

## TERMS OF USE

*(last updated September 23, 2022)*

This agreement ("Agreement" or "Terms of Use") governs your use of GigWing's Services ("Services"). You (the "user," "users," or "you") use the Services subject to these Terms of Use (the "Terms of Use" or the "Agreement"). The Services are the property of GigWing.

GigWing provides a platform connecting gig seekers with gig providers, allowing users to provide and seek part-time, full-time, and one-time gigs as either individuals or businesses. GigWing matches gig seekers with gig providers, and provides knowledge resources to empower businesses and individuals to grow in the gig economy.

GigWing operates [www.gigwing.com](http://www.gigwing.com) ("Website"). GigWing does not currently operate a mobile application. In order to provide ease of use when the Website and/or Services are accessed from work, home, or elsewhere, GigWing provides its Services through a web browser to facilitate a good matching experience.

By visiting our Website and/or using any of our Services, by registering for our Services, and when submitting or viewing content, including personal information, through our Website and/or Services, you are agreeing to be bound by these Terms of Use. If you do not agree to these Terms of Use, do not use any of the Services.

PLEASE READ THIS AGREEMENT CAREFULLY BEFORE USING THE SERVICES. BY USING THE SERVICES, YOU ACKNOWLEDGE THAT YOU HAVE READ, UNDERSTOOD, AND AGREE TO BE BOUND BY ALL OF THE TERMS, CONDITIONS, AND NOTICES CONTAINED IN THIS AGREEMENT JUST AS IF YOU HAD SIGNED THIS AGREEMENT.

IF YOU AGREE TO THESE TERMS OF USE ON BEHALF OF AN ENTITY, OR IN CONNECTION WITH PROVIDING OR RECEIVING SERVICES ON BEHALF OF AN ENTITY OR AGENCY, YOU REPRESENT AND WARRANT THAT YOU HAVE THE AUTHORITY TO BIND THAT ENTITY OR AGENCY TO THESE TERMS OF USE. IN THAT EVENT, "YOU" AND "YOUR" WILL REFER AND APPLY TO THAT AGENCY OR ENTITY.

This is a legal agreement between you and us for use of any of our Services. This Agreement applies to you, whether personally or on behalf of an entity, whether you visit our Website or use any of our Services. No agency, partnership, joint venture, employee-employer, or franchiser-franchisee relationship between you and us is intended or created by this Agreement. GigWing: (1) is not responsible for the offering, performance, or procurement of services sought by user(s) through the GigWing Website and/or its Services; and (2) does not endorse any particular user(s)' offered services.

Your use of the Services indicates your explicit consent that the personal information you have provided through the Services is accurate and true, and is subject to our PRIVACY POLICY, the terms of which are incorporated herein. Please review our PRIVACY POLICY to understand our practices.

If you access our Website and/or Services from the European Union, Asia, or any other region of the world with laws or other requirements governing personal data collection, use, data storage, or disclosures that differ from applicable laws in the United States, then through your continued use of our Website and/or Services, you are transferring your data to the United States, and you expressly consent to have your data transferred to, stored and processed in the United States.

## 1. PARTIES

- a. If you are using our Services as an individual or entity, we refer to you as a "Client." Either party may be referred to as a "Party," and both may be referred to as "Parties."

## 2. ENTIRE AGREEMENT

- a. These Terms of Use will be the sole, exclusive, and entire agreement between GigWing and Client. This Agreement will supersede all other agreements, understandings, representations, and warranties between you and GigWing, whether oral, written, contemporaneous, or prior.

## 3. LIMITED LICENSE

- a. Subject to the terms of this Agreement, we grant to you, during the term of this Agreement, a limited, non-exclusive, non-transferable, and revocable license to access the Services. You are welcome to link to our Website from your website or social media channels, provided that your website does not imply any endorsement by or association with GigWing, and provided that we may revoke this permission at any time in our sole discretion.
- b. The information accessed through our Services is not intended for viewing or use by any person or entity in any jurisdiction or country where such distribution or use would be contrary to any law or regulation, or which would subject us to any registration requirement within any such jurisdiction or country. Accordingly, individuals who choose to access the Services from such locations do so on their own initiative and are solely responsible for compliance with local laws, if and to the extent local laws are applicable.
- c. We retain the right to refuse any and all current or future use of the Services, for any reason at any time. Without limiting other remedies, we may immediately issue a warning, temporarily suspend, indefinitely suspend, or terminate your access and/or refuse to provide you access to the Services if you breach any part of this Agreement, or if we are unable to verify or authenticate any information you provide to us when registering for and using the Services, or if we believe that your actions are impermissible, inappropriate, or may create liability for us.

## 4. ACCOUNT

- a. You may be required to register to use some of our Services. To access our Services, you must provide an accurate and true mobile number or email address, to which a sign-in code will be sent. By logging in with this sign-in code, you agree to be bound by these Terms of Use and PRIVACY POLICY. Depending on which Service will be used, users are required to provide an accurate and true: name, email address, phone number, credit card, status as an individual or business, location(s) in which users are seeking or providing work, profile picture, profile summary, skills or services sought or provided, gender, work authorization, resume, cover letter, and work samples as applicable.

- b. When you create an account, your personal and business information shall be governed by our PRIVACY POLICY. You must ensure that you exit from your account at the end of each session. You shall be responsible for all uses of your registration, whether or not authorized by you. You agree to immediately notify us of any unauthorized use of your registration. We assume no liability for any access to information that is accessed with your account information. You are solely responsible for protecting the privacy of your account, and you agree to accept all responsibility for activities that occur under your account.
- c. By creating an account and accessing and using the Services, you represent and warrant that:
  - i. All information you submit is and will be true, accurate, current, and complete;
  - ii. You have the legal capacity to agree to this Agreement and you agree to comply with this Agreement;
  - iii. You are not under the age of 18 and you are not a minor in the jurisdiction in which you reside;
  - iv. You will not access the Services through automated or non-human means, whether through a bot script or otherwise;
  - v. You will not use the Services for any illegal or unauthorized purpose; and
  - vi. Your use of the Services will not violate any applicable law or regulation
- d. If you provide any information that is untrue, inaccurate, not current, or incomplete, we have the right to suspend or terminate your account and refuse any and all current or future use of the Services (or any portion thereof), without having to provide any notice to you.
- e. User(s) must review this Agreement every time they use GigWing. User(s) must send GigWing an email to delete their account if they disagree with anything included within this Agreement or within the PRIVACY POLICY, and follow up with another email if they do not receive a response to their first email within 60 calendar days.
- f. We do not request your feedback concerning the Services. Nonetheless, if you provide us with any feedback (including through any contact information available on the Website or on public forums) concerning the Services, you also grant us and our successors a worldwide, non-exclusive, royalty-free, perpetual, and transferable license to use, copy, dispute, transmit, modify, prepare derivative works of such feedback, in any format and/or through any media channels, including incorporating such feedback into the Services.
- g. GigWing uses the information and data you provide to make relevant suggestions to you and others. Our information and data policies are governed by our PRIVACY POLICY. We collect the information and data that you provide to make recommendations for matches, connections, content, and features that may be useful to you, such as recommending gigs to you and recommending you to gig providers. Keeping your profile accurate and up to date helps us make these recommendations more accurate and relevant.

## 5. YOUR REGISTRATION OBLIGATIONS

- a. You may be required to register with GigWing in order to access and use certain features of the Services. If you choose to register for the Services, you agree to provide and maintain true, accurate, current, and complete information about yourself as prompted by the Service when registering and otherwise. You must not provide false or misleading information about you: name, email address, phone number, credit card, status as an individual or business, location(s) in which users are seeking or providing work, profile picture, profile summary, skills or services sought or provided, gender, work authorization, resume, cover letter, and work samples. You must not provide false or misleading information about your business, your skills, or the services you or your business provides. You must not register for more than one account without express written permission from us. Registration data and certain other information about you are governed by our PRIVACY POLICY. In addition, if you are under 18 years of age, you shall not use the Services, even with the approval of your parent or legal guardian.
- b. If you are a user offering services through the GigWing Website and/or its Services, you represent and warrant that you have all the required licenses and will provide services consistent with the law and policies applicable to your services.

## 6. DIGITAL SIGNATURE

- a. By registering for a GigWing account, by accessing or using our Services, or by clicking to accept this Agreement, you are deemed to have executed this Agreement electronically, effective on the date you register and/or access our Services, pursuant to the U.S. Electronic Signatures in Global and National Commerce Act (the E-Sign Act) (15 U.S.C. §7001, et seq.), and to electronically receive and access, via email or via the Services, all records and notices for the Services provided to you under this Agreement that we would otherwise be required to provide to you in paper form. Your account registration and/or access of our Services constitutes an acknowledgment that you are able to electronically receive, download, and print this Agreement, and any amendments.

## 7. IDENTITY VERIFICATION

- a. When you register for an account and/or access and/or use our Services, and from time to time thereafter, your account and the information you provide and maintain will be subject to verification, including, but not limited to, validation against third-party databases or the verification of one or more official government or legal documents that confirm your identity. You authorize GigWing, directly or through third parties, to make any inquiries necessary to validate your identity and confirm your ownership of, for example, your email address, mobile number, or financial accounts. When requested, you must provide us with information about you and/or your business.
- b. Although GigWing may perform background checks of users of its Services, GigWing cannot confirm that each user is who they claim to be, and therefore, GigWing cannot and does not assume any responsibility for the accuracy or reliability of identity and/or background check information, or any information provided through the Services, including but not limited to contact information, information regarding skillset and/or

services offered, past work experience, references, resume, cover letter, profile photo, other pictures, work samples, and profile summary.

## 8. MODIFICATIONS OF SERVICES

- a. GigWing reserves the right to modify or discontinue, temporarily or permanently, the Services (or any part thereof) with or without notice. You agree that GigWing will not be liable to you or to any third-party for any modification, suspension, or discontinuance of the Services.

## 9. GENERAL PRACTICES REGARDING USE AND STORAGE

- a. You acknowledge that GigWing may establish general practices and limits concerning use of the Services, including without limitation the maximum period of time that data or other content will be retained by the Services and the maximum storage space that will be allotted on GigWing servers on your behalf.
- b. You agree that GigWing has no responsibility or liability for the deletion or failure to store any data or other content maintained or uploaded by the Services. You acknowledge that GigWing reserves the right to terminate accounts and users of our Services that are inactive for an extended period of time. GigWing reserves the right to terminate accounts and users of our Services if they have provided false or inaccurate information or any other content that we deem inappropriate. You further acknowledge that GigWing reserves the right to change these general practices and limits at any time, in its sole discretion, with or without notice.

## 10. COMPENSATION

- a. You acknowledge and agree that a substantial portion of the compensation GigWing receives is for making the Services available to you ("Service Fee"). User will pay a monthly subscription fee that is cancellable by user at any time. GigWing will not receive any cut or portion of the earnings you receive from a completed gig accessed through our Services.
- b. Users will submit their credit card information through the Website and/or Services, which are saved in Stripe. Fees will be collected using Stripe. By using our Services, you not only consent to this Agreement, but to any third-party agreements maintained by Stripe. Your purchase may be subject to foreign exchange fees or differences in prices based on location, such as by reason of exchange rates or transaction fees as set by Stripe.
- c. CREDIT CARD AUTHORIZATION. You warrant and represent that your credit card on file with GigWing, through Stripe, is valid and in good standing. Such credit card information will be used to pay GigWing the monthly subscription fee required to access and use the Services. Should such credit card status change, you shall immediately notify GigWing and provide a replacement credit card within twenty-four (24) hours. You authorize GigWing to charge through Stripe using the credit card information you have provided therein. Your payment method will be automatically charged at the start of each subscription period for the fees and taxes applicable to that period. GigWing may store and continue

billing your payment method even after it has expired, in order to avoid interruptions in your access to GigWing .

- d. Failure to pay your fees to GigWing will result in one or more of the following: (1) deletion of your account; (2) blocking of your account; (3) showing no or partial results for your searches on GigWing; (4) deletion of your saved gig search queries as well as gig posts, and (5) disallowing you to create and edit your profile and/or saved gig search queries as well as gig posts on GigWing. To avoid future charges, cancel your monthly subscription fee before the renewal date by emailing GigWing to explicitly cancel your account. No fees paid to use GigWing are refundable under any circumstances. GigWing may also modify its prices effective prospectively without notice to you.

## 11. USER CONTENT TRANSMITTED THROUGH THE SERVICE

- a. With respect to the personal information, content or other materials you upload and/or provide through the Services, and/or share with other users or recipients collectively ("User Content"), including name, age, gender, email address, phone number, skillset, offered services, locations where you are seeking or providing gigs, cover letters, resumes, and work samples as applicable, and anything related to or associated with any of our services, you represent and warrant that you own all right, title, and interest in and to such User Content, including, without limitation, all copyrights and rights of publicity contained therein. By uploading any User Content, you hereby grant and will grant GigWing and its affiliated companies a nonexclusive, worldwide, royalty-free, fully paid up, transferable, sublicensable, perpetual, irrevocable license to copy, display, upload, perform, distribute, store, modify, and otherwise use your User Content in connection with the operation of the Services, or the promotion, advertising, or marketing thereof.
- b. If you provide any content to GigWing, the Services, or the Website, including reviews, comments, materials, information on forums or message boards, images, videos, audio files, newsletter, blogs, documents, or any other content ("Content"), you grant us and our successors and assigns, unrestricted, unlimited, worldwide, non-exclusive, royalty-free, perpetual, irrevocable, and transferable license to host, use, copy, distribute, modify, prepare derivative works of such Content for any purpose, commercial, or otherwise. You also grant us the right to use your name in connection with the submitted materials and other information as well as in connection with all advertising, marketing, and promotional material related thereto. You agree that you shall have no recourse against us for any alleged or actual infringement or misappropriation of any proprietary right in your communications to us. We have the right, in our sole and absolute discretion, to:
  - i. To edit, redact, or otherwise change the Content;
  - ii. To re-categorize any Content to place them in more appropriate locations on the Website as deemed by us; and
  - iii. To pre-screen or delete any Content any time and for any reason, without notice.
- c. We have no obligation to monitor your Content.

- d. We do not guarantee any confidentiality with respect to Content, regardless of whether or not it is published or classified as personal identifiable information. You are solely responsible for your own Content and the consequences of posting and/or of publishing it. You represent and warrant that you own or have the necessary licenses, rights, consents, and permissions to your Content, including the right to authorize use of the Content in the manner contemplated by the Services and this Agreement.
- e. We neither endorse nor assume any liability for any Content. We generally do not pre-screen, monitor, or edit Content. However, we have the right at our sole discretion to remove any Content that, in our judgment, does not comply with this Agreement and any other rules of user conduct for the Services, or is otherwise harmful, objectionable, or inaccurate as deemed by us. We are not responsible for any failure or delay in removing any such Content. You hereby consent to such removal and waive any claim against us arising out of such removal of any Content, whether it is yours or another user's. You also hereby consent to waive any claim against us arising out of our failure to detect and/or remove any inappropriate content as we do not pre-screen or monitor User Content.
- f. With respect to your Content, you hereby represent and warrant that:
  - i. The creation, distribution, transmission, public display, or performance, and the accessing, downloading, or copying of your Content does not and will not infringe the proprietary rights, including but not limited to, the copyright, patent, trademark, trade secret, and/or moral rights of any third-party;
  - ii. You are the creator(s) and owner(s) of your Content and/or have the necessary licenses, right, consents, releases, and permissions to use and to authorize us, the Website, and other users of the Website and Services to view and use your Content in any manner contemplated by the Website, the Services, and this Agreement;
  - iii. You have the written consent, release, and/or permission of each and every identifiable individual person in your Content to use the name or likeness of each and every such identifiable individual person to enable inclusion and use of your Content in any manner contemplated by the Website, Services, and this Agreement;
  - iv. Your Content is not false, inaccurate, or misleading;
  - v. Your Content is not obscene, lewd, lascivious, filthy, violent, harassing, libelous, slanderous, or otherwise objectionable (as determined by us);
  - vi. Your Content does not ridicule, mock, disparage, intimidate, or abuse anyone;
  - vii. Your Content does not advocate the violent overthrow of any government or incite, encourage, or threaten physical harm against another;
  - viii. Your Content does not violate any applicable law, regulation, or rule;
  - ix. Your Content does not violate the privacy or publicity rights of any third-party;
  - x. Your Content does not contain any material that solicits personal information from anyone under the age of 18 or exploits people under the age of 18 in a sexual or violent manner;
  - xi. Your Content does not violate any federal or state law concerning child pornography, or otherwise intended to protect the health or well-being of minors;

- xii. Your Content does not include any offensive comments that are connected to race, national origin, gender, sexual preference, or physical handicap;
  - xiii. Your Content does not otherwise violate, or link to material that violates, any provision of this Agreement or those Terms, third-party or otherwise, or any applicable law or regulation.
- g. Any information or Content posted to the Services by you or other users is the sole responsibility of the person from whom such Content originated or to whom such information is applicable, and that you access and/or use all such information and Content at your own risk, and we are not liable for any errors or omissions in that information or Content, or for any damages or loss you might suffer in connection with it. We cannot control and have no duty to take any action regarding how you may interpret and use the Content or what actions you may take as a result of having been exposed to the Content, and you hereby release us from all liability for you having acquired or not acquired Content through the Services. We cannot guarantee the identity of any users with access to the Services and are not responsible for which users gain access to the Services. Any use of the Services in violation of the foregoing violates this Agreement and may result in, among other things, termination or suspension of your rights to use our Services.
- h. You acknowledge and agree that any questions, comments, suggestions, ideas, feedback, or other information about the Services (“Submissions”) provided by you to GigWing are non-confidential, and GigWing will be entitled to the unrestricted use and dissemination of these Submissions for any purpose, commercial or otherwise, without acknowledgement or compensation to you.
- i. You acknowledge and agree that GigWing may preserve Content and may also disclose Content if required to do so by law or in the good faith belief that such preservation or disclosure is reasonably necessary to:
  - i. Comply with legal process, applicable laws, or government requests;
  - ii. Enforce this Agreement;
  - iii. Respond to claims that any content violates the rights of third parties; and/or
  - iv. Protect the rights, property, or personal safety of GigWing, its users, and the public.
- j. You understand that the technical processing and transmission of the Services, including your Content, may involve:
  - i. Transmissions over various networks; and/or
  - ii. Changes to conform and adapt to technical requirements of connecting networks or devices
- k. The Services may contain profiles, email systems, blogs, message boards, applications, job postings, skill postings, service ads, information resources for users, chat areas, news groups, forums, communities and/or other messages or communication facilities (“Public Areas”) that allow users to communicate with other users. You may only use such Public



Areas to send and receive messages and material that are relevant and proper to the applicable forum.

- l. GigWing reserves the right to limit your use of the Website and/or the Services, including, but not limited to, limiting the number of searches you may make; the number of gigs you may post; the number of skills you may indicate; and your ability to contact other users.
- m. By using the GigWing Website, you may encounter content or information that might be inaccurate, incomplete, delayed, misleading, illegal, offensive or otherwise harmful. GigWing generally does not review content provided by our users. You agree that we are not responsible for others' (including other users') content or information. We cannot always prevent this misuse of our Website, and you agree that we are not responsible for any such misuse.
- n. GigWing may help connect users offering their services with users seeking services. GigWing does not perform nor employs individuals to perform these services. You must be at least 18 years of age to offer, perform or procure these services. You acknowledge that GigWing does not supervise, direct, control or monitor users in the performance of these services and agree that (1) GigWing is not responsible for the offering, performance or procurement of these services, (2) GigWing does not endorse any particular user's offered services, and (3) nothing shall create an employment, agency, or joint venture relationship between GigWing and any user offering services. If you are a user offering services, you represent and warrant that you have all the required licenses and will provide services consistent with the law and policies applicable to your services.

## 12. EVENTS

- a. GigWing may help you register for and attend events organized by users and connect with other users who are attendees at such events ("Events"). You agree that: (1) GigWing is not responsible for the conduct of any users or other attendees at such Events; (2) GigWing does not endorse any particular Event listed on Its Website or Services; (3) GigWing does not review or vet any of these Events; and (4) you will adhere to this Agreement when it applies to such Events.

## 13. THIRD PARTY MATERIALS

- a. Under no circumstances will GigWing be liable in any way for any content or materials of any third parties (including users), including, but not limited to, for any errors or omissions in any content, or for any loss or damage of any kind incurred as a result of the use of any such content. You acknowledge that GigWing does not pre-screen content, but that GigWing and its designees will have the right (but not the obligation) in their sole discretion to refuse or remove any content that is available via the Services. Without limiting the foregoing, GigWing and its designees will have the right to remove any content that violates this Agreement or is deemed by GigWing, in its sole discretion, to be otherwise objectionable. You agree that you must evaluate, and bear all risks associated with the use of any content, including any reliance on the accuracy, completeness, or usefulness of such content.
- b. There are no third-party beneficiaries to this Agreement.

## 14. INTELLECTUAL PROPERTY RIGHTS

- a. You acknowledge and agree that the Services, including but not limited to our matching and mentorship services, may contain content or features (“Service Content”) that are protected by copyright, patent, trademark, trade secret, or other proprietary rights and laws. Except as expressly authorized by GigWing, you agree not to copy, frame, scrape, rent, lease, loan, sell, distribute, or create derivative works based on the Services or the Service Content, in whole or in part, except that the foregoing does not apply to your own Content or User Content (as defined above) that you legally upload to the Services. In connection with your use of the Services, you will not engage in or use any data mining, robots, scraping, or similar data gathering or extraction methods. If you are blocked by GigWing from accessing and/or using the Services (including by blocking your IP address), you agree not to implement any measures to circumvent such blocking (e.g., by masking your IP address or using a proxy IP address). Any use of the Services or the Service Content other than as specifically authorized herein is strictly prohibited. The technology and software underlying the Services or distributed in connection therewith are the property of GigWing, our affiliates, and our partners (“Software”). You agree not to copy, modify, create derivative works of, reverse engineer, reverse assemble, or otherwise attempt to discover any source code, sell, assign, sublicense, or transfer any other right in the Software, Services, and/or Service Content. Any rights not expressly granted herein are reserved to GigWing.
- b. GigWing's name and logos are trademarks and service marks of GigWing (collectively the “GigWing Trademarks”). Other company, product, and service names and logos used and displayed via the Services may be trademarks or service marks of their respective owners who may or may not endorse or be affiliated with or connected to GigWing. Nothing in this Agreement or the Services should be construed as granting, by implication, estoppel, or otherwise, any license or right to use any GigWing Trademarks displayed on the Website and/or the Services, without our prior written permission in each instance. All goodwill generated from the use of GigWing Trademarks will inure to our exclusive benefit.

## 15. COUNTER-NOTICE

- a. If you believe that your User Content or Content that was removed (or to which access was disabled) is not infringing, or that you have the authorization from the copyright owner, the copyright owner’s agent, or pursuant to the law, to upload and use the content in your User Content or Content, you may send a written counter-notice containing the following information to the Copyright Agent of the copyright owner:
  - i. Your physical or electronic signature;
  - ii. Identification of the User Content or Content which has been removed, or to which access has been disabled, and the location at which the User Content or Content appeared before it was removed or disabled;
  - iii. A statement that you have a good faith belief that the User Content or Content was removed or disabled as a result of mistake or a misidentification of such User Content or Content; and
  - iv. Your name, address, telephone number, and email address; a statement that you consent to the jurisdiction of the state court located within the Superior Court of

Santa Clara or the federal court located within the United States District Court, Northern District of California; and a statement that you will accept service of process from the person who provided notification of the alleged infringement.

- b. If a counter-notice is received by the Copyright Agent, GigWing will send a copy of the counter-notice to the original complaining party informing that it may replace the removed User Content or Content, or cease disabling it within 10 business days. Unless the copyright owner files an action seeking a court order against the content provider, member, or user, the removed User Content or Content may be replaced, or access to it may be restored, within 10 to 14 business days, or more, after receipt of the counter notice, at our sole discretion.

## 16. WORKER CLASSIFICATION AND WITHHOLDING

- a. The Services are not an employment service, and GigWing is not an employer of any user. This Agreement shall not be construed to create any agency, partnership, joint venture, employee-employer, or franchiser-franchisee relationship between GigWing and any users. GigWing is not responsible for, and will not be liable for, any tax payments or withholding, including but not limited to unemployment insurance, social security, disability insurance, or any other applicable federal or state withholding, in connection with your use of the Services.

## 17. DISPUTE RESOLUTION

- a. GigWing is always interested in resolving disputes amicably and efficiently, and most customer concerns can be resolved quickly and to the customer's satisfaction by emailing customer support at support@gigwing.com. If such efforts prove unsuccessful, Parties may engage in good faith informal negotiations to resolve such disputes. If those negotiations fail, Parties may seek mediation, and must first send to the other Party, by certified mail, a written Notice of Dispute ("Notice"). A Notice to GigWing should be sent to 18360 Corte Matheo, Morgan Hill, CA 95037. The Notice must: (1) describe the nature and basis of the claim or dispute, and (2) set forth the specific relief sought. If GigWing and you do not resolve the claim through mediation within sixty (60) calendar days after the Notice is received, GigWing or you may commence arbitration proceedings by providing to the arbitrator and the other Party a written Notice that: (1) describes the nature and basis of the claim or dispute, and (2) sets forth the specific relief sought. During arbitration, the amount of any settlement offer made by GigWing or you shall not be disclosed to the arbitrator until after the arbitrator determines the amount, if any, to which you or GigWing is owed or entitled. If GigWing and you do not resolve the claim through arbitration within thirty (30) calendar days after the arbitrator receives the Notice, either Party may bring their dispute or claim to court in either the Superior Court of Santa Clara and/or the United States District Court, Northern District of California.
- b. Unless provided otherwise in this Agreement or by law, the dispute resolution procedures included herein shall be the exclusive mechanism to resolve all disputes or claims arising under this Agreement. All or any disputes arising out of, touching upon, or in relation to this Agreement, including the interpretation and validity of the terms thereof and the respective rights and obligations of the Parties, shall be exclusively settled by the dispute

resolution procedures included herein. You agree that any and all disputes or claims that have arisen or that may arise between GigWing and you, whether arising out of or relating to this Agreement (including any alleged breach thereof), the Services, any advertising, and/or any aspect of the relationship or transactions between you and GigWing, shall be resolved exclusively under this Agreement, but you may assert individual claims in small claims court if your claims qualify.

- c. Class Action Waiver: The parties further agree that the arbitration shall be conducted in their individual capacities only and not as a class action or other representative action, and the parties expressly waive their right to file a class action or seek relief on a class basis. YOU AND GIGWING AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR ITS INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. If any court or arbitrator determines that the class action waiver set forth in this paragraph is void or unenforceable for any reason or that an arbitration can proceed on a class basis, then the arbitration provisions set forth above shall be deemed null and void in their entirety and the parties shall be deemed to have not agreed to arbitrate disputes.

## 18. NEGOTIATION

- a. GigWing and you shall initially attempt to resolve all claims, disputes, or controversies arising under, out of, or in connection with this Agreement by conducting good faith informal negotiations between Parties. Any dispute that arises under or with respect to this Agreement that cannot be resolved by contacting customer support shall in the first instance be the subject of good faith informal negotiations between the Parties Involved in the dispute. To this effect, Parties shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both Parties. The dispute shall be considered to have arisen when one Party sends the other Party involved in the dispute the aforementioned written Notice within fourteen (14) days of the dispute arising. The period of good faith informal negotiations shall be thirty (30) days from receipt of the written Notice unless such time is modified by written agreement of the Parties involved in the dispute.

## 19. MEDIATION

- a. In the event that the Parties involved in the dispute cannot resolve that dispute by good faith informal negotiations, the Parties agree to submit their dispute to good faith mediation within fourteen (14) days of the negotiation's end. Within fourteen (14) days following the expiration of the time period for good faith informal negotiations, the Parties shall propose and agree upon a neutral and otherwise qualified mediator. In the event that the Parties fail to agree upon a mediator, the Parties shall request that the American Arbitration Association ("AAA") appoint a mediator. The mediation will be held in Santa Clara, California or another mutually agreed upon venue in a reasonable convenient location for both Parties with due consideration of their ability to travel and other pertinent circumstances. If the Parties are unable to agree on a location, the determination of the location shall be made by AAA. The period for mediation shall commence upon the appointment of the mediator and shall not exceed sixty (60) days from receipt of Notice, unless such time period is modified by a signed written agreement executed between the Parties. The decision to continue mediation shall be at the sole discretion of each Party involved in the dispute. Although the Parties will bear their own

costs of mediation, mediator's fees shall be shared equally by all Parties involved in the dispute. The mediation decision is non-binding until a written mediation agreement, or consent order, is reached and/or sent to a court of appropriate jurisdiction.

## 20. ARBITRATION

- a. In the event that the Parties cannot resolve their dispute by negotiation or mediation, the Parties agree to submit their dispute to arbitration by providing Notice to the other Party within fourteen (14) days of mediation's end and agree that the arbitration process provided herein shall be the exclusive means for resolving disputes which the Parties cannot otherwise resolve through negotiation or mediation as described above, except that Parties may bring their disputes or claims to the Superior Court of Santa Clara or the United States District Court, Northern District of California if arbitration fails. Any arbitration will be conducted in the English language by a neutral arbitrator in accordance with the American Arbitration Association's ("AAA") rules and procedures, including the AAA's Supplementary Procedures for Consumer-Related Disputes (collectively, the "AAA Rules"), as modified herein. Whenever a Party shall decide to institute arbitration proceedings, it shall provide the aforementioned written Notice to the other Parties involved within fourteen (14) days of mediation's end. Arbitration proceedings shall take place before a single arbitrator who shall be jointly selected by the Parties. If the Parties fail to agree upon an arbitrator within thirty (30) days of Notice receipt, either Party may apply to the AAA office In Washington D.C. to select an arbitrator. Unless otherwise agreed to by the Parties, the Notice must be submitted to the arbitrator for determination within ninety (90) days from the date the arbitrator is selected and the arbitrator shall render his or her decision within thirty (30) days after receipt of that Notice. Each Party shall use its best efforts and cooperation such that the Notice is fully submitted to the arbitrator within such ninety (90) day period.
- b. For information on the AAA, please visit its website ([www.adr.org](http://www.adr.org)). Information about the AAA Rules and fees for consumer disputes can be found at the AAA's consumer arbitration page ([www.adr.org/consumer\\_arbitration](http://www.adr.org/consumer_arbitration)). If there is any inconsistency between any term(s) of the AAA Rules and any term(s) of this Agreement, the applicable term(s) of this Agreement will control unless the arbitrator determines that the application of the inconsistent Agreement's term(s) would not result in a fundamentally fair arbitration. The arbitrator must also follow the provisions of this Agreement as a court would. All issues are for the arbitrator to decide, including, but not limited to, issues relating to the scope, enforceability, and arbitrability of this Agreement. Although arbitration proceedings are usually simpler and more streamlined than trials and other judicial proceedings, the arbitrator can award the same damages and relief on an individual basis that a court can award to an individual under this Agreement. Decisions by the arbitrator are enforceable in court and may be overturned by a court only for very limited reasons.
- c. Unless GigWing and you agree otherwise, any arbitration hearings will take place in a reasonable convenient location for both Parties with due consideration of their ability to travel and other pertinent circumstances. If the Parties are unable to agree on a location, the determination of the location shall be made by AAA. If your claim is for \$3000 or less, GigWing agrees that you may choose whether the arbitration will be conducted solely on the basis of documents submitted to the arbitrator, through a telephonic hearing, or by

an in-person hearing as established by the AAA Rules. If your claim exceeds \$3,000, the right to a hearing will be determined by AAA Rules. Regardless of the manner in which the arbitration is conducted, the arbitrator shall issue a reasoned written decision sufficient to explain the essential findings and conclusions on which the award is based.

- d. Payment of all filing, administration, and arbitrator fees (collectively, the "Arbitration Fees") will be governed by the AAA Rules, unless otherwise provided in this Agreement. If the value of the relief sought is \$1000 or less, at your request, GigWing will pay all Arbitration Fees. If the value of relief sought is more than \$1,000, and you are able to demonstrate to the arbitrator that you are economically unable to pay your portion of the Arbitration Fees, or if the arbitrator otherwise determines for any reason that you should not be required to pay your portion of the Arbitration Fees, GigWing will pay your portion of such fees. In addition, if you demonstrate to the arbitrator that the costs of arbitration will be prohibitive as compared to the costs of litigation, GigWing will pay as much of the Arbitration Fees as the arbitrator deems necessary to prevent the arbitration from being cost-prohibitive. Any payment of attorneys' fees will be governed by the AAA Rules.
- e. The arbitration provisions included herein shall not prevent any Party from obtaining injunctive or equitable relief from a court of competent jurisdiction to enforce the obligations for which such Party may obtain provisional relief pending a decision on the merits by the arbitrator. Each of the Parties hereby consents to the jurisdiction of the Superior Court of Santa Clara or the United States District Court, Northern District of California, for such purpose. The arbitrator shall apply California law as required and shall have authority to award any legal or equitable remedy that a California court could grant in accordance with applicable law and the terms of this Agreement, except that the arbitrator shall have no authority to award punitive damages. All attorney's fees and costs of the arbitration shall be borne by the Party incurring such costs or fees, except that upon application by the Prevailing Party, the arbitration shall award the Prevailing Party its attorney's fees and expenses to be paid by the other Party. "Prevailing Party" shall be defined for the purposes of this Agreement as the Party to which the arbitrator issues an award of legal or injunctive relief or otherwise determines substantially prevailed on the merits in the arbitration. Any arbitration award shall be accompanied by a written statement containing a summary of the issues in controversy, a description of the award, and an explanation of the reasons for the award. The arbitrator's award, if any, shall be final, binding, and non-appealable, and judgment may be entered upon such award by any court of competent jurisdiction.
- f. In connection with any arbitration provisions hereunder, each Party shall have the right to take the depositions of individuals, including any expert witnesses retained by the other Party. Additional discovery may be had where the arbitrator so orders, upon a showing of need. Each Party bears the burden of persuasion of any claim or counterclaim raised by that Party.

## 21. JUDICIAL PROCEEDINGS

- a. If resolving the dispute by arbitration fails to produce a binding settlement, Parties may commence a suit, action, or other proceeding in the Superior Court of Santa Clara County

or in the United States District Court, Northern District of California. The Parties agree not to initiate legal proceedings in relation to a dispute unless they have tried and failed to resolve the dispute by contacting customer support, negotiation, mediation, and arbitration. The Parties:

- i. Hereby irrevocably and unconditionally submit to the jurisdiction of the Superior Court of Santa Clara County or the United States District Court, Northern District of California, for the purpose of any suit, action, or other proceeding arising out of or based upon this Agreement
- ii. Agree not to commence any suit, action, or other proceeding arising out of or based upon this Agreement except in the Superior Court of Santa Clara County or in the United States District Court, Northern District of California, and
- iii. Hereby waive and agree not to assert, by way of motion, as a defense, or otherwise, in any such suit, action, or other proceeding, any claim that is not subject personally to the jurisdiction of the above-named courts; that its property is exempt or immune from attachment or execution; that the suit, action, or proceeding is brought in an inconvenient forum; that the venue of the suit, action, or proceeding is improper; or that this Agreement or the subject matter hereof may not be enforced in or by such court.

## 22. CONFIDENTIALITY

- a. All aspects of the negotiation, mediation, and/or arbitration proceedings, and any rulings, decisions, or awards by the mediator and/or arbitrator, will be strictly confidential for the benefit of all Parties.
- b. All such proceedings are confidential. Neither Party shall disclose any information about the evidence produced by the other Party in the negotiation, mediation, and/or arbitration proceedings, except if necessary for judicial or regulatory proceedings, or as may be demanded by government authority or otherwise required by state or federal law, or the rules of a national securities exchange. Before making any disclosure permitted by the preceding sentence, a Party shall give the other Party reasonable advance notice of the intended disclosure and give the other Party an opportunity to prevent disclosure.

## 23. SEVERABILITY

- a. If any provision of this Agreement is held by a court or other tribunal of competent jurisdiction to be invalid, illegal, or unenforceable for any reason, such provision shall be eliminated or limited to the minimum extent such that the remaining provisions of this Agreement will continue in full force and effect.

## 24. TERMINATION

- a. You agree that GigWing, in its sole discretion, may suspend or terminate your account (or any part thereof) or your access and/or use of the Services, and remove and/or discard any content within the Services, for any reason, including, without limitations, for lack of use or if GigWing believes that you have violated or acted inconsistently with the letter

or spirit of this Agreement. Any suspected fraudulent, abusive, or illegal activity that may be grounds for termination of your use of Services may be referred to appropriate law enforcement authorities. GigWing may also, in its sole discretion and at any time, discontinue providing the Services, or any part thereof, with or without notice. You agree that any termination of your access to and/or use of the Services under any provision of this Agreement may be effected without prior notice, and you acknowledge and agree that GigWing may immediately deactivate your access to and/or use of the Services, and/or delete your account and/or all related information and files in your account, and/or bar any further access to such files and/or the Services. If you provide any wrongful or misleading information about yourself, GigWing may immediately terminate your account and/or your access to and/or use of the Services. Further, you agree that GigWing will not be liable to you or any third-party for any termination of your access to the Services.

## 25. USER DISPUTE

- a. You agree that you are solely responsible for your interactions with any other user(s) in connection with the Services. GigWing will have no liability or responsibility thereto. GigWing reserves the right, but has no obligation, to become involved in any way with disputes between you and any other user(s) of the Services.

## 26. CONFLICT OF LAW

- a. This Agreement will be governed by the laws of the State of California without regard to its conflict of law provisions. With respect to any disputes or claims not subject to customer service, negotiation, mediation, and arbitration, as set forth above, you and GigWing agree to submit to the personal and exclusive jurisdiction of the state and federal courts located within Santa Clara County, California. The failure of GigWing to exercise or enforce any right or provision of this Agreement will not constitute a waiver of such right or provision. If any provision of this Agreement is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should endeavor to give effect to the Parties' intentions as reflected in that provision, and the other provisions of this Agreement shall remain in full force and effect. You agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to any use of the Services and/or this Agreement must be filed within one (1) year after such claim or cause of action arose or be forever waived. A printed version of this Agreement and of any notice given in electronic form will be admissible in judicial or administrative proceedings based upon or relating to this Agreement to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form.

## 27. PROHIBITED ACTIVITIES

- a. You may not access or use our Website and Services for any purpose other than that for which we make the Services available. As a user of the Services, you agree not to:



- i. Create a false identity on GigWing, misrepresent your identity, create a user profile for anyone other than yourself (a real person), or use or attempt to use another user(s)' account;
- ii. Circumvent, disable, override, or otherwise interfere with any security-related features, access controls, or use limits of the Website and the Services, including enforcing limitations on the use of the Website and the Services (such as caps on keyword searches or profile views);
- iii. Copy, misuse, disclose, or distribute any information obtained from the Services, whether directly or through third parties (such as search engines), without the consent of GigWing;
- iv. Disclose information that you do not have the consent to disclose;
- v. Violate the intellectual property rights of others, including copyrights, patents, trademarks, trade secrets, or other proprietary rights. For example, do not copy or distribute (except through the available sharing functionality provided through the Services) the posts or other content of others without their permission, which they may give by posting under a Creative Commons license;
- vi. Violate the intellectual property rights of GigWing, including, without limitation: (1) copying or distributing learning videos or other materials; (2) copying or distributing our technology, unless it is released under open source licenses; (3) using the word GigWing or our logos in any business name, email, or URL;
- vii. Post anything that contains viruses, worms, or any other harmful code
- viii. Engage in unauthorized framing of or linking to the Website and/or Services;
- ix. Trick, defraud, or mislead us to other users, especially in any attempt to learn sensitive account information such as user passwords;
- x. Make improper use of our support services or submit false reports of abuse or misconduct;
- xi. Engage in any automated use of the system, Software, Website, or Services, such as using scripts to send comments or messages, or using any data mining, robots, or similar data gathering and extraction tools;
- xii. Interfere with, disrupt, or create an undue burden on the Website and/or the Services or the networks or services connected to the Website and/or the Services;
- xiii. Attempt to impersonate another user or person, or use the username of another user;
- xiv. Sell or otherwise transfer your profile;
- xv. Use any information obtained from the Website, Services, and/or Software in order to harass, abuse, or harm another person or business;
- xvi. Use the Website, Services, and/or Software, as part of any effort to compete with us;
- xvii. Decipher, decompile, disassemble, reverse engineer, or otherwise attempt to derive the source code to any of the Website, Software, and/or Services comprising or in any way making up any part of the Website, Software, and/or the Services that are not already made public by us;
- xviii. Imply or state that you are affiliated with or endorsed by GigWing;
- xix. Deep-link to our Services for any purpose other than to promote your profile or a Group on our Services;
- xx. Monitor the Services' availability, performance, or functionality for any competitive purpose;

- xxi. Overlay or otherwise modify the Services or their appearance (such as by inserting elements into the Services or removing, covering, or obscuring an advertisement included on the Services);
- xxii. Interfere with the operation of, or place an unreasonable load on, the Services (e.g., spam, denial of a service attack, viruses, gaming algorithms);
- xxiii. Attempt to bypass any measures of the Website, Services, and/or Software designed to prevent or restrict access to the Website, Software, and/or Services, or any portion of the Website, Software, and/or Services;
- xxiv. Harass, annoy, intimidate, or threaten any of our employees or agents engaged in providing any portion of the Services to you;
- xxv. Delete, or attempt to delete, the copyright or other proprietary rights notice from any of our content;
- xxvi. Upload or transmit (or attempt to upload or to transmit) viruses, Trojan horses, or other material, including excessive use of capital letters and spamming (continuous posting of repetitive text), that interferes with any party's uninterrupted use and enjoyment of the Website, Software, and/or Services, or modifies, impairs, disrupts, alters, or interferes with the use, features, functions, operation(s), or maintenance of the Website, Software, and/or Services;
- xxvii. Upload or transmit (or attempt to upload or to transmit) any material that acts as a passive or active information collection or transmission mechanism, including without limitation, clear graphics, interchange formats ("gifs"), 1 x 1 pixels, web bugs, cookies, or other similar devices (sometimes referred to as "spyware" or "passive collection mechanisms" or "pems");
- xxviii. Except as may be the result of standard search engine or internet browser usage, use, launch, develop, or distribute any automated system, including without limitation, any spider, robot, cheat utility, scraper, or offline reader that accesses the Website, Software, and/or Services, or using or launching any unauthorized script or other software;
- xxix. Disparage, tarnish, or otherwise harm, in our opinion, us, our Website, and our Services, and using our Services in a manner inconsistent with any applicable laws or regulations.

## 28. MOBILE DEVICE ACCESS AND USE

### a. Mobile Device Access and Use

- i. If you access and/or use the Services and/or Website via a mobile device, you access our Website and Services strictly in accordance with the terms and conditions of this Agreement.

### b. You represent and warrant that:

- i. You are not located in a country that is subject to a US government embargo, or that has been designated by the US government as a "terrorist supporting" country; and
- ii. You are not listed on US government list of prohibited or restricted parties; and

- iii. You must comply with applicable third-party terms of agreement when using mobile applications, e.g., if you have a VoIP application, then you must not be in violation of their wireless data service agreement when using mobile applications.

## 29. ELIGIBILITY TO USE SERVICES

- a. THE SERVICES ARE NOT AVAILABLE TO ANY PERSONS UNDER THE AGE OF 18, EVEN WITH PARENTAL CONSENT. By using the Services, you affirm that:

- i. You are at least 18 years of age if accessing and/or using the Services. Creating accounts registered on behalf of persons under the age of 18 is a violation of this Agreement;
- ii. Any information you provide to us is accurate and truthful, and that you will maintain and update the accuracy of such. Creating an account with false information is a violation of this Agreement;
- iii. You will use your real name on your profile;
- iv. You are legally permitted to use and access the Services, and take full responsibility for your access, selection, and use of the Services;
- v. Your use of the Services does not violate any applicable law or regulation;
- vi. You will maintain accurate information with us;
- vii. You will only have one GigWing account, which must be in your real name and linked to your real email address and mobile phone. Creating an account registered on behalf of others is a violation of this Agreement;
- viii. You are not already restricted by GigWing from using the Services; and
- ix. You will use the Services in a professional manner.

- b. You will not access and/or use the Services:

- i. For any unlawful, invasive, infringing, defamatory, fraudulent, or obscene purpose;
- ii. To create any virus, worm, Trojan horse, or harmful code;
- iii. For any illegal or unauthorized purpose;
- iv. To violate any federal, state, or local laws, including those such as libel, slander, defamation, trade libel, product disparagement, harassment, invasion of privacy, tort, obscenity, indecency, and copyright or trademark infringement; or
- v. To alter, steal, corrupt, disable, destroy, trespass, or violate any security or encryption of any computer file, database, or network.

## 30. YOUR RIGHTS AND RESPONSIBILITIES

- a. You are responsible for providing true and accurate information to us about yourself, and to inform us immediately if and when that information changes. We cannot be responsible for incomplete and/or inaccurate information. You agree that under no circumstances may you impersonate or represent that you are any individual or entity different from your actual identity. We will ban any users who knowingly impersonate others.

### 31. INTERACTION WITH THIRD PARTIES

- a. The Services may contain links to third-party websites that are not owned or controlled by GigWing. You hereby represent and warrant that you have read and agree to be bound by all applicable policies of any third-party website relating to your access to and/or use of the Services, and that you will act in accordance with those policies in addition to your obligations under this Agreement. If you provide us with payment information, you are subject to the Privacy Policy of our payment processor, Stripe. We have no control over, and assume no responsibility for, the content, accuracy, privacy policies, or practices of, or opinions expressed, in any third-party websites. In addition, we will not, and cannot, monitor, verify, censor, or edit the content of any third-party website. By using the Services, you expressly relieve and hold us harmless from any and all liability arising from your use of any third-party website.

### 32. OWNERSHIP

- a. All right, title, and interest in and to the Services, and all materials, images, and/or text available on or through the Software, Services, and/or Website (including, without limitations, text, graphics, logos, button icons, images, blog posts, audio clips, and software), are and will remain the exclusive property of GigWing and of our licensors. The Services are protected by copyright, trademark, and other laws of both the United States and foreign countries. Nothing in this Agreement gives you any right to use the GigWing name or any of our trademarks, logos, domain names, software, and other distinctive brand features. You acknowledge that you receive no ownership, right, title, and/or interest in any intellectual property rights (including, for the avoidance of doubt, patents, copyright, rights in databases and software, trademarks, and trade names, whether registered or unregistered and subsisting anywhere in the world), images, music, sound samplings, and other protected materials. The violation of applicable intellectual property laws may give rise to civil and/or criminal penalties.

### 33. DMCA NOTICE

- a. We respond to alleged infringement notices that comply with the Digital Millennium Copyright Act of 1998 (“DMCA”). If you believe that your copyrighted work has been copied, reproduced, or published in a way that constitutes copyright infringement and is accessible via the Services, please notify [support@gigwing.com](mailto:support@gigwing.com). For your complaint to be valid under the DMCA, you must provide the following information in writing:
  - i. An electronic or physical signature of a person authorized to act on behalf of the copyright owner;
  - ii. Identification of the copyright work that you claim has been infringed;
  - iii. Identification of the material that is claimed to be infringing and where it is located on the Website and/or Services;
  - iv. Information reasonably sufficient to permit us to contact you, such as your address, telephone number, and, email address;
  - v. A statement that you have a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or law;

- vi. A statement, made under penalty of perjury, that the above information is accurate, and that you are the copyright owner or are authorized to act on behalf of the owner.
- b. This procedure is exclusively for notifying us that your copyrighted material has been infringed. The preceding requirements are intended to comply with our rights and obligations under the DMCA, including 17 U.S.C. §512(c), but do not constitute legal advice. It may be advisable to contact an attorney regarding your rights and obligations under the DMCA and other applicable laws.
- c. In accordance with the DMCA and other applicable law, we have adopted a policy of terminating, in appropriate circumstances, users who are deemed to be repeat infringers. We may also at our sole discretion limit access to the Services and/or terminate the accounts of any users who infringe intellectual property rights of others.

#### 34. CALIFORNIA RESIDENTS

- a. If you are a California resident, in accordance with Cal. Civ. Code §1789.3, you may report complaints to the Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs by contacting them in writing at 1625 North Market Blvd., Suite N 112 Sacramento, CA 95834, or by telephone at (800) 952 5210 or (916) 455 1254.

#### 35. TERM AND TERMINATION

- a. THESE TERMS SHALL REMAIN IN FULL FORCE AND EFFECT WHILE YOU USE THE SERVICES. WITHOUT LIMITING ANY OTHER PROVISION OF THIS AGREEMENT, WE RESERVE THE RIGHT TO, IN OUR SOLE DISCRETION AND WITHOUT NOTICE OR LIABILITY, DENY ACCESS TO AND USE OF THE SERVICES (INCLUDING BLOCKING CERTAIN IP ADDRESSES), TO ANY PERSON FOR ANY REASON OR FOR NO REASON, INCLUDING WITHOUT LIMITATION, FOR BREACH OF ANY REPRESENTATION, WARRANTY, OR COVENANT CONTAINED IN THIS AGREEMENT, OR ANY APPLICABLE LAW OR REGULATIONS. WE MAY TERMINATE YOUR USE OR PARTICIPATION IN THE WEBSITE OR SERVICES, OR DELETE YOUR ACCOUNT AND ANY CONTENT AND/OR INFORMATION THAT YOU POSTED AT ANY TIME, WITHOUT WARNING, IN OUR SOLE DISCRETION.
- b. Upon any breach by you of this Agreement, we may pursue, in our sole discretion, all of our legal remedies, including, but not limited to, termination of your account and your ability to use and/or access the Services. You agree that any termination of your access to and/or use of the Services may be effected without prior notice, and you acknowledge and agree that we may immediately deactivate or delete your account and all related information and material in your account and/or bar any further access to such information and/or to the Services. Further, you agree that we are not liable to you or any third-party for any termination of your access to the Services.

#### 36. DISCLAIMER

- a. THE SERVICES ARE PROVIDED ON AN AS-IS AND AS-AVAILABLE BASIS. YOU AGREE THAT YOUR USE OF THE SERVICES WILL BE AT YOUR SOLE RISK. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, WE DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, IN CONNECTION WITH THE SERVICES AND YOUR USE THEREOF, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. WE MAKE NO WARRANTIES OR REPRESENTATIONS ABOUT THE ACCURACY OR COMPLETENESS OF THE WEBSITE'S CONTENT, SERVICES, OR THE CONTENT OF ANY WEBSITES LINKED TO OUR WEBSITE AND WE ASSUME NO LIABILITY OR RESPONSIBILITY FOR ANY (1) ERRORS, MISTAKES, OR INACCURACIES OF CONTENT AND MATERIALS, (2) PERSONAL INJURY OR PROPERTY DAMAGES, OF ANY NATURE WHATSOEVER, RESULTING FROM YOUR ACCESS TO AND USE OF THE SERVICES, (3) ANY UNAUTHORIZED ACCESS TO OR USE OF OUR SECURE SERVERS AND/OR ANY AND ALL PERSONAL INFORMATION AND/OR FINANCIAL INFORMATION STORED THEREIN, (4) ANY INTERRUPTION OR CESSATION OF TRANSMISSION TO OR FROM THE WEBSITE AND/OR THE APPLICATION OR SERVICES, (5) ANY BUGS, VIRUSES, TROJAN HORSES, OR THE LIKE, WHICH MAY BE TRANSMITTED TO OR THROUGH THE WEBSITE AND/OR SERVICES BY ANY THIRD PARTY, AND/OR (6) ANY ERRORS OR OMISSIONS IN ANY CONTENT, INFORMATION, AND MATERIALS OR FOR ANY LOSS OR DAMAGE OF ANY KIND INCURRED AS A RESULT OF THE USE OF ANY CONTENT POSTED, TRANSMITTED, OR OTHERWISE MADE AVAILABLE VIA THE WEBSITE AND/OR SERVICES.
- b. WE DO NOT WARRANT, ENDORSE, GUARANTEE, OR ASSUME RESPONSIBILITY FOR ANY PRODUCT, SERVICE, OR CONTENT ADVERTISED BY OR OFFERED BY A THIRD-PARTY THROUGH THE WEBSITE, THE SERVICES, ANY HYPERLINKED WEBSITE, OR ANY WEBSITE OR MOBILE APPLICATION FEATURED IN ANY BANNER OR OTHER ADVERTISING, AND WE WILL NOT BE A PARTY TO OR IN ANY WAY BE RESPONSIBLE FOR MONITORING ANY TRANSACTION BETWEEN YOU AND ANY THIRD-PARTY PROVIDERS OF PRODUCTS, SERVICES, OR CONTENT. AS WITH THE PURCHASE OF ANY PRODUCT OR SERVICE THROUGH ANY MEDIUM OR IN ANY ENVIRONMENT, YOU SHOULD USE YOUR BEST JUDGMENT AND EXERCISE CAUTION WHERE APPROPRIATE.
- c. PARTICULARLY, WE MAKE NO GUARANTEES AS TO THE ACCURACY OF THE INFORMATION ON OUR WEBSITE AND SERVICES. THE INFORMATION PROVIDED THROUGH OUR WEBSITE AND SERVICES SHOULD NOT BE RELIED UPON, AND YOU SHOULD ALWAYS CONDUCT YOUR OWN INDEPENDENT INVESTIGATIONS OF ANYTHING OR ANYONE FEATURED ON OUR SERVICES AND/OR WEBSITE.
- d. WE TAKE NO RESPONSIBILITY FOR ANY EVENTS OR SERVICES THAT WE RECOMMEND OR FEATURE ON OUR WEBSITE AND/OR SERVICES. ANY EVENT OR SERVICES THAT YOU USE OR ATTEND AS A RESULT OF YOUR USE OF OUR WEBSITE AND/OR SERVICES IS ENTIRELY AT YOUR OWN RISK.
- e. GIGWING IS NOT RESPONSIBLE FOR WITHHOLDING, COLLECTION, AND/OR PAYMENT OF ANY DIRECT OR INDIRECT TAXES, DUTIES, AND/OR LEVIES ON ANY TRANSACTIONS UNDERTAKEN AMONG THE USERS THROUGH THE SERVICES. FURTHER, THE USER IS SOLELY RESPONSIBLE FOR MAKING THE REQUIRED FILINGS AND REPORTING SUCH TRANSACTIONS WITH APPROPRIATE AUTHORITIES. YOU SHOULD CONSULT YOUR OWN

TAX, LEGAL, AND ACCOUNTING ADVISORS BEFORE ENGAGING IN ANY TRANSACTIONS THROUGH OUR SERVICES.

### 37. LIMITATIONS OF LIABILITY

- a. IN NO EVENT WILL WE, OR OUR DIRECTORS, EMPLOYEES, OFFICERS, OR AGENTS, BE LIABLE TO YOU OR TO ANY THIRD-PARTY FOR ANY DIRECT, INDIRECT, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, SPECIAL, OR PUNITIVE DAMAGES, INCLUDING LOST PROFIT, LOST REVENUE, LOST BUSINESS OPPORTUNITIES, REPUTATION (E.G. OFFENSIVE OR DEFAMATORY STATEMENTS), LOSS OF DATA (E.G. DOWNTIME OR LOSS, USE OF, OR CHANGES TO, YOUR INFORMATION OR CONTENT), OR OTHER DAMAGES ARISING FROM YOUR USE OF THE SERVICES, EVEN IF WE OR YOU HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, GIGWING AND ITS AFFILIATES WILL NOT BE LIABLE TO YOU IN CONNECTION WITH THIS CONTRACT FOR ANY AMOUNT OF MONEY FOR ANY CAUSE WHATSOEVER AND REGARDLESS OF THE FORM OF THE ACTION.

### 38. BASIS OF THE BARGAIN; EXCLUSIONS

- a. The Limitations of Liability in Section 37 are part of the basis of the bargain between you and GigWing, and shall apply to all claims of liability (e.g. warranty, tort, negligence, contract, and law) even if GigWing or its affiliates have been told of the possibility of any such damage, and even if these remedies fail their essential purpose.
- b. You (the User(s)) are solely responsible for your use of our Services and/or Website including engaging with any individual or business listed on our Website or presented through our matching service and we will not be liable for any consequence of such engagement even if it results in death or personal injury; or fraud, gross negligence, or intentional misconduct; or in cases of negligence where a material obligation has been breached. Our matching service may provide matches based on skillset/services sought, locations or expected pay, but, has no way to determine if the matched profiles belong to any person or business that has engaged or may engage in illegal or criminal activity or any other activity that may result in death or personal injury or any kind of fraud, gross negligence or intentional misconduct or cases of negligence where a material obligation has been breached, and hence we (GigWing) will not be liable for any consequences of user(s) engaging with other user(s) of our Services and/or Website whether or not their profiles and/or information are displayed as a result of our matching or mentorship service or any other service offered by GigWing.

### 39. INDEMNIFICATION

- a. To the maximum extent permitted by applicable law, you agree to hold harmless and indemnify GigWing and its directors, employees, officers, agents, or other partners, from and against any third-party claim arising from or in any way related to your use and/or access of the Services, including any liability or expense arising from all claims, losses, damages (actual and/or consequential), suits, judgments, litigation costs, and attorneys' fees, of every kind and nature including physical or monetary harm, or civil or criminal claims arising out of: (1) your Content and/or User Content; (2) use of the Website and/or

the Services; (3) any breach of this Agreement; (4) any breach of your representations and warranties set forth in this Agreement; (5) your violation of the rights of a third-party, including but not limited to intellectual property rights; or (6) any overt harmful act toward any other user(s) of the Services with whom you connected via the Services. Notwithstanding the foregoing, we reserve the right, at your expense, to assume the exclusive defense and control of any matter for which you are required to indemnify us, and you agree to cooperate, at your expense, with our defense of such claims. We shall use good faith efforts to provide you with written notice of such claim, suit, or action. In addition, you expressly waive and relinquish any and all rights and benefits which you may have under any other state or federal statute or common law principle of similar effect, to the fullest extent permitted by law.

#### 40. SITE MANAGEMENT

- a. We reserve the right, but not the obligation, to:
  - i. Monitor the Website and Services for violations of this Agreement;
  - ii. Take appropriate legal action against anyone who, in our sole discretion, violates the law or this Agreement, including, without limitation, reporting such User(s) to law enforcement authorities;
  - iii. In our sole discretion and without limitation, refuse, restrict access to, limit the availability of, or disable (to the extent technologically feasible) any of your Content, User Content, or any portion thereof and/or your access to our Website, Services or any portion thereof.
  - iv. In our sole discretion and without limitations, notice, or liability, to remove the Website and/or Services, or otherwise disable all files and content excessive in size or that are in any way burdensome to our systems, and otherwise manage the Website and Services in a manner designed to protect our rights and property and to facilitate the proper functioning of the Website and Services.

#### 41. EXCLUSION OF LIABILITY

These are the limits of legal liability we may have to you.

GIGWING, INCLUDING ITS AFFILIATES, WILL NOT BE LIABLE IN CONNECTION WITH THIS CONTRACT FOR LOST PROFITS OR LOST BUSINESS OPPORTUNITIES, REPUTATION (E.G., OFFENSIVE OR DEFAMATORY STATEMENTS), LOSS OF DATA (E.G., DOWNTIME OR LOSS, USE OF, OR CHANGES TO, YOUR INFORMATION OR CONTENT) OR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES.

GIGWING AND ITS AFFILIATES WILL NOT BE LIABLE TO YOU IN CONNECTION WITH THIS CONTRACT FOR ANY AMOUNT OF MONEY.

#### 42. GENERAL PROVISIONS

- a. When you provide information to us via our Services and/or Website, or send emails to us, you are communicating with us electronically. By providing information on our Website and/or Services, you consent to receive communications from us electronically through: (1) the GigWing Service, and/or (2) the contact information you provide, such as your email address, mobile number, or physical address. You agree that all agreements, notices, disclosures, and other communications that we provide to you electronically satisfy any legal requirement that such communications be in writing.



- b. If any provision of this Agreement is unenforceable, that provision will be changed and interrupted to accomplish the objectives of the provision to the greatest extent possible under applicable law, and the remaining provisions will continue in full force and effect.
- c. If you are outside United States, the laws of your country may be different from those of California and the United States in numerous respects. There is no practical way for us to monitor the laws of every country in detail. You accept sole responsibility for the legality of your actions under laws applying to you.
- d. This Agreement is void where prohibited by law, and the right to access and use the Services is revoked in such jurisdictions.
- e. You may not assign this Agreement without the prior written consent of GigWing, but GigWing may assign or transfer this Agreement, in whole or in part, without restriction. The section titles in this Agreement are for convenience only and have no legal or contractual effect.
- f. Notice to you may be made via email, text, or regular mail. The Services may also provide notices to you of changes to this Agreement or other matters by displaying notices or links to notices generally on the Services and/or the Website.
- g. This Agreement, together with our PRIVACY POLICY available at <https://gigwing.com/pdfs/GigWing-Privacy-Policy.pdf> and any additional terms that may be provided by GigWing when you engage with a feature of the Services, constitutes the entire agreement between you and us and governs your use of the Services, superseding any prior agreements or contemporaneous agreements between you and us. Please review our PRIVACY POLICY carefully.
- h. We reserve the right, in our sole discretion, to change, modify, add or remove portions of this Agreement, at any time. It is your responsibility to check this Agreement periodically for changes. The latest version of this Agreement supersedes any previous versions of this Agreement. Your continued use of the Services following the posting of changes will mean that you accept and agree to the changes. If you do not agree to the new terms, you are required to stop using the Services, and send us an email at [support@gigwing.com](mailto:support@gigwing.com) to delete your account.
- i. You agree that the only way to provide us legal notice is by mailing to this address: 18360 Corte Matheo, Morgan Hill, CA 95037.