

## USER AGREEMENT

This USER AGREEMENT is made and entered into on the date executed by USER, (Effective Date) by and between Tax Protection Plus, LLC (hereinafter referred to as "COMPANY"), with its principal offices at 221 Executive Park Blvd, Winston Salem, NC 27103 and the USER completing this Agreement (hereinafter referred to as "USER").

### **1. DEFINITIONS:**

- USER: Tax preparer, Tax preparation business or service bureau executing this USER AGREEMENT.
- SUBCONTRACTOR: Tax preparers, tax preparation businesses or others operating under contract with USER.
- COMPANY PROGRAM: mutually refers to either Company Audit Assistance Program and/or COMPANY Identity Theft Restoration Program.
- COMPANY Audit Assistance Program: COMPANY's membership benefit program that provides audit assistance to filers of individual federal and state income tax returns (Subject to the terms and conditions of the Audit Assistance Program Membership Agreement).
- COMPANY Identity Theft Restoration Program: COMPANY'S membership benefit program that provides identity restoration services (Subject to the terms and conditions of the Identity Theft Restoration Program Membership Agreement).
- Member(s): An individual actively enrolled into a COMPANY Program.

**2. APPOINTMENT:** Upon execution of this AGREEMENT by USER, USER is appointed and authorized by COMPANY to enroll Members into the COMPANY's Programs (hereafter referred to as Program or COMPANY Program). USER assumes full responsibility for the actions of USER's employees and SUBCONTRACTORS under this Agreement as if USER performed them and agrees to take full responsibility to insure they adhere to the terms and conditions of this AGREEMENT.

In order to be appointed and authorized by COMPANY to enroll Members into COMPANY'S Program,, USER agrees to enroll themselves and any SUBCONTRACTORS as Organization Members of the American Advantage Association.

**3. INDEPENDENT CONTRACTOR:** The parties agree that USER is an independent contractor. Nothing contained in this agreement or in the rules and regulations of COMPANY shall be construed to create the relationship of employer and employee between USER and COMPANY. USER shall be free to exercise its own judgment as to the individuals from whom it shall solicit business and the time, place and manner of solicitation. However, COMPANY may, from time to time, prescribe reasonable rules and regulations respecting the conduct of USER's business as they relate to: 1.) this Agreement, 2.) the individuals who are eligible for a COMPANY Program and 3.) the states in which a COMPANY Program may be available, but COMPANY will not interfere with USER's freedom of action. All costs and expenses incurred by USER in performing any services under this Agreement, including but not limited to, rentals, salaries, booth or stall fees, telephone, traveling and living expenses, traveling, entertainment, office, clerical, maintenance, displays and advertisements, and other marketing and sales expenses shall be borne solely by USER and shall not be reimbursed by COMPANY. In no case shall COMPANY be responsible or liable for such expenses or costs.

**4. OBSERVANCE OF COMPANY'S RULES AND REGULATIONS:** USER is responsible for its actions. USER will use its best efforts to observe and familiarize themselves with the guidelines, rules and regulations of COMPANY as they may exist from time to time including those found in this Agreement. USER agrees to follow any special instructions as may from time to time, be given by COMPANY.

**5. COMPLIANCE WITH LAWS, RULES, REGULATIONS AND REQUIREMENTS:** USER and COMPANY shall comply with and adhere to all applicable federal, state, and local laws, rules and regulations, governing its services including but not limited to any laws, rules and regulations requiring licensing and disclosure.

**6. SPECIFIC LIMITATIONS ON ACTIONS BY USER.** USER is not authorized by or on behalf of COMPANY to: incur any debt or obligation on behalf of COMPANY; make, alter or discharge any contract or policy; waive any forfeiture; waive payment in cash; extend the time for payment

of any fees or accept payment of any past due fees; extend the days of grace of any membership agreement; or represent COMPANY except as permitted by this Agreement. USER shall not circumvent COMPANY in any way, including but not limited to, entering into discussions, negotiations or agreements that would by-pass payment to COMPANY in delivering the Programs outlined in this Agreement to Members.

### **7. MARKETING GUIDELINES:**

USER must adhere to the following guidelines in their efforts to enroll prospective Members into a COMPANY Program.

- a. USER agrees to enroll all taxpayers, for whom USER prepares and submits to the IRS or state taxing authority a tax return between January 1<sup>st</sup> and the October extension deadline of the current tax season, into COMPANY Programs. USER agrees to present the COMPANY Programs to their taxpayer customers clearly and truthfully and to fully and accurately disclose the benefits, limitations and exclusions of the Program.
- b. USER agrees that it will not charge MEMBER a separate fee for COMPANY Programs and that COMPANY Programs shall be provided to USER'S taxpayer customers as part of USER'S tax services.
- c. Only approved COMPANY Programs may be provided to USER'S taxpayer customers. USER may not modify the Program benefits of an approved COMPANY Program for any Member.
- d. USER shall use no advertising material, prospectus, proposal, or representation in relation to a Program of COMPANY unless furnished by COMPANY or with the prior written consent of COMPANY. USER shall not issue or circulate any statement or memorandum of any sort misrepresenting the terms, benefits, or advantages of any Program, or any misleading statement as to the financial security of COMPANY. USER agrees that it shall not use any trade name, trademark, service mark, logo or other identifying mark of COMPANY or their product Providers or their affiliates without the prior written consent of COMPANY.
- e. User shall obtain adequate information from each Member on a form provided by COMPANY, which may be included in your tax software, and shall insure that all information is accurately inserted where required.
- f. The USER retains full responsibility for USER'S efforts to enroll Members in the COMPANY Programs. COMPANY and its designated administrator are not responsible for USER'S enrollment activities.
- g. USER will enroll Members using only COMPANY approved enrollment processes. COMPANY reserves the right to reject any Member enrollments received through a process that has not been approved by COMPANY.

### **8. APPROVAL, HANDLING AND RETENTION OF DOCUMENTS:**

Member enrollments are not valid and a Member's membership is not in force until and after accepted by COMPANY. Member enrollments will be considered to be accepted when the Member's tax return is acknowledged by the IRS and/or state taxing authority and COMPANY has received payment in full for each enrolled Member. USER shall retain a copy of all enrolled Member tax returns for a period of thirty six (36) months. A copy of all documents must be sent to Member or COMPANY within 10 days of request for such documents.

**9. COMPLETION OF TAX RETURN:** USER shall use due diligence and shall take all precautions as reasonably expected to insure that all tax returns are completed properly, accurately, timely and legally. USER must adhere to all IRS tax codes and to IRS Publication 1345 (Handbook for Electronic Filers) and all related supplemental publications and Circular 230. Any USER who prepares a fraudulent tax return or intentionally prepares an inaccurate tax return or "coaches" or encourages a taxpayer to do so, or prepares a return with gross indifference, or preparation which is grossly inadequate under the circumstances shall void this Agreement and COMPANY will provide no membership services for that tax return.

**10. PROGRAM FEES:** COMPANY shall solely designate the Program Fee it charges USER for the COMPANY Programs (COMPANY Program Fee). COMPANY shall communicate the COMPANY Program Fee to USER with timely advance notice of the application of such fees. USER shall provide Members with the COMPANY Programs as part of USER'S tax services and will not charge MEMBER a separate fee for COMPANY Programs.

#### **11. PAYMENT TO COMPANY:**

- a. Electronically transmitted tax returns: All tax returns prepared and e-filed by USER shall be electronically reported to COMPANY by the USER'S tax software provider. USER shall be billed periodically but not less than monthly an amount equal to the COMPANY Program Fee for each such tax return reported to COMPANY by USER'S tax software provider.
- b. Paper tax returns: USER must fax or electronically send a list of all Members for tax returns it manually prepares and mails to the IRS to COMPANY within fifteen (15) days of mailing the tax return, in a format acceptable to COMPANY. USER shall be billed periodically but not less than monthly an amount equal to the COMPANY Program Fee for each such tax return reported to COMPANY by USER. Failure to comply with this clause will result in no Program membership services for USER's enrolled Member when service is requested.
- c. Payment: USER must keep a valid payment method on file with COMPANY at all times and authorize COMPANY to automatically draft this payment method periodically but not less than monthly for an amount equal to the COMPANY Program Fee for each return prepared and filed. Failure to pay the COMPANY Program Fee within fifteen (15) days of enrollment may result in no Program membership services for USER'S enrolled MEMBERS when service is requested; termination of this User Agreement; and no further enrollments may be submitted. If this USER AGREEMENT is terminated by COMPANY as a result of USER'S non-payment of COMPANY Program Fee, USER is required to notify all taxpayers who received a Member Agreement, at USER'S expense, that no services provided by COMPANY will be provided to the taxpayer.

**12. RESPONSE TO A REQUEST FOR SERVICE:** COMPANY shall respond promptly to requests for service made by Members of User. COMPANY will provide professional assistance to the Member in a manner to resolve the request for service in the sole discretion of COMPANY. Services under this agreement specifically exclude any legal representation of the Member or User.

**13. EXCLUSIVE RELATIONSHIP:** USER shall not offer or sell a product or service with the same or similar services as those provided within the COMPANY Program with another entity other than COMPANY in its offices where the COMPANY Product is provided pursuant to this Agreement.

**14. TERM AND TERMINATION:** The initial term of this Agreement shall begin on the date USER executes this Agreement and, except as provided in this section of the Agreement, shall continue for a period of one (1) year (the "Initial Term"), and shall be automatically renewed for one (1) year terms ("Renewal Terms") thereafter unless terminated by either party with at least thirty (30) days notice to the other party prior to renewal. COMPANY may immediately terminate this Agreement for cause for the following reasons:

- **Breach of Agreement.** In the event of a breach of this Agreement by USER, COMPANY may give written notice of the breach and request corrective action. If USER has not either taken the requested action or begun a diligent prosecution thereof within fifteen days of receipt of the COMPANY's notification, then COMPANY may, at its option, send notice of termination. The notices described in this paragraph may be sent certified, registered or other verifiable mail or email to the terminated party at the addresses provided by USER.
- **Insolvency.** At COMPANY's option, and upon written notice of the exercise of the option, this Agreement terminates upon the voluntary or involuntary bankruptcy or insolvency of USER.
- **Fraud, etc.** The fraud, misrepresentation, misappropriation of funds, or willful misconduct of USER.
- **Other.** For the USER's violation of the provisions of Paragraphs 4, 5, 6, 7, 9, 11 & 13 of this Agreement.

Changes in Terms and Early Termination: COMPANY may unilaterally change, delete, or add any term to this Agreement upon thirty (30) days written notice to USER (the 30 day period being referred to hereinafter as the "30 Day Notice Period", provided, however, that if such a change, deletion, or addition is not acceptable to USER, USER may terminate this Agreement upon ten (10) days written notice to COMPANY, which

notice must be given prior to the end of the 30 Day Notice Period. The change, deletion, or addition made by COMPANY shall become effective at the end of the 30-Day Notice Period.

**Return of Proprietary Information:** Upon termination of this Agreement, the parties will return to any furnishing party all proprietary and confidential information received in connection with this Agreement and certify in writing to such furnishing party that such receiving party has not retained any copies of such proprietary or confidential information.

**Effect of Termination:** The termination of this Agreement shall not cause the termination of any obligation which by its nature is a continuing obligation.

**15. INDEMNIFICATION:** Both parties agree to indemnify and hold the other party, and the other party's officers, directors, partners, employees, contractors, consultants, agents, investors, and share holders harmless from and against any loss, expense, liability or damage, including but not limited to any judgment, award, settlement, reasonable attorney's fees, or other costs or expenses suffered or sustained by any or all of the above indemnified parties, as a result of any third-party claim or cause of action out of the performance by the party.

**16. CONFIDENTIALITY:** USER acknowledges that they will have access to and receive disclosure of certain confidential or proprietary information about COMPANY. Confidential Information shall include but not be limited to any and all information of a confidential or proprietary nature, whether written, oral, electronic (email or other electronic documentation) or other medium for storage of information, documents, names of Vendors, Members, clients, present and future products, price quotes, commission structures, and policies disclosed by COMPANY to USER, its employees, officers, directors, USERS, or representatives, during the term of this Agreement. USER shall protect and preserve the confidential and proprietary nature of all confidential information in its possession. Notwithstanding the foregoing, confidential information shall not include any information that is or becomes generally available to the public or any information that is lawfully obtained by the USER from a third party with the right to disclose such information. In the event of a breach or threatened breach of this provision, the provisions of this paragraph may be enforced by an injunction restraining the breaching party from the commission of such breach to the full extent thereof, or to such extent as a court of competent jurisdiction may deem just and proper for the reasonable protection of the rights and interest of COMPANY. Nothing contained herein shall be construed as prohibiting COMPANY from pursuing any other remedies available to it for such breach or threatened breach, including the recovery of money damages.

No party shall make any unauthorized disclosure of or use any personal information of individual consumers which it receives from the other party or on the other party's behalf other than to carry out the purpose for which such information is received, and each party shall comply, to the extent applicable, with requirements of the implementing of regulations of Title V of the Gramm-Leach-Bliley Act of 1999. Each party shall adopt and maintain a comprehensive privacy policy with respect to its handling of the personal information of individual consumers submitted by such consumers to that party. Each party shall comply in all respects with the provisions of such privacy policy.

**17. TRADE NAMES:** USER recognize the proprietary interest that COMPANY has in their corporate and trade names and USER represents and warrants that USER will not use COMPANY's corporate identity or any trade mark or service mark of the other or any COMPANY Vendor, including any private label name used by COMPANY, without having received prior consent to do so.

**18. ARBITRATION:** Any disputes or disagreements arising out of or relating to this Agreement, which cannot be settled by the parties on a mutually satisfactory basis, shall be submitted and settled by binding arbitration in the State of North Carolina. A single arbitrator shall be selected by agreement of the parties. If the parties cannot agree on an arbitrator, each party shall nominate one arbitrator, and the nominated arbitrators shall select a single additional arbitrator, all of whom shall then serve as the arbitration panel. The arbitration procedures shall be as directed by the arbitrator(s), or if the arbitrator(s) shall so decide, under the Commercial Arbitration Rules of the American Arbitration Association. The parties agree that the arbitration shall be instead of any civil litigation and that the arbitrator's decision and ruling shall be

final and binding. Each party will bear one-half (1/2) of the cost of the arbitration filing and hearing fees and one-half (1/2) of the cost of the arbitrator(s).

**19. ACCESS TO BOOKS AND RECORDS:** COMPANY shall have a continuing right of access to the books and records maintained by USER which are related to transactions pursuant to this agreement. USER shall, upon reasonable request, make such books and records available to COMPANY or its authorized representatives during normal business hours for review, inspection, examination, and reproduction, the costs of which shall be borne by COMPANY. Such review, inspection, examination, or reproduction shall be subject to applicable laws governing the privacy and confidentiality of consumer information. This paragraph shall survive termination of this agreement.

**20. OPERATIONS AUDIT:** In addition to any other access or audit rights provided by this Agreement, COMPANY shall have the right, upon reasonable advance notice, to review the business operations of USER pertaining to COMPANY, the costs of which review shall be borne by COMPANY. Any such review shall be conducted expeditiously and with a minimum of interference with business operations. USER shall provide any information, documents or statistical data as may be reasonably requested by COMPANY for purposes of such review, provided that such information, documents or statistical data relate directly to COMPANY and are readily available from records or computer programming existing at the time the review is conducted. Such review may include an on-site audit of the operations of USER.

**21. ENTIRE UNDERSTANDING:** This Agreement states the entire understanding between the parties with respect to the subject matter hereof, and supersedes all earlier and contemporaneous oral and written communications and agreements or promises made with respect to the same subject matter, and any other previous agreements, promises, or representations of any kind respecting the relationship between the parties hereto. This Agreement shall not be modified except as provided in this Agreement or in a written document signed by both parties.

**22. NO WAIVERS:** No failure to exercise, delay in exercising, or single or partial exercise of any right, power or remedy by either party shall constitute a waiver of, or shall preclude any other or further exercise of, the same or any other right, power or remedy.

**23. SEVERABILITY:** If any provision of this Agreement is construed to be invalid, illegal or unenforceable, then the remaining provisions of this Agreement shall not be affected thereby and shall be enforceable without regard thereto.

**24. CONTROLLING LAW:** This Agreement is made under and shall be construed and enforced in accordance with the laws of the State of North Carolina.

**25. ASSIGNMENT:** This Agreement and the obligations hereunder may not be assigned by USER except upon the prior written consent of COMPANY.

**26. ELECTRONIC SIGNATURE CONSENT:** You are agreeing to this USER AGREEMENT using electronic processes, which will include the use of electronic records and electronic signatures. COMPANY is required by law to provide you with certain disclosures and information about your agreement ("Required Information"). With your consent, COMPANY can deliver Required Information to you electronically. You should print or download the Required Information and keep it for your records. Your consent also permits the general use of electronic records and electronic signatures in connection with your agreement. This notice contains important information that you are entitled to receive before you consent to electronic agreement.

**PLEASE READ THIS NOTICE CAREFULLY AND PRINT OR DOWNLOAD A COPY FOR YOUR FILES.**

**Disclosures:** By electronically signing this document, you consent to the use of electronic transactions, electronic signatures and receipt of electronic versions of certain records. In addition, you agree to be bound by any consent or agreement you make or transmit through the internet or this application, including but not limited to any consent you give to receive records or communications from us solely through electronic transmission. You agree that your agreement or consent will be legally binding and enforceable and the legal equivalent of your handwritten signature.

You are entitled to receive Required Information on paper, but if you do not consent to electronic delivery of Required Information, COMPANY cannot proceed with the acceptance and processing of your electronic enrollment. If you consent to electronic delivery of Required Information, you may withdraw that consent at any time. However, if you withdraw your consent, COMPANY will not be able to continue processing your agreement electronically. You may, however, enroll by using COMPANY'S paper hardcopy USER AGREEMENT, but this may delay completion of the process. If you consent to electronic disclosures, that consent applies to all Required Information that COMPANY gives you or receives from you in connection with your enrollment and the associated disclosures, and other documents. You agree to print out or download Required Information when COMPANY advises you to do so and keep it for your records. If you have any trouble printing out or downloading any Required Information, you may call COMPANY. If you need to update your e-mail address or other contact information with COMPANY, wish to withdraw your consent to electronic disclosures, or wish to obtain a paper copy of the Required Information after submitting your agreement, you may do so by contacting COMPANY at the contact address or telephone number provided. Please contact COMPANY immediately if any of your contact information changes. There may be an additional charge for receiving paper copies of any information that you request. In order to electronically review and sign the USER AGREEMENT, you will need to satisfy certain computer hardware and software requirements. These minimum operating system requirements are: Browsers: Internet Explorer or Mozilla Firefox; Adobe Reader. If you do not have the required software and/or hardware, or if you do not wish to use electronic agreement, you can request that COMPANY send paper copies of the USER AGREEMENT to you instead. COMPANY may require that certain communications from you be delivered to them on paper at a specified address.

**Statement of Consent**

I have read the information about the use of electronic records, disclosures, notices, and email, and consent to the use of electronic records for the delivery of Required Information in connection with my agreement to the USER AGREEMENT. I have been able to view, download and print this enrollment information using my computer and software. I have an account with an Internet service provider, and I am able to send e-mail and receive e-mail with hyperlinks to websites and attached files. I also consent to the use of electronic records and electronic signatures in connection with my agreement to USER AGREEMENT with COMPANY in place of written documents and handwritten signatures.