

GTM Household Employment Experts

APPLICATION SERVICE PROVIDER (ASP) AGREEMENT

This agreement (the “AGREEMENT”) is a legally binding agreement between you, an individual or a single entity (the “CLIENT”), and GTM Payroll Services, Inc. d/b/a GTM Household Employment Experts (“GTM”), that sets forth the terms and conditions for the use by you of GTM’s Household Management System (the “SERVICE”). This agreement supercedes any other written or oral agreement. GTM licenses the SERVICE to you upon the express condition that you accept all of the terms and conditions in this AGREEMENT. GTM may at any time and without notice to you, change its fees and change the terms of this AGREEMENT. A current copy of the terms and conditions may be found on GTM’s web site at www.gtm.com (the “SITE”). Please read the AGREEMENT carefully before using the SERVICE.

1. **General.** The SERVICE, consisting of access to certain application software, content and/or other information, and other content owned or licensed by GTM and/or its suppliers, licensors or other third parties (collectively, the “SUPPLIER”), is provided by GTM.
2. **Restricted License.** Subject to the terms and conditions of this AGREEMENT, GTM hereby grants to CLIENT, and CLIENT accepts, a non-exclusive, non-transferable license to access and use the SERVICE. All rights not expressly granted to CLIENT are hereby reserved by GTM and/or the respective SUPPLIER. GTM and each SUPPLIER shall have the right to assert and enforce the provisions of this Article directly on its own behalf. CLIENT agrees (a) to abide by this AGREEMENT and any and all licensing agreements between a third party SUPPLIER and CLIENT (collectively, the “LICENSING DOCUMENTS”); and (b) to keep CLIENT’s authorized SERVICE account information confidential (including CLIENT’s password, username, and any other information related to the SERVICE) and to inform GTM promptly upon the unintended and/or undesired disclosure of any portion of such information.
3. **Intellectual Property Rights.** It is hereby understood and agreed that as between GTM and CLIENT, GTM and/or its suppliers are the owners of all rights, title and interest, including all Intellectual Property Rights (as defined below), to the SERVICE and any comments, suggestions, ideas, graphics, questions or other information submitted by CLIENT through the SITE or the SERVICE (“SUBMISSIONS”). GTM shall be entitled to use such SUBMISSIONS for any commercial or other purpose whatsoever without compensation to CLIENT or anyone else. CLIENT hereby warrants that no SUBMISSIONS shall violate any Intellectual Property Right of any third party. For the purposes of this AGREEMENT, “Intellectual Property Rights” shall mean any and all of the following: (a) rights associated with works of authorship throughout the universe, including but not limited to copyrights, moral rights, and mask-works; (b) trademark and trade name rights and similar rights; (c) trade secret rights, including but not limited to confidential business information; (d) patents, designs, algorithms and other industrial property rights; (e) all other intellectual and industrial property rights of every kind and nature throughout the universe and however designated, including, but not limited to logos, “rental” rights, rights of publicity, and rights to remuneration, whether arising by operation of law, contract, license, or otherwise; and (f) all registrations, initial applications, renewals, extensions,

continuations, divisions or reissues hereof now or hereafter in force (including any rights in any of the foregoing).

Except as expressly provided herein, CLIENT does not acquire any rights to the SERVICE through the purchase of licenses to the SERVICE or the SITE. CLIENT may not reverse engineer, decompile, disassemble, or otherwise attempt to discern the Source Code (*i.e.*, the human-readable form of any computer programming code) of the components of the SERVICE, or create derivative works based thereon. CLIENT also may not download, republish, reproduce, copy, post, transmit, or in any way distribute any material from the SITE unless such activities are in direct furtherance of CLIENT's permitted use of the Service and do not in any way violate this AGREEMENT or any Licensing Documents.

CLIENT is not permitted to: (a) rent, lease, assign or transfer all or any part of the SERVICE and/or CLIENT's Account Information to any person or entity without the prior written consent of GTM; (b) remove any proprietary notices, labels, or marks from any component of the SERVICE or SITE, whether in machine language or Source Code; or (c) sublicense, assign, delegate or otherwise transfer this license or any of the related rights or obligations for any reason without the prior written consent of GTM. Any attempt to sublicense, assign, delegate or transfer this license, either by contract, statute, corporate merger of any sort, regulation, or court order, without the prior written consent of GTM, shall be voidable at GTM's sole and absolute discretion. Failure to comply with these restrictions will result in automatic termination of this AGREEMENT.

4. Term. Subject to its cancellation under any other clause of this AGREEMENT, the term of this AGREEMENT shall be determined by CLIENT and GTM and memorialized in a separate writing.

5. Use of Third Party Software. This section concerns CLIENT's use of Third Party software, which includes computer software provided to CLIENT by GTM as described below, and may include associated media, printed materials, and "online" or electronic documentation (individually and collectively "SOFTWARE PRODUCTS"). GTM may not own the SOFTWARE PRODUCTS and any use thereof may be subject to certain rights and limitations of which GTM needs to inform CLIENT. CLIENT's right to use the SOFTWARE PRODUCTS is subject to CLIENT's agreement with GTM, and to CLIENT's understanding of, compliance with, and consent to, the following terms and conditions, which GTM does not have authority to vary, alter, or amend.

a. DEFINITIONS.

"Client Software" means software that allows a Device to access or utilize the services or functionality provided by the Server Software.

"Device" means each of a computer, workstation, terminal, handheld PC, pager, telephone, personal digital assistant, "smart phone," or other electronic device.

“Server Software” means software that provides services or functionality on a computer acting as a server.

“Redistribution Software” means the software described in Paragraph d (“Use of Redistribution Software”) below.

b. **OWNERSHIP OF SOFTWARE PRODUCTS.** Some SOFTWARE PRODUCTS may be licensed to GTM from various THIRD PARTY SOFTWARE PROVIDERS. All title and intellectual property rights in and to such SOFTWARE PRODUCTS (and the constituent elements thereof, including but not limited to any images, photographs, animations, video, audio, music, text and “applets” incorporated into the SOFTWARE PRODUCTS) are owned by such THIRD PARTY SOFTWARE PROVIDERS and/or their suppliers. The SOFTWARE PRODUCTS are protected by copyright laws and international copyright treaties, as well as other intellectual property laws and treaties. CLIENT’s possession, access, or use of the SOFTWARE PRODUCTS does not transfer any ownership of the SOFTWARE PRODUCTS or any intellectual property rights to CLIENT.

c. **USE OF CLIENT SOFTWARE.** CLIENT may use the Client Software installed on CLIENT’s Devices only in accordance with the instructions, and only in connection with the services, provided to CLIENT by GTM.

d. **USE OF REDISTRIBUTION SOFTWARE.** In connection with the services provided to CLIENT by GTM, CLIENT may have access to certain “sample,” “redistributable” and/or software development software code and tools (individually and collectively “Redistribution Software”). CLIENT MAY NOT USE, MODIFY, COPY, AND/OR DISTRIBUTE ANY REDISTRIBUTION SOFTWARE UNLESS CLIENT EXPRESSLY AGREES TO AND COMPLY WITH CERTAIN ADDITIONAL TERMS APPLICABLE TO GTM, WHICH TERMS MUST BE PROVIDED TO CLIENT BY GTM. THIRD PARTY SOFTWARE PROVIDERS do not permit CLIENT to use any Redistribution Software unless CLIENT expressly agrees to and complies with such additional terms, as provided to CLIENT by GTM.

e. **COPIES.** CLIENT may not make any copies of the SOFTWARE PRODUCTS; provided, however, that CLIENT may (a) make one (1) copy of Client Software on CLIENT’s Device as expressly authorized by GTM and (b) CLIENT may make copies of certain Redistribution Software in accordance with Paragraph d (Use of Redistribution Software). CLIENT must erase or destroy all such Client Software and/or Redistribution Software upon termination or cancellation of CLIENT’s agreement with GTM, upon notice from GTM, or upon transfer of CLIENT’s Device to another person or entity, whichever first occurs. CLIENT may not copy any printed materials accompanying the SOFTWARE PRODUCTS.

f. **LIMITATIONS ON REVERSE ENGINEERING, DECOMPILATION AND DISASSEMBLY.** CLIENT may not reverse engineer, decompile, or disassemble the

SOFTWARE PRODUCTS, except and only to the extent that applicable law, notwithstanding this limitation, expressly permits such activity.

g. NO RENTAL. CLIENT may not rent, lease, lend, pledge, or directly or indirectly transfer or distribute the SOFTWARE PRODUCTS to any third party, and CLIENT may not permit any third party to have access to and/or use the functionality of the SOFTWARE PRODUCTS.

h. TERMINATION. Without prejudice to any other rights, GTM may terminate CLIENT's rights to use the SOFTWARE PRODUCTS if CLIENT fails to comply with these terms and conditions. In the event of termination or cancellation, CLIENT must stop using and/or accessing the SOFTWARE PRODUCTS and destroy all copies of the SOFTWARE PRODUCTS and all of its component parts.

i. NO WARRANTIES, LIABILITIES OR REMEDIES BY THIRD PARTY SOFTWARE PROVIDERS. ANY WARRANTIES, LIABILITY FOR DAMAGES, AND REMEDIES, IF ANY, ARE PROVIDED SOLELY BY GTM AND NOT BY ANY THIRD PARTY SOFTWARE PROVIDER OR ITS AFFILIATES OR SUBSIDIARIES.

j. PRODUCT SUPPORT. Any product support for the SOFTWARE PRODUCTS is provided to CLIENT by GTM and is not provided by any THIRD PARTY SOFTWARE PROVIDER, its affiliates, or subsidiaries.

k. NOT FAULT TOLERANT. THE SOFTWARE PRODUCTS MAY CONTAIN TECHNOLOGY THAT IS NOT FAULT TOLERANT AND IS NOT DESIGNED, MANUFACTURED, OR INTENDED FOR USE IN ENVIRONMENTS OR APPLICATIONS IN WHICH THE FAILURE OF THE SOFTWARE PRODUCTS COULD LEAD TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL, PROPERTY OR ENVIRONMENTAL DAMAGE.

l. EXPORT RESTRICTIONS. The SOFTWARE PRODUCTS are of U.S. origin for purposes of U.S. export control laws. CLIENT agrees to comply with all applicable international and national laws that apply to the SOFTWARE PRODUCTS, including the U.S. Export Administration Regulations, as well as end-user, end-use, and destination restrictions issued by U.S. and other governments.

m. LIABILITY FOR BREACH. In addition to any liability CLIENT may have to GTM, CLIENT agrees that CLIENT will also be legally responsible directly to THIRD PARTY SOFTWARE PROVIDERS for any breach of these terms and conditions.

6. Privacy Policy. GTM will not disclose any personal information about CLIENT's use of the SERVICE, except to comply with applicable law or valid legal process or to protect the personal safety of GTM's users or the public.

7. Billing Policy and Payment. CLIENT is responsible for paying all fees and charges (plus applicable taxes) associated with use of the SERVICE as such fees become due. Unless

otherwise stated in writing from GTM, CLIENT must provide for Automated Clearing House (ACH) debits of CLIENT's checking account for payment of all minimum fees and charges prior to the month during which CLIENT wishes to access and/or use the SERVICE. Additional fees and charges accrued during a month based on CLIENT's actual use of the SERVICE are due on the first day of the following month and will be billed on that date or as soon thereafter as is practicable. Except as otherwise provided in this Agreement, all fees and charges are non-refundable.

Charges for new accounts are prorated. Charges for terminating accounts are not prorated.

Delinquent accounts are those that remain unpaid at the beginning of the next accounting cycle. Accounts that are delinquent by one accounting cycle are put on accounting hold and may not be used. Accounts that are unpaid for two accounting cycles automatically have their files archived. Accounts that are unpaid for three accounting cycles will have their files purged. GTM will return CLIENT's purged files to CLIENT in a computer-readable format upon CLIENT's reimbursement of GTM's reasonable expenses incurred in the preparation of such files. SERVICE accounts continue to accrue charges while they are on hold.

There is a service reconnection charge equal to one half the currently charged monthly minimum rate to reactivate accounts that are placed on accounting hold status.

8. **Equipment and Use.** CLIENT is solely responsible for acquiring and maintaining all computer hardware and software, telephone, and other equipment, and all communications and other services needed for access to and use of the SERVICE. GTM reserves the right at any time and for any reason to modify or discontinue any aspect or feature of the SERVICE, including, but not limited to, the SERVICE's software, content, functionality, and the equipment required to access or use the SERVICE.

9. **Hyperlinked Material.** The Site may contain hyperlinks to other sites on the Internet which are not owned or controlled by GTM. GTM cannot assume any responsibility for any material on such sites, or any other material outside of the SITE, which is accessed directly or indirectly by any such hyperlink.

10. **Content of Email Messages.** GTM does not monitor or censor the content of CLIENT email messages. CLIENT alone is responsible for the content of their messages, and the consequences of any such messages. CLIENT agrees that it will not use the SERVICE for chain letters, junk mail, spamming, or solicitations (commercial or non-commercial) to any person who has not given specific permission to be included in such a process. CLIENT also agrees that it will not use the SERVICE to send any messages that are unlawful, harassing, libelous, abusive, threatening, harmful, vulgar, obscene, or otherwise objectionable material of any kind or nature that encourages conduct that could constitute a criminal offense, give rise to civil liability or otherwise violate any applicable local, state, national, or international law or regulation.

GTM reserves the right to terminate SERVICE to CLIENT if it becomes aware and determines, in its sole discretion, that CLIENT or any authorized user of CLIENT's Account is violating any of the above guidelines.

11. Security and Data Storage. CLIENT shall not permit or allow other persons to have access to or to use CLIENT's Account Information, other than CLIENT's employees, prospective employees, consultants, clients, or agents who have been notified of the restrictions set forth in this AGREEMENT, absent GTM's prior express written consent. CLIENT agrees to maintain the confidentiality of all of CLIENT's Account Information and agrees to be primarily responsible for all activity pursuant to CLIENT's Account. GTM has taken significant measures to ensure the security of information submitted by CLIENT in using the SERVICE. However, GTM cannot guarantee the security of information collected during CLIENT's use of the SERVICE and shall not be liable in any way for compromise of CLIENT's data.

CLIENT agrees to conspicuously include on any website maintained by CLIENT and associated in any way with the use or provision of the SERVICE by CLIENT, CLIENT's employees, prospective employees, consultants, clients, or agents, the Terms and Conditions attached hereto. CLIENT further agrees to update such Terms and Conditions, from time to time, as such updated Terms and Conditions are provided to CLIENT by GTM.

12. Relationship of the Parties - Independent Contractor. Unless agreed to otherwise in writing, it is expressly understood and agreed that the relationship between the Parties is as follows: each Party is acting as an independent contractor and is not an agent, partner, or joint venture with the other Party for any purpose. The Parties have no authority to assume or create any obligation for or on behalf of the other Party, express or implied, with respect to this AGREEMENT or otherwise.

13. CLIENT shall not solicit employment or employ any employee of GTM or its affiliates during the term of this AGREEMENT and for two (2) years following the termination of this AGREEMENT.

14. Term. This AGREEMENT shall continue until terminated pursuant to Article 15 below.

15. Termination. Either Party may terminate this AGREEMENT, without reason, effective upon ninety (90) days notice to the other Party ("Settlement Period"). CLIENT agrees to pay GTM the entire Service Fee due for the Settlement Period and, provided that CLIENT makes such payment, GTM agrees to continue providing access to and use of the Service pursuant to this AGREEMENT's terms and conditions. Notwithstanding the foregoing, GTM may immediately terminate this AGREEMENT and CLIENT's Account upon (a) CLIENT's breach of any provision of this AGREEMENT or (b) any action by CLIENT that GTM determines, in its sole judgment, to interfere with the operation or use of the SERVICE. In the event of immediate termination, GTM shall be entitled to retain the entire Service Fee for the month in which such termination occurred and CLIENT shall not be entitled to any refund thereof. Any provision of this AGREEMENT which may reasonably be interpreted or construed as surviving the termination of the AGREEMENT shall survive such termination of this AGREEMENT for any reason.

16. GTM WARRANTIES. NOTWITHSTANDING ANY PROVISION OF THIS AGREEMENT TO THE CONTRARY, THE SERVICE IS FURNISHED "AS IS" AND WITH

ALL FAULTS. GTM MAKES, AND CLIENT RECEIVES, NO WARRANTIES, EXPRESS, IMPLIED, STATUTORY, OR IN ANY COMMUNICATION WITH CLIENT. GTM AND ITS SUPPLIERS EXPRESSLY DISCLAIM ALL OTHER WARRANTIES AND CONDITIONS, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AVAILABILITY, SECURITY, TITLE AND NON-INFRINGEMENT, ANY WARRANTY THAT OPERATION OF THE SERVICE WILL BE UNINTERRUPTED OR ERROR FREE, AND/OR THE FAILURE TO PROVIDE ADEQUATE SUPPORT FOR THE SERVICE. GTM DOES NOT WARRANT THAT THE SERVICE IS FREE OF INACCURACIES, ERRORS, BUGS, INTERRUPTIONS, OR OTHER PROGRAM LIMITATIONS. NOR DOES GTM WARRANT THAT THE SITE, OR SERVER THAT MAKES IT AVAILABLE, IS FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. THE ENTIRE RISK ARISING OUT OF THE USE OR PERFORMANCE OF THE SERVICE REMAINS WITH CLIENT, AND CLIENT AGREES TO ASSUME THE ENTIRE COST OF ALL NECESSARY SERVICING, REPAIR, OR CORRECTION OF PROBLEMS CAUSED BY VIRUSES OR OTHER HARMFUL COMPONENTS.

CLIENT SPECIFICALLY AGREES THAT GTM SHALL NOT BE RESPONSIBLE FOR THE UNAUTHORIZED ACCESS TO OR ALTERATION OF CLIENT'S TRANSMISSION(S) OR DATA, ANY MATERIAL OR DATA SENT OR RECEIVED OR NOT SENT OR RECEIVED, ANY TRANSMISSION(S) ENTERED VIA THE SERVICE, ANY EXPENSES, DAMAGES OR INJURY CAUSED BY ANY FAILURE OF PERFORMANCE, ERROR, OMISSIONS, INTERRUPTION, DELETION, DEFECT, DELAY IN OPERATION OR TRANSMISSION, COMPUTER VIRUS, COMMUNICATION LINE FAILURE, THEFT OR DESTRUCTION OR USE OF RECORD(S), WHETHER FOR BREACH OF CONTRACT, STRICT LIABILITY, TORTIOUS BEHAVIOR, NEGLIGENCE, OR FOR ANY OTHER CAUSE OF ACTION. CLIENT ALSO AGREES THAT GTM IS NOT RESPONSIBLE FOR ANY THREATENING, DEFAMATORY, OBSCENE, OFFENSIVE OR ILLEGAL CONTENT OR CONDUCT OF ANY THIRD PARTY OR ANY INFRINGEMENT OF ANOTHER'S RIGHTS, INCLUDING INTELLECTUAL PROPERTY RIGHTS.

17. LIMITATION OF LIABILITY. CLIENT acknowledges that the operation and availability of the communications systems, including, without limitation, telephone service, computer networks, and the Internet, used for accessing and interacting with the SERVICE can be unpredictable and may, from time to time, interfere with or prevent access to or operation of the Service. CLIENT acknowledge that GTM is not responsible for any such interference with or prevention of CLIENT's use of or access to the SERVICE.

Likewise, no SUPPLIER (including, but not limited to, GTM) shall be liable for any indirect, punitive, special, incidental, or consequential damages (including damages for loss of business, loss of data or profits or investment, or the like), in any way connected with the use or performance of the SERVICE, with the delay or inability to use the SERVICE, the provision of or failure to provide the SERVICE, or for any information, software, products, service and related graphics obtained through the SERVICE, or otherwise arising out of the use of the SERVICE, whether based on breach of contract, breach of warranty, tort (including negligence, product liability or otherwise), cost of cover, or any other pecuniary loss arising out of the use of

or inability to use the SERVICE or the failure to provide support therefore, even if GTM or any of the other SUPPLIERS have been advised of the possibility of such damages and even if a remedy set forth herein is found to have failed of its essential purpose. In any case, no SUPPLIER, including GTM, shall be liable under this AGREEMENT for more than the amount CLIENT actually paid to GTM for the SERVICE.

18. Indemnification. CLIENT agrees to indemnify and hold harmless each and every SUPPLIER, and their respective affiliates, officers, directors, employees, consultants, agents, licensees and licensors from any claim, demand, or damages, including reasonable attorneys' fees, asserted by any third party due to, arising out of, or in any way related to, the use of the SERVICE under CLIENT's Account. As used in this AGREEMENT, "affiliate" means any entity which controls, is controlled by, or is under common control with, the named entity.

19. Equitable Relief. CLIENT acknowledges that, at the time this AGREEMENT is entered, it would be impossible or inadequate to measure and calculate all of GTM's damages for the breach of certain provisions of this AGREEMENT and that it would require a court of competent jurisdiction to ascertain GTM's damages. Accordingly, if CLIENT breaches or threatens to breach any of CLIENT's obligations, other than payment when due, GTM shall be entitled, without showing or proving any actual damage sustained, to a stipulated temporary restraining order, and shall thereafter be entitled to apply for a preliminary injunction, permanent injunction, and/or order compelling specific performance, to prevent the breach of CLIENT's obligations under this AGREEMENT. Nothing in this AGREEMENT shall be interpreted as prohibiting GTM from pursuing or obtaining any other remedies as otherwise available to it for such actual or threatened breach, including recovery of damages.

20. Notice. Any notice required by this AGREEMENT or given in connection with it, shall be in writing and shall be effective one (1) business day after it is sent to the appropriate Party by personal delivery or by recognized overnight delivery service or seven (7) business days after being sent via first class mail postage prepaid, to CLIENT's address as provided in the registration application submitted previously to

GTM Payroll Services, Inc.
d/b/a GTM Household Employment Experts
7 Halfmoon Executive Park Drive
Clifton Park, NY 12065

or to such other address as a Party may provide by written notice to the other Party from time to time.

21. Governing Law. This AGREEMENT shall be governed by and construed under the laws of the State of New York, without reference to principles of conflict of laws.

22. Territorial Rights. Unless otherwise agreed to in writing, CLIENT's use of the SERVICE constitutes a non-exclusive license, conferring no exclusive rights to use, access, or otherwise employ the SERVICE in any geographic area.

23. General. This AGREEMENT, including any addenda hereto, sets forth the entire agreement and understanding of the parties relating to the subject matter herein and merges and supersedes all prior agreements, writings, commitments, discussions, and understandings between them. GTM's privacy policy is meant to complement this AGREEMENT; if, however, any term or condition of this AGREEMENT is inconsistent therewith, this AGREEMENT shall supercede and control all such conflicting terms and conditions. If any term of this AGREEMENT is held by a court of competent jurisdiction to be invalid or unenforceable, then this AGREEMENT, including all of the remaining terms of the AGREEMENT and addenda, will remain in full force and effect as if such invalid or unenforceable term had never been included. Failure by GTM to enforce any provision of this AGREEMENT will not be deemed a waiver of future enforcement of that or any other provision. Nonperformance of either Party shall be excused to the extent that performance is rendered impossible by strike, fire, flood, governmental acts or orders or restrictions, failure of suppliers, or any other reason where failure to perform is beyond the control and not caused by the negligence of the nonperforming Party. This AGREEMENT shall be construed within its fair meaning and no inference shall be drawn against the drafting Party in interpreting this AGREEMENT. Headings used in this AGREEMENT are for reference purposes only and in no way define, limit, construe or describe the scope or extent of such section or in any way affect this AGREEMENT. Except as otherwise stated in this AGREEMENT, GTM reserves the right to modify this AGREEMENT or policies regarding the use of the Service at any time and to notify CLIENT of such modification by posting a notice of such modification to the SITE at least thirty (30) days prior to such modification taking effect, and by posting the modified AGREEMENT to the Site. CLIENT is responsible for periodically reviewing this AGREEMENT. A printed version of this AGREEMENT and of any notice given in electronic form shall 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.