

CONSUMER DRIVEN HEALTH PRODUCTS AGREEMENT
Commercial Plan

This Consumer Driven Health Products Agreement (the "Agreement") is made and entered into as of the date first signed below (the "Effective Date") by and between Medical Mutual of Ohio, on behalf of itself and its affiliates, (hereinafter referred to as "Medical Mutual") and _____
 Group Number _____ (hereinafter referred to as "Employer").

Employer has chosen to offer its employees ancillary services, including administration and customer support for a Consumer Account.

This Agreement, including the attached Appendix, which is incorporated herein by reference, sets forth the terms and conditions under which Medical Mutual will provide administrative services for the ancillary services selected by Employer, as indicated below.

Please choose all that apply :	
<input type="checkbox"/> Flexible Spending Account ("FSA") Select all to be offered: <input type="checkbox"/> Health FSA <input type="checkbox"/> Limited Purpose FSA <input type="checkbox"/> Dependent Care Assistance Program <input type="checkbox"/> Adoption Assistance Program <input type="checkbox"/> Transportation Fringe Benefit <input type="checkbox"/> Parking FSA	<input type="checkbox"/> Health Reimbursement Arrangement ("HRA")
<input type="checkbox"/> Health Savings Account ("HSA")	

Employer, through its authorized representatives, employees, and/or agents, has read and accepts the Agreement and any Appendices. The Agreement may be executed and delivered by facsimile or e-mail, and such facsimile or e-mail execution and delivery, if accepted by Medical Mutual shall constitute the final Agreement and conclusive proof of the Agreement.

[Signature page immediately follows]

IN WITNESS WHEREOF, the Parties hereto by their respective duly authorized officers have executed the Agreement to be effective as of the Effective Date:

MEDICAL MUTUAL OF OHIO

EMPLOYER

By: _____
Authorized Signature

By: _____
Authorized Signature

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Group Name: _____

Group Number: _____

Address: Medical Mutual of Ohio
2060 East 9th Street
Cleveland, OH 44115

Address: _____

Date: _____

Date: _____

APPENDIX A-1
CONSUMER ACCOUNTS

CONSUMER ACCOUNT ADMINISTRATIVE SERVICES.

ARTICLE I. DEFINITIONS

Whenever used in the Agreement the following capitalized terms shall have the respective meanings set forth below, unless otherwise expressly provided herein:

1.1 Agreement. The Administrative Service Contract for Consumer Account between the Employer and Medical Mutual as of the Effective Date, including the Appendices as amended from time to time.

1.2 Authorized Person. A person or persons who are designated by the Employer as authorized to deal with Medical Mutual on behalf of Employer.

1.3 Breach. Failure or refusal to comply with any material term or condition of this Agreement, including any Appendix, and specifically including failure to pay any Covered Benefit or Service Charge.

1.4 Claim Reimbursement Liability. The difference between all claim reimbursements of Covered Benefits for Covered Individuals by Medical Mutual, and the funds received from Employer to reimburse Medical Mutual for the previous funding of those Covered Individuals' Covered Benefits in accordance with this Agreement.

1.5 COBRA. The Consolidated Omnibus Budget Reconciliation Act of 1986, as amended from time to time, including regulations and guidance prescribed pursuant thereto.

1.6 Code. The Internal Revenue Code of 1986, as amended from time to time, including regulations and guidance prescribed pursuant thereto.

1.7 Consumer Account or Consumer Accounts. The Health Savings Account (HSA), Health Reimbursement Arrangement (HRA), or Flexible Spending Accounts (FSAs) selected by the Employer herein.

1.8 Covered Benefits. All benefits provided by the Plans, including but not limited to payment or reimbursement of qualified medical expenses incurred under the Medical Mutual Plan that are the responsibility of a Covered Individual.

1.9 Covered Individuals. An eligible employee or participant, or other individual enrolled in the Medical Mutual Plan, determined by Employer to be eligible for benefits under one or more Plans, and enrolled in one or more Plans.

1.10 ERISA. The Employee Retirement Income Security Act of 1974, as amended from time to time, including regulations and guidance prescribed pursuant thereto.

1.11 HIPAA. The Health Insurance Portability and Accountability Act of 1996, as amended from time to time, including regulations and guidance prescribed pursuant thereto.

1.12 Medical Mutual Plans. The health Plans maintained and sponsored by the Employer and administered [and underwritten, if fully insured] by Medical Mutual.

1.13 Per Participant Per Month (PPPM) The fee calculation by which Medical Mutual shall multiply its administrative fee by the total number of employees who have actually elected benefits under this Agreement.

1.14 Plan or Plans. The consumer plan(s) maintained and sponsored by the Employer. The Plans(s) may be a Health Reimbursement Arrangement (HRA), Health Savings Account (HSA), or Flexible Spending Accounts (FSAs).

1.15 PPACA. The Patient Protection and Affordable Care Act of 2010, as amended from time to time, including regulations and guidance prescribed pursuant thereto.

ARTICLE II. ADMINISTRATIVE SERVICES

In exchange for the full performance by Employer of its responsibilities under this Agreement, Medical Mutual agrees to perform the Services set forth in this Section during the term of the Agreement.

2.1 Covered Benefits Administration. On behalf of Employer, and in accordance with the terms of the Plans, Medical Mutual shall provide the services necessary and appropriate to administer the specific type of Consumer Account(s) chosen by the Employer, such as setting up financial accounts, setting up funding mechanisms, enrolling Covered Individuals, maintaining separate notional bookkeeping accounts for each Covered Individual, managing financial balances, and recovering amounts paid out in excess of Claim Reimbursement Liability, and applicable reports.

2.2 Claims Administration. Medical Mutual will process initial requests for reimbursements in accordance with its standard claims review procedures and applicable law; provided, however, that Medical Mutual only will review requests for reimbursement following receipt of all necessary information; and provided, further, that Employer must review and determine any appeal. Medical Mutual must receive sufficient documentation from the employee to substantiate all claims in accordance with all applicable laws. If a request for reimbursement is approved, Medical Mutual will disburse Covered Benefits as soon as reasonably possible after such determination is made, provided that sufficient funds are made available by the Employer to pay such benefit payments in accordance with the applicable Claims Funding Method. If a request for reimbursement is denied, Medical Mutual will notify the claimant that they may appeal to Employer for subsequent review in accordance with the terms of the Plans.

2.3 Enrollment and Eligibility Assistance Services. With respect to HSA and HRA Plans, Medical Mutual will enroll all Covered Individuals in the Plan. With regard to FSA Plans, initial eligibility information, and any changes in eligibility, will be transmitted directly by the Employer to Medical Mutual. With regard to any eligibility determinations made by Medical Mutual, Medical Mutual shall be acting only in a ministerial fashion on behalf of Employer, implementing its directions and policies. Employer shall notify Medical Mutual of changes in employee eligibility (e.g. addition, termination, change in family status, etc.) at least ten (10) days prior to the first payroll date affected. Late notification may result in an erroneous payment being made to an Employee and any losses due to such late notification will be exclusively that of the Employer.

2.4 Benefit Plan Documents and Forms. It is the Employer's responsibility to ensure that all Plan documents and forms, including any template or sample documents and forms provided to Employer by Medical Mutual in accordance with this Agreement, comply with all applicable laws and regulations.

2.5 Debit Cards. Based upon information provided by Employer to Medical Mutual, and subject to standard Medical Mutual practices, if applicable to the product purchased by Employer, Medical Mutual shall issue debit cards ("Cards") to each Covered Individual; provided, however, that FSA Plan participants may not have Cards unless specifically elected by Employer. Possession of a Card does not confer any right to services or benefits under the Plans unless the Card holder is, in fact, a Covered Individual. Medical Mutual is not responsible for any damages or costs arising from use of such Card by an ineligible individual prior to being notified. The Card must be used in accordance with the terms of the Plans, any cardholder agreement, and the substantiation rules of the Internal Revenue Code. Medical Mutual has no responsibility to monitor the use of such Card, but may deactivate the Card if used other than in accordance with this Section. Medical Mutual will make reasonable attempts to collect repayment of claims paid through the Card for ineligible expenses or offset the ineligible payment against any claims for future eligible expenses; if repayment or offset is not made, Employer will be informed and will be responsible for taking any necessary action required by law (e.g., including such amounts in income). Furthermore, Medical Mutual shall have the right to suspend all reimbursements on new claims until the improper payments are recovered. Medical Mutual reserves the right to deactivate the Card at any time that it deems appropriate, including, but not limited to: (a) failure by the Employer to fund the Consumer Accounts; (b) failure by the Covered Individual to provide required substantiation; (c) notice from the Employer that the participant is no longer eligible for the

Consumer Account; or (d) the Agreement is terminated. If the Card has been deactivated (other than for failure to properly fund) Medical Mutual will not reactivate the Card until the reason for deactivation has been resolved.

- a. **Reimbursement for Non-Qualified Expenses for Flex Plan Transactions.** At the time of each Employee's enrollment in the Plan and in the Cardholder Agreement, the Employee will agree to reimburse the Employer for the amount of any Transaction that was not for a Qualified Expense. For Transactions determined by the Employer or TPA to be for non-qualified expenses ("NQE"), the Employee will automatically be notified of a balance due on the website and will be sent a communication (email or postal mail) informing him or her of the amount due. The Employer is ultimately responsible for repayment to the Medical Mutual for any NQE transactions not refunded by the Employee. The Employer may, to the extent allowed by applicable law, withhold the amount at issue from the Employee's pay or may bill the Employee. However, the Employer is responsible for determining whether applicable law will permit the Employer to withhold such amounts and should consult legal counsel concerning such withholding. If the claim still remains outstanding, the Employer must offset the amount thereof against future claims under the Program. The Employer must also take action to ensure that further violations do not occur, including denial of access to the Card. In the event the amount cannot be collected from the Employee, the Employer must nevertheless pay such amount to the Medical Mutual and treat the amount due as it would any other business indebtedness.
- b. **Notification.** If the Employer is notified by an Employee that a Card is lost or stolen or if the Employer is told or suspects that a Card has been used fraudulently, it must notify Medical Mutual immediately. Additionally, the Employer must notify Medical Mutual immediately when an Employee terminates MMO will not be responsible for any stolen cards or cards being improperly used by terminated employees.

2.6 Customer Service. Medical Mutual will provide customer service for the applicable Consumer Account and Plan, including access to customer service professionals by telephone, online, and by mail, in accordance with then-current policies and procedures. Each Covered Individual will receive a welcome kit for each of the Consumer Accounts on or after the Effective Date, access to a website for Covered Individuals to utilize in order to obtain forms, account balance, claim status, and summary activity for their Consumer Accounts, and a toll free customer call center for Covered Individuals. Hours in the call center may vary with notice; standard hours are 8:00-5:00 EST Monday through Friday; Medical Mutual reserves the right to change the hours of operation without prior notice. Additional customer service offerings, including dedicated customer service line, designated customer service team, and customized interactive voice response systems, shall be provided only as the parties mutually agree, and Medical Mutual reserves the right to charge additional fees for such services in accordance with its then-current policies.

2.7 Online Services. Medical Mutual will provide access to a secure password-protected website for use as a financial administration portal to access funds in a Plan that includes the content, features, and functionality determined by Medical Mutual, in its sole discretion. (the "Web Site"). Online services will be available 24 hours a day, 7 days a week except during periods of maintenance and as otherwise set forth herein. Medical Mutual has sole discretion to authorize its vendor to make, reasonable adjustments and improvements to the Web Site at any time with reasonable prior notice. Employer and Covered Individuals are solely responsible for maintaining the hardware and/or software necessary to access the Web Site, and to preserve and maintain the confidentiality of their identification number(s) and password(s), including by adopting and enforcing any necessary controls. Medical Mutual may regard as accurate and authorize each data transaction made through the use of such identification number(s) and/or password(s). Medical Mutual reserves the right to modify, withdraw, or terminate access to the Web Site with reasonable prior notice. Employer may obtain reports summarizing Consumer Account activities from the previous month via the website. The reports will include only the aggregate claims payment from each of the applicable Consumer Accounts and, except as mutually agreed upon and subject to the Business Associate Agreement entered into between Medical Mutual and the Employer, the reports will not contain any data that identifies Covered Individuals. Employer is responsible for reviewing the reports and notifying Medical Mutual of any discrepancies of which it is aware in accordance with the timing and methods provided in the Agreement.

2.8 Recordkeeping. Medical Mutual will maintain the usual and customary books, records, and documents relating to the Plans, for at least the lesser of the term of this Agreement or 3 years following the date the record was created or received.

2.9 Non-Discretionary Duties; Additional Services. The services performed by Medical Mutual under this Agreement are ministerial in nature and generally performed in accordance with the terms of the Plans and Medical Mutual's standard operating procedures. Medical Mutual and Employer may agree to additional services by amending this Agreement.

2.10 Subcontracting. Medical Mutual has contracted with Alegeus Technologies, LLC ("Alegeus") for Alegeus to provide certain functions under this contract. Medical Mutual will be responsible for ensuring all obligations subcontracted to Alegeus are performed in accordance with the terms of this contract.

ARTICLE III. FINANCIAL TERMS

3.1 Funding of Covered Benefits.

- (a) Employer shall make sufficient funds available from its general assets to fund the Plans and pay all Covered Benefits in accordance with the terms of the Plans and in accordance with the applicable Claims Funding Method.
- (b) **Claims Funding Method.** Unless otherwise agreed to in writing by Medical Mutual and the Employer, the claims funding method for Consumer Accounts is an EFT debit method under which Medical Mutual or Medical Mutual's designee will automatically withdraw funds from the Employer's bank account.

3.2 Payment of Service Charges.

- (a) The Employer agrees to pay Medical Mutual the fees set forth in Addendum I for the services described in this Agreement ("Service Charges"). Service Charges shall be assessed for any month during which services are performed, and all Service Charges are due by the 1st business day of the service unless such Service Charges are included in the Employer's medical premium or medical administrative fees. In the event such Service Charges are included in the medical premium or medical administrative fees, the Employer must pay all premium or administrative fees in accordance with the payment terms in the medical insurance contract if fully insured or in the administrative services agreement if self-funded.
- (b) Interest may be imposed on overdue fees. In addition, Medical Mutual shall have the right, but not the obligation, in its sole discretion to immediately take one or more of the following actions without any further notice to Employer in the event of untimely payments for fees provided in Addendum I or fees included in the Employer's medical premium or administrative fees: (i) stop processing Covered Benefits incurred on or after that date; or (ii) terminate the Agreement in accordance with the provisions of Article VI. The Employer agrees to bear full responsibility for any reasonable charges incurred in the collection of unpaid invoices owed to Medical Mutual.
- (c) Medical Mutual may, in its discretion, accept on Employer's behalf all or part of the applicable Service Charge from a third party upon written instruction from the Employer; but Employer will remain liable for all such Service Charges.
- (d) In the event circumstances require Employer to request that Medical Mutual provide additional or extraordinary services, including, but not limited to, the production of special (non-standard) claims and utilization reports, design and printing of special (non-standard) forms, correcting prior service provider errors, data clean-up, multiple iterations of testing, or error corrections caused by the Employer or third parties under this Agreement, Medical Mutual will inform the Employer of any fees associated with such extraordinary services. Medical Mutual will be reimbursed for fees incurred on behalf of the Employer (e.g., overdraft fees from financial institutions, etc.) Medical

Mutual will provide advance written notice to the Employer before providing such additional or extraordinary services, whereupon the Employer may approve or decline such services.

3.3 Modification of Financial Terms. The financial terms of this Agreement may be changed by Medical Mutual on each renewal date, with prior written notice. In addition, Medical Mutual may change the financial terms of this Agreement at any time during the term of the Agreement if there is a change in applicable law enacted after the Effective Date that would change the way that Medical Mutual must provide services and force it to incur unforeseen expenses. The changes shall be communicated to the Employer in writing, and shall be effective as of the date set forth in the communication to the Employer or, if no date is explicitly provided, the effective date of the change.

3.4 Bankruptcy and Right of Set-Off. If at any time Medical Mutual determines that the Employer is insolvent, bankrupt or otherwise subject to liquidation and is unable to meet its funding obligations under this Agreement, Medical Mutual may, pursuant to applicable law, offset claim amounts paid by the Medical Mutual but not yet funded by the Employer against any forfeited or unallocated amounts available.

ARTICLE IV. EMPLOYER RESPONSIBILITIES

4.1 Retain Sole Responsibility for the Plans and Legal Compliance. Employer has sole responsibility for establishment and operation of the Plans. Employer shall have sole discretionary authority and responsibility for construing and interpreting the provisions of the Plans and deciding all questions of fact arising under the Plans, including but not limited to establishing standards governing the eligibility of individuals to participate in the Plans, determining whether an individual is eligible to participate in the Plans, and resolving all disputes relating to eligibility. Employer will not represent to Covered Individuals or to any third party that Medical Mutual is the “Plan Administrator” and the “Named Fiduciary” as those terms are defined by ERISA Section 3(16) (whether or not ERISA applies). It is Employer’s sole responsibility and duty to ensure compliance with all applicable laws and regulations, including but not limited to ERISA, COBRA, HIPAA, Sections 105, 106, 125, and 223 of the Code, and PPACA. Employer acknowledges that Medical Mutual is not an accounting or law firm and no services provided in accordance with this Agreement will be construed as tax or legal advice as a result of providing such services. Medical Mutual’s provision of services under this Agreement does not relieve the Employer of its obligation to ensure compliance with applicable laws. It is Employer’s responsibility to pay any fee or penalty arising from the Plans that is assessed by the Internal Revenue Service, the Department of Labor, and/or other federal or state governmental agencies.

4.2 Fund Covered Benefits and Pay Service Charges. Employer shall fund Covered Benefits, and pay Service Charges, in accordance with Article III of this Agreement. If the Employer’s broker has contracted with the Employer to pay certain fees and decides, for any reason at any time, not to continue to pay said fees, Employer is responsible for said fees.

- (a) Notwithstanding any provision herein to the contrary, Employer and Medical Mutual intend and agree that any funds submitted by Employer to Medical Mutual, to the extent funds received exceed Claim Reimbursement Liability: (i) are and shall remain the general assets of Employer; (ii) are not “Plan assets” within the meaning of ERISA (without regard to whether ERISA applies); and (iii) shall remain subject to the claims of Employer’s creditors at all times.
- (b) Employer acknowledges that the Consumer Account(s) are not established as a trust as defined under Ohio state law. Employer further represents and agrees that neither it nor any of its employees, directors, representatives, fiduciaries, Plans (or any entity performing services for Employer or such Plans), any of its predecessors, successors or assigns have represented or will represent to any Covered Individual that a separate account, fund, or trust is being held on behalf of the Plans that may be used to provide or secure benefits under the Plans. Employer shall advise the Covered Individuals, beneficiaries, and any interested parties that Covered Benefits shall at all times be paid out of the general assets of Employer.

- (c) Employer acknowledges that Medical Mutual does not assume any responsibility for the adequacy of its funding, or any act or omission or breach of duty by Employer, nor is Medical Mutual in any way to be deemed an insurer, underwriter, or guarantor with respect to any benefits payable. Medical Mutual generally provides reimbursement services only and does not assume any financial risk or obligation with respect to claims for benefits payable by Employer.
- (d) In compliance with the provisions of Employer's plan document and applicable state or Federal law, any amounts remaining unpaid and unused at the end of any (defined below) "Run-Out Period" as applicable or appeals period in which claim is incurred will be forfeited and returned to the Employer minus any necessary fees and expenses that are owed to Medical Mutual.

4.3 Provide Information to Medical Mutual. Employer will furnish all information determined by Medical Mutual to be necessary for Medical Mutual to provide services under this Agreement. Such information will be provided to Medical Mutual in the time and in the manner agreed to by Employer and Medical Mutual. Medical Mutual shall assume that all such information provided to Medical Mutual by Employer, Authorized Persons, or any designee of Employer (e.g. a broker or another service provider) is complete and accurate, and Medical Mutual is under no duty to question or verify the completeness or accuracy of such information. Employer understands that Medical Mutual cannot accurately perform its duties under this Agreement without accurate and timely information, and therefore Medical Mutual shall have no liability to Employer or any Covered Individual as a consequence of inaccurate and/or untimely information provided to Medical Mutual by Employer, a Covered Individual, or any third party on Employer's behalf. Employer understands that an additional fee may be required if Medical Mutual is required to take corrective action as a result of such inaccurate or untimely information. Medical Mutual shall use reasonable care and due diligence in the exercise of its powers and the performance of its duties under this Agreement. If Medical Mutual makes any payment under this Agreement to an ineligible person, or if more than the correct amount is paid, Medical Mutual shall make a diligent effort to recover any payment made to or on behalf of an ineligible person or any overpayment. However, Medical Mutual will not be liable for such payment, unless Medical Mutual would otherwise be liable under another provision of this Agreement.

4.4 Designate Authorized Persons to Act. Employer shall provide Medical Mutual with the names of any Authorized Persons. On behalf of Employer and Plans, Authorized Persons may: give instructions and directions; receive notices; provide documents, materials, and other information; and make determinations. In performing the services, Medical Mutual shall be entitled to rely upon instructions, directions, documents, materials, and information provided by Authorized Persons, whether the instructions, directions, documents, materials, and information are conveyed in writing, by telephone, by facsimile, by electronic communication, or by any other means. Unless Medical Mutual is notified in writing to the contrary, any person reasonably believed by Medical Mutual to have the authority to act on behalf of Employer and the Plans, including but not limited to the individuals executing this Agreement, shall be deemed to be an Authorized Person.

4.5 Reviewing and Correcting Information. Employer shall review and reconcile reports made available from Medical Mutual, and shall notify Medical Mutual of any discrepancies promptly but in no event more than one (1) month after the report or record is made available. Medical Mutual shall have no responsibility or liability for any discrepancy not disclosed within the one-month window.

4.6 Reporting. Employer assumes all responsibility for tax reporting relating to the payment to or reimbursement of any benefit for a Covered Individual, and for operation of the Plans, including but not limited to income withholding, employer-based reporting, and filing of Form 5500, to the extent required. The HSA Bank Custodian will provide annual contribution and distribution tax reports to assist the Employer in completing its tax reporting.

ARTICLE V. RELATIONSHIP OF THE PARTIES

5.1 Independent Contractors. Medical Mutual is an independent contractor to Employer and will not be deemed partner, agent, engaged in a joint venture, or governed by any other legal relationship. To avoid creating confusion regarding the respective duties and obligations of Medical Mutual and the Employer with respect to the

Plans, Employer agrees not to use Medical Mutual's name, logo, or information in any release or printed form without Medical Mutual's prior written approval.

5.2 Business Associates. Medical Mutual is a Business Associate of the Plans as such term is used in HIPAA. Accordingly, Employer (individually and on behalf of the Plans) and Medical Mutual agree that the Business Associate Agreement entered into between Medical Mutual and Employer, shall govern Medical Mutual's obligations regarding the use and disclosure of personally-identifiable health information (within the meaning of HIPAA) when performing any functions under the Agreement.

5.3 Plans are Self-Funded. The Plans are self-funded; benefits are funded entirely by Employer and/or Employee and shall be paid as provided in Article III of this Agreement. Medical Mutual provides only administrative services under the Agreement, and do not assume any financial risk or obligations with respect to Covered Benefits provided under, and/or expenses incurred related to, the Plans and Consumer Accounts. Employer shall disclose the self-funded nature of the Plans, and the parties' relative financial responsibilities, in all communications distributed to Covered Individuals and third parties.

ARTICLE VI. TERM AND TERMINATION

6.1 Effective Date. The effective date of this Agreement is listed on the signature page of this Agreement. An Appendix may have a later effective date than this Agreement, which shall be indicated in the applicable Appendix.

6.2 Term. This Agreement shall be effective from and after the Effective Date for an initial term of one (1) year. This Agreement shall be automatically renewed for consecutive 1-year terms thereafter, unless (a) either Party notifies the other of its intent not to renew not later than 30 days prior to the expiration of the then-current term or (b) the Agreement is terminated as provided in Section 6.3. Any such renewal shall be on all of the same terms and conditions, unless otherwise amended or modified in writing and signed by the Parties hereto; provided, however, that for each extension, the financial terms hereunder shall automatically change at the beginning of each subsequent period, as described in Article III of this Agreement.

6.3 Termination. Either Party may terminate the Agreement for Breach upon 60 days' prior written notice to the other Party; provided, however, that the notice shall identify the specific Breach(es); and provided, further, that the other party shall have the right to cure any alleged Breach within 30 days following receipt of such notice. In addition, this Agreement may be terminated immediately upon the occurrence of any of the following: (a) either Party terminates, liquidates, or dissolves its business or disposes of a substantial portion of its assets; (b) any finding or admission that either Party is insolvent, or making of a filing under state or federal bankruptcy or similar laws; (c) termination of all the Plans, or of the Medical Mutual Plans; (d) the effective date of any law, regulation, or guidance enacted after the Effective Date that would prohibit, or is interpreted by Medical Mutual to prohibit, the continuance of the Agreement on the terms and conditions provided herein; or (e) if after reasonable review Medical Mutual determines that the Employer is not providing sufficient funding to allow the transfer of required amounts into the Funding Account, Medical Mutual reserves the right to suspend or terminate all services to the Employer under the provisions of the Agreement. Medical Mutual reserves the right to terminate this Agreement effective the date the group terminates their medical coverage with Medical Mutual. Furthermore, Medical Mutual may terminate this Agreement immediately if it is discovered the Employer has engaged in fraud or made any material misrepresentation of facts.

6.4 Partial Termination. Medical Mutual may add or terminate any Appendix attached hereto by providing thirty (30) day written notice to Employer. Termination of one Appendix will not terminate the entire Agreement or the other Appendices except as specifically set forth in the written notice. In addition, at the option of the Employer, a Participating Employer may be individually terminated from the Agreement upon 90 days' prior written notice to Medical Mutual. If the termination of the Participating Employer causes a material change, Medical Mutual may, in its sole discretion, amend the financial terms as of the date of termination of the Participating Employer.

6.5 Effect of Termination. Upon termination of the Agreement for whatever reason, all of the services provided under the Agreement shall be terminated. In the event this Agreement is terminated, all requests for reimbursement submitted to Medical Mutual after the effective date of termination will be returned to the Employer, or at the Employer's request, submitted to another third party administrator, and Medical Mutual will have no further responsibility with respect to such claims submitted after the effective date of termination; provided, however, upon mutual agreement, Medical Mutual will oversee a run-out period of not more than 6 months during which Medical Mutual will continue to process Covered Benefits in accordance with the terms of this Agreement for an additional fee. Except as expressly provided under this Agreement, termination of the Agreement shall constitute a full and final discharge of all obligations of Medical Mutual under the Agreement.

ARTICLE VII. GENERAL PROVISIONS

7.1 Entire Agreement; Severability; Headings. Each Appendix attached hereto is incorporated by reference and made a part of this Agreement. This Agreement embodies the entire agreement and understanding between the parties with respect to, and supersedes all prior oral or written agreements and understandings relating to, the subject matter hereof. No statement, representation, warranty, covenant or agreement of any kind not expressly set forth in this Agreement will affect, or be used to interpret, change or restrict, the express terms and provisions of this Agreement. If a court declares any term of this Agreement invalid, the same will not affect the validity of any other provision, provided that the basic purposes of this Agreement are achieved through the remaining valid provisions. The headings of sections and subsections contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

7.2 Waiver. Failure by Employer or Medical Mutual to insist upon strict performance of any provision of this Agreement will not modify such provision, render it unenforceable, or waive any subsequent breach. No waiver or modification of any of the terms or provisions of this Agreement shall be valid unless accomplished pursuant to Section 7.3.

7.3 Assignment; Amendment. Employer cannot assign its rights under this Agreement without Medical Mutual's written consent. Except as expressly indicated in this Agreement, this Agreement may be amended only in a writing signed by duly authorized individuals of each party.

7.4 Confidentiality and Non-Disclosure. As a result of entering into this Agreement, Employer and Medical Mutual have and will continue to reveal and disclose information that is proprietary and/or confidential. Each party will: (a) keep such proprietary and/or confidential information of the other party in strict confidence; (b) not disclose confidential information of the other party to any third parties or to any of its employees not having a legitimate need to know such information; and (c) not use confidential information of the other party for any purpose not directly related to and necessary for the performance of its obligations under this Agreement (unless required to do so by a court of competent jurisdiction or a regulatory body having authority to require such disclosure); provided, however, that Medical Mutual may: (i) disclose any information as required by applicable law; (ii) identify Employer as a client in any marketing material; or (iii) communicate such information to an Authorized Person, acknowledging the possibility that such communications may be inadvertently misrouted or intercepted. The terms and conditions of this Section shall survive the termination of this Agreement.

7.5 Disclosure of Individually Identifiable Health Information. Both parties agree to the additional limitations and conditions set forth in the applicable Business Associate Agreement with respect to Covered Individuals' protected health information, as such term is defined in HIPAA, created or received by Medical Mutual while performing services under this Agreement. If there is a conflict between this Agreement and the Business Associate Agreement, the Business Associate Agreement will control, but only with respect to the subject matter of the HIPAA Agreement.

7.6 Notices and Communications. All notices between Employer and Medical Mutual provided for herein shall be sent by any of the following to the address set forth on page 2 of this Agreement: confirmed facsimile; first class United States mail, postage prepaid; email addressed to the other party at their respective addresses; or guaranteed overnight mail, with tracing capability. All notices shall be deemed provided when sent except as otherwise set forth in this Agreement.

7.7 Interpretations. The parties hereto acknowledge and agree that the terms and provisions of this Agreement will be construed fairly as to all parties and not in favor of or against a party, regardless of which party was responsible for the preparation of this Agreement.

7.8 Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of Ohio to the extent not otherwise preempted by Federal law.

7.9 No Third Party Beneficiaries. Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than Employer, Medical Mutual and their respective successors or assigns, any rights, remedies or obligations whatsoever.

7.10 Limitation of Liability; Indemnification.

(a) Medical Mutual may rely upon and act upon any writing from any person authorized by the Employer to give instructions concerning the program and may conclusively rely upon and be protected in acting upon any written order from the Employer or upon any other notice, request, consent, certificate, or other instructions or paper reasonably believed by it to have been executed by a duly authorized person, so long as it acts in good faith in taking or omitting to take any such action. Medical Mutual need not inquire as to the basis in fact of any statement in writing received from the Employer or any other party authorized by the Employer to act with respect to the program. Medical Mutual shall be entitled to rely upon the information provided by the Employer in performance of its duties hereunder.

The Employer shall indemnify and hold Medical Mutual and its successors, parents, subsidiaries and affiliates and all of their respective officers, directors, employees, agents, successors and permitted assigns (the "Medical Mutual Parties") harmless against any and all liabilities, losses, costs or expenses (including reasonable legal fees and expenses) of whatsoever kind and nature which may be imposed on, incurred by or asserted against Medical Mutual at any time to the extent such liability, loss or expense results from the Employer's negligence, breach of the terms hereof, or willful misconduct under this Agreement.

Medical Mutual shall indemnify and hold the Employer and its successors, parents, subsidiaries and affiliates and all of their respective officers, directors, employees, agents, successors and permitted assigns (the "Employer Parties") harmless against any and all liabilities, losses, costs or expenses (including reasonable legal fees and expenses) of whatsoever kind and nature which may be imposed on, incurred by or asserted against the Employer Parties at any time to the extent such liability, loss or expense results from Medical Mutual's negligence, breach of the terms hereof, or willful misconduct under this Agreement.

Further, the Employer shall indemnify and hold Medical Mutual harmless against any and all liabilities, losses, costs or expenses (including reasonable legal fees and expenses) of whatsoever kind and nature which may be imposed on, incurred by or asserted against Medical Mutual at any time in connection with (i) services performed by Medical Mutual in accordance with the terms of this Agreement, (ii) Medical Mutual's having acted upon the directions of the Employer hereunder, or (iii) Medical Mutual's having failed to act as a result of the Employer's directions not to act, or in the absence of Employer directions.

Whenever a party becomes aware of a claim that may be subject to the provisions of this Section, it shall notify the other party as soon as practicable, and both parties shall reasonably cooperate in the resolution of such matter.

Neither party shall be liable to the other for any indirect, incidental, consequential, special delay, or punitive damages whatsoever.

(b) **Errors.** In the event an error occurs, in whole or in part, due to the errors or omissions by Medical Mutual, including any third party engaged by Medical Mutual, Medical Mutual shall cooperate with Employer and such third party (if applicable) to cause the correction of the errors or omissions as soon as practicable and in a commercially reasonable manner consistent with IRS, DOL and other agency guidelines were applicable. To the extent Medical Mutual is not solely responsible for an error or omission, Medical Mutual reserves the right to charge Employer for reasonable time and expenses associated with correcting such error.

So long as any errors or omissions are corrected in accordance with the above provision and such correction is authorized by the Employer, it shall be the exclusive remedy of the Employer and employees regarding such errors or

omissions with respect to this agreement. Medical Mutual shall not be liable to any person or entity for indirect losses and/or damages of any kind as a result of the error or omission.

7.11 Survival of Terms. The obligations of the Parties which by their nature would continue beyond the termination, cancellation, or expiration of the Agreement shall survive termination, cancellation, or expiration of the Agreement, including, but not limited to, the provisions regarding confidential information, compliance with laws, and post-termination obligations.

7.12 Disputes. The Parties agree that, before initiating any litigation concerning the Agreement, they will attempt in good faith to resolve their dispute. In any litigation concerning the Agreement or their respective obligations under the Agreement, the Parties agree that the forum shall be a state or federal court of competent jurisdiction in Ohio, and the Parties waive any right to a jury trial and any right to maintain claims arising out of the Agreement as a class action.

ADDENDUM I
Service Charges

Type of Consumer Account	Pricing for Groups	
	<i>Self-Funded</i>	<i>Fully Insured</i>
HSA	Included in Administrative Fee	Included in premium
HRA	Included in Administrative Fee	Included in premium
FSA	PPPM: \$5.55*	PPPM: \$5.55*

* The Service Charge fee is calculated by the total number of employees who elected benefits under this Agreement, multiplied by the PPPM. **In the event the Service Charge total is below \$100.00 per month, the group shall be charged a minimum monthly fee of \$100.00 instead of the calculated total. Additionally, Medical Mutual may adjust the Service Charges at any time by providing advance written notice of the change to Employer. Payment of the new Service Charges by Employer shall be deemed an acceptance and agreement to the new Service Charge.**