

Health Insurance Benefits Service Terms

Last updated September 26, 2017

These Health Insurance Benefits Service Terms (these “**Benefits Terms**”), together with the Gusto Terms of Service Agreement available at www.gusto.com/about/terms (the “**Gusto Terms**”) (collectively, the “**Benefits Agreement**”), set forth the terms and conditions under which ZP Insurance LLC, a Delaware limited liability company doing business as With Gusto Insurance Services, LLC (“**Gusto Insurance**”), agrees to assist User to find, select, and manage one or more group health insurance plans (the “**Insurance Plan**” and collectively, the “**Insurance Plans**”) offered by health insurance companies (the “**Benefits Provider**” and collectively, the “**Benefits Providers**”), which are provided through the website of Gusto Insurance’s parent company, ZenPayroll, Inc., a Delaware corporation doing business as Gusto (“**Gusto**”), at www.gusto.com (such service, the “**Benefits Service**”).

These Benefits Terms are “Service Terms” under the Gusto Terms. Capitalized terms used but not otherwise defined in these Benefits Terms shall have the meanings ascribed to such terms in the Gusto Terms. The Benefits Agreement is a legally binding agreement between User and Gusto Insurance. User is encouraged to read the Benefits Agreement carefully and to save a copy of it for User’s records. If User is agreeing to these 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 Benefits 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 clicking the applicable button to indicate User’s acceptance of the Benefits Agreement or by accessing or using the Benefits Service, User agrees, effective as of the date of such action, to be bound by these Benefits Terms.

1. These Benefits 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 of 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 of 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 Benefits Terms conflict with the terms and conditions of the Gusto Terms, the terms and conditions of these Benefits Terms shall control with respect to the provision of the Benefits Service.

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

2. Gusto Insurance’s Provision of the Benefits Service is Governed by the Benefits Agreement

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

3. Obligations Under the Gusto Terms

In addition to the obligations specified in these Benefits 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) provide accurate, timely, and complete information required for Gusto Insurance to perform the Benefits Service and maintain the accuracy and completeness of such information; (iv) notify Gusto Insurance of any and all notices sent to User from the Benefits Providers concerning User's eligibility, enrollment, or payments for Insurance Plans, or any other notice that could reasonably be interpreted to affect User's contractual relationship with Gusto Insurance or Benefits Provider or which could increase the likelihood that a Claim is brought against User or Gusto Insurance in connection with the Benefits Service; (v) submit payments to the Benefits Provider for the amounts directly invoiced by Benefits Provider in the manner and within the timeframe established by such Benefits Provider; (vi) timely and accurately respond to, execute, and submit information or documents requested directly by Gusto Insurance or by Benefits Providers through Gusto Insurance; and (vii) 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. Benefits Service

Gusto Insurance shall provide a User who is authorized to elect and manage Insurance Plans on behalf of its employer (such User, the "**Benefits Administrator**") with the Benefits Service, including: (i) finding, presenting, recommending, and contracting certain Insurance Plans to the Benefits Administrator during eligible enrollment periods; (ii) managing the enrollment of employee and dependent beneficiaries; and (iii) managing employee payroll deductions of health insurance premiums.

For all other Users, the Benefits Service shall be limited to: (i) managing the enrollment and disenrollment of Users and Users' dependents upon the happening of a qualifying life event or open enrollment period; (ii) assisting Users in enrolling in Federal Consolidated Omnibus Budget Reconciliation Act ("**COBRA**") or state continuation coverage; (iii) managing individual deductions of health insurance premiums; and (iv) providing Users with Insurance Plan documents and the Benefits Provider certificates.

User acknowledges that in order for Gusto Insurance to provide the Benefits Service, User must first (i) designate Gusto Insurance as User's broker or agent of record; (ii) allow Gusto Insurance to communicate such designation to any person or entity, such as a Benefits Provider or prior service provider, that Gusto Insurance, in its reasonable discretion, determines should be advised; and (iii) either (a) work exclusively with Gusto Insurance as User's broker or agent of record; or (b) inform and obtain written permission from Gusto Insurance to collaborate with a third-party, Benefits Service broker. User acknowledges and permits Gusto Insurance, as User's broker or agent of record, to receive commissions from User's Benefits Providers.

Gusto Insurance only provides the Benefits Service to Users in states where Gusto Insurance has obtained all appropriate licensure. Gusto Insurance representatives that provide professional advice regarding the Insurance Plans to Users (the "**Gusto Insurance Brokers**") are appropriately licensed as individual insurance producers in the corresponding states where they perform such activities. No Insurance Plans will be offered or sold in any jurisdiction in which such offer or solicitation, purchase, or sale would be unlawful under the insurance or other laws of the jurisdiction. Gusto Insurance makes no representations to User that the Insurance Plans or other products it sells or makes available are appropriate or available for use in the state in which User resides. Additional information regarding Gusto Insurance's and Gusto Insurance Brokers' licensure is located on the [Insurance Agency page](#).

Gusto Insurance Brokers shall make Benefits Service recommendations and price estimations based on User's location, group size, and specific circumstances. User acknowledges that plan recommendations (i) are created in reliance on the representations made by User during the underwriting process; (ii) may not be the best or most affordable plan for User's specific circumstances; and (iii) may not fulfill User's obligations pursuant to the Patient Protection and Affordable Care Act or applicable state or local laws or regulations. User acknowledges that quoted prices are unofficial, rough estimates that may change without notice. The Benefits Provider may reject or rescind an Insurance Plan, in its sole discretion, if it suspects fraud or subsequently discovers material facts not disclosed or misrepresented to Gusto Insurance or the Benefits Provider at the time of Insurance Plan selection.

As part of the Benefits Service, Gusto Insurance may provide oral or written summaries and descriptions of Insurance Plans (the

“Benefits Guidance”). In the event that there is a conflict between the Benefits Guidance and any information contained in Insurance Plan documents or the Benefits Provider certificates published by the Benefits Providers, the information contained in the Insurance Plan documents or the Benefits Provider certificates shall control.

Gusto Insurance is not a Benefits Provider. As such, it does not and cannot design, amend, modify, or terminate any of the Insurance Plans offered or recommended as part of the Benefits Service. Additionally, Gusto Insurance does not process claims, make decisions, or determine eligibility requirements for specific Insurance Plans. As part of the Benefits Service, Gusto Insurance brokers may provide Users with recommendations and price offerings for Insurance Plans provided by the relevant Benefits Providers. The decision to accept any such Insurance Plan is made solely by the User.

User acknowledges that it remains the fiduciary of any and all Insurance Plans procured or managed through the Benefits Service. User shall be responsible for reviewing for accuracy all communications, notices, and invoices User receives directly from its Benefits Provider. User shall be responsible for promptly notifying Gusto Insurance of any errors or omissions so that Gusto Insurance may rectify any such errors or omissions. User shall be responsible for any fees it incurs as a result of its failure to review said notices and timely report such errors to Gusto Insurance. User further acknowledges that it is responsible for notifying Gusto Insurance of any and all qualifying events that may impact User’s health insurance eligibility. Failure to timely notify Gusto Insurance or the Benefits Provider may result in delays in, termination of, or inability to obtain health insurance coverage, and any costs, penalties, or taxes that incur as a result.

5. COBRA and State Continuation Coverage Administration

Certain employee Users who have terminated employment with an employer who remains an active User of Gusto Insurance’s Benefits Services (**“Former Employee”**) and who wish to enroll in health insurance pursuant to COBRA or state continuation coverage, may do so using Gusto Insurance. Former Employees can utilize the Benefits Services to enroll in COBRA or state continuation coverage by emailing cobra@gusto.com. While a Former Employee may continue to access its account on the Platform, Gusto Insurance does not guarantee that the Platform will be updated to reflect Former Employee’s COBRA or state continuation coverage enrollment information.

Gusto Insurance uses a Third-Party Service to administer COBRA. Former Employee is solely responsible for, and assumes all risk arising from, Former Employee’s election to receive and receipt of any Third-Party Service.

6. Limitation of Liability

WITHOUT LIMITING THE GENERALITY OF SECTION 20 OF THE GUSTO TERMS, AND NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, USER UNDERSTANDS, ACKNOWLEDGES, AND AGREES THAT: (I) NOTHING HEREIN CONSTITUTES AN OFFER OR GUARANTEE OF HEALTH INSURANCE COVERAGE; (II) REQUIREMENTS FOR A SPECIFIC INSURANCE PLAN OR SERVICE ARE MADE SOLELY BY THE BENEFITS PROVIDER OF THAT INSURANCE PLAN OR SERVICE; (III) GUSTO INSURANCE DOES NOT GUARANTEE ANY BENEFITS PROVIDER’S INSURANCE PLAN OR SERVICE; AND (IV) GUSTO INSURANCE IS NOT AND SHALL NOT BE LIABLE FOR ANY DAMAGES, COSTS, LIABILITIES, OR LOSSES OF ANY KIND ARISING OUT OF OR IN CONNECTION WITH USER’S USE OF ANY BENEFITS PROVIDER’S INSURANCE PLAN.