

Payroll Service Terms

Last updated September 26, 2017

These Payroll Service Terms (these “Payroll Terms”), together with the Gusto Terms of Service Agreement available at www.gusto.com/about/terms (the “Gusto Terms”) (collectively, the “Payroll Agreement”), set forth the terms and conditions under which ZenPayroll, Inc., a Delaware corporation doing business as Gusto (“Gusto”), agrees to provide to User certain payroll services and other related services (the “Payroll Service”), which are provided through Gusto’s website, www.gusto.com.

These Payroll Terms are “Service Terms” under the Gusto Terms. Capitalized terms used but not otherwise defined in these Payroll Terms shall have the meanings ascribed to such terms in the Gusto Terms. The Payroll Agreement is a legally binding agreement between User and Gusto. User is encouraged to read the Payroll Agreement carefully and to save a copy of it for User’s records. If User is agreeing to these Payroll Terms on behalf of a business or an individual other than User, User represents and warrants that User has authority to bind that business or other individual to the Payroll Agreement, and User’s agreement to these terms will be treated as the agreement of such business or individual. In that event, “User” (as defined in the Gusto Terms) also refers to that business or individual. By (i) clicking the applicable button to indicate User’s Service Plan choice, (ii) clicking the applicable button to indicate User’s acceptance of the Payroll Agreement, or (iii) accessing or using the Payroll Service, User accepts the Payroll Agreement, and User agrees, effective as of the date of such action, to be bound by the Payroll Agreement.

1. These Payroll Terms Are Part of and Are Governed by the Gusto Terms

The terms and conditions of the Gusto Terms agreed to in connection with the creation of User's Account, including but not limited to all representations, warranties, covenants, disclaimers, limitations on liability, agreements, and indemnities relating to the Services, are incorporated herein by reference, and User acknowledges and agrees that the representations, warranties, covenants, disclaimers, limitations on liability, agreements, and indemnities contained in the Gusto Terms shall remain in full force and effect to the full extent provided therein.

If the terms and conditions of these Payroll Terms conflict with the terms and conditions of the Gusto Terms, the terms and conditions of these Payroll Terms shall control with respect to the provision of the Payroll Service.

THE GUSTO TERMS, AVAILABLE AT WWW.GUSTO.COM/ABOUT/TERMS, CONTAIN IMPORTANT INFORMATION REGARDING LIMITATIONS OF GUSTO'S LIABILITY, GUSTO'S WARRANTY DISCLAIMERS, USER'S INDEMNIFICATION OBLIGATIONS, USER'S DUTY TO MITIGATE DAMAGES, THE LAW GOVERNING THE PAYROLL AGREEMENT, AND DISPUTE RESOLUTION PROCEDURES THEREUNDER.

2. Gusto's Provision of the Payroll Service Is Governed by the Payroll Agreement

Subject to the terms and conditions of the Payroll Agreement, Gusto agrees to use reasonable efforts to provide User with the Payroll Service in accordance with the Payroll Agreement.

3. Obligations Under the Gusto Terms

In addition to the obligations specified in these Payroll Terms, User has certain obligations under the Gusto Terms, including but not limited to

obligations to (i) designate an Account Administrator; (ii) be responsible for actions taken under User's Account; (iii) follow instructions that Gusto provides to User with respect to the Payroll Service; (iv) provide accurate, timely, and complete information required for Gusto to perform the Payroll Service and maintain the accuracy and completeness of such information; (v) notify Gusto of third-party notices, such as Internal Revenue Service ("IRS") penalty notices, which could affect Gusto's ability to effectively provide the Payroll Service or which could increase the likelihood that a Claim is brought against User or Gusto in connection with the Payroll Service; and (vi) 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) and Section 13 (General Prohibitions) of the Gusto Terms.

4. Payroll Service

Provided that User meets User's payment obligations and complies with the terms of the Payroll Agreement, then as long as User is subscribed to the Payroll Service, Gusto will provide User with the Payroll Service for the purposes of (i) calculating payroll and its associated liabilities for User's business; (ii) processing payroll and making related payroll payments; (iii) making certain payroll tax payments and payroll tax filings electronically; and (iv) if applicable, sending wage garnishments, such as child support payments, to applicable local, state, or federal agencies. In performing the Payroll Service, including for each of the foregoing purposes, Gusto will rely on the information furnished by User, User's Account Administrators, or User's Authorized Representatives, and Gusto is not responsible or liable for any errors resulting from such reliance, as further described in Section 20 (Limitation of Liability) of the Gusto Terms. User may not use the Payroll Service on a professional basis for anyone other than User, unless User is actively participating in a Gusto accountant program, in

which case User may use the Payroll Service in accordance with the terms of such program.

Depending on the type of Payroll Service User requests, User may need to agree to additional terms and conditions and complete and sign additional forms or authorizations that Gusto provides to User, as required by law or as otherwise necessary to provide the Payroll Service.

Prior to User's initial payroll processing date, User must submit the completed and executed documents Gusto requires for providing the Payroll Service, including User's payroll and bank account information, any required federal, state, or local powers of attorney, and any additional information requested by Gusto. The Payroll Service provided will be based on and is dependent upon information provided to Gusto by User (including proof of federal, state, and local tax identification numbers). Failure to provide the required documents may adversely impact Gusto's ability to perform the Payroll Service. User is also responsible for: (i) depositing any federal, state, and local withholding liabilities incurred prior to enrolling in the Payroll Service; (ii) submitting any payroll returns to tax agencies (state, federal, and/or local) that were due for payroll tax liabilities incurred prior to enrolling in the Payroll Service; and (iii) cancelling any prior payroll service or services of professional employee organizations/employee leasing companies.

In performing the Payroll Service, User acknowledges and agrees that (i) Gusto is not acting in a fiduciary capacity for User and/or User's business; (ii) using the Payroll Service does not relieve User of User's obligations under local, state, or federal laws or regulations to retain records relating to User's data contained in Gusto's files; and (iii) any information that Gusto provides in connection with the Payroll Service is for informational purposes only and should not be construed by User as legal, tax, or accounting advice.

5. Payroll Account

An Account Administrator or Authorized Representative shall approve and submit the Payroll Information (as defined below), thereby authorizing Gusto to create and transmit credit or debit entries (the “Entries”) necessary to process User’s payroll and payroll tax transactions.

6. Payroll Information

Gusto will notify User via electronic communication or by other means when all information necessary to begin the Payroll Service has been received and the enrollment process for the Payroll Service has been completed. User shall then, prior to submitting User’s first payroll, review the Payroll Information for completeness and accuracy. For the purposes of the Payroll Agreement, “Payroll Information” shall mean any information provided to Gusto in connection with the Payroll Service, including but not limited to information provided by User, Account Administrators, Authorized Representatives, User’s employees, or User’s independent contractors, and all information posted in connection with the Payroll Service for User’s review on the Platform or otherwise requested for review by Gusto, such as the information used to calculate and pay employee payroll, track User’s defined employee benefits, pay payroll taxes to applicable taxing agencies (including User’s employer identification number(s), unemployment insurance tax rates, and employment tax deposit schedule), produce payroll tax returns and W-2 statements, and print checks on User’s Account (if applicable). User must correct or provide, respectively, any incorrect or missing Payroll Information, either through the Platform or by notifying Gusto in the manner specified in the applicable electronic communication received by User and within the time period specified therein. User is fully responsible for the accuracy of all information User provides, submits, and/or approves (whether provided directly or through User’s Account Administrators or Authorized

Representatives), and User is solely responsible for any Claims, including but not limited to IRS penalties and/or interest, and other penalties and/or interest arising from the failure to timely provide and maintain accurate and complete Payroll Information at all times.

User agrees that by submitting each payroll (including the first payroll): (i) User approves all Payroll Information; (ii) User represents and warrants to Gusto that no Payroll Information submitted to Gusto will result in Entries that would violate the sanctions program of the Office of Foreign Assets Control of the U.S. Department of the Treasury or any other applicable laws, rules, or regulations; (iii) User waives and releases any Claim against Gusto arising out of any errors or omissions in the Payroll Information which User has not corrected (whether directly or through User's Account Administrators or Authorized Representatives) or has not requested Gusto to correct; and (iv) User acknowledges that any subsequent request for corrections will be considered special handling, and additional fees may be charged. Final responsibility for any audits or assessments rests with User. Gusto will not have any responsibility for verifying the accuracy of any data User provides via the Platform or via any other method.

User acknowledges, agrees, and understands that (i) any information or instructions (including but not limited to Payroll Information and Entries) communicated to Gusto by User, an Account Administrator, or an Authorized Representative (or anyone that Gusto reasonably believes to be User, an Account Administrator, or an Authorized Representative) will be deemed fully authorized by User, and User shall be fully responsible for the accuracy of such information and instructions, and any Claims, including but not limited to any IRS penalties and/or interest or other penalties and/or interest arising therefrom; and (ii) notwithstanding such deemed authorization, Gusto may in its sole discretion refuse to accept or act upon any such instructions.

Gusto, its employees, and agents will only collect, use, and disclose data furnished by User or produced by Gusto under this Agreement in accordance with Gusto's [Privacy Policy](#).

7. Payroll Authorizations

Gusto will use reasonable efforts to verify that anyone providing an instruction to approve, release, cancel, or amend the Payroll Information used to create Entries (each, a "Payment Order") to be originated by Gusto is either User, an Account Administrator, or an Authorized Representative. Gusto does not verify or review Payment Orders for the purpose of detecting any errors; it is User's responsibility to verify the accuracy of Payment Orders. User will be bound by any Payment Order that is received by Gusto in compliance with this designated authorization procedure, and User shall indemnify and hold Gusto and the other Indemnified Parties harmless from and against any Claims arising from the execution of a Payment Order in good faith and in compliance with such procedures.

If a Payment Order describes the payee inconsistently by name and account number, (i) payment may be made on the basis of the account number even if User identifies a person different from the named payee; or (ii) Gusto may, in its sole discretion, refuse to accept or may return the Payment Order. If a Payment Order describes a participating financial institution inconsistently by name and identification number, the identification number may be relied upon as the proper identification of the financial institution. If a Payment Order identifies a non-existent or unidentifiable person or account as the payee or the payee's account, Gusto may, in its sole discretion, refuse to accept or may return the Payment Order.

8. Bank Account Debiting and Crediting

On or prior to User's payroll direct deposit and/or payroll tax deposit date

or other applicable settlement or due date, User authorizes Gusto to initiate debit Entries to the Bank Account at the depository financial institution indicated by the routing number associated with the Bank Account that User provides to Gusto (the “Bank”), and to debit the Bank Account in such amounts as are necessary to (i) fund User’s direct deposits; (ii) pay any fees or charges associated with the Payroll Service, including, without limitation, finance charges; (iii) pay User’s payroll taxes; (iv) pay any debit, correcting, or reversing Entry initiated pursuant to the Payroll Agreement which is later returned to Gusto; (v) verify the Bank Account through a test deposit or debit authorization; and (vi) pay any other amount that is owing under the Payroll Agreement or in connection with the Payroll Service. User also authorizes Gusto to initiate credit Entries to the Bank Account in the event that Gusto is required to return Unpaid Funds to User, as described in Section 15 of these Payroll Terms. These authorizations are to remain in full force and effect until Gusto has received written notice from User of termination of any such authorizations in such time and such manner as to afford Gusto and the Bank a reasonable opportunity to act upon such notice. Gusto is not responsible for determining whether the bank accounts of any payors or payees have deposit or withdrawal restrictions.

User acknowledges that the origination of Automated Clearing House (“ACH”) transactions to the Payroll Account (as defined below) and the transmission of funds via ACH transactions to the payee’s account must comply with applicable laws, rules, and regulations, including the NACHA Rules and Article 4A of the Uniform Commercial Code, as adopted in California and as may be amended from time to time (as amended, the “UCC”).

9. Requirements for Bank Account Funds

User will maintain in the Bank Account, as of the applicable payroll direct

deposit date, payroll tax deposit date, or other settlement or due date and time, immediately available funds sufficient to cover all disbursements, fees, payroll taxes or any other amounts due (collectively, the “Amounts Due”) under the Payroll Agreement. User’s obligation to have sufficient funds in the Bank Account to cover the Amounts Due matures at the time Gusto originates the applicable Entries for the Amounts Due and is unaffected by termination of the Payroll Service. Gusto may set off any amounts User owes to it against any amounts it owes to User in order for Gusto to obtain payment of User’s obligations as set forth in the Payroll Agreement.

If User does not have sufficient funds in the Bank Account to pay the Amounts Due at the time required, or if User refuses to pay the Amounts Due, then Gusto will not be able to pay out the Amounts Due to the applicable parties and will not be liable for any consequences or Claims directly or indirectly arising from such failure to pay, and Gusto may (i) debit the Bank Account or any other account owned in whole or in part by User to pay disbursements, fees or charges, payroll taxes, or other amounts due; (ii) refuse to pay any unremitted payroll taxes to the applicable tax agencies, in which case the payroll tax liability will become User’s sole responsibility; (iii) refuse to perform further Services; and/or (iv) immediately terminate the Payroll Agreement. For any amounts due and unpaid, Gusto may assess finance charges on such amounts and recover certain fees and costs of collection associated with such amounts in accordance with Section 2 (Services Fees and Charges) of the Gusto Terms.

10. Certain User Agreements and Acknowledgments

Amounts withdrawn from the Bank Account for payroll direct deposits and payroll taxes (“Payroll Funds”) will be held by Gusto in accounts at Gusto’s financial institutions (collectively, the “Payroll Account”) until such time as

those payments are due to User's employees and/or independent contractors and the appropriate taxing agencies, and no interest will be paid to User on these amounts. User acknowledges that Gusto is entitled to invest the Payroll Funds in accordance with its investment guidelines established from time to time, and that Gusto, in its own capacity, is entitled to all income and gains derived from or realized from such investments and is not accountable to User, User's employees, or any other person for such income or gains. In order to facilitate the timely payment of payroll direct deposits and payroll taxes, Gusto may pledge any investments held in the Payroll Account in connection with a loan, rather than convert such investments to cash for each tax payment. To the extent Gusto receives the Payroll Funds, Gusto shall indemnify and hold User harmless from and against any loss of any portion of the principal amount of the Payroll Funds (including any losses of principal resulting from the investment of the Payroll Funds) caused by Gusto while holding the funds in its Payroll Account. If Gusto incurs losses on the investment of the Payroll Funds or uses the Payroll Funds for any other purpose, Gusto will make the required payroll direct deposits and payroll tax deposits on User's behalf by using Gusto's own funds or other assets. User acknowledges that no state or federal agency monitors or assumes any responsibility for Gusto's financial solvency.

Gusto calculates applicable payroll taxes in accordance with state requirements; however, due to differences in computational methods (e.g., rounding), it is possible that Gusto's computation of User's applicable taxes may deviate in a fractional manner from the amount charged by an applicable taxing authority (typically a difference of less than \$0.10 per taxing authority per payroll). Sometimes, this will result in Gusto withdrawing slightly less than what ultimately is required to be remitted to the applicable taxing authority. In this case, User agrees that Gusto's computation is correct, but Gusto will cover the difference on User's behalf

and will not seek additional funds from User. Sometimes, this will result in Gusto withdrawing slightly more than what ultimately is required to be remitted to the applicable taxing authority. In this case, User agrees that Gusto's computation is correct, and that User is not entitled to a refund of or credit for the excess funds.

In the event that Gusto erroneously credits an amount to the Bank Account in excess of the amount that should have been credited (the "Excess Credit Amount"), if any, then User shall promptly notify Gusto as soon as it becomes aware of such erroneous credit. User authorizes Gusto to debit any Excess Credit Amounts from the Bank Account, and if the Bank Account contains insufficient funds to cover the Excess Credit Amount, User agrees to promptly refund the Excess Credit Amount to Gusto through other payment methods that Gusto may deem acceptable at its sole discretion.

11. ACH Origination

The Payroll Service will enable User to enter the Payroll Information and to approve and submit it to Gusto for creation, formatting, and transmission of Entries in accordance with the NACHA Rules and the UCC. Gusto may reject any Payroll Information or Entry which does not comply with the requirements in the Payroll Agreement, NACHA Rules, or the UCC, or with respect to which the Bank Account does not contain sufficient available funds to pay for the Entry. If any Payroll Information or Entry is rejected, Gusto will make a reasonable effort to notify User promptly so that User may correct such Payroll Information or request that Gusto correct the Entry and resubmit it. A notice of rejection of Payroll Information or an Entry (each, a "Rejection Notice") will be effective when given and may be delivered through any means, including via email or through User's Account. Gusto will have no liability to User for (i) the rejection of any Payroll Information or Entry or any Claims directly or indirectly arising

therefrom; or (ii) any delay in providing, or any failure to provide, User with a Rejection Notice, or any Claims arising directly or indirectly therefrom. If User requests that Gusto correct any Payroll Information or Entries on User's behalf, Gusto may attempt to do so; provided, however, that Gusto is not obligated to make any requested correction, and Gusto is not liable for any Claims or other consequences that may directly or indirectly result from Gusto's attempt to correct, or failure to correct, such Payroll Information or Entries.

After the Payroll Information has been approved by an Account Administrator and submitted to Gusto for the purposes of initiating a payroll-related transaction (such action, to "Submit," and Payroll Information that has been submitted in the foregoing manner, "Submitted Payroll Information") and received by Gusto, User may not be able to cancel or amend such Submitted Payroll Information. Gusto will use reasonable efforts to act on any cancellation or amendment requests it receives from an Account Administrator prior to transmitting the Entries to the ACH or gateway operator, but will have no liability if the cancellation or amendment is not effected. User will reimburse Gusto for any expenses, losses, fines, penalties, or damages Gusto may incur in effecting or attempting to effect such a request. Except for Entries created from Payroll Information that has been re-approved and re-Submitted by an Account Administrator in accordance with the requirements of the Payroll Agreement, Gusto will have no obligation to retransmit a returned Entry to the ACH or gateway operator if Gusto complied with the terms of the Payroll Agreement with respect to the original Entry.

12. Payroll Processing Schedule

Gusto will process the Submitted Payroll Information and Entries in accordance with Gusto's then-current processing schedule applicable to User, provided that (i) the Submitted Payroll Information is received by

Gusto no later than User's applicable cut-off time for Submitted Payroll Information on a business day; and (ii) the ACH is open for business on that business day. If Gusto receives approved and Submitted Payroll Information after the applicable cut-off time for Submitted Payroll Information on a given business day, or if Gusto receives the Submitted Payroll Information on a non-business day, Gusto will not be responsible for failure to process the Submitted Payroll Information on that day. If any of the requirements of clauses (i) or (ii) of this paragraph are not satisfied, Gusto will use reasonable efforts to process the Submitted Payroll Information and transmit the Entries to the ACH with the next regularly-scheduled file created by Gusto (which will only occur on a business day on which the ACH is open for business).

Gusto's standard processing time for payroll and contractor payments is four (4) business days, but if User qualifies for one of Gusto's expedited payroll processing programs (each, an "Expedited Payroll Program"), then subject to the provisions of this paragraph, and subject to an Account Administrator approving and Submitting Payroll Information to Gusto, Gusto will process User's payroll and contractor payments in less than four (4) business days. Whether User initially qualifies for or continues to qualify for Gusto's Expedited Payroll Programs is at the sole discretion of Gusto, and Gusto has no obligation to provide expedited payroll processing services to User. If Gusto processes User's payroll and/or contractor payments through an Expedited Payroll Program and the Bank Account has insufficient funds to cover such Amounts Due for such payroll and/or contractor payments, or the Bank otherwise rejects the portions of the ACH files originated by Gusto that relate to Entries for such Amounts Due, then User will owe, and be liable to Gusto for, such Amounts Due (the "Expedited Payroll Amounts Due"). User will ensure that any Expedited Payroll Amounts Due are promptly paid to Gusto via a payment method that Gusto, in its sole discretion, determines is acceptable. If User is liable

for any Expedited Payroll Amounts Due or if Gusto has any reason to believe that User may be in violation of the Payroll Agreement, then Gusto may immediately revoke User's eligibility for any Expedited Payroll Program. This provision shall not limit Gusto from exercising any other rights or remedies it may have under the Payroll Agreement to recover the Expedited Payroll Amounts Due.

13. ACH Transactions and Entries

Origination, receipt, return, adjustment, correction, cancellation, amendment, and transmission of Entries must be in accordance with the NACHA Rules, and, with respect to credit Entries which constitute Payment Orders, the UCC, as both are varied by this Agreement. User acknowledges that User has had an opportunity to review, and agrees to comply with, and be bound by, the NACHA Rules and the UCC.

Credit given by Gusto to User with respect to an ACH credit Entry is provisional until Gusto receives final settlement for such Entry through a Federal Reserve Bank. If Gusto does not receive such final settlement, User is hereby notified and agrees that Gusto is entitled to a refund from User in the amount credited to User in connection with such Entry, and the party making payment to User via such Entry (i.e., the Originator (as defined in the NACHA Rules) of the Entry) shall not be deemed to have paid User in the amount of such Entry.

Upon User's request, Gusto will make a reasonable effort to reverse an Entry, but will have no responsibility for the failure of any other person or entity to honor User's request, and Gusto cannot guarantee that the Entry will be successfully reversed. User agrees to reimburse Gusto for any costs or expenses incurred in attempting to honor such a reversal request. If required under the NACHA Rules or the UCC, User must obtain a payee's consent before attempting to reverse an Entry that was credited to such

payee. By initiating a request to reverse an Entry that was credited to a payee, User represents and warrants to Gusto that it has already obtained the payee's consent for the reversal, if such consent is required under the NACHA Rules or the UCC.

Under the NACHA Rules, which are applicable to ACH transactions involving User's Account, Gusto is not required to give next day notice to User of receipt of an ACH item and Gusto will not do so. However, Gusto will continue to inform User of the receipt of payments in the periodic Bank Account transaction history report that Gusto makes available to User in User's Account. User acknowledges and understands that while User may not be notified via email of every Bank Account transaction initiated by Gusto in connection with the Payroll Service, User may view its Bank Account transaction information in User's Account.

User expressly acknowledges that Gusto does not intentionally or knowingly engage in or support International ACH Transactions ("IATs"), as defined in the NACHA Rules. User represents and warrants that (i) the direct funding for the Entries originated by Gusto on behalf of User does not come from or involve a financial agency office that is located outside the territorial jurisdiction of the United States; (ii) User will not instruct Gusto to create, originate, or transmit Entries that use IAT as the Standard Entry Class Code (as defined in the NACHA Rules), or are otherwise required to be IATs under the NACHA Rules; and (iii) User will not engage in any act or omission that causes or results in Gusto creating, originating, or transmitting an IAT or a payment that should have been categorized as an IAT pursuant to the NACHA Rules. Gusto may, in its sole discretion, temporarily or permanently suspend providing the Payroll Service to User, without liability, if Gusto has reason to believe that User has breached any of the foregoing representations and warranties in this paragraph. User acknowledges that User is the Originator (as defined in the NACHA Rules)

of each Entry and assumes the responsibilities of an Originator under the NACHA Rules. User further acknowledges that under the NACHA Rules and the UCC, Gusto, as a Third-Party Sender (as defined in the NACHA Rules), is required to make certain warranties on behalf of the Originator with respect to each Entry. User agrees to indemnify Gusto for any Claim which results, directly or indirectly, from a breach of such a warranty made by Gusto on behalf of User, unless such breach results solely from Gusto's own gross negligence or intentional misconduct. User also acknowledges that under the NACHA Rules and the UCC, Gusto is required to indemnify certain persons, including, without limitation, the ODFI (as defined in the NACHA Rules), for the Originator's failure to perform its obligations thereunder. User agrees to indemnify Gusto for any Claims which result from the enforcement of such an indemnity, unless the enforcement results solely from Gusto's own gross negligence or intentional misconduct.

14. Taxes; Liability

In order to use the Payroll Service, User must submit accurate wage and payroll information to Gusto during and after the enrollment process. Gusto will not be liable for any penalty, interest, or other Claim that results from inaccurate or incomplete information that User, an Account Administrator, or an Authorized Representative supplies. Gusto shall only file tax returns on User's behalf once User has processed User's payroll through the Platform and the payroll has been paid out to the payees. User shall timely and accurately update all wage and payroll information as necessary to reflect changes and respond with additional information, as may be requested from time to time by Gusto. It is User's responsibility to submit complete, timely, and accurate information to Gusto in connection with the Payroll Service. Any penalty or interest incurred, or any other Claim that arises, due to inaccurate or incomplete information provided by User will be User's sole responsibility. User further agrees to hold Gusto

harmless from such liability. Gusto, at its option, may decide not to file User's payroll tax returns, pay User's payroll taxes, or otherwise process User's payroll if there are any unresolved problems with any information requested by Gusto or submitted by User, an Account Administrator, or an Authorized Representative. Gusto's sole liability and User's sole remedy for Gusto's negligent failure to perform the payroll tax portion of the Payroll Service shall be as follows: (i) Gusto will remit the payroll taxes received from User to the appropriate taxing authority; and (ii) Gusto will reimburse User or pay directly to the appropriate taxing authority any penalties resulting from such negligent error or omission by Gusto, provided that User must use reasonable efforts to mitigate any penalties or losses resulting from such negligent error or omission by Gusto.

Important Tax Information: Even though User has authorized a third party, such as Gusto, to file payroll tax returns and make payroll tax payments, ultimately, User is held responsible by taxing authorities for the timely filing of employment tax returns and the timely payment of employment taxes for User's employees. Gusto and the IRS recommend that User enroll in the U.S. Treasury Department's Electronic Federal Tax Payment System ("EFTPS"), to monitor User's IRS account and ensure that timely tax payments are being made for User. User may enroll in the EFTPS online at www.eftps.gov, or by calling (800) 555-4477 for an enrollment form. State tax authorities generally offer similar means to verify tax payments. User should contact the appropriate state offices directly for details.

15. Failed Direct Deposits

In the event that a direct deposit payroll payment fails to be paid to the payee and Gusto cannot ultimately successfully make a payment on User's behalf to the payee, and the funds are returned to Gusto ("Unpaid Funds"), Gusto will notify User of such Unpaid Funds and provide User with the appropriate details related to those funds. In addition, Gusto will return

the Unpaid Funds to User in accordance with Section 8 of these Payroll Terms. User, not Gusto, is required to contact payees and/or otherwise resolve the Unpaid Funds. User acknowledges that User is responsible for complying with all applicable state unclaimed or abandoned property laws related to Unpaid Funds, and User hereby expressly releases Gusto from all liability and Claims directly or indirectly arising from state unclaimed or abandoned property laws, including any applicable penalties and/or interest. Gusto shall have no obligation to defend or otherwise indemnify User in the event of an audit, examination, assessment, or other enforcement action by a state related to the Unpaid Funds under its unclaimed or abandoned property laws. User may update the required wage and payroll information as necessary to reflect any necessary changes in accordance with the provisions of these Payroll Terms to allow Gusto to re-perform the direct deposit payroll payment on User's behalf.

16. Effect of Termination of the Payroll Service

User acknowledges and understands that if User terminates the Payroll Service through User's Account or Gusto terminates the Payroll Service pursuant to Section 22 (Term; Termination; Suspension) of the Gusto Terms, then such termination may not be reversible. In the event that User or Gusto terminates User's Payroll Service, then as of the time of such termination, Gusto will have no obligation to make further payroll tax filings on User's behalf. Notwithstanding the foregoing, if User or Gusto terminates the Payroll Service, User will be asked to make specific elections regarding whether it would like Gusto to make certain final payroll tax filings (such filings, the "Final Payroll Tax Filings") on User's behalf following such termination of the Payroll Service (such elections, the "Post-Termination Filing Elections"). If User does not provide Gusto with its Post-Termination Filing Elections promptly following termination of the Payroll Service, then User authorizes Gusto to make the Post-Termination

Filing Elections for User on User's behalf (the "Gusto Selections"). User acknowledges and agrees that Gusto may rely on User's Post-Termination Filing Elections and the Gusto Selections, and Gusto is not responsible or liable for (i) any consequences or Claims arising (directly or indirectly) from such reliance; or (ii) any Resulting Errors, or any consequences or Claims arising (directly or indirectly) from any Resulting Errors, in the Final Payroll Tax Filings.

17. Consent to Share Certain Employee and Independent Contractor Information with Employer

User acknowledges and understands that in providing the Payroll Service, Gusto acts as an intermediary between employers and their employees and/or independent contractors. If User is an employee or independent contractor, then User hereby authorizes Gusto to share with User's employer any information that User has provided to Gusto in connection with the Payroll Service.