

Last updated January 19, 2024

These Gusto R&D Tax Credit Services Terms (the “**R&D Tax Credit Services Terms**”), together with the Payroll Service Terms (“**Payroll Terms**”) and Gusto Terms of Service (“**Gusto Terms**”) available at <https://gusto.com/legal/terms>, and the R&D Tax Credit Redemption Service Terms (the “**R&D Credit Redemption Terms**”), incorporated herein by reference to www.gusto.com/about/terms/rd-tax-credit (collectively, the “**R&D Services Agreement**”), set forth the terms and conditions under which Gusto, Inc. and its subsidiary and its affiliates, and Ardius, LLC (“**Ardius**”), a Gusto company (collectively “**Gusto**”) agrees to provide eligible customers of Gusto (each a “**Authorized User**,” as defined in the Gusto Terms) with the ability to request certain research and development (“**R&D**”) tax credit services from and become a customer of Gusto (“**Customer**”) via the Gusto all-in-one HR platform (the “**Platform**”).

If Customer is agreeing to these terms on behalf of a business or an individual other than Customer, Customer represents and warrants that Customer has authority to bind that business or other individual to this Gusto R&D Services Agreement, and Customer’s agreement to these terms will be treated as the agreement of such business or individual. In that event, “Customer” also refers to that business or individual. By clicking the applicable button or checking the applicable box to indicate Customer’s acceptance of the Gusto R&D Services Agreement, Customer agrees, effective as of the date of such action, to be bound by these R&D Tax Credit Services Terms.

The terms and conditions of the Gusto Terms agreed to in connection with the creation of Customer’s Account, and/or Customer’s enrollment in the Gusto Payroll Service, 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 Customer 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. Capitalized terms not otherwise defined herein have the meanings assigned to them in the Gusto Terms or the R&D Credit Redemption Terms, as applicable.

If the terms and conditions of these R&D Terms 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 shall control shall be as follows: the terms and conditions of these R&D Terms shall control, followed by the terms and conditions of the Payroll Terms, followed by the terms and conditions of the Gusto Terms.

THE GUSTO TERMS, AVAILABLE AT WWW.GUSTO.COM/ABOUT/TERMS, CONTAIN IMPORTANT INFORMATION REGARDING LIMITATIONS OF GUSTO’S LIABILITY, GUSTO’S WARRANTY DISCLAIMERS, CUSTOMER’S INDEMNIFICATION OBLIGATIONS, CUSTOMER’S DUTY TO MITIGATE DAMAGES, THE LAW GOVERNING THE R&D TAX CREDIT SERVICES AGREEMENT, AND DISPUTE RESOLUTION PROCEDURES THEREUNDER.

YOU AGREE TO THE ARBITRATION AGREEMENT AND CLASS ACTION WAIVER DESCRIBED IN SECTION 24 OF THE GUSTO TERMS.

1. R&D Tax Credit Services

Provided that Customer (a) meets Customer’s payment obligations; (b) complies with the terms of this Gusto R&D Services Agreement; and (c) meets the Eligibility Criteria (as defined below), Gusto will provide the R&D Tax Credit Services to Customer via the Platform. Customer’s use of the R&D Tax Credit Services shall include access to, and use of, Gusto’s R&D Credit Redemption Service (as defined below), and Gusto shall provide such access provided that Customer complies with the obligations of this Gusto R&D Services Agreement.

Gusto will perform the R&D Tax Credit Service(s) for which Customer is enrolled, which may include any of the following: (a) reviewing Customer records, such as contracts, invoices, and other contemporaneous documentation supporting the qualifying activities (collectively “**Customer Documentation**” and further defined herein) provided by Customer; (b) interviewing Customer’s employees and/or business personnel (“**Customer Interviews**”); (c) using the Customer Documentation and Customer Interviews (collectively

“Provided Information” as further defined herein) to identify, calculate, author basic qualitative documentation and prepare applicable tax forms (the **“Customer Tax Forms”**) pertaining to Customer’s available federal and supported state R&D tax credits (**“R&D Tax Credits”**) (the **“Report Service”**); (d) authoring additional qualitative documentation, including project activity summary reports, to support the R&D Tax Credit calculation (the **“Enhanced Documentation”**); and/or (e) up to ten (10) hours of assistance in gathering the data necessary to respond to inquiries from the Internal Revenue Service (**“IRS”**) about the tax credits (**“Audit Assistance”**) (individually and collectively, the **“R&D Tax Credit Services”**). Customer may enroll in any such R&D Tax Credit Service for which it meets the Eligibility Criteria.

Customer’s enrollment in and use of the R&D Tax Credit Services (in compliance with these R&D Tax Credit Services Terms) enables Customer to access and use the R&D Credit Redemption Service through the Platform as described in the R&D Credit Redemption Terms.

Unless otherwise specified in writing, Gusto is not responsible for providing any assistance in preparing for or responding to tax audits, examinations, inquiries or communications of any kind from any state or federal tax authority or anyone reasonably believed to represent a state or federal tax authority. Gusto is not in the business of providing professional or legal advice. We encourage Customer to consult a tax advisor prior to using the R&D Tax Credit Services and in the event of an audit or examination.

For avoidance of doubt, Customer is solely responsible for all state or federal tax filings, filing decisions, and any communications with any tax authority or agency (or anyone reasonably believed to represent a tax authority or agency), including the contents of any documents or information provided to any tax authority or agency.

2. Eligibility Requirements for the R&D Tax Credit Services

Customer acknowledges that only businesses that qualify for R&D Tax Credits are eligible for the Gusto R&D Tax Credit Service. Eligibility requirements for the R&D Tax Credits are established by the IRS, and more information about the R&D Tax Credits, including the IRS eligibility rules (the **“Eligibility Criteria”**), can be found on the IRS website. Gusto will undertake an independent assessment of whether a Customer’s business or business the Customer represents (collectively the **“Company”**) is eligible for R&D Tax Credits. In the event that Gusto determines a Company is not eligible for the R&D Tax Credits, Gusto shall promptly inform Customer of the same and this R&D Tax Credit Services Agreement and the R&D Tax Credit Services shall be terminated, subject to the terms of Section 14 below, and Customer shall not be invoiced for any of Service Fees described in Section 5 and 6 herein.

3. Customer Responsibilities and Representations Related to the R&D Tax Credit Services

By accepting these R&D Tax Credit Services Terms, Customer acknowledges and agrees to the following:

(a) Instructions: Gusto may provide Customer with instructions about how to use the R&D Tax Credit Services. Customer is solely responsible for following those instructions, whether sent by email, by posting on the Platform, Gusto’s website and the associated domains thereof, or otherwise.

(b) Provided Information: Customer shall provide Gusto with the necessary Customer Documentation for Gusto to perform the R&D Tax Credit Services, which may include: (i) employee W-2 information via Company documents and/or API access to Company’s payroll service API (as applicable); (ii) general ledger information regarding departmental contract and supply costs via connecting to Company’s accounting service API (as applicable); (iii) previously filed tax returns; (iv) invoices and contracts, as necessary, related to contract costs or research expenses; and (v) other contemporaneous documentation supporting the qualification of activities. In addition to Customer Documentation, Customer shall provide information via or during Customer Interviews (collectively Customer Documentation and Customer Interviews are referred to as **“Provided Information”**). Customer shall be responsible for collecting and submitting this Provided Information to Gusto. Customer represents that Customer has the authority to share Provided Information with Gusto, and Customer acknowledges that Customer is solely responsible for the accuracy, currency, and completeness of such Provided Information as further described in Sections 10 and 11 herein. If Customer is an accountant for the Company (each, a **“Company Accountant”**), then by accepting this Gusto R&D Services Agreement or using either the R&D Tax Credit Service(s) or R&D

Credit Redemption Service, Customer represents and warrants that the Company has authorized Customer to share such Provided Information with Gusto on Company's behalf.

(c) Review and approval: Customer is responsible for reviewing all Customer Tax Forms, reports, summaries, information, documents or other materials (collectively, "**Materials**") that Gusto may submit to Customer for review, and Customer must notify Gusto of any inaccuracies in the Materials as soon as possible, or within a timeframe specified by Gusto. If Customer is a Company Accountant, then Customer represents and warrants to Gusto that Customer is authorized to review the Materials on Company's behalf. Customer is solely responsible for making Customer's own decisions on what to include in applicable tax filings and forms. Customer accepts full responsibility for all results, outcomes, and/or consequences of Customer's use of or reliance on the R&D Tax Credit Services, including, without limitation, the final R&D Tax Credits awarded by the IRS, and for Customer's reliance on any of the Materials.

(d) Third party notices: Customer must promptly notify Gusto of any third-party notices that Customer may receive which could affect Gusto's ability to effectively provide the R&D Tax Credit Services, or which could increase the likelihood that a Claim (as defined below) is brought against Customer or Gusto or its affiliates in connection with the R&D Tax Credit Services, e.g. notices from the IRS or other government agencies regarding penalties or errors relating to the R&D Tax Credit Services.

(e) Communications with tax agencies: Customer is solely responsible for all tax filings, filing decisions, and any communications with any tax authority or agency (or anyone Gusto reasonably believes to represent a tax authority or agency), including the contents of any documents or information (including any Customer Tax Forms that Customer may choose to file) provided to any tax authority or agency. Unless otherwise specified by Gusto in writing, Gusto is not responsible for providing any assistance in preparing for or responding to tax audits or examinations, and Customer acknowledges that Gusto is not in the business of providing professional or legal advice. Gusto encourages Customer to consult a tax advisor in the event of an audit or examination.

4. Audit Assistance Does Not Constitute Professional or Legal Advice

If Customer enrolls in Audit Assistance, as defined herein, and in the event that such Customer receives an IRS or state tax audit letter and/or notice regarding or relating to the Customer Tax Forms prepared by Gusto as described below, Gusto may undertake commercially reasonable efforts to provide Customer with up to ten (10) hours of informational guidance regarding what to expect and how to prepare for an audit, restricted to questions related to the R&D tax credit portion of the tax return under audit. Audit Assistance is intended to educate the Customer as to requirements for activities and expenses to qualify for R&D Tax Credits and effective approaches to addressing the R&D Tax Credit portion of the audit. Audit Assistance will not address any other sections of the tax return or inquiries that do not directly pertain to the R&D Tax Credit, as determined at the sole discretion of Gusto. Audit Assistance does not constitute legal, tax, regulatory or other professional advice and is for informational purposes only. Gusto will not act as Customer's representative in an audit. Customer is encouraged to consult a tax advisor for guidance in the event of an audit or examination.

Audit Assistance is only available for federal and state tax audit notices and/or letters. To redeem Audit Assistance, Customer must provide Gusto with copies of all relevant notices or and/or letters in addition to copies of the relevant Customer Tax Forms and any relevant Customer Documentation as may be specified or requested by Gusto in its sole discretion. Audit Assistance will only be available to Customers for twelve months following such Customer's date of enrollment in Audit Assistance, which for purposes of this R&D Tax Credit Services Agreement is deemed the day Customer submits approval of Gusto's R&D tax credit calculations. Audit Assistance will not be available to Customers who have, as determined by Gusto in its sole discretion, materially altered or modified the information or content on the Customer Tax Forms as originally drafted by Gusto.

5. R&D Tax Credit Services Fees

Gusto will invoice and Customer agrees to pay the fees associated with the Gusto R&D Tax Credit Service(s) for which it has enrolled. These fees may include, without limitation: (a) a one-time eligibility fee ("**Eligibility Fee**"); (b) a percentage of the R&D Tax Credits identified by Gusto and available to Customer ("**Service Fee**"); (c) and/or an annual fee ("**Annual Fee**") (collectively, the "**R&D Tax Credit Services Fees**"). The R&D Tax Credit Services Fees are listed on the applicable fee schedules at <https://gusto.com/product/pricing>.

From time to time Gusto may offer discounts on the R&D Tax Credit Services Fees at its sole discretion. In such cases the discounts

shall be confirmed with the Customer in writing on the applicable invoice. In addition, Gusto may update the R&D Tax Credit Services Fees at any time.

6. Payment of R&D Tax Credit Services Fees

Gusto shall invoice Customer for the R&D Tax Credit Services Fees according to the following invoice schedule:

- **Report Service:** (1) The Report Service Eligibility Fee will be invoiced concurrently with the Report Service Fee. (2) The Report Service Fee will be invoiced once the Customer submits approval of Gusto's R&D tax credit calculations from the Platform.
- **Enhanced Document:** The Enhanced Document Fee will be invoiced once the Enhanced Document deliverables (such deliverables to be defined in the applicable sales agreement between Gusto and Customer) are available for Customer download in the Platform. The Enhanced Document is deemed accepted fifteen (15) days after it is made available on the Platform. Notification in the Platform is sufficient for notification purposes, and Gusto may provide additional notification via electronic mail.
- **Audit Assistance:** The Audit Assistance Annual Fee will be invoiced concurrently with the Report Service Fee.

User agrees to pay the R&D Tax Credit Services Fees for the Services as outlined in Sections 5 and 6 of these Terms and in accordance with the applicable fee schedules listed at <https://gusto.com/product/pricing>. User authorizes Gusto to debit User's designated bank account, as specified by User through the Platform (the "**Bank Account**"), for all fees as they become payable.

User acknowledges that the origination of Automated Clearing House ("**ACH**") transactions to or from the Bank Account and the transmission of funds via ACH transactions to or from the Bank 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**").

User, authorizes Gusto, its subsidiaries and affiliates (collectively, "**Gusto**"), and the duly authorized personnel and agents of Gusto, to debit Customer's Bank Account for all fees as they become payable. This authorization will remain in effect until and unless Customer gives Ardius written notice to terminate it. Such written notice of termination must afford Gusto reasonable opportunity to act upon such notice.

Notwithstanding the foregoing, Customer shall pay all invoice(s) within fifteen (15) days of receipt thereof via money transfer, ACH, check, or any other payment method Gusto may deem acceptable in its sole discretion. Gusto reserves the right to assess interest charges to any past due amounts at the lower of (a) two percent (2%) per month; or (b) the maximum amount allowed by law.

All R&D Tax Credit Services Fees are non-refundable unless otherwise specified on the invoice. Customer understands that failure to pay R&D Tax Credit Services Fees as they become payable may result in suspension or termination of this R&D Tax Credit Services Agreement and the incorporated Gusto Terms available at <https://gusto.com/about/terms>.

Customer agrees to reimburse Gusto for any sales, use, and similar taxes arising from the provision of the R&D Tax Credit Services that any federal, state, or local governments may impose.

In the event that Customer elects to terminate this Gusto R&D Services Agreement in accordance with Section 14 of these R&D Tax Credit Services Terms, or the Company for whom Customer has requested Gusto provide the R&D Tax Credit Services is acquired or undergoes a change in ownership, Customer shall be responsible for payment of the total of the remaining R&D Tax Credit Services Fees, including any fees based on the unutilized R&D Tax Credits, incorporating any relevant discounts, and Gusto will invoice Customer for the same in accordance with the terms of this Section 6.

7. Authorization to Apply R&D Tax Credits Towards Payroll Taxes

User authorizes Ardius, its parent, subsidiaries, and affiliates (collectively, "**Gusto**"), and the duly authorized personnel and agents of Gusto, to use User designated Form 6765 on User's behalf. The User designates a Form 6765 by uploading it into the Platform. User additionally authorizes Gusto to use the tax credit information contained in Form 6765 to offset any payroll taxes in accordance with

Section 41(h) of the Internal Revenue Code. By authorizing Gusto to use the tax credit information, User is confirming the accuracy of the tax filing and inclusion of Form 6765 in User's federal tax return filing.

8. User Accounts

To use the Gusto R&D Tax Credit Services, Customer must have an account with Gusto (a "**Gusto Account**"). Customer hereby authorizes Gusto to obtain and store Customer's Account information as necessary to make the Gusto R&D Tax Credit Services available to Customer.

9. Privacy Policy

Customer is solely responsible for ensuring that the collection and/or processing of Customer Data is compliant with all applicable laws and regulations. Customer represents and warrants that Customer has received all required rights, licenses, consents and authorizations to use and make available any Customer Data uploaded or submitted to the Platform via Customer's Account, and that Customer may instruct Gusto on what to do with such Customer Data. For example, Customer may elect to enable or disable third party integrations, manage permissions, and grant certain Authorized Users access to view or edit Customer Data submitted by other Authorized Users. Because these instructions may result in the access, use, disclosure, modification or deletion of certain Customer Data, Customer should review the Gusto Help Center for more information about these choices, permissions and instructions. Customer is solely responsible for responding to and resolving disputes that may arise between Customer and Authorized Users relating to or based on Customer Data, the Platform, Services, or Customer's failure to fulfill any of the foregoing responsibilities.

As a financial institution, Gusto is subject to certain retention requirements under state and federal law. As a result, certain types of Customer Data may not be removed from the Platform. With the exception of the foregoing, Gusto is not responsible or liable to Customer for the removal or deletion of (or the failure to remove or delete) any Customer Data. Customer acknowledges and agrees that Gusto is not responsible for the loss or modification of any Customer Data, and that Customer's use of the Platform and Services is at Customer's own risk.

Customer understands and agrees that Customer Data transmitted, entered or otherwise uploaded by Customer, on Customer's behalf, and by Customer's Authorized Users to the Platform and Services will be processed in accordance with our Privacy Policy, as it may be updated from time to time, including processing for the purpose of improving our products and services. Our Privacy Policy is incorporated into these Terms by reference and is available at www.gusto.com/about/privacy. Customer should periodically review the Site for updates to the Privacy Policy.

Ardius is a subsidiary and affiliate of Gusto, and customer authorizes Ardius to access payroll and expense information from Customer's Gusto account in order to perform the Gusto R&D Tax Credit Services. For more information on how Gusto and its affiliates and subsidiaries collect, use and disclose information from Users, please refer to the Privacy Policy.

10. Gusto has No Liability for Provided Information

For the avoidance of doubt, Provided Information includes Customer Documentation and Customer Interviews. Customer is solely responsible for the accuracy, timeliness, and completeness of such Provided Information and for maintaining the accuracy and completeness of such Provided Information. Customer understands that Gusto will rely on the Provided Information furnished by Customer in performing the R&D Tax Credit Services. Gusto is not responsible or liable for any consequences or Claims (as defined below), including but not limited to, any Resulting Errors (as defined in the Gusto Terms) arising from Gusto's reliance on the Provided Information. Determining the amount of R&D Tax Credit that the Customer may be eligible to claim in a given tax year (the "Available Credit") remains solely the responsibility of the Customer.

11. Obligation to Notify Gusto of Changes to Provided Information

Customer must promptly notify Gusto of any changes to the Provided Information. In particular, Customer must promptly notify Gusto

if (i) Customer has changed the employer identification number to which any Available Credit should apply or (ii) Customer has used any portion of its Available Credit against its business income taxes. Gusto is not responsible or liable for any consequences or Claims (as defined below), including but not limited to any Resulting Errors, arising from Customer's failure to notify Gusto of any changes to the Provided Information.

12. Proprietary Rights

Customer retains all intellectual property rights in and to Customer's information or data, including Provided Information, and Gusto retains all intellectual property rights in the R&D Tax Credit Services. Customer grants Gusto a limited license to use Customer's information and/or data, including Provided Information, to provide and improve the R&D Tax Credit Services. Customer agrees that any feedback or suggestions provided by Customer to Gusto about the R&D Tax Credit Services ("Feedback") is given entirely 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 Customer. Feedback includes, without limitation, feedback Customer provides to Gusto in response to surveys Gusto and/or its affiliates conduct, through any available technology, about Customer's experience. Gusto retains all intellectual property rights in the Platform.

13. No Professional or Legal Advice; No Guaranteed Outcomes

Customer's use of the Platform and Services is entirely at Customer's own risk. Except as and unless otherwise stated in applicable Additional Terms, Customer acknowledges that the Platform, Services, and Gusto Content are meant for informational purposes only and are not intended to provide and should not be construed as providing any legal, regulatory, tax, financial, accounting, employment, or other professional advice. Customer is solely responsible for ensuring Customer's compliance with applicable law and regulation, and nothing in the Gusto Content, Platform, or Services (including, without limitation, any communications from our customer support team regarding Customer's use of the Platform, or Services) should be construed as, or used as a substitute for, the advice of competent legal or applicable professional counsel. Gusto does not guarantee or warrant any results or outcome with respect to the Platform, Services or Gusto Content.

14. Term and Termination

The R&D Tax Credit Services and the Gusto R&D Services Agreement will continue until terminated by either party. Customer may terminate the R&D Tax Credit Services and the Gusto R&D Services Agreement by giving Gusto at least thirty (30) days prior written notice, and shall complete the payment of remaining Service Fees as set forth in Sections 6 and 7 herein. Gusto may terminate the R&D Tax Credit Services and the Gusto R&D Services Agreement by giving Customer at least thirty (30) days' prior written notice. In addition, Gusto may immediately suspend or restrict Customer's Gusto account; suspend or restrict Customer's access to the R&D Tax Credit Services or immediately terminate the R&D Tax Credit Services and this Gusto R&D Services Agreement, in each case with or without notice to Customer, in the event that: (i) Gusto has any reason to suspect or believe that Customer may be in violation of the Gusto R&D Services Agreement; (ii) Gusto determines that Customer's actions are likely to cause legal liability for or material negative impact to Gusto; (iii) Gusto believes that Customer has misrepresented any data or information or that Customer has engaged in fraudulent or deceptive practices or illegal activities; (iv) Gusto has determined that Customer is behind in payment of fees for the Services and Customer has not cured such non-payment within five (5) days of Gusto providing Customer with notice of the non-payment; or (v) Customer files a petition under the U.S. Bankruptcy Code or a similar state or federal law, or a petition under the U.S. Bankruptcy Code or a similar state or federal law is filed against Customer. Furthermore, while Gusto strives to support a multitude of business and organization types, in certain unique situations, if Gusto cannot support the Gusto R&D Tax Credit Service(s) for Customer's business or organization type, or if the Eligibility Criteria are not met, Gusto, by and through Gusto, may immediately terminate the Gusto R&D Tax Credit Service and this Gusto R&D Services Agreement upon written notice to Customer.

In the event that Customer elects to terminate this agreement as described above, or in the event that Customer experiences a change in ownership such as a sale or acquisition, Gusto will invoice Customer for the total of the remaining Service Fees, including any fees based on the unutilized R&D Tax Credits, incorporating any relevant discounts.

The termination of any of the R&D Tax Credit Services or the Gusto R&D Services Agreement will not affect Customer's or Gusto's rights with respect to transactions which occurred before termination. Gusto will have no liability for any costs, losses, damages, penalties, fines, expenses, or liabilities arising out of or related to Gusto's termination of the Gusto R&D Services Agreement. Any sections of the Gusto R&D Services Agreement which by their nature should survive and the following sections of these R&D Tax Credit Services Terms will survive and remain in effect, including Sections 5 and 6 (to the extent that there are any unpaid fees for services rendered as of the time of termination of these R&D Tax Credit Services Terms), 7, 8, and 11 through 15.

Upon termination of the R&D Tax Credit Services and/or termination of the Gusto R&D Services Agreement, Customer's right to access and use such terminated R&D Tax Credit Services will automatically terminate.

15. Changes to the Gusto R&D Services Agreement or R&D Tax Credit Services

Gusto may modify the Gusto R&D Services Agreement at any time, in its sole discretion and shall post the modified Gusto R&D Services Agreement on the Gusto website. It is important that Customer reviews each modified version of the Agreement as Customer's continued use of the Platform or Services after such changes are posted constitutes Customer's agreement to be bound by the modified Agreement. If Customer does not agree to be bound by the modified Agreement, then Customer may not continue to use the Platform or Services. Because the Platform and Services evolve over time, Gusto may change or discontinue all or any part of the Platform or Services at any time and without notice, and without liability to Customer, at Gusto's sole discretion.