

## CLAIMS ADMINISTRATION AGREEMENT

THIS AGREEMENT is made as of January 1, 2016, between Corporate Claims Management, Inc., a corporation organized and existing under the laws of the State of Delaware (hereinafter "Administrator") and The City of Joplin, Missouri (hereinafter "Client").

### WITNESSETH:

WHEREAS, Administrator is engaged in the business of the administration, investigation and payment of claims arising from self-insured workers' compensation and casualty programs for its clients; and

WHEREAS, Client requires the services of an independent contractor to administer its self-insured workers' compensation and self-insured property/casualty program up to its self-insured retention; and

WHEREAS, Client desires to retain Administrator for the provision of its services for Client's claims for its self-insured workers' compensation and self-insured property/casualty program to the extent as set forth in the following articles of this Agreement;

NOW THEREFORE, in consideration of the mutual promises and covenants hereinafter contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

## 1. Definitions

As used in this Agreement, the following terms shall have the following meanings:

- (a) "Agreement" shall mean this Agreement, as originally executed and amended or supplemented from time to time.
- (b) "Allocated Loss Adjustment Expense" shall mean such of the following items of expense incurred or authorized by Administrator on behalf of Client as may be reasonable and necessary in connection with Administrator's rendition of services in accordance with this Agreement:
  - i. Medical examinations of claimants, including the reasonable and necessary transportation expenses of claimants.
  - ii. Reports from attending or examining physicians.
  - iii. Attorneys' fees and disbursements.
  - iv. Court reporter services and transcripts.
  - v. Stenographic services and transcripts.
  - vi. Witness attendance fees.
  - vii. Court costs.
  - viii. Appeal bonds.
  - ix. Printing costs related to trials and appeals.
  - x. Testimony, opinions, appraisals, reports, surveys, and analyses of professionals and experts.
  - xi. Automobile and Property appraisals.
  - xii. Trial and hearing attendance fees.
  - xiii. Reports from government agencies or branches.
  - xiv. Credit bureau reports.
  - xv. Private investigators.
  - xvi. Photographs.

- xvii. Medical or vocational rehabilitation.
  - xviii. Medical cost containment services including but not limited to hospital bill audit, provider bill audit, and medical case management incurred with the consent of Client.
  - xix. Extraordinary claim investigation and/or travel expense incurred with the consent of Client.
  - xx. Fees for services provided by any investigation or adjusting firm other than Administrator related to the investigation and defense of a particular claim.
  - xxi. Any similar service related to the investigation and defense of a particular Claim, or the protection of and collection of the subrogation rights of the Client, for which Client shall have given prior approval.
  - xxii. Costs, fees and expenses incurred by Administrator for services above and beyond those covered by this agreement.
- (c) "Claim" shall mean any occurrence from which injury, damage, or expenses are sustained or asserted or from which liability under the Missouri Workers' Compensation Law or Missouri Tort Statutes is alleged.
  - (d) "Claimant" shall mean any person alleging or having a right to file a claim against the client for damages as a result of client's duty or breach of duty under any various Workers' Compensation or Civil laws.
  - (e) "Client Program" or the "Program" shall mean the Client's self-insured workers' compensation program which qualifies in all respects to such self-insured programs as defined in the Missouri Workers' Compensation Law, as such law is herein defined, and/or Client's self-insured property/casualty program as the context requires.
  - (f) "Claims Payment Account" shall mean a bank account to be established by Client and to which Client will contribute the amounts agreed hereunder and from which Administrator may draw funds to pay claims and Allocated Loss Adjustment Expenses required in the administration of Client's Program covered by this Agreement.
  - (g) "Party" shall mean Client or Administrator as the context requires, and the term "Parties" shall mean both Client and Administrator.
  - (h) "Loss Run" shall mean a computer generated listing of claims that have been posted to Administrator's Claims Administration Information System.

- (i) "Loss Payment Accounting Record" means a computer generated listing of accounting activity in the Claims Payment Account, as described below, during the preceding month that has posted to the Administrator's Claims Administration Information System.
- (j) "Administrator's Authority Limit" shall mean the amount of claim settlement authority provided by the Client to Administrator for each claimant, set forth in writing from time to time, which Administrator may utilize in its sole judgement to settle claims as described herein.
- (k) "Missouri Workers' Compensation Law" shall mean such Law as defined in Chapter 287, revised Statutes of Missouri, as amended, and as such Law may be amended from time to time during the term of this Agreement, including any renewal or extension of such term.

## 2. Term

Administrator agrees to provide all services set forth herein to Client in connection with its self-insured claims exposures occurring during the period commencing January 1, 2016, and ending December 31, 2018, unless earlier terminated pursuant to Section 3 hereof.

## 3. Termination

Unless explicitly renewed by the Parties in writing, this Agreement shall terminate on December 31, 2018. Any continuation or renewal of this Agreement shall be the subject of further negotiation between Client and Administrator. This Agreement may be canceled at any time with or without cause by either Party giving the other Party written notice of cancellation sixty (60) days prior to the effective date of such cancellation.

If this Agreement is terminated by Client before December 31, 2018 for any reason, Client shall exercise one of the following options:

- (a) Client may require Administrator to conclude the handling of all claims occurring during the term of this Agreement whether reported before or after the term of this Agreement, subject, however, to the terms, conditions and limitations of this Agreement. Further compensation shall be owed to Administrator for its handling of Claims reported prior to the Termination of this Agreement to their conclusion. This further compensation shall be equal to a one-time fee per open case at the time of termination based on the flat-rate-per-claimant charges displayed below.
- (b) Client may require Administrator to return all open and/or finalized files to the Client. Such return of open and/or finalized files shall not result in a reduction in fees for all Claims referred to Administrator but not finalized prior to the effective date of termination.

## 4. Compensation

Client shall pay Administrator fees as follows as compensation for the administrative services Administrator herein agrees to perform:

**GUARANTEED COST – LIFE OF CONTRACT HANDLING**

**Client shall pay Administrator fees as follows as compensation for the administrative services Administrator herein agrees to perform. Claims reported to Administrator during the Term of this agreement will be handled for the following rates:**

CLAIMS ADMINISTRATION

| Type of Case                                     | Expected<br>Frequency |   | Flat Rate<br>Per Claimant |          | Projected<br>Total  |
|--|-----------------------|---|---------------------------|----------|---------------------|
| Workers' Compensation Med. Only                  | 120                   | x | \$150.00                  | =        | \$ 18,000.00        |
| Workers' Compensation Indemnity                  | 20                    | x | \$960.00                  | =        | \$ 19,200.00        |
| General Liability                                | 15                    | x | \$600.00                  | =        | \$ 9,000.00         |
| Auto Liability                                   | 10                    | x | \$600.00                  | =        | \$ 6,000.00         |
| Auto Physical Damage                             | 5                     | x | \$300.00                  | =        | \$ 1,500.00         |
| Professional Liability                           | 10                    | x | \$650.00                  | =        | \$ 6,500.00         |
| First Party Property                             | 5                     | x | \$500.00                  | =        | \$ 2,500.00         |
| MISC. Liability Take-Over Files<br>(Year 1 Only) | 10                    | x | \$300.00                  | =        | \$ 3,000.00         |
| <b>TOTAL ANTICIPATED CLAIMS COSTS</b>            |                       |   |                           | <b>=</b> | <b>\$ 65,700.00</b> |

PROGRAM FEES

|   |   |             |
|---|---|-------------|
| MMSEA Section 111 Mandatory Medicare Reporting * Annual Fee * | = | \$ 5,000.00 |
|---|---|-------------|

Client agrees to pay Administrator all fees as outlined in this section. Fees shall be billed on the first of the month of the beginning of the Term of this Agreement, and such billings will be paid by Client within thirty (30) days of such billing.

## 5. Services To Be Performed

Administrator shall adjust, supervise, and administer fully the Client's Program in a manner so that such Program is at all times in full compliance with all current and future applicable laws, rules and regulations governing such self-insured programs; and, in fulfilling the foregoing obligations, Administrator will act as the independent contractor and/or representative of Client in all matters related to the administration of the Program.

In addition to the foregoing obligations, Administrator hereby agrees to perform fully all of the following duties:

- (a) To review all claim and/or loss reports with claim and/or dates incurred during the term of this Agreement for all losses involving the hereinabove stated exposures to the Client.
- (b) To establish a file with respect to each claim.
- (c) To investigate, to the extent deemed necessary in the mutual judgement of the Parties, all reported Claims as defined in Section 1 above.
- (d) To provide each Claim file with a written chronology of all actions taken with respect to the underlying Claim.
- (e) To furnish all claim forms necessary for proper claims administration.
- (f) To investigate, adjust, settle or resist all such losses and/or Claims as defined in Section 1 above within the per claim discretionary settlement authority limit of the Administrator as agreed upon by Administrator and Client.
- (g) To investigate, adjust, settle or resist all such losses and/or claims as defined in Section 1 in excess of the discretionary settlement authority limit of the Administrator with specific prior approval of the Client.
- (h) To assist in all litigation or other proceedings involving any Claim as directed by Client.
- (i) To retain all Claim files for a period of two (2) years after the applicable statute of limitations has expired. After this period, files will be returned to the Client or destroyed as Client requests.
- (j) To recommend adequate reserves and provide to Client a continuous review of such reserves and any required changes to such reserves.
- (k) To monitor all treatment programs recommended to a Claimant by any care provider.

- (l) To furnish to Client and/or its designees on a monthly basis, a Loss Run and Loss Payment Accounting Record Report. Administrator also shall furnish to Client and/or designees on an as requested basis ad-hoc reports as may be available within its claims administration system.
- (m) To pay on claims check stock approved by Client, all payments required to be made in the administration of Client's Program and provide to Client a daily record of all such payments.
- (n) To prepare and file all reports required by any current or future applicable law, rule or regulation.
- (o) Discretionary settlement authority, as referred to in Section (F) & (G) above is \$0.00 per claimant.

## 6. Covenants and Agreements of Client

Client covenants and agrees as follows:

- (a) Client appoints Administrator as its claims management company, as its agent and authorized Administrator to exercise in Client's behalf, Administrator's sole judgement and discretion to pay, settle, or resist all claims within Administrator's discretionary settlement authority as stated in Section (5.O) above. Client reserves the right to advise Administrator to not pay any particular claim or to pay a lesser amount even within Administrator's discretionary settlement authority.
- (b) To pay to Administrator the fees prescribed in Section 4. If client fails to pay Administrator the fees prescribed in Section 4 and/or in accordance with the time frames set forth therein, Administrator may terminate this Agreement immediately, notwithstanding the sixty (60) days prior written notice set forth in Section 3. In the event of such immediate Agreement termination, the options upon termination as set forth in Section 3, shall not be available to Client, but instead Administrator shall return to Client all Claims and/or losses pending on the date of such termination for the Client to handle to a conclusion, and such handling shall not result in any expense or reduction of fees to Administrator.
- (c) To pay all Allocated Loss Adjustment Expense, as defined herein, in addition to the fees to be paid to Administrator as prescribed in Section 4 hereof.
- (e) To provide sufficient funds to the Claims Payment Account to enable Administrator at all times to pay Claims and Allocated Loss Adjustment Expenses in accordance with the terms and conditions contained herein.

- (f) To authorize and hereby does authorize Administrator to issue payments as may be necessary to enable Administrator to pay Claims. Administrator may also payments as may be necessary to enable Administrator to pay all Allocated Loss Adjustment Expenses.

## Section 7 Covenants and Agreements of Administrator

Administrator covenants and agrees as follows:

- (a) To Client's right to assume the control and handling of any Claim at any time, and Administrator agrees to deliver promptly any Claim file to Client which it may request, but without any off-set or deduction from any of the fees or charges paid or payable by Client to Administrator under Section 4 above. The parties agree that at all times prior to and after the cancellation of this Agreement, all Claim files are owned by and are the property of Client. Claim files are subject to review by Client and its employees and authorized agents during Administrator's regular business hours, with reasonable prior notice.
- (b) To exercise reasonable efforts to manage the services provided hereunder in such a way and in such manner as to insure that every adjuster, claims investigator, and/or employee used by the Administrator or subcontracted to by the Administrator will adjust and/or investigate every alleged Claim or matter covered by this Agreement in accordance with this Agreement and any claim handling instructions as implemented from time to time.
- (c) To provide to Client, upon written request, certificate of insurance evidencing adequate General Liability Insurance, Automobile Liability Insurance, Workers' Compensation Insurance, Fidelity Coverage (Bond) and Errors and Omissions Insurance (Professional Liability Coverage)
- (d) To provide all necessary personnel to perform the services agreed upon herein.
- (e) To indemnify, protect, save, defend and hold Client and Client's directors, officers, shareholders, attorneys, employees, agents and other representatives wholly harmless from any and all loss, cost, damage or expense arising out of the administration or handling of any claims by reason of any negligent, grossly negligent or willful act or omission of Administrator or of Administrator's directors, officers, shareholders, attorneys, employees, agents or other representatives, taken or omitted to be taken pursuant to this Agreement; provided, however, that Administrator shall have no obligation to indemnify anyone pursuant hereto with respect to the following:
  - i. Any act or omission of Administrator or any of Administrator's directors, officers, shareholders, attorneys, employees, agents or other representatives taken or omitted to be



taken at the direction of client or any of Client's directors, officers, shareholders, attorneys, employees, agents or other representatives,

- ii. Administrator being named in litigation as the insurer of record,
- iii. The failure of Administrator or Administrator's directors, officers, shareholders, attorneys, employees, agents or other representatives to settle a Claim that could have been settled within Administrator's Authority Limit (so long as such failure to settle does not result from a grossly negligent or willful act, error or omission by Administrator or by any of Administrator's directors, officers, shareholders, attorneys, employees, agents or other representatives), or,
- iv. The failure of Administrator or Administrator's directors, officers, shareholders, attorneys, employees, agents or other representatives to pay any Claim or Allocated Loss Adjustment Expense, on a timely basis due to Client, to the failure of Client's directors, officers, attorneys, employees, agents or other representatives to comply with Section 6, subparagraphs (e) and (f) of this Agreement.

In the event Client or any of its directors, officers, attorneys, employees, agents or other representatives, is named as a defendant in, or is otherwise obligated to defend, any such action asserting any Claim indemnified hereunder, Administrator will assume, at Administrator's expense, the defense of such actions on behalf of Client and its directors, officers, attorneys, employees, agents or other representatives, as the case may be. Administrator has sole discretion to select the attorneys who will defend any such action, provided, however, that Administrator shall exercise such discretion reasonably. Notwithstanding the foregoing, nothing herein shall waive any rights of any party hereto to contributory negligence claims or defenses with respect to any indemnity provided herein.

#### 8. Miscellaneous:

- (a) This Agreement has been made, and its validity, performance and effect shall be determined, in accordance with the laws of the State of Missouri and venue for litigation between the parties shall be solely and exclusively in Jasper County, Missouri, or the United States District Court for the Western District of Missouri.
- (b) If any provision of this Agreement shall be held to be invalid or unenforceable for any reason, such invalidity or unenforceability shall not affect any other provisions of this Agreement.
- (c) No waiver or modification of this Agreement or of any covenant, condition or limitation contained shall be valid unless in writing and duly executed by the Parties.



The City of Joplin, Missouri

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

Corporate Claims Management, Inc.

BY: \_\_\_\_\_

Michael D. Greco

TITLE: President

DATE: \_\_\_\_\_