

Last updated September 26, 2017

These Tax-Advantaged Accounts Service Terms (these “**TAdA Terms**”) together with the Gusto Terms of Service Agreement available at www.gusto.com/about/terms (the “**Gusto Terms**”) (collectively, the “**TAdA Agreement**”), set forth the terms and conditions under which ZP Insurance LLC, a Delaware limited liability company doing business as With Gusto Administrators, LLC (“**WGA**”) agrees to provide to User certain services (the “**TAdA Services**”), including but not limited to services relating to the formation and administration of one or more of the following employee benefit plans (each, a “**Benefit Plan**”) for the benefit of User’s eligible employees (the “**Plan Participants**”): a health flexible spending account (the “**Health FSA**”), dependent care flexible spending account (the “**Dependent Care FSA**”), and/or qualified transportation fringe benefit plan (the “**Commuter Plan**”); and/or facilitation of pre-tax contributions by User’s employees to health savings accounts opened with a custodian made available by WGA (the “**HSA**”). The TAdA Services are provided through the website (the “**Site**”), of WGA’s parent ZenPayroll, Inc., a Delaware corporation doing business as Gusto (“**Gusto**”), at www.gusto.com. A Health FSA is a health flexible spending arrangement maintained pursuant to Sections 105 and 125 of the Internal Revenue Code (the “**Code**”) and a group health plan subject to the Employee Retirement Income Security Act of 1974, as amended (“**ERISA**”); a Dependent Care FSA is maintained pursuant to Sections 129 and 125 of the Code; a Commuter Plan is subject to Section 132 of the Code; and pre-tax HSA contributions are subject to Sections 125 and 223 of the Code.

These TAdA Terms are “Service Terms” under the Gusto Terms. Capitalized terms used but not otherwise defined in these TAdA Terms shall have the meanings ascribed to such terms in the Gusto Terms. The TAdA Agreement is a legally binding agreement between User and WGA. User is encouraged to read the TAdA 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 TAdA 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 TAdA Agreement, or by accessing or using the TAdA Services, User agrees, effective as of the date of such action, to be bound by the TAdA Agreement.

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

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

2. WGA’s Provision of the TAdA Services Is Governed by the TAdA Agreement

Subject to the terms and conditions of the TAdA Agreement, WGA agrees to use reasonable efforts to provide User the TAdA Services in accordance with the TAdA Agreement.

3. Obligations Under the Gusto Terms

In addition to the obligations specified in these TAdA 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 WGA to perform the TAdA Services and maintain the accuracy and completeness of such information; (iv) notify WGA of third-party notices from government agencies such as the Internal Revenue Service (the "IRS") and the Department of Labor (the "DOL"), which could affect WGA's ability to effectively provide the TAdA Services, or which could increase the likelihood that a Claim is brought against User or WGA in connection with the TAdA Services; and (v) 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. TAdA Services

WGA shall provide the TAdA Services, which consist of services facilitating User's provision of one or more of the following Benefit Plans for the benefit of Plan Participants: Health FSA, Dependent Care FSA, Commuter Plan, and HSA. User acknowledges that WGA does not directly provide, sponsor, fund, or underwrite any Benefit Plan. The TAdA Services shall assist User in providing such Benefit Plans for the benefit of Plan Participants, as follows: the formation and administration of a Health FSA, Dependent Care FSA, and/or Commuter Plan; and/or the facilitation of contributions to HSAs established with the custodian made available by WGA.

The TAdA Services shall not include any provision of legal, financial, or professional advice, and no statement by WGA in marketing, selling, and providing the TAdA Services shall be construed as legal, financial, or professional advice. WGA is not and shall not act as a fiduciary, in any capacity, with respect to any Benefit Plan.

If User requests that WGA provide TAdA Services relating to User's Benefit Plan, User agrees to adopt the applicable provisions set forth in each Benefit Plan's respective plan document that WGA makes available to User, and any amendments thereto (the "Plan Document"), unless agreed to otherwise in writing. If User requests that WGA facilitate Plan Participants' contributions to HSAs as described herein, User agrees to enter into a custodial agreement with the custodian made available to User by WGA.

5. Funding of Claims

User acknowledges and agrees that User is solely responsible and liable for funding all benefits payable under the Health FSA, Dependent Care FSA, and Commuter Plan, as applicable. WGA has no financial liability or responsibility for the payment of any Benefit Plan benefit or claim. To facilitate the payment of any Health FSA, Dependent Care FSA, or Commuter Plan claims, User agrees to establish one or more general assets bank accounts in User's name and provide WGA, and any third party WGA may appoint, with check-writing authority with respect to such designated bank account.

To ensure timely payment of Health FSA, Dependent Care FSA or Commuter Plan claims, as applicable, User may elect to be periodically notified of the amount necessary to pay approved claims by WGA. If the amount in such general assets bank account is insufficient to pay approved claims, User agrees to transfer the appropriate funds to such general assets bank account within 24 hours of such notice and take any other action that is necessary to permit WGA to pay approved claims from such general assets bank account, and facilitate such transfers. If at any time User fails to timely transfer funds to the designated general assets account to allow WGA to timely pay any approved claim, WGA may pay such claim. In such case, User is required to reimburse WGA within two (2) business days of notification by WGA of such payment and reimbursement obligation.

User acknowledges that, in order for WGA to provide User with TAdA Services relating to HSAs, User must make available the funds to be deposited into each HSA account associated with a Plan Participant. User assumes liability for any errors in crediting an HSA, including over-crediting an HSA, due to inaccurate or false information provided by User or Plan Participants. User acknowledges that WGA cannot reverse transfer of funds to an HSA in all circumstances, even if such transfer is excessive or otherwise in error. While WGA will use its reasonable best efforts to facilitate reversals from HSAs, User agrees to hold WGA harmless for liabilities incurred as a result of transfers to HSAs. User assumes liability for costs and expenses associated with correcting such crediting errors.

6. Plan Document

User agrees to adopt a Plan Document in conformity with all applicable law. Once User adopts a Plan Document, User bears responsibility of fulfilling the obligations described in the Plan Document. WGA shall incur no liability relating to any breach, waiver, alteration, or modification of the Plan Document. In the course of providing the TAdA Services, WGA will provide summary plan description templates and related forms for User's review, completion, and adoption using the Site. WGA will facilitate the distribution of adopted Plan Documents to Plan Participants through the Site.

If User amends or otherwise modifies any term of the Plan Document without WGA's prior written consent, User must notify WGA in writing of the amendment or modification at least 30 days prior to the effective date of the amendment or modification and provide WGA with the amendment or modification in writing. WGA shall not administer such amendment unless and until it has agreed to administer the amendment in writing. If WGA proposes a change to the Plan Document it has furnished to User, the amendment or restated Plan Document will be provided to User by WGA and will become effective as of the date specified in the amendment or restated Plan Document. If User objects to such amendment or any term in the restated Plan Document, User will have 30 days to notify WGA of User's objection in writing. User and WGA agree to employ all reasonable efforts to resolve such issue to the mutual satisfaction of the parties.

7. User Obligations

User acknowledges that, in order for WGA to provide the TAdA Services, User must (i) ensure that the summary plan descriptions, Plan Documents, and any other documentation are accurately completed and timely adopted in accordance with all applicable laws; (ii) provide final versions of adopted Plan Documents to WGA for its use in connection with provision of the TAdA Services; (iii) distribute summary plan descriptions, summaries of plan modifications, and other plan documentation to Plan Participants in a timely manner; (iv) provide WGA with accurate and complete initial enrollment and eligibility data for each Plan Participant and notify WGA, through the Site, of changes to any Plan Participant's enrollment and eligibility data, status, or benefit election, including, but not limited to, leaves of absence and terminations; (v) inform WGA of any errors in Plan Participants' data of which User becomes aware, and correct such errors according to the method advised by WGA; (vi) advise Plan Participants of benefit election deadlines and ensure that Plan Participants complete subscription materials prior to such deadlines; and (vii) satisfy all reporting, disclosure, and notice requirements under applicable law.

User represents and certifies that (i) User has determined that proposed and existing Plan Participants are eligible to participate in each Benefit Plan for which TAdA Services are currently provided or sought; and (ii) information relating to Plan Participants' enrollment in each such Benefit Plan, including current mailing addresses, is accurate and complete.

User acknowledges that, in order for WGA to provide User with TAdA Services relating to Health FSAs and/or Dependent Care FSAs, User must (i) process second level and final appeals of any claim for benefits, and (ii) provide Plan Participants who participate under the Grace Period, Carryover, and Run-Out features (each as defined in IRS Notice 2013-71) of any applicable Health FSA or Dependent Care FSA (if User elects to offer such features in the adopted Plan Document) with the appropriate information, and continue to remit payment for these participants, even if they are no longer employees of User's organization.

In connection with WGA's provision of TAdA Services relating to HSAs, User understands, acknowledges, and agrees to the following: (i) User is responsible for the design, funding, and operation of the HSA, including compliance with the Code and other applicable law; (ii) WGA will withdraw funds from User's account and will deposit such funds into Plan Participant's account in the amount of each Plan Participant's election; (iii) such funds will be managed through a custodian made available by WGA; and (iv) Plan Participants will have an independent contractual relationship for deposit, investment, and related services with the HSA custodian bank, any breach of which shall not result in liability to WGA.

User further acknowledges that, in order for WGA to provide User with TAdA Services relating to HSAs, User must (i) determine whether an employee is eligible to contribute to an HSA, including eligibility relating to United States citizenship and/or residency, and authorization for employment in the United States; (ii) require that Plan Participants complete HSA enrollment procedures in conformity with the TAdA Agreement and any further instructions WGA may provide during the enrollment process; (iii) ensure that each Plan

Participant's salary-reducing HSA contributions do not exceed the maximum limit specified annually by the IRS; (iv) distribute to all Plan Participants all appropriate notices, forms, and disclosures provided by WGA and the plan custodian; (v) provide WGA with all Plan Participant information that WGA requests in connection with initial enrollment or transfer of an HSA account; and (vi) refrain from restraining the transfer or use of HSA funds beyond such restrictions authorized and/or imposed by the Code and other applicable law. By enrolling a Plan Participant in an HSA account through WGA, User represents that such Plan Participant is eligible to participate in an HSA program and that information provided to WGA regarding that employee is true and accurate.

8. User's Duty to Abide by Applicable Law

User must comply with all laws, including but not limited to the Code and ERISA, as applicable to each Benefit Plan, and make all required filings with governmental agencies, including the IRS and DOL.

User agrees that the Health Insurance Portability and Accountability Act of 1996, as amended, and the Health Information Technology for Economic and Clinical Health Act, as amended, apply to the Health FSA and HSA. User agrees to comply with such law and the terms of the business associate agreement between the parties with respect to the Health FSA and HSA.

If User becomes aware of any failure or possible failure by User or Plan Participants to comply with any applicable law relating to the Health FSA, Dependent Care FSA, Commuter Plan and/or HSA, as applicable, User must immediately notify WGA in writing of the failure or possible failure and propose corrective action. Such notification must include a description of the facts and issues raised by the failure or possible failure. User is responsible for correcting any such failure or non-compliance and for reimbursing WGA for any reasonable penalties and expenses WGA may incur related to such correction or failure.

User acknowledges and agrees that User is solely responsible for determining the legal and tax status of the applicable Benefit Plan, including but not limited to compliance with the Code and ERISA, and their respective implementing regulations and guidance, as applicable. User acknowledges and agrees that with respect to the Health FSA, User is the named fiduciary within the meaning of ERISA section 402(a)(2), "plan administrator" within the meaning of ERISA section 3(16)(A), and "plan sponsor" within the meaning of ERISA section 3(16)(B).

9. Limitation of Liability

WGA disclaims any liability arising from penalties or other consequences associated with use of the Benefit Plan funds for ineligible expenses according to the applicable Plan Document. While WGA has procedures in place to prevent the expenditure of Benefit Plan funds for ineligible expenses, it is the User's sole and ultimate responsibility to ensure Plan Participants use each Benefit Plan only for appropriate eligible expenses.

WGA disclaims any liability arising from Plan Participants exceeding the annual contribution limit. While WGA can limit a Plan Participant's contributions to a specific Benefit Plan, a Plan Participant may violate contribution limits through contributions to another employer's Benefit Plan or through a spouse. It is User's sole and ultimate responsibility to ensure that each Plan Participant does not exceed contribution limits.

WGA makes no representations as to the performance of funds invested through an HSA. Any statements, images, charts, graphs, or other media relating to such performance attributable to WGA, Gusto, or their agents should be construed as purely illustrative, and have no relation to the performance of any Plan Participant's HSA.

User agrees that WGA shall not be responsible for any interruption in TAdA Services, delay in claims processing, or other error or violation of applicable law as a result of User's failure to fulfill its obligations under the TAdA Agreement.

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 ELIGIBILITY FOR A BENEFIT PLAN; (II) USERS AND PLAN PARTICIPANTS ARE SUBJECT TO REQUIREMENTS PRESCRIBED BY LAW FOR EACH OF THESE SERVICES; (III) WGA RELIES ONLY ON THE REPRESENTATIONS OF USERS AND PLAN PARTICIPANTS OF THE TADA SERVICES IN FACILITATING THE FORMATION AND ADMINISTRATION OF THE

BENEFIT PLANS, AND IS NOT LIABLE FOR ANY EXPENSE, PENALTY, OR VIOLATION OF LAW BASED ON SUCH REPRESENTATIONS; (IV) WGA DOES NOT WARRANT THAT ANY CLAIM BY A PLAN PARTICIPANT IS FOR AN ELIGIBLE EXPENSE UNDER ANY TADA SERVICE; AND (V) WGA IS NOT RESPONSIBLE FOR THE DESIGN, IMPLEMENTATION, AMENDMENT OR TERMINATION OF THE BENEFIT PLAN.