

STARMARK HRA SERVICE AGREEMENT

This Starmark HRA Service Agreement ("Agreement") is entered into by and between Star Marketing and Administration, Inc., an Illinois corporation (hereinafter referred to as "Plan Supervisor") and

_____ (hereinafter referred to as "Employer") and shall be effective as of the first
Employer Name
day of _____, 200____.
Month Year

RECITALS

WHEREAS, Employer has adopted and implemented the _____ Health
Employer Name

Reimbursement Arrangement (HRA) plan (hereinafter referred to as the "Plan") providing means by which eligible employees of the Employer and their eligible dependents are able to obtain benefits provided by the Plan and set forth in the Plan Document; and

WHEREAS, Employer shall serve as the Administrator and the Named Fiduciary (as defined in Sections 3(16)(A) and 402(a)(2) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), respectively) of the Plan, except to the extent Plan Supervisor, by express provision in this Agreement and the Plan Document, is authorized to undertake fiduciary obligations with respect to the processing and adjudication of claim appeals and be named a fiduciary for that purpose.

WHEREAS, Plan Supervisor, under the terms of this Agreement, shall assist Employer in the implementation and administration of the Plan;

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties agree as follows:

SECTION 1.0 DEFINITIONS

- 1.01 **"Participant"** shall mean an individual enrolled as an employee, dependent or retiree (if applicable) for benefits under the Plan, or an individual continuing coverage under the Plan in accordance with the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended from time to time ("COBRA").
- 1.02 **"Plan Document"** shall mean generally the written description, as prescribed by ERISA, of the benefits to be provided by the Plan, the terms and conditions under which the Plan shall be operated and the standards and rules governing the payment of benefits under the Plan, as is in effect from time to time.

SECTION 2.0 ONGOING DUTIES AND RESPONSIBILITIES OF PLAN SUPERVISOR

- 2.01 The Plan Supervisor shall assist the Employer in administering the Plan in accordance with its terms, and shall have the following duties:
- A. Assist in the development of all standard supplies necessary for administration of the HRA Plan.
 - B. To enter into Plan Supervisor's computer system in a timely manner all eligibility information provided by the Employer.
 - C. To review claims for benefits subject to the provisions and conditions of the HRA Plan, compute benefits payable, provide an appropriate check and explanation of benefits, and where appropriate, deny claims not eligible.

- D. To obtain documentation sufficient to substantiate all claims filed manually for reimbursements. If the Employer has chosen automatic rollover of claims to the HRA Plan, qualified expenses due to any coinsurance and/or deductible will be received directly from the Plan's records and the participant will not be required to file reimbursement forms or supporting evidence for such expenses unless participant has secondary coverage through another plan.
- E. To provide the Employer access to online reporting tools.
- F. Provide each HRA Plan participant access to an online tool to monitor their HRA balance.
- G. Provide the Employer upon request, with a nondiscrimination worksheet tool.
- H. Maintain, during the term of this Agreement, appropriate records regarding claims submitted and corresponding payments for the maximum period required by federal, state or local law, and provide data that may be reasonably requested or required for regulatory, audit, and/or other business purposes. This includes:
 - 1. Submitting 1099 forms to providers and the Internal Revenue Service on Employer's behalf; and
 - 2. Furnishing Employer data necessary for preparation of 5500 forms to the extent that such data is in Plan Supervisor's possession and control.

Employer shall have the right, upon providing reasonable notice, to periodically review, at its own expense, any records of Plan Supervisor relating to benefit payments and requests for benefit payments under the Plan and the issuing of checks for payment of benefits under the Plan; any examination of such records shall be carried out in a manner mutually agreeable to Plan Supervisor and Employer.

- I. Plan Supervisor will assume full, discretionary and final authority for making final determinations as to appeals of benefit claim determinations as described in the Claims Procedure and Payment section of the Plan Document. Plan Supervisor will be considered a fiduciary under the Plan with respect to the determination and adjudication of benefit claim appeals but not a fiduciary with respect to any claim prior to a request for its appeal.
- J. Plan Supervisor shall arrange for the printing of one Plan Documents for Employer. Employer shall be responsible for the distribution of Plan Documents to Participants.

2.02 Fidelity Bond. Plan Supervisor will maintain a fidelity bond which meets the requirements of ERISA, Section 412, covering Plan Supervisor and any of its agents or employees who may collect, disburse or otherwise handle or have possession of any funds of the Plan or who may have authority to authorize or order disbursements of claims or operation expenses on behalf of the plan.

2.04 HIPAA. Plan Supervisor will perform HIPAA Privacy and Security functions as described in Exhibit A.

SECTION 3.0 DUTIES AND RESPONSIBILITIES OF EMPLOYER

3.01 The Employer shall have the following duties and authority:

- A. To supply the Plan Supervisor with all information required by the Plan Supervisor regarding the eligibility of employees and their dependents, and to notify the Plan Supervisor of all changes in participation in the HRA Plan, whether by reason of termination or other changed circumstances, as contemplated by the HRA Plan Document.
- B. To assist the Plan Supervisor in the enrollment of employees in the HRA Plan, to cooperate with Plan Supervisor with regard to the proper settlement of claims, to maintain an adequate supply of forms, election forms and other documents, and to make distribution of such documents to eligible employees.

- C. Shall have final authority to choose the benefits and other provisions in the HRA Plan documents.
- D. To complete the nondiscrimination testing as required by Internal Revenue Code § 105 for the HRA Plan and maintain the documentation related to such testing.
- E. Be solely responsible for delivering to Participants all Plan information, including Summary Plan Description, Summary of Material Modifications, Summary Annual Report and any other information required by the Department of Labor or any other federal or state governing agency.
- F. Employer will assume full, discretionary and final authority for interpreting the Plan document for the purpose of making final determinations as to any initial benefit claim determinations. Employer shall notify Plan Supervisor in writing of the final determination of the Employer or person designated by Employer regarding any disputed or questionable claims and claims requiring interpretation of the Plan Document. Provided, however, that where the Addendum for Claim Appeal Determination Services has been executed by the parties and been made part of this Agreement, Plan Supervisor will itself be making these final determinations of questionable and disputed claim appeals and claim appeals requiring interpretations of the Plan Document.
- G. Provide Plan Supervisor, in a timely manner, with certain reports and information in a form and manner specified by Plan Supervisor; such information may include, but shall not be limited to: (a) certification that a Participant is eligible for benefits under the Plan; (b) a description and identification of the types of benefits to which a Participant is entitled; (c) date of a Participant's eligibility. Upon request, Employer shall provide Plan Supervisor with any other necessary information regarding Participants.
- H. Claims Funding
 - 1. Employer shall be solely responsible for funding the payment of benefits and expenses under the Plan, either through payment from its general assets or contributions to a trust, if applicable, the assets of which are used to pay benefits.
 - 2. Plan Supervisor shall notify the Employer of the funds required to satisfy the Plan's expense and benefit obligations. Funding is due upon receipt of the request.
 - 3. The Employer recognizes its responsibility to fund the claim liability as stated above in this Section 3.01(H)(2). If such funding is delinquent for a period of seven (7) calendar days, the Employer is required to immediately notify all covered persons of the Plan and all health care providers who have not been paid, of the delinquency of funding. Such notification shall be in writing and a copy forwarded to the Plan Supervisor. If the Employer does not provide such notification or funding within fifteen (15) calendar days of the request for funds, the Plan Supervisor has the right, but not a duty, to notify covered persons and health care providers of the delinquency of funding. Plan Supervisor will also suspend the issuance of checks and explanation of benefit statements to covered persons and suspend the processing of all claims.
 - 4. Employer authorizes Plan Supervisor to make disbursements from the account, as described in Section 4.0, which is established for the payment of benefits and expenses incurred under the Plan.
 - 5. Employer acknowledges that in the event the Plan is discontinued or canceled, or in the event of termination of this Agreement, Employer is responsible for funding payment of all claims incurred prior to the date of such discontinuance, cancellation or termination.
- I. Settlement of Claims. Employer shall timely notify Plan Supervisor of any inquiries it receives, whether from individuals, entities, governmental entities or others, regarding the activities undertaken by Plan Supervisor and shall assist Plan Supervisor in any reasonable manner with regard to Plan Supervisor's obligations under this Agreement. In addition, Employer shall fully cooperate with Plan Supervisor as and to the extent necessary for Employer to effectively respond to an inquiry by any individual, governmental authority, or other entity regarding coordination of any Plan benefit with any benefit that may be available under Medicare.

- J. Plan Documentation. Employer shall provide Plan Supervisor with an executed copy of the Trust Instrument, if applicable, and properly adopted Plan Document and Summary Plan Description.
- K. Changes in Information. Employer shall:
1. Advise Plan Supervisor upon acquisition of any new or different contract relating to the Plan, or upon any change in Employer's organization which might affect the legal status of the Plan; and
 2. Notify Plan Supervisor in writing of any change in the Plan benefits at least thirty (30) days prior to the effective date of such change. Any change requiring a re-adjudication of claims shall be performed by Plan Supervisor only for an additional fee mutually agreeable to the parties.
 3. Notify Participants within sixty (60) days prior to the effective date that a material reduction in benefits will occur.
- L. Bond. If required by ERISA, Employer shall purchase and maintain a fidelity bond which meets the requirements of Section 412 of ERISA for the benefit of the Plan and shall include Plan Supervisor in such coverage, as its actions pertain to the Plan.
- M. Fiduciary. Employer, or a person designated by Employer (other than Plan Supervisor), is the named fiduciary of the Plan. As fiduciary, Employer, or the person designated by Employer (other than Plan Supervisor), maintains discretionary authority to review all denied claims for benefits under the Plan, including, but not limited to, the determination of covered services, interpretation of the terms of the Plan, and the determination of eligibility for and entitlement to Plan benefits in accordance with the terms of the Plan. Unless expressly provided in this Agreement, Plan Supervisor shall not have any discretionary authority or discretionary control respecting the management of the Plan itself or its assets, if any, and Employer retains all final responsibility and ultimate authority for the operation of the Plan.
- N. Require each employee to provide "other insurance information" at time of enrollment, and require each employee to sign an attestation statement indicating that they will not seek reimbursement under the HRA Plan for any claim payable under another plan unless specified otherwise in the Plan Document.
- O. To supply the Plan Supervisor with the names of any individual who does not qualify for participation in the HRA Plan that may be considered a sole proprietor, partner or more than a 2% shareholder in a Subchapter S Corporation. Plan Supervisor is not responsible for any tax withholding or reporting related to any individual who participates in the HRA Plan.

3.02 HIPAA. Employer will perform HIPAA Privacy and Security functions as described in Exhibit A.

SECTION 4.0 BANKING ARRANGEMENTS

4.01 The Employer shall place funds in a common benefit plan account, which is maintained by Plan Supervisor for a number of benefit plans for which Plan Supervisor has disbursement authority. Funds provided by the Employer as set forth in Section 3.01(H)(1) which may be deposited pursuant to this Agreement are hereby authorized to be deposited in the common benefit plan account with like funds of other benefit plans. Each plan which has funds in the common benefit plan account shall be the owner of the principal amount of the funds deposited less amounts disbursed there from in payment of benefits under the particular plan, and Plan Supervisor shall maintain separate accountings for each plan identifying the principal balances and disbursements as they may exist from time to time. Plan Supervisor shall be entitled to retain any income earned on the common benefit plan account as compensation for its services in establishing, maintaining and administering the account. At no time will Plan Supervisor use deposits in the plan account for any reason other than the payment of approved claims and other approved expenses of the Plan.

SECTION 5.0 RELATIONSHIP OF THE PARTIES

- 5.01 In performing services under this Agreement, Plan Supervisor performs all acts as an independent contractor and not as an officer, employee or agent of Employer or Plan Administrator (if other than Employer) or Plan. Nothing in this Agreement shall be construed to mean that Employer retains any control over the manner and means of how Plan Supervisor performs the services provided for herein, but only a right to review the results of the work performed. Plan Supervisor does not assume any responsibility for any act, omission or breach by a fiduciary, unless it has assumed fiduciary obligations as expressly provided for in this Agreement, in which case it assumes responsibility for its own acts or omissions and as otherwise required by law. Plan Supervisor does not assume liability for the adequacy of funding of the Plan, and Plan Supervisor is not, and shall not be deemed to be an insurer, underwriter or guarantor with respect to any benefits payable under the Plan.

SECTION 6.0 TERM AND TERMINATION

- 6.01 Term. This Agreement shall be in effect for a period of one (1) year from the Effective Date (the "Initial Term") and shall renew automatically from year to year thereafter unless otherwise terminated in accordance with Section 6.03 or renegotiated in accordance with Section 6.02.
- 6.02 Renewal. The provisions of this Agreement and monthly service fees (does not include any fee payable to an outside vendor) payable to Plan Supervisor hereunder, are subject to negotiation prior to the end of each term. Either party desiring to renegotiate this Agreement shall notify the other party of its intent to renegotiate forty five (45) days prior to expiration of the term. In the absence of a writing signed by both parties indicating otherwise, this Agreement shall automatically be renewed upon the same terms and conditions pursuant to Section 6.01.
- 6.03 Termination. This Agreement may be discontinued at the earliest time specified below:
- A. Following the Initial Term by either party with or without cause upon forty five (45) days prior written notice;
 - B. By Plan Supervisor as of the date Employer fails to provide funds in accordance with Section 3.01(H)(2).
 - C. By Plan Supervisor as of the date that service fees, premiums and other expenses are more than thirty (30) days past due as provided in Section 8.03.
 - D. By Plan Supervisor as of the date Employer voluntarily or involuntarily files for bankruptcy.
- 6.04 Continuing Obligations After Contract Termination. Notwithstanding the termination of the Agreement, the following rights and liabilities of the parties shall survive for the specified time period following termination:
- A. Employer's duty to pay Plan Supervisor, pursuant to Sections 6.06, 6.07, 6.09, 8.03, 8.04, 8.05, 9.14 and 9.17, until such amounts are paid in full.
 - B. Employer's duty to fund claims incurred before the termination pursuant to Section 3.01(H)(5) until such claims are finally resolved.
 - C. Employer's and Plan Supervisor's duties and liabilities under Section 6.05, if applicable.
 - D. Employer's and Plan Supervisor's indemnification duties and liabilities under Sections 7.01, 7.02 and 7.03 with respect to events and claims arising before the termination of the Agreement until the appropriate statute of limitations has run.

- E. Employer's and Plan Supervisor's termination obligations under all applicable Addendums to this Agreement until the appropriate statute of limitations has run.
- F. Plan Supervisor's duties under Sections 6.05, 6.07 and 6.08 until those duties have been performed to the reasonable satisfaction of Employer.
- 6.05 Claims Records. When this Agreement terminates, Plan Supervisor shall provide to Plan or its designee a historical accounting of claims payments. At the option of Plan Supervisor, all records of the Plan shall be returned to the Employer upon termination of this Agreement. Employer shall reimburse the Plan Supervisor for the cost of retrieving Plan records from storage, if applicable, and shipping Plan records to the Employer. The delivery of records maintained on hard copy files, microfilm or magnetic tape, at Plan Supervisor's option, shall be deemed to be in compliance with this Section. In the event records are stored on microfilm and a retrieval fee is charged to Plan Supervisor, Employer shall pay such fee. In the event records are stored on magnetic tape, an explanation of record format shall be provided. At the time the transfer of records occurs, Plan Supervisor shall be relieved of further responsibility for performing any of the services enumerated in this Agreement.
- 6.06 Outstanding Fees. Upon termination, Employer agrees to remit to Plan Supervisor any outstanding balances due as described in Section 8.03. Plan Supervisor shall have the right to retain all records as specified in Section 6.05 above until receipt of all outstanding monies due.
- 6.07 Cooperation with Successor. In the event Employer appoints a successor to Plan Supervisor, Plan Supervisor shall cooperate as reasonably necessary in transferring files, records, reports and the like, and Plan Supervisor shall be entitled to reasonable compensation for its services in connection therewith. Notwithstanding any provision of this Agreement (including any Addendum hereto), Plan Supervisor shall not, without prior written agreement with Employer, be obligated to assist a successor to Plan Supervisor or otherwise take or continue any action following termination of the Agreement (or of the Addendum for Claim Appeal Determination Services) if and to the extent such assistance or action may, in the opinion of Plan Supervisor, cause Plan Supervisor to become (or continue to be) a fiduciary with respect to the Plan in any manner.
- 6.08 Final Financial Report. As soon as reasonably possible after the termination of this Agreement, Plan Supervisor shall prepare and deliver its standard termination package and deliver any funds of Employer in its possession to Employer or to any successor to Plan Supervisor. The Plan Supervisor may charge for preparation of termination reports, and such charge will be quoted at the time the reports are requested.
- 6.09 Run-Out. Upon termination of this Agreement, Plan Supervisor shall, upon request of Employer, continue to adjudicate claims received by Plan Supervisor prior to the date of termination under the terms and conditions which would be applicable if this Agreement were still otherwise in full force and effect. Plan Supervisor shall, at Employer's request, adjudicate claims incurred but not received by Plan Supervisor during the term of this Agreement for a period of three (3) months after termination of this Agreement and for an additional fee of 125% of the administrative fee applicable at the time of the request payable in advance of providing such service. All service fees and claim funding must be current in order for service to be requested by Employer.

SECTION 7.0 INDEMNIFICATION AND ADJUSTMENT

- 7.01 The Employer agrees to indemnify Plan Supervisor, its officers, directors and employees for and hold them harmless from any claim, liability, cost, loss, expense or damage (including reasonable attorney and accountant fees) which may be paid or incurred by Plan Supervisor with respect to any Participant or any other person or persons (including any governmental authority) resulting from or in connection with the operation of the Plan (or Trust) or any action or inaction by the Employer with respect to the Plan, unless such claim, liability, cost, loss, expense or damage results from Plan Supervisor's gross negligence, willful misconduct or fraud.
- 7.02 Plan Supervisor agrees to indemnify and hold harmless Employer from any claim, liability, cost, loss, expense or damage (including reasonable attorney and accountant fees) which results from Plan

Supervisor's gross negligence, willful misconduct or fraud in carrying out its duties pursuant to this Agreement.

- 7.03 If any payment is made to an ineligible person for an ineligible claim, or if it is determined that more or less than the correct amount has been paid under the Plan by Plan Supervisor, then Plan Supervisor shall attempt to recover such payment, or contract with a third party vendor to recover such payment or, when appropriate, adjust Participant's later claims. However, Plan Supervisor shall not be required to initiate court proceedings to effect any such adjustment. If Plan Supervisor is unsuccessful in making any adjustment, it shall notify Employer so that Employer may take such appropriate actions against the payee. If the Employer submits a termination to Plan Supervisor which is effective retroactively, Plan Supervisor will not be required to attempt recovery of overpayments for periods earlier than three months prior to the date of the submission.

SECTION 8.0 SERVICE FEES

- 8.01 Fees. Employer shall compensate Plan Supervisor for services rendered under this Agreement.
- 8.02 Calculation of Fees. Service fees shall be determined on a monthly basis, based on the number of employees, and retirees for which computerized records are maintained by Plan Supervisor. Employer must notify the Plan Supervisor in writing within thirty (30) days of Employer's receipt of each regular monthly invoice of any discrepancy, otherwise, Plan Supervisor's fee shall be reflected in the invoice provided under Section 8.03.
- 8.03 Monthly Billing. Plan Supervisor shall send a monthly invoice to Employer for the current month's service fees, if any, and other expenses incurred on behalf of Employer and Plan. Employer is required to pay this invoice as presented, any retroactive changes or adjustments will be made on the next month's bill (all corrections will be reflected on the next bill if received by the Eligibility Department at least seven (7) business days before the bill is generated). Payment will be due upon receipt of invoice or on the first (1st) day of each month for which services are performed whichever is later.
- 8.04 Travel Reimbursement. Upon prior authorization, Employer agrees to reimburse Plan Supervisor for expenses incurred for travel, meals and lodging of Plan Supervisor's representative(s) while performing its duties and responsibilities under the terms of this Agreement or at the request of Employer.
- 8.05 Miscellaneous Expenses of the Plan. Reasonable miscellaneous expenses may be incurred in conjunction with the operation of the Plan. These expenses include, but are not limited to, wire transfer fees, check printing fees, check charges, resupply of forms, and other printing expenses, identification cards, physician reviews, consulting/vendor fees, medical records fees, and unusual programming requirements. Plan Supervisor will charge the Employer or the Plan at cost as these expenses are incurred.

SECTION 9.0 GENERAL

- 9.01 Amendments. This Agreement may not be amended without the express written consent of both parties.
- 9.02 Assignment. No assignment by either party pertaining to this Agreement shall be valid without the express written consent of the other party.
- 9.03 Compliance with Laws. Both parties shall comply with all applicable state and federal laws, statutes, regulations, rulings and judicial and administrative orders.
- 9.04 Consultation with Employer. Plan Supervisor shall consult with and obtain prior approval from Employer and/or legal counsel designated by Employer when legal matters regarding the Plan arise. Plan Supervisor shall not be obligated to defend against any legal action or claim for benefits by virtue of this Agreement.

- 9.05 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original and all of which together shall constitute a single agreement.
- 9.06 Entire Agreement. The entire agreement between the parties concerning the subject matter hereof is incorporated into this document and a separate Business Associate Agreement; this Agreement and the separate Business Associate Agreement supersedes all previous agreements whether oral or written between the parties concerning the subject matter hereof.
- 9.07 Governing Law. To the extent not preempted by ERISA, this Agreement shall be governed in accordance with the laws of the state of Illinois.
- 9.08 Headings. The headings of this Agreement are solely for the convenience of the parties and do not effect the meaning or interpretation of any provision of this Agreement.
- 9.09 Maintenance of Records. All records, as applicable, of Plan Supervisor's internal claims review, determination of eligibility, authorization for adjudication, payment of premiums, banking records, and any other financial records generated by Plan Supervisor under this Agreement shall be maintained in accordance with standard industry practices.
- 9.10 Notice. Any notice required to be given hereunder between the parties shall be written, effective upon receipt and shall be served by facsimile or by personal delivery or certified mail, return receipt requested to the address cited in the signature block of this Agreement or to such other address as shall be specified by like notice by either party.
- 9.11 Other Service Providers. Plan Supervisor may seek the services of others in performing its duties and obligations under this Agreement. Employer agrees that Plan Supervisor may subcontract or delegate all or part of its administrative obligations under this Agreement to an affiliate and that doing so will not relieve Plan Supervisor of any liability.
- 9.12 Ownership of Files. The Plan owns all claim files even though they may be in the possession of Plan Supervisor.
- 9.13 Practice of Law. It is understood and agreed that Plan Supervisor will not perform, and the Employer will not request performance of, any services which may constitute the unauthorized practice of law.
- 9.14 Prior Claims Administrator. In the event Plan Supervisor replaced a prior claims administrator, no responsibility is accepted for the work performed by the prior claims administrator; nor does Plan Supervisor agree to reevaluate or readjust claims or to perform or continue work previously done by the prior claims administrator (including acting as a named fiduciary for any pending claims appeals) unless otherwise agreed upon by the parties for additional compensation.
- 9.15 Reliance on Instructions. Plan Supervisor may rely upon any written instructions or information relating to Plan Supervisor performance of services provided to Plan Supervisor by Employer or Employer's designated representatives, and reasonably believed by Plan Supervisor to be genuine and authorized by Employer. Plan Supervisor may rely on and is under no obligation to investigate the accuracy of, the information, including its completeness, in the Plan Document provided by the Employer pursuant to Section 3.01 (J). Plan Supervisor shall incur no liability resulting from Plan Supervisor' reasonable reliance on such instructions or information provided that Plan Supervisor does not have immediate and uncontested knowledge that any such instruction or information, as the case may be, is incorrect, inaccurate or incomplete when given to Plan Supervisor.
- 9.16 Successor and Assigns. This Agreement shall be binding upon and inure to the benefit of and be enforceable against the parties hereto and their respective successors and assigns.
- 9.17 Taxes. If at any time, the federal government or any state or any political subdivision of any instrumentality of either shall assess any tax or surcharge against the Plan, against Plan Supervisor with respect to payments made by or for the Plan, or against any trust related to the Plan in any way and Plan Supervisor is required to pay such tax or surcharge, Plan Supervisor shall report the payment of

the tax or surcharge to Employer and at the option of Plan Supervisor make a charge against the Employer for reimbursement of such payment or be reimbursed by the Employer upon fifteen (15) days' prior written notice.

9.18 Use of Name. Employer agrees not to use the name, image, promotional material, stationary, letterhead or logotype of Plan Supervisor or its parent, subsidiaries or affiliates except as expressly authorized in writing by Plan Supervisor.

9.19 Waiver. Failure to enforce any provision of this Agreement does not affect the rights of the parties to enforce such provision in another circumstance or their right to enforce any other provision of this Agreement at any time. If any provision of this Agreement is determined to be unenforceable or invalid, such determination shall not affect the validity of the other provisions contained in this Agreement.

IN WITNESS WHEREOF, Plan Supervisor and Employer have caused this Agreement to be executed in duplicate by their respective officers duly authorized to do so:

STARMARK

Employer Name

By: _____

By: _____

Name Steve Horvath

Name: _____

Title: Second Vice President, Operations

Title: _____

Address: 400 Field Drive

Address: _____

Lake Forest, IL 60045

Date: _____

Date: _____

EXHIBIT A

SECTION 1.0 HIPAA PRIVACY

- 1.01 The Employer will have the following responsibilities:
- A. Review the requirements under the Privacy Rule. Refer to the HHS Web site for more information and assistance.
 - B. Designate a Privacy Contact for your group health plan.
 - C. Provide to Plan Supervisor a list of authorized representatives, identifying all individuals who will be receiving or using PHI and what level of PHI they will need to meet the minimum necessary requirements for the functions that they perform on behalf of the group health plan. Any PHI will be provided only to those individuals listed.
- 1.02 It is understood and agreed by both parties to this Agreement that Plan Supervisor's ability to carry out its responsibilities within the terms of this Agreement will be predicated upon the receipt of timely and accurate information from Employer. The word "timely" as used in this context means in a time frame which is acceptable under the provisions of HIPAA. Time frames which are mandated under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) will generally be acceptable time frames, unless otherwise mandated by HIPAA Regulations.

The Plan Supervisor will not be responsible for, and will incur no liability to Employer or to any employee or to any dependent of employee of Employer for, its failure or inability to perform any of its duties described herein, if such failure or inability is the result of inaccurate or delinquent information supplied by Employer.

The Plan Supervisor will not be responsible for, and will incur no liability for, decisions regarding the applicability of preexisting condition provisions of the Plan if the information supplied by the employee and relied upon for the decision is determined to be fraudulent or in any way a misrepresentation of facts.

SECTION 2.0 BUSINESS ASSOCIATE AGREEMENT

I. PREAMBLE

Pursuant to the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), the HIPAA Security and Privacy Rule, 45 CFR Parts 160 and 164, (hereinafter "HIPAA Security and Privacy Rule"), as well as other applicable federal and state privacy and confidentiality rules, _____

Employer Name

Group Health Benefit Plan ("Covered Entity"), and **Star Marketing and Administration, Inc.** ("Starmark" or "Business Associate") (jointly "the Parties") wish to enter into an Agreement that addresses the requirements of the HIPAA Security and Privacy Rule with respect to "business associates," as that term is defined in the HIPAA Security and Privacy Rule.

Specifically, this Agreement is intended to ensure that the Business Associate will establish and implement appropriate safeguards (including certain administrative requirements) for "Protected Health Information" in any form or medium, including electronic, that the Business Associate may create, receive, use, or disclose in connection with certain functions, activities, or services (collectively "services") to be provided by Business Associate to or on behalf of Covered Entity. The services to be provided by Business Associate are identified in a separate agreement ("Service Agreement") between Employer or Plan Sponsor and Business Associate.

The Parties acknowledge and agree that in connection with the services to be provided, Business Associate may receive, use or disclose Protected Health Information. Protected Health Information ("PHI"), which is

defined in the Rule, includes individually identifiable health information that is created or received by a covered entity (provider, health plan, clearinghouse or insurer), a health authority, employer, school or university, maintained or transmitted in any form or medium, which relates to the past, present, or future (i) physical or mental health or condition of an individual; (ii) provision of health care to an individual; or (iii) payment for the provision of health care to an individual. PHI does not include summary health information or information that has been de-identified in accordance with the standards for de-identification provided for in the HIPAA Security and Privacy Rule. Electronic Protected Health Information (“ePHI”) is PHI transmitted by or maintained in electronic media.

In connection with Business Associate’s receipt, use or disclosure of PHI as a Business Associate of the Covered Entity, Business Associate and Covered Entity agree as follows:

II. GENERAL TERMS AND CONDITIONS

- a. Definitions: All terms used in this Agreement will have the meanings set forth in the HIPAA Security and Privacy Rule, unless otherwise defined herein.
- b. Existing Service Agreements: All existing Service Agreements and amendments thereto, between the Employer or Plan Sponsor and Business Associate are subject to this Agreement and are hereby amended by this Agreement. In the event of conflict between the terms of any Service Agreement and this Agreement, the terms and conditions of this Agreement will govern.
- c. Service Agreement: includes any agreement, written or oral, between Employer or Plan Sponsor and Business Associate that describes services to be provided by Business Associate in connection with Covered Entity’s Covered Functions. Such Service Agreements include but are not limited to plan supervisory agreement, commission agreements between Covered Entity and broker/agent, vendor agreements with PPOs, and retainer agreements with law firms.
- d. Where provisions of this Agreement are different from those mandated by the HIPAA Security and Privacy Rule, but are nonetheless permitted by the Rule, the provisions of this Agreement will control.
- e. Nothing express or implied in this Agreement is intended to confer, nor will anything herein confer, upon any person other than the Business Associate and the respective successors or assigns of the Business Associate, any rights, remedies, obligations, or liabilities whatsoever.

III. USE AND DISCLOSURE OF PHI

- a. Treatment, Payment and Operations (“TPO”): Business Associate agrees to receive, use, or disclose PHI only in a manner that is consistent with this Agreement or the HIPAA Security and Privacy Rule and only in connection with providing the services to or on behalf of Covered Entity identified in any existing Service Agreement and amendments thereto. In providing services to or on behalf of the Covered Entity, the Business Associate will be permitted to receive, use, and disclose PHI for “treatment, payment and health care operations” without obtaining authorization in accordance with the HIPAA Security and Privacy Rule.
- b. Other Permissible Uses and Disclosures: As permitted by 45 CFR §164.504(e)(4) Business Associate also may use or disclose PHI it receives in its capacity as a Business Associate to the Covered Entity if:
 - i. The use relates to: (1) the proper management and administration of the Business Associate or to carry out legal responsibilities of the Business Associate, or (2) data aggregation services relating to the health care operations of the Covered Entity; or
 - ii. The disclosure of PHI received in such capacity may be made in connection with a function, responsibility, or service identified above in (i)(1), and such disclosure is (1) required by law, or (2) the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will be held confidential, and the person agrees to notify the Business Associate of any breaches of confidentiality; or
 - iii. The disclosure of PHI is made, if applicable, pursuant to 45 CFR §423.884(b), notwithstanding any provisions to the contrary, Covered Entity agrees that the Business Associate (on behalf of the Covered

Entity) may disclose PHI to the Center for Medicare and Medicaid Services (“CMS”) to the extent necessary to comply with Subpart R of 45 CFR §423 relating to applications for drug subsidy payment to the Employer or Plan Sponsor in connection with the prescription drug benefit under the Covered Entity.

IV. OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE

- a. Subcontractors: Business Associate represents to Covered Entity that [i] any disclosure it makes will be permitted or required under applicable laws, and [ii] that Business Associate will obtain reasonable assurances from any person or entity to whom Business Associate discloses the PHI that the PHI will be held confidentially and used or further disclosed only as required and permitted under the HIPAA Security and Privacy Rule and other applicable laws, and [iii] any such person or entity agrees to be governed by the same restrictions and conditions contained in this Agreement, and will notify Business Associate of any breaches of confidentiality of the PHI.
- b. Permissible Disclosures: Except as otherwise limited in this Agreement, Business Associate may disclose PHI to other business associates of the Covered Entity (i) as directed by the Employer or Plan Sponsor, or (ii) to perform its duties under the Service Agreement. Notwithstanding any provision hereof, or any other prior agreement by the Parties, it will be the Covered Entity’s sole responsibility to ensure that the Covered Entity has entered into the appropriate business associate agreements with its business associate’s.
- c. Safeguards: Business Associate will maintain safeguards as necessary to ensure that PHI is not used or disclosed except as provided for by this Agreement.
Impermissible Use and Disclosure: Business Associate will report to Authorized Representative of Covered Entity within ten calendar days of knowledge of any use or disclosure of PHI that is in violation of this Agreement and not permitted under the HIPAA Security and Privacy Rule.
- d. Accounting of Disclosures: Business Associate will respond to Authorized Representative of Covered Entity’s request for the information it has which would be appropriate for an accounting of disclosures of PHI as provided for in CFR §164.528 of the HIPAA Security and Privacy Rule within ten calendar days of receipt of request.
- e. Access to PHI: Business Associate will respond to Authorized Representative of Covered Entity within ten calendar days of receipt of a request for access to PHI.
- f. Amendment of PHI: Business Associate will respond to Authorized Representative of Covered Entity within ten calendar days of receipt of a request for amendment to PHI. Business Associate will not alter or amend PHI it receives from Covered Entity without specific authorization by Covered Entity as provided for in CFR §164.526 of the HIPAA Security and Privacy Rule.
- g. Disclosures Required by Law: Business Associate may disclose PHI to report violations of law to appropriate Federal or State authorities, consistent with CFR §164.502.
- h. Access to Secretary of Health and Human Services (“HHS”): Business Associate will make available to the Covered Entity, HHS, or its agents, the Business Associate’s internal practices, books, and records relating to the use and disclosure of PHI as required in CFR §164.504 of the HIPAA Security and Privacy Rule.
- i. Business Associate will cooperate with Covered Entity to comply with the HIPAA Security and Privacy Rule.
- j. Business Associate, its agents, and subcontractors will comply with applicable requirements of Standards for Electronic Transactions (45 CFR §§160 and 162).
- k. Of the transactions that Business Associate performs in its role as Business Associate of Covered Entity, Business Associate, its agents, and subcontractors will do the following:
 - i. be prepared to transmit and accept transactions electronically in the Standard Formats identified in 45 CFR §§162.1101 through 162.1802;
 - ii. adapt implementation plans and standards pursuant to applicable Implementation Guides;
 - iii. implement contingencies for non-compliant transactions as necessary to facilitate timely acceptance and payment of claims, particularly in light of state claim payment laws; and to the extent practicable, communicate with those providers, agents, or subcontractors who are submitting or receiving transactions electronically in order to facilitate compliant transactions.
- l. Business Associate understands and agrees that from time-to time the Department of Health and Human Services might modify the standard transactions now identified in 45 CFR §§162.1101 through 162.1802. Business Associate, its agents, and subcontractors agree to abide by any changes to such standard transactions that are applicable to services supplied by Business Associate in connection with the referenced Services Agreement. Business Associate will implement administrative, physical, and technical safeguards that reasonably protect the confidentiality, integrity, and availability of ePHI that it creates, maintains, or transmits on behalf of Covered Entity as required by 45 CFR §164.314.

- m. Business Associate will insure that any agent, including a subcontractor, to whom it provides such information agrees to implement reasonable and appropriate safeguards to protect it.
- n. Business Associate will report to Covered Entity any security incident of which it becomes aware within ten calendar days of knowledge of such incident.

V. OBLIGATIONS OF COVERED ENTITY

- a. Covered Entity will provide Business Associate with name or identity/job title of the Employer or Plan Sponsor or other authorized representative of the health plan who can receive and disclose PHI for purposes of TPO.
- b. Covered Entity will provide Business Associate with the Notice of Privacy Practices produced in accordance with 45 CFR §164.520, as well as any changes to such Notice.
- c. Covered Entity will provide Business Associate with the plan amendment produced in accordance with 45 CFR §164.504.
- d. Covered Entity will provide Business Associate with any changes in, or revocation of, or authorization by Individual to use or disclose PHI, if such changes affect Business Associate's permitted or required uses and disclosures.
- e. Covered Entity will notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR §164.522.
- f. Covered Entity will cooperate with Business Associate to provide Accounting of Disclosures when requested.

VI. TERMINATION

- a. Term: The term of this Agreement will be effective the same date as the effective date of Agreement for Plan Supervisor. Unless otherwise terminated, this Agreement will end when all of the PHI provided by Covered Entity or the Health Plan to Business Associate is destroyed, returned to the Covered Entity or Health Plan, or protected as described in (c) below.
- b. Termination for Cause: Upon Covered Entity's knowledge of a material breach of Business Associate's obligation under this Agreement, and subject to (c) below, Covered Entity may commence termination of this Agreement by providing 60 days prior written Notice of Termination to Business Associate.
- c. Termination not feasible: If termination would cause irreparable business interruption or harm to Individuals covered under the Covered Entity's Health Plan, or is otherwise not feasible, Parties will make all efforts reasonable to cure breach or mitigate harm to Individuals caused by such breach. If this occurs and this Agreement is not terminated, Covered Entity may report the situation to the HHS.
- d. Return or Destruction of PHI: Upon the termination or expiration of this Agreement, Business Associate agrees to return the PHI to Covered Entity, destroy the PHI (and retain no copies), or further protect the PHI if Business Associate determines that return or destruction is not feasible. If return or destruction of PHI is infeasible, Business Associate will extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI.