beta Service. Maximum liability is amounts actually Customer has paid to Gusto for use of the International Contractor Payments Beta Service in the six (6) month period immediately preceding the date of the events that give rise to the applicable claim, up to a maximum of 1,000 USD. Recovery of the above amount is the sole and exclusive remedy.

## 15. Data Privacy

Customer acknowledges and agrees that Gusto is (i) a data controller as it relates to information it collects from Customer about Customer; and (ii) a data processor as it relates to information collected or processed by Customer about International Contractor in order for Customer to hire and/or pay International Contractor via the Gusto Service. Gusto's [Privacy Policy](#) governs Gusto activities as a data controller. The International Contractor Payments Beta Service Terms, in combination with Customer's employment and/or other contracts, set out the roles and responsibilities of each party as it relates to International Contractor's privacy rights. Any questions or requests relating to Customer Data should be directed to Customer. International Contractor should contact Customer as the data controller in order to exercise International Contractor's privacy rights.