

GUSTAV TERMS OF USE

Last Updated 03/15/2018

Welcome to Gustav! The Gustav website and the Gustav VMS is owned entirely by Gustav Technologies, Inc. (“**Gustav**” “**we**” “**us**” or “**our**”) enables companies seeking employees or temporary staff (“**Employers**”), staffing agencies and recruiters (“**Suppliers**”), and individual candidates to fulfill their employment and staffing needs. The “**Gustav VMS**” is comprised of our proprietary technology which coordinates and manages the entire employment process from start to finish, including posting, searching, applying, matching, interviewing, hiring, on-boarding, time tracking, invoicing and paying. Users of Gustav and the Gustav VMS may be referred to in these Terms of Use as “**you**”, “**your**” or “**users**”.

ACCEPTANCE OF TERMS OF USE

PLEASE READ THESE TERMS OF USE (“**TERMS**”) CAREFULLY. YOUR USE OF GUSTAV AND THE GUSTAV VMS IS SUBJECT TO THESE TERMS, AND YOU MAY USE GUSTAV AND THE GUSTAV VMS IF YOU AGREE TO THESE TERMS. BY CHECKING A BOX INDICATING YOU ACCEPT THESE TERMS, OR BY ACCESSING OR USING GUSTAV OR THE GUSTAV VMS, YOU AGREE TO BE BOUND BY THESE TERMS AS WELL AS THE MOST-RECENT VERSION OF OUR [PRIVACY POLICY](#). THESE TERMS CONSTITUTE A LEGALLY BINDING CONTRACT BETWEEN YOU, THE PERSON USING THIS WEBSITE, AND GUSTAV. IF YOU ARE USING GUSTAV OR THE GUSTAV VMS ON BEHALF OF YOUR EMPLOYER OR OTHER ENTITY, YOUR USE CREATES A LEGALLY BINDING CONTRACT BETWEEN YOUR EMPLOYER OR ENTITY AND GUSTAV. WE MAY CHANGE THESE TERMS OR THE PRIVACY POLICY AT ANY TIME, AND SUCH CHANGES WILL BE POSTED ON THIS OR A SIMILAR PAGE OF GUSTAV. IT IS YOUR RESPONSIBILITY TO REVIEW THESE TERMS EACH TIME YOU USE GUSTAV. BY CONTINUING TO USE GUSTAV, YOU CONSENT TO ANY CHANGES TO OUR TERMS OR PRIVACY POLICY.

1. Use of the Gustav VMS

The Gustav VMS is an online solution which uses sophisticated proprietary technology to match Employers, Suppliers and job seekers. The Gustav VMS provides a full-service search and staffing process, from posting positions, to hiring candidates, and also provides post-hiring services, including billing and performance tracking.

If you are an Employer, the Gustav VMS provides you with easy-to-use fields to accurately describe open positions (whether for part time or full-time employment or temporary or permanent staffing), and your candidate requirements. Once you have posted an open position, the Gustav VMS enables Suppliers to provide potential candidates, and enables you to review the CVs and other information of proposed candidates, request additional information, choose candidates for interviews, schedule interviews, and offer employment or temporary engagements to your chosen candidates. Finally, once a candidate has been chosen, Employers may use the Gustav VMS to onboard candidates, track a candidate’s working time, review time sheets, reports, and any number of activities.

If you are a Supplier, you may use the Gustav VMS to search for and filter Employer job and staffing position postings and upload candidates to fill those positions. Gustav’s proprietary technology uses various search fields such as position title, geographic region, industry or other search terms, and enables Suppliers to upload their candidate’s CV and other information for Employer consideration.

2. Registration, Standard Terms and Conditions, and Payment

Before you are allowed to use the Gustav VMS, you must complete the online registration process, which is usually initiated by an invitation email and includes acceptance of these Terms of Use and our Privacy Policy.

If you are an Employer, after you have registered you may publish your positions directly in the Gustav VMS. The Gustav VMS tools will help you gather the information you want to include in your job posts. If you are a Supplier, after you have registered you will be able to view open positions and communicate with us on the process for proposing your candidates.

All users must complete all mandatory registration fields with true, accurate, current and complete content. If your information changes, please promptly update your account accordingly to ensure that the Gustav VMS can provide you with accurate and appropriate services. We may suspend or terminate your access to and use of the Site and any Gustav service if we have reason to believe that the information you provide upon registration or in any account update is untrue, inaccurate, not current, incomplete, or for other reasons in our sole discretion. You are responsible for maintaining the confidentiality of any password you provide or are provided during the registration process, and you are responsible for all activities that occur under your password or account. Under no circumstances may you share account information with users outside your organization. Registered users of Employers or Suppliers will have the ability to add new users within their same organization, and Supplier will additionally be able invite individual job candidates to become individual users through the Supplier's account. Any additional users must be added only through registering these users as users of an existing Employer or Supplier account through an email that is linked to that Employer or Supplier account.

3. License to Use Gustav VMS; Gustav Content

Gustav grants to you a personal, nontransferable, nonexclusive, revocable, limited license to access, view, download and use the Gustav site, Gustav VMS, and all content we provide to you through Gustav ("**Gustav Content**") solely for your internal business purposes that relate to offering, seeking, proposing candidates for, filling, and managing employment and staffing positions as permitted by Gustav. You may also print a reasonable number of copies of Gustav Content for these permitted purposes as long as you reproduce all proprietary copyright and trademark notices on all such copies. We own and will continue to own all rights, title and interest in and to Gustav, HelloGustav.com, the Gustav VMS, Gustav Content, our logo, trademarks and service marks, and all intellectual property rights in connection with the foregoing (e.g., without limitation, copyright, trademark, patent and trade secret rights). No ownership interests will be transferred to you simply by your use of Gustav, the Gustav VMS or Gustav Content. We may terminate this license at any time for any reason. If you breach any of these Terms, your rights and this license will terminate, you must immediately cease using the Gustav Content, and you must return or destroy (with written certification to us) all copies, including electronic copies, of Gustav Content then in your possession or control.

4. Third Party Information. Gustav may offer Employers the option of receiving additional information on a particular candidate, via background checks conducted by a third party engaged by Gustav. Background checks run by such third parties may include by way of example, reference checks (contacting former employers, and candidate's references), credit checks, and criminal background checks. If you are an Employer who is requesting this additional background information on a candidate, you understand and agree that this information is being provided to Gustav "as is" by a third party who is conducting such background checks ("**Third Party Information**") and that Gustav does not review, edit, change, modify, embellish, taint, add to or delete from such Third Party Information. Accordingly, you agree that your use of any Third Party Information so provided to you through a service on Gustav is at your sole risk.

5. User Content and Feedback; Linking Policy

If you are an Employer, when you use the Gustav VMS, you will upload certain information pertaining to your business (e.g., job or staffing needs, descriptions, salaries, locations, etc.); and if you are a Supplier, when you use the Gustav VMS, you will upload information pertaining to your own business and personally identifiable information of individuals you represent who are seeking to fill positions (e.g., names, addresses, CVs, etc.). All such content uploaded to the Gustav VMS by any user is "**User Content**". The definition of User Content includes Links which are subject to our Linking Policy below. You grant to us a non-exclusive, worldwide, royalty-free and fully paid license to use, reformat, display, modify and create derivative works of the User Content to the extent necessary for us to provide you with Gustav VMS and any other Gustav services you request and that are offered on Gustav that require your User Content for you to receive such services. Given the nature and type of services we provide to you on the Gustav VMS, you agree that the license to your User Content includes, as necessary, our right to share your User Content with other Gustav users. To the extent User Content consists of personally identifiable information, the terms of our Privacy Policy will apply.

You are strictly prohibited from posting any User Content that:

- (a) infringes the copyright, trademark, privacy, publicity, likeness, or other intellectual property rights of any person;
- (b) is defamatory;
- (c) contains nudity or sexually explicit content, or is otherwise obscene;
- (d) may disparage any ethnic, racial, sexual, religious, or other group by stereotypical depiction or otherwise;
- (e) depicts individuals under 18 years of age;
- (f) depicts or advocates the use of illicit drugs;
- (g) makes use of offensive language or images; or
- (h) characterizes violence as acceptable, glamorous or desirable.

In the event you choose to provide us with any feedback, suggestions, or similar communications, ("**Feedback**") such Feedback will be considered nonproprietary, non-confidential and, unless you include personally identifiable information as described in our Privacy Policy, non-personal information. You hereby grant us a perpetual, assignable, unrestricted, worldwide, royalty-free, irrevocable right to use, reproduce, display, perform, practice, modify, create derivative or collective works, transmit and distribute your Feedback, in whole or in part, and including all intellectual property rights therein.

User Content may include links ("**Links**") that enable users to access websites that are owned and operated by third parties (e.g., LinkedIn, Github, etc.) ("**Third Party Sites**") and which are provided as a convenient method of accessing information regarding employers or candidates that may be useful to other users. Links may be separately uploaded with or embedded inside your User Content. You represent that you have obtained all necessary permissions from any affected individuals to provide any Links to pages containing information of such individuals (i.e., access to an individual's LinkedIn page, etc.). As a user who may use information provided on a Third Party Site, you acknowledge that Gustav is not affiliated in any way with any Third Party Sites, and that if you click on a Link to a Third Party Site, once you have left Gustav, we have no further control over the content and materials that you will be viewing on the Third Party Site. We are not responsible for the content, accuracy, or opinions expressed on any Third Party Site. We will not, and are under no obligation to, investigate, monitor or check the Third Party Sites for accuracy or completeness, or for any obscene, scandalous, inflammatory, pornographic, indecent, profane, defamatory or unlawful content or materials. Inclusion of any Link or Banner Ad to a Third Party Site that is placed on our Site does not imply approval or endorsement of the Third Party Site. If you decide to leave Gustav and access a Third Party Site, you do so at your own risk and any information you obtain or use is at your sole responsibility and liability. We are not responsible for the privacy policies applicable to Third Party Sites. Once you link to a Third Party Site, our Privacy Policy is no longer in effect.

6. User Conduct and Confidentiality

You are solely responsible for your own conduct when using Gustav and the Gustav VMS, and for providing accurate and truthful information. You are expected and required to use Gustav, the Gustav VMS and any User Content you provide or are provided in a professional, courteous and confidential manner. You should always act responsibly and exercise good judgment when using the information provided to you by Gustav. As Gustav is a site provided by and for business professionals, you are expected to exercise the highest level of professionalism and care in all transactions you conduct through Gustav. By using Gustav, you agree to treat all User Content you receive as confidential information, and you will not use any such User Content for any purpose outside of the express

purposes for which it is provided to you, nor will you disclose User Content to any third party outside of your organization without the owner's prior written consent.

Without limiting the foregoing, you will not:

- (a) violate any local, state, provincial, national, or other law or regulation, or any order of a court;
- (b) infringe the rights of any person or entity, including without limitation, their intellectual property, privacy, publicity, confidentiality or contractual rights;
- (c) interfere with or damage the Gustav site or Gustav VMS, including, without limitation, launching viruses, cancel bots, Trojan horses, harmful code, flood pings, denial-of-service attacks, packet or IP spoofing, forged routing or electronic mail address information or similar methods or technology;
- (d) use Gustav or the Gustav VMS to transmit, distribute, post or submit any information concerning any other person or entity without obtaining their or its express written consent, including without limitation, photographs or other likenesses, text, drawings, graphics or other creations or works of art, or any personally identifiable information;
- (e) use Gustav or the Gustav VMS to facilitate the distribution of unsolicited commercial email ("spam") or advertisements;
- (f) "stalk" or harass any other user or collect or store any information about any other user other than for purposes of engaging in a legitimate and legal transaction of the type described in these Terms;
- (g) register for more than one user account;
- (h) impersonate any person or entity, or falsify or otherwise misrepresent yourself or your affiliation with any person or entity;
- (i) use automated scripts to collect information or otherwise interact with the Gustav VMS;
- (j) use Gustav to find a job or staffing position, an agent, or individual candidate, and/or complete any transaction offline in order to circumvent the services we provide through the Gustav VMS and/or your payment obligations; or
- (k) advocate, encourage, enable or assist any third party in taking any of the foregoing actions.

You understand and acknowledge that the foregoing is a non-comprehensive list of examples of prohibited conduct, and in such an event, we reserve the right to cancel a user, temporarily or permanently suspend a user, and take other actions against a user (including legal action) that we believe necessary and appropriate in our sole discretion.

7. User Disputes

You are solely responsible for your interactions with other Gustav users. We will not be responsible for any damage or harm resulting from your interactions with other users. We will not and have no obligation to monitor interactions between you and other Gustav users, nor will we take any action on your behalf against any other user. By using Gustav and the Gustav VMS you agree that any legal remedy or liability that you seek to obtain for actions or omissions of other users will be limited to a claim against the particular user or users who caused you harm. You agree not to attempt to impose liability on, or seek any legal remedy from us. You hereby release us from any and all claims, demands, damages (actual, consequential, nominal, punitive, or otherwise), equitable relief, and any

other legal, equitable, and administrative remedy, of every kind and nature, whether known or unknown, suspected or unsuspected, disclosed or undisclosed, past, present, or future, arising out of or in any way connected with your communication or interaction with other users on the Site or your experience as a Renter or Owner in connection with the Site.

8. Release

You understand that Gustav is provided to you as a convenient service only; and that we do not and will not, nor is Gustav or the Gustav VMS intended to be used as a means of offering any professional, business, financial or legal advice or any other recommendations to users with respect to positions, candidates, or other such decisions. Your use of Gustav Content, User Content, Third Party Information, and/or the services provided through the Gustav VMS and the decisions you make from your use of any of the foregoing are yours alone. We disclaim any and all liability and responsibility for any decisions you make or any damages you incur (whether direct, indirect, consequential, or otherwise) that are in any way connected with Gustav or the Gustav VMS, User Content, or the conduct of any Gustav user, including, without limitation, for any actual or alleged damage of any kind or nature.

9. Termination

We may, in our sole discretion, suspend or terminate your access to and use of the Gustav VMS or other Gustav services immediately if you violate any applicable law or regulation or fail to comply with any provision of these Terms, or any other agreement pertaining to the use of the Gustav VMS or other Gustav service, including payment of any amounts due to us or to other Gustav users under such agreements. Gustav users may report any actual or potential violations of these Terms at any time, and we reserve the right to suspend, terminate, or limit the services you may use on Gustav based upon such reported actual or potential violations, or for any other reason, in our sole discretion. If we terminate your use of Gustav, the Gustav VMS or other Gustav service because you have breached these Terms, you shall not be entitled to a refund of any portion of the fees or payments (if any) that you paid for your license to access and use Gustav, Gustav VMS or a Gustav service, and you shall remain obligated to pay the remainder of any amounts still owed to us or to other Gustav users.

10. Modifications to Gustav

We may, in our discretion and without liability to you, with or without prior notice and at any time, modify or discontinue, temporarily or permanently, any portion of the Gustav site, Gustav VMS or other services offered thereon.

11. Legal Compliance

You must comply with any and all applicable local, state, national and international laws and regulations when using Gustav, the Gustav VMS or any other Gustav Services.

12. DISCLAIMER OF WARRANTIES

IF YOU USE GUSTAV, GUSTAV VMS OR OTHER GUSTAV SERVICES, INCLUDING USE IN ANY MANNER OF ANY THIRD PARTY INFORMATION PROVIDED TO YOU THROUGH A GUSTAV SERVICE, YOU DO SO AT YOUR SOLE RISK. GUSTAV, GUSTAV VMS AND ALL RELATED SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. WE EXPRESSLY DISCLAIM, AND YOU WAIVE, ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

WE DO NOT WARRANT THAT GUSTAV, GUSTAV VMS OR OTHER GUSTAV SERVICES OR ANY THIRD PARTY INFORMATION PROVIDED IN CONNECTION WITH A GUSTAV SERVICE (A) WILL MEET YOUR REQUIREMENTS; (B) BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE; (C) THE GUSTAV

CONTENT OR USER CONTENT WILL BE ACCURATE OR RELIABLE; (D) WILL MEET YOUR EXPECTATIONS; OR (E) ANY ERRORS WILL BE CORRECTED.

IF YOU ACCESS OR TRANSMIT ANY USER CONTENT THROUGH GUSTAV OR GUSTAV VMS YOU DO SO AT YOUR OWN DISCRETION AND YOUR SOLE RISK. YOU ARE SOLELY RESPONSIBLE FOR ANY LOSS OR DAMAGE ARISING OUT OF SUCH ACCESS OR TRANSMISSION.

NO DATA, INFORMATION OR RECOMMENDATIONS OBTAINED BY YOU IN ORAL OR WRITTEN FORM FROM US, OTHER USERS, OR THROUGH GUSTAV, GUSTAV VMS OR OTHER GUSTAV SERVICES WILL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THESE TERMS.

13. LIMITATION OF LIABILITY

WE WILL NOT BE LIABLE FOR DAMAGES OF ANY KIND (INCLUDING, BUT NOT LIMITED TO, ANY DIRECT, INCIDENTAL, GENERAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, LOSS OF BUSINESS OR PROFITS, LOSS OF DATA, COMPUTER VIRUSES, TECHNICAL, HARDWARE OR SOFTWARE FAILURES, LOST OR UNAVAILABLE NETWORK CONNECTIONS, OR FAILED, INCOMPLETE, GARBLED OR DELAYED TRANSMISSIONS) EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, ARISING FROM OR RELATING TO: (A) YOUR USE OR INABILITY TO USE GUSTAV, GUSTAV VMS OR OTHER GUSTAV SERVICES; (B) HARM OR DAMAGE TO OUR PERSONALLY OR TO YOUR PROPERTY AS A RESULT OF GUSTAV, GUSTAV VMS OR OTHER GUSTAV SERVICES, INCLUDING WITHOUT LIMITATION, DAMAGES ARISING FROM YOUR INTERACTIONS WITH OTHER USERS OR PERSONS INTRODUCED TO YOU THROUGH USE OF GUSTAV, GUSTAV VMS OR OTHER GUSTAV SERVICES; (C) DISCLOSURE OF, UNAUTHORIZED ACCESS TO OR ALTERATION OF INFORMATION OR USER CONTENT; (D) ANY HARM TO YOU CAUSED IN WHOLE OR PART BY A THIRD PARTY, INCLUDING BUT NOT LIMITED TO ANOTHER USER OF GUSTAV, GUSTAV VMS OR OTHER GUSTAV SERVICES; (E) STATEMENTS, CONDUCT OR OMISSIONS OF ANY OTHER GUSTAV USER; OR (F) GUSTAV CONTENT OR USER CONTENT.

WE WILL NOT BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY FAILURE OR DELAY IN PROVIDING SERVICES OR ANY AVAILABILITY OF GUSTAV, GUSTAV VMS OR OTHER GUSTAV SERVICES DUE TO CAUSES BEYOND OUR REASONABLE CONTROL.

TO THE EXTENT PERMITTED BY LAW, YOUR SOLE AND EXCLUSIVE REMEDY UNDER THESE TERMS IS TO DISCONTINUE USING GUSTAV. IN NO EVENT WILL OUR AGGREGATE LIABILITY TO YOU OR ANY THIRD PARTY IN ANY MATTER ARISING FROM OR RELATING TO WITH OUR SERVICES OR THESE TERMS EXCEED THE SUM OF ONE HUNDRED U.S. DOLLARS (\$100.00).

14. INDEMNITY

You agree to indemnify, defend and hold us (and each of our officers, directors, and employees) harmless from any and all injuries, damages, losses, liabilities, claims, judgments and settlements, including all reasonable costs, expenses and attorneys' fees arising from or related to (a) any breach by you of these Terms or applicable law, (b) your negligent or willful act or omission while using Gustav, Gustav VMS or other Gustav services, (c) your use or disclosure of any Third Party Information, (d) your infringement or misappropriation of our intellectual property rights or trade secrets, (e) your infringement or misappropriation of the intellectual property rights, trade secrets, rights of privacy or publicity of any third party (including any other user), or (f) any User Content, including Links and websites visited from such Links. We will control any such defense and related settlement and you will reasonably assist us therewith at your expense.

15. JURISDICTION AND VENUE

These Terms and the Privacy Policy embedded in these Terms shall be interpreted in accordance with the laws of the State of California and the United States of America, without regard to conflict of law principles. You and we agree to submit to the personal jurisdiction of San Francisco County Superior Court or the United States District Court for the Northern District of California. Any action brought

under these Terms shall be brought in San Francisco County Superior Court, CA or the United States District Court for the Northern District of California.

16. ATTORNEYS FEES

The prevailing party in any action brought under this agreement shall be entitled to reasonable attorney's fees and costs.

17. MISCELLANEOUS

Our failure or delay in exercising any right, power or privilege under these Terms shall not operate as a waiver thereof. The invalidity or unenforceability of any term or conditions set forth in these Terms shall not affect the validity or enforceability of any other term or condition herein, all of which shall remain in full force and effect. We may assign our rights and delegate our obligations under these Terms in whole or part to a third party.