



STATE OF MICHIGAN ENTERPRISE PROCUREMENT

Michigan Civil Service Commission
400 S. Pine Street, Lansing, MI 48933

NOTICE OF CONTRACT

NOTICE OF CONTRACT NO. 071B7700116

between
THE STATE OF MICHIGAN
and

CONTRACTOR	York Risk Services Group, Inc.
	645 W. Grand River Ave., Suite 100
	Howell, MI 48843
	Scott Gaffner
	(517) 338-3349
	Scott.gaffner@yorkrsg.com
	3636

STATE	Program Manager	Bethany Beauchine	MCSC
		(517) 284-0086	
		BeauchineB@michigan.gov	
	Contract Administrator	Dan Stevens	DTMB
		(517) 284-7049	
		StevensD6@michigan.gov	

CONTRACT SUMMARY			
DESCRIPTION: Third Party Claims Administration Services For Long Term Disability			
INITIAL EFFECTIVE DATE	INITIAL EXPIRATION DATE	INITIAL AVAILABLE OPTIONS	EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW
March 30, 2017	March 29, 2020	5 – 1 year	March 29, 2020
PAYMENT TERMS		DELIVERY TIMEFRAME	
2NET21 and Net 45		N/A	
ALTERNATE PAYMENT OPTIONS			EXTENDED PURCHASING
<input type="checkbox"/> P-card <input type="checkbox"/> Direct Voucher (DV) <input type="checkbox"/> Other			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
MINIMUM DELIVERY REQUIREMENTS			
N/A			
MISCELLANEOUS INFORMATION			
THIS IS NOT AN ORDER: This Contract Agreement is awarded on the basis of our inquiry bearing RFP No. 007116B0008468. Orders for delivery will be issued directly by Departments through the issuance of a Purchase Order Form.			
ESTIMATED ADMINISTRATIVE FEES AT TIME OF EXECUTION		\$8,597,409.00	
ESTIMATED CLAIMS FEES AT TIME OF EXECUTION		\$150,000,000.00	
ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION		\$158,597,409.00	

For the Contractor:

[Redacted]
[Redacted]

Date

For the State:

Tom Falik
Services Division Director
State of Michigan

Date



STATE OF MICHIGAN

STANDARD CONTRACT TERMS

This STANDARD CONTRACT (“**Contract**”) is agreed to between the State of Michigan (the “**State**”) and York Risk Services Group a New York Corporation. This Contract is effective on March 30, 2017 (“**Effective Date**”), and unless terminated, expires on March 29, 2020.

This Contract may be renewed for up to 5 additional 1 year period(s). Renewal must be by written agreement of the parties, and will automatically extend the Term of this Contract.

The parties agree as follows:

1. **Duties of Contractor.** Contractor must perform the services and provide the deliverables described in **Exhibit A – Statement of Work** (the “**Contract Activities**”). An obligation to provide delivery of any commodity is considered a service and is a Contract Activity.

Contractor must furnish all labor, equipment, materials, and supplies necessary for the performance of the Contract Activities, and meet operational standards, unless otherwise specified in Exhibit A.

Contractor must: (a) perform the Contract Activities in a timely, professional, safe, and workmanlike manner consistent with standards in the trade, profession, or industry; (b) meet or exceed the performance and operational standards, and specifications of the Contract; (c) provide all Contract Activities in good quality, with no material defects; (d) not interfere with the State’s operations; (e) obtain and maintain all necessary licenses, permits or other authorizations necessary for the performance of the Contract; (f) cooperate with the State, including the State’s quality assurance personnel, and any third party to achieve the objectives of the Contract; (g) return to the State any State-furnished equipment or other resources in the same condition as when provided when no longer required for the Contract; (h) not make any media releases without prior written authorization from the State; (i) assign to the State any claims resulting from state or federal antitrust violations to the extent that those violations concern materials or services supplied by third parties toward fulfillment of the Contract; (j) comply with all State physical and IT security policies and standards which will be made available upon request; and (k) provide the State priority in performance of the Contract except as mandated by federal disaster response requirements. Any breach under this paragraph is considered a material breach.

Contractor must also be clearly identifiable while on State property by wearing identification issued by the State, and clearly identify themselves whenever making contact with the State.

2. **Notices.** All notices and other communications required or permitted under this Contract must be in writing and will be considered given and received: (a) when verified by written receipt if sent by courier; (b) when actually received if sent by mail without verification of receipt; or (c) when verified by automated receipt or electronic logs if sent by facsimile or email.

If to State:	If to Contractor:
Dan Stevens 525 West Allegan St, 1 st Flr NE Lansing, MI. 48909 StevensD6@michigan.gov (517) 284-7049	Robert Dewey, VP- Client Services York Risk Services Group, Inc. 625 Kenmoor SE, Suite 217 Grand Rapids, MI 49546 robert.dewey@yorkrsg.com 616-222-3970



3. **Contract Administrator.** The Contract Administrator for each party is the only person authorized to modify any terms of this Contract, and approve and execute any change under this Contract (each a “**Contract Administrator**”):

State:	Contractor:
Dan Stevens 525 West Allegan St, 1 st Flr NE Lansing, MI. 48909 StevensD6@michigan.gov (517) 284-7049	Scott W. Gaffner, CIC, CRM President, Midwest York Risk Services Group, Inc. 645 W. Grand River Ave., Suite 100 Howell, MI 48843 Scott.Gaffner@yorkrsg.com 517-338-3349

4. **Program Manager.** The Program Manager for each party will monitor and coordinate the day-to-day activities of the Contract (each a “**Program Manager**”):

State:	Contractor:
Bethany Beauchine, EBD Director Michigan Civil Service Commission 400 South Pine Street Lansing, MI 48909 beauchineb@michigan.gov (517) 284-0086	Chad Johnson Senior Account Executive York Risk Services Group, Inc. 645 W. Grand River Ave., Suite 100 Howell, MI 48843 Chad.Johnson@yorkrsg.com 517-338-3264



5. **Performance Guarantee.** Contractor must at all times have financial resources sufficient, in the opinion of the State, to ensure performance of the Contract and must provide proof upon request. The State may require a performance bond (as specified in Exhibit A) if, in the opinion of the State, it will ensure performance of the Contract.
6. **Insurance Requirements.** Contractor must maintain the insurances identified below and is responsible for all deductibles. All required insurance must: (a) protect the State from claims that may arise out of, are alleged to arise out of, or result from Contractor's or a subcontractor's performance; (b) be primary and non-contributing to any comparable liability insurance (including self-insurance) carried by the State; and (c) be provided by a company with an A.M. Best rating of "A" or better, and a financial size of VII or better.

Required Limits	Additional Requirements
Commercial General Liability Insurance	
<u>Minimal Limits:</u> \$1,000,000 Each Occurrence Limit \$1,000,000 Personal & Advertising Injury Limit \$2,000,000 General Aggregate Limit \$2,000,000 Products/Completed Operations <u>Deductible Maximum:</u> \$50,000 Each Occurrence	Contractor must have their policy endorsed to add "the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents" as additional insureds using endorsement CG 20 10 11 85, or both CG 2010 07 04 and CG 2037 07 0. Coverage must not have exclusions or limitations related to sexual abuse and molestation liability.
Umbrella or Excess Liability Insurance	
<u>Minimal Limits:</u> \$5,000,000 General Aggregate	Contractor must have their policy endorsed to add "the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents" as additional insureds.
Automobile Liability Insurance	
<u>Minimal Limits:</u> \$1,000,000 Per Occurrence	Contractor must have their policy: (1) endorsed to add "the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents" as additional insureds; and (2) include Hired and Non-Owned Automobile coverage.
Workers' Compensation Insurance	
<u>Minimal Limits:</u> Coverage according to applicable laws governing work activities.	Waiver of subrogation, except where waiver is prohibited by law.



<p><u>Minimal Limits:</u> \$500,000 Each Accident \$500,000 Each Employee by Disease \$500,000 Aggregate Disease.</p>	
<p>Privacy and Security Liability (Cyber Liability) Insurance</p>	
<p><u>Minimal Limits:</u> \$1,000,000 Each Occurrence \$1,000,000 Annual Aggregate</p>	<p>Contractor must have their policy: (1) endorsed to add “the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents” as additional insureds; and (2) cover information security and privacy liability, privacy notification costs, regulatory defense and penalties, and website media content liability.</p>
<p>Crime (Fidelity) Insurance</p>	
<p><u>Minimal Limits:</u> \$1,000,000 Employee Theft Per Loss</p>	<p>Contractor must have their policy: (1) cover forgery and alteration, theft of money and securities, robbery and safe burglary, computer fraud, funds transfer fraud, money order and counterfeit currency, and (2) endorsed to add “the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents” as Loss Payees.</p>
<p>Professional Liability (Errors and Omissions) Insurance</p>	
<p><u>Minimal Limits:</u> \$3,000,000 Each Occurrence \$3,000,000 Annual Aggregate <u>Deductible Maximum:</u> \$50,000 Per Loss</p>	

If any of the required policies provide **claims-made** coverage, the Contractor must: (a) provide coverage with a retroactive date before the effective date of the contract or the beginning of Contract Activities; (b) maintain coverage and provide evidence of coverage for at least three (3) years after completion of the Contract Activities; and (c) if coverage is canceled or not renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract effective date, Contractor must purchase extended reporting coverage for a minimum of three (3) years after completion of work.

Contractor must: (a) provide insurance certificates to the Contract Administrator, containing the agreement or purchase order number, at Contract formation and within 20 calendar days of the expiration date of the applicable policies; (b) require that subcontractors maintain the required insurances contained in this



Section; (c) notify the Contract Administrator within 5 business days if any insurance is cancelled; and (d) waive all rights against the State for damages covered by insurance. Failure to maintain the required insurance does not limit this waiver.

This Section is not intended to and is not be construed in any manner as waiving, restricting or limiting the liability of either party for any obligations under this Contract (including any provisions hereof requiring Contractor to indemnify, defend and hold harmless the State).

7. **MiDEAL Administrative Fee and Reporting.** Contractor must pay an administrative fee of 1% on all MiDEAL payments made to Contractor under the Contract including transactions with MiDEAL members and other states (including governmental subdivisions and authorized entities). Administrative fee payments must be made by check payable to the State of Michigan and mailed to:

Department of Technology, Management and Budget
Financial Services – Cashier Unit
Lewis Cass Building
320 South Walnut St.
P.O. Box 30681
Lansing, MI 48909

Contractor must submit an itemized purchasing activity report, which includes at a minimum, the name of the purchasing entity and the total dollar volume in sales. Reports should be mailed to DTMB-Procurement.

The administrative fee and purchasing activity report are due within 30 calendar days from the last day of each calendar quarter.

8. **Extended Purchasing Program.** Upon written agreement between the State and Contractor, this Contract may be extended to: (a) MiDEAL members, (b) other states (including governmental subdivisions and authorized entities), or (c) State of Michigan employees. MiDEAL members include local units of government, school districts, universities, community colleges, and nonprofit hospitals. A current list of MiDEAL members is available at www.michigan.gov/mideal.

If extended, Contractor must supply all Contract Activities at the established Contract prices and terms, and the State reserves the right to impose an administrative fee and negotiate additional discounts based on any increased volume generated by such extensions.

Contractor must submit invoices to, and receive payment from, extended purchasing program members on a direct and individual basis.

9. **Independent Contractor.** Contractor is an independent contractor and assumes all rights, obligations and liabilities set forth in this Contract. Contractor, its employees, and agents will not be considered employees of the State. No partnership or joint venture relationship is created by virtue of this Contract. Contractor, and not the State, is responsible for the payment of wages, benefits and taxes of Contractor's employees and any subcontractors. Prior performance does not modify Contractor's status as an independent contractor. Contractor hereby acknowledges, except for Contractor Technology contained herein, that the State is and will be the sole and exclusive owner of all right, title, and interest in the Contract Activities and all associated intellectual property rights, if any. Such Contract Activities are works made for hire as defined in Section 101 of the Copyright Act of 1976. To the extent any Contract Activities and related intellectual property do not qualify as works made for hire under the Copyright Act, Contractor will, and hereby does, immediately on its creation, assign, transfer and otherwise convey to the State, irrevocably and in perpetuity, throughout the universe, all right, title and interest in and to the Contract Activities, including all intellectual property rights therein. However, the State shall not obtain any ownership rights or licenses to Contractor's proprietary computer systems or business processes.



10. **Subcontracting.** Contractor may not delegate any of its obligations under the Contract without the prior written approval of the State. Contractor must notify the State at least 90 calendar days before the proposed delegation, and provide the State any information it requests to determine whether the delegation is in its best interest. If approved, Contractor must: (a) be the sole point of contact regarding all contractual matters, including payment and charges for all Contract Activities; (b) make all payments to the subcontractor; and (c) incorporate the terms and conditions contained in this Contract in any subcontract with a subcontractor. Contractor remains responsible for the completion of the Contract Activities, compliance with the terms of this Contract, and the acts and omissions of the subcontractor. The State, in its sole discretion, may require the replacement of any subcontractor.
11. **Staffing.** The State's Contract Administrator may require Contractor to remove or reassign personnel by providing a notice to Contractor.
12. **Background Checks.** Upon request, Contractor must perform background checks on subcontractors and all employees and subcontractors and its employees prior to their assignment. The scope is at the discretion of the State and documentation must be provided as requested. Contractor is responsible for all costs associated with the requested background checks. The State, in its sole discretion, may also perform background checks.
13. **Assignment.** Contractor may not assign this Contract to any other party without the prior approval of the State. Upon notice to Contractor, the State, in its sole discretion, may assign in whole or in part, its rights or responsibilities under this Contract to any other party. If the State determines that a novation of the Contract to a third party is necessary, Contractor will agree to the novation and provide all necessary documentation and signatures.
14. **Change of Control.** Contractor will notify, at least 90 calendar days before the effective date, the State of a change in Contractor's organizational structure or ownership. For purposes of this Contract, a change in control means any of the following: (a) a sale of more than 50% of Contractor's stock; (b) a sale of substantially all of Contractor's assets; (c) a change in a majority of Contractor's board members; (d) consummation of a merger or consolidation of Contractor with any other entity; (e) a change in ownership through a transaction or series of transactions; (f) or the board (or the stockholders) approves a plan of complete liquidation. A change of control does not include any consolidation or merger effected exclusively to change the domicile of Contractor, or any transaction or series of transactions principally for bona fide equity financing purposes.

In the event of a change of control, Contractor must require the successor to assume this Contract and all of its obligations under this Contract.

15. **RESERVED.**

16. **Acceptance.** Contract Activities are subject to inspection and testing by the State within 30 calendar days of the State's receipt of them ("**State Review Period**"), unless otherwise provided in Exhibit A. If the Contract Activities are not fully accepted by the State, the State will notify Contractor by the end of the State Review Period that either: (a) the Contract Activities are accepted, but noted deficiencies must be corrected; or (b) the Contract Activities are rejected. If the State finds material deficiencies, it may: (i) reject the Contract Activities without performing any further inspections; (ii) demand performance at no additional cost; or (iii) terminate this Contract in accordance with Section 23, Termination for Cause.

Within 10 business days from the date of Contractor's receipt of notification of acceptance with deficiencies or rejection of any Contract Activities, Contractor must cure, at no additional cost, the deficiency and deliver unequivocally acceptable Contract Activities to the State. If acceptance with deficiencies or rejection of the Contract Activities impacts the content or delivery of other non-completed Contract Activities, the parties' respective Program Managers must determine an agreed to number of days for re-submission that minimizes the overall impact to the Contract. However, nothing herein affects, alters, or relieves Contractor of its obligations to correct deficiencies in accordance with the time response standards set forth in this Contract.



If Contractor is unable or refuses to correct the deficiency within the time response standards set forth in this Contract, the State may cancel the order in whole or in part.

17. RESERVED.

18. Risk of Loss and Title. Until final acceptance, title and risk of loss or damage to Contract Activities remains with Contractor. Contractor is responsible for filing, processing, and collecting all damage claims. The State will record and report to Contractor any evidence of visible damage. If the State rejects the Contract Activities, Contractor must remove them from the premises within 10 calendar days after notification of rejection. The risk of loss of rejected or non-conforming Contract Activities remains with Contractor. Rejected Contract Activities not removed by Contractor within 10 calendar days will be deemed abandoned by Contractor, and the State will have the right to dispose of it as its own property. Contractor must reimburse the State for costs and expenses incurred in storing or effecting removal or disposition of rejected Contract Activities.

19. RESERVED.

20. Terms of Payment. Invoices must conform to the requirements communicated from time-to-time by the State. All undisputed amounts are payable within 45 days of the State's receipt. Contractor may only charge for Contract Activities performed as specified in Exhibit A. Invoices must include an itemized statement of all charges. The State is exempt from State sales tax for direct purchases and may be exempt from federal excise tax, if Services purchased under this Agreement are for the State's exclusive use. Notwithstanding the foregoing, all prices are inclusive of taxes, and Contractor is responsible for all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state, or local governmental entity on any amounts payable by the State under this Contract.

The State has the right to withhold payment of any disputed amounts until the parties agree as to the validity of the disputed amount. The State will notify Contractor of any dispute within a reasonable time. Payment by the State will not constitute a waiver of any rights as to Contractor's continuing obligations, including claims for deficiencies or substandard Contract Activities. Contractor's acceptance of final payment by the State constitutes a waiver of all claims by Contractor against the State for payment under this Contract, other than those claims previously filed in writing on a timely basis and still disputed.

The State will only disburse payments under this Contract through Electronic Funds Transfer (EFT). Contractor must register with the State at <http://www.michigan.gov/cpexpress> to receive electronic fund transfer payments. If Contractor does not register, the State is not liable for failure to provide payment.

Without prejudice to any other right or remedy it may have, the State reserves the right to set off at any time any amount then due and owing to it by Contractor against any amount payable by the State to Contractor under this Contract.

21. Reserved.

22. Stop Work Order. The State may suspend any or all activities under the Contract at any time. The State will provide Contractor a written stop work order detailing the suspension. Contractor must comply with the stop work order upon receipt. Within 90 calendar days, or any longer period agreed to by Contractor, the State will either: (a) issue a notice authorizing Contractor to resume work, or (b) terminate the Contract or purchase order. The State will not pay for Contract Activities, Contractor's lost profits, or any additional compensation during a stop work period.

23. Termination for Cause. The State may terminate this Contract for cause, in whole or in part, if Contractor, as determined by the State: (a) endangers the value, integrity, or security of any location, data, or personnel; (b) becomes insolvent, petitions for bankruptcy court proceedings, or has an involuntary bankruptcy proceeding filed against it by any creditor; (c) engages in any conduct that may expose the State to liability; (d) breaches any of its material duties or obligations; or (e) fails to cure a breach within the time



stated in a notice of breach. Any reference to specific breaches being material breaches within this Contract will not be construed to mean that other breaches are not material.

If the State terminates this Contract under this Section, the State will issue a termination notice specifying whether Contractor must: (a) cease performance immediately, or (b) continue to perform for a specified period. If it is later determined that Contractor was not in breach of the Contract, the termination will be deemed to have been a Termination for Convenience, effective as of the same date, and the rights and obligations of the parties will be limited to those provided in Section 24, Termination for Convenience.

The State will only pay for amounts due to Contractor for Contract Activities accepted by the State on or before the date of termination, subject to the State's right to set off any amounts owed by the Contractor for the State's reasonable costs in terminating this Contract. The Contractor must pay all reasonable costs incurred by the State in terminating this Contract for cause, including administrative costs, attorneys' fees, court costs, transition costs, and any costs the State incurs to procure the Contract Activities from other sources.

- 24. Termination for Convenience.** The State may immediately terminate this Contract in whole or in part without penalty and for any reason, including but not limited to, appropriation or budget shortfalls. The termination notice will specify whether Contractor must: (a) cease performance of the Contract Activities immediately, or (b) continue to perform the Contract Activities in accordance with Section 25, Transition Responsibilities. If the State terminates this Contract for convenience, the State will pay all reasonable costs, as determined by the State, for State approved Transition Responsibilities.
- 25. Transition Responsibilities.** Upon termination or expiration of this Contract for any reason, Contractor must, for a period of time specified by the State (not to exceed 180 calendar days), provide all reasonable transition assistance requested by the State, to allow for the expired or terminated portion of the Contract Activities to continue without interruption or adverse effect, and to facilitate the orderly transfer of such Contract Activities to the State or its designees. Such transition assistance may include, but is not limited to: (a) continuing to perform the Contract Activities at the established Contract rates; (b) taking all reasonable and necessary measures to transition performance of the work, including all applicable Contract Activities, training, equipment, software, leases, reports and other documentation, to the State or the State's designee; (c) taking all necessary and appropriate steps, or such other action as the State may direct, to preserve, maintain, protect, or return to the State all materials, data, property, and confidential information provided directly or indirectly to Contractor by any entity, agent, vendor, or employee of the State; (d) transferring title in and delivering to the State, at the State's discretion, all completed or partially completed deliverables prepared under this Contract as of the Contract termination date; and (e) preparing an accurate accounting from which the State and Contractor may reconcile all outstanding accounts (collectively, "**Transition Responsibilities**"). This Contract will automatically be extended through the end of the transition period.
- 26. General Indemnification.** Contractor must defend, indemnify and hold the State, its departments, divisions, agencies, offices, commissions, officers, and employees harmless, without limitation, from and against any and all actions, claims, losses, liabilities, damages, costs, attorney fees, and expenses (including those required to establish the right to indemnification), arising out of or relating to: (a) any breach by Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable) of any of the promises, agreements, representations, warranties, or insurance requirements contained in this Contract; (b) any infringement, misappropriation, or other violation of any intellectual property right or other right of any third party; (c) any bodily injury, death, or damage to real or tangible personal property occurring wholly or in part due to action or inaction by Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable); and (d) any negligent acts or omissions of Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable).

The State will notify Contractor in writing if indemnification is sought; however, failure to do so will not relieve Contractor, except to the extent that Contractor is materially prejudiced. Contractor must, to the satisfaction of the State, demonstrate its financial ability to carry out these obligations.



The State is entitled to: (i) regular updates on proceeding status; (ii) participate in the defense of the proceeding at its expense; (iii) employ its own counsel at its expense; and to (iv) retain control of the defense at its expense if the State deems necessary. Contractor will not, without the State's written consent (not to be unreasonably withheld), settle, compromise, or consent to the entry of any judgment in or otherwise seek to terminate any claim, action, or proceeding. To the extent that any State employee, official, or law may be involved or challenged, the State may, at its own expense, control the defense of that portion of the claim.

Any litigation activity on behalf of the State, or any of its subdivisions under this Section, must be coordinated with the Department of Attorney General. An attorney designated to represent the State may not do so until approved by the Michigan Attorney General and appointed as a Special Assistant Attorney General.

- 27. Infringement Remedies.** If, in either party's opinion, any piece of equipment, software, commodity, or service supplied by Contractor or its subcontractors, or its operation, use or reproduction, is likely to become the subject of a copyright, patent, trademark, or trade secret infringement claim, Contractor must, at its expense: (a) procure for the State the right to continue using the equipment, software, commodity, or service, or if this option is not reasonably available to Contractor, (b) replace or modify the same so that it becomes non-infringing; or (c) accept its return by the State with appropriate credits to the State against Contractor's charges and reimburse the State for any losses or costs incurred as a consequence of the State ceasing its use and returning it.
- 28. Limitation of Liability.** Neither party shall be liable for consequential, incidental, indirect, or special damages, regardless of the nature of the action.
- 29. Disclosure of Litigation, or Other Proceeding.** Contractor must notify the State within 14 calendar days of receiving notice of any litigation, investigation, arbitration, or other proceeding (collectively, "**Proceeding**") involving Contractor, a subcontractor, or an officer or director of Contractor or subcontractor, that arises during the term of the Contract, including: (a) a criminal Proceeding; (b) a parole or probation Proceeding; (c) a Proceeding under the Sarbanes-Oxley Act; (d) a civil Proceeding involving: (1) a claim that might reasonably be expected to adversely affect Contractor's viability or financial stability; or (2) a governmental or public entity's claim or written allegation of fraud; or (e) a Proceeding involving any license that Contractor is required to possess in order to perform under this Contract.
- 30. RESERVED.**
- 31. State Data.**
- a. Ownership. The State's data ("**State Data**," which will be treated by Contractor as Confidential Information) includes: (a) the State's data collected, used, processed, stored, or generated as the result of the Contract Activities; (b) personally identifiable information ("**PII**") collected, used, processed, stored, or generated as the result of the Contract Activities, including, without limitation, any information that identifies an individual, such as an individual's social security number or other government-issued identification number, date of birth, address, telephone number, biometric data, mother's maiden name, email address, credit card information, or an individual's name in combination with any other of the elements here listed; and, (c) personal health information ("**PHI**") collected, used, processed, stored, or generated as the result of the Contract Activities, which is defined under the Health Insurance Portability and Accountability Act (HIPAA) and its related rules and regulations. State Data is and will remain the sole and exclusive property of the State and all right, title, and interest in the same is reserved by the State. This Section survives the termination of this Contract.
- b. Contractor Use of State Data. Contractor is provided a limited license to State Data for the sole and exclusive purpose of providing the Contract Activities, including a license to collect, process, store, generate, and display State Data only to the extent necessary in the provision of the Contract



Activities. Contractor must: (a) keep and maintain State Data in strict confidence, using such degree of care as is appropriate and consistent with its obligations as further described in this Contract and applicable law to avoid unauthorized access, use, disclosure, or loss; (b) use and disclose State Data solely and exclusively for the purpose of providing the Contract Activities, such use and disclosure being in accordance with this Contract, any applicable Statement of Work, and applicable law; and (c) not use, sell, rent, transfer, distribute, or otherwise disclose or make available State Data for Contractor's own purposes or for the benefit of anyone other than the State without the State's prior written consent. This Section survives the termination of this Contract.

- c. Extraction of State Data. Contractor must, within five (5) business days of the State's request, provide the State, without charge and without any conditions or contingencies whatsoever (including but not limited to the payment of any fees due to Contractor), an extract of the State Data in the format specified by the State.
- d. Backup and Recovery of State Data. Unless otherwise specified in Exhibit A, Contractor is responsible for maintaining a backup of State Data and for an orderly and timely recovery of such data. Unless otherwise described in Exhibit A, Contractor must maintain a contemporaneous backup of State Data that can be recovered within two (2) hours at any point in time.
- e. Loss of Data. In the event of any act, error or omission, negligence, misconduct, or breach that compromises or is suspected to compromise the security, confidentiality, or integrity of State Data or the physical, technical, administrative, or organizational safeguards put in place by Contractor that relate to the protection of the security, confidentiality, or integrity of State Data, Contractor must, as applicable: (a) notify the State as soon as practicable but no later than twenty-four (24) hours of becoming aware of such occurrence; (b) cooperate with the State in investigating the occurrence, including making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable law or as otherwise required by the State; (c) in the case of PII or PHI, at the State's sole election, (i) notify the affected individuals who comprise the PII or PHI as soon as practicable but no later than is required to comply with applicable law, or, in the absence of any legally required notification period, within 5 calendar days of the occurrence; or (ii) reimburse the State for any costs in notifying the affected individuals; (d) in the case of PII, provide third-party credit and identity monitoring services to each of the affected individuals who comprise the PII for the period required to comply with applicable law, or, in the absence of any legally required monitoring services, for no less than twenty-four (24) months following the date of notification to such individuals; (e) perform or take any other actions required to comply with applicable law as a result of the occurrence; (f) without limiting Contractor's obligations of indemnification as further described in this Contract, indemnify, defend, and hold harmless the State for any and all claims, including reasonable attorneys' fees, costs, and expenses incidental thereto, which may be suffered by, accrued against, charged to, or recoverable from the State in connection with the occurrence; (g) be responsible for recreating lost State Data in the manner and on the schedule set by the State without charge to the State; and, (h) provide to the State a detailed plan within 10 calendar days of the occurrence describing the measures Contractor will undertake to prevent a future occurrence. Notification to affected individuals, as described above, must comply with applicable law, be written in plain language, and contain, at a minimum: name and contact information of Contractor's representative; a description of the nature of the loss; a list of the types of data involved; the known or approximate date of the loss; how such loss may affect the affected individual; what steps Contractor has taken to protect the affected individual; what steps the affected individual can take to protect himself or herself; contact information for major credit card reporting agencies; and, information regarding the credit and identity monitoring services to be provided by Contractor. This Section survives the termination of this Contract.

32. Non-Disclosure of Confidential Information. The parties acknowledge that each party may be exposed to or acquire communication or data of the other party that is confidential, privileged communication not intended to be disclosed to third parties. The provisions of this Section survive the termination of this Contract.

- a. Meaning of Confidential Information. For the purposes of this Contract, the term "**Confidential Information**" means all information and documentation of a party that: (a) has been marked



“confidential” or with words of similar meaning, at the time of disclosure by such party; (b) if disclosed orally or not marked “confidential” or with words of similar meaning, was subsequently summarized in writing by the disclosing party and marked “confidential” or with words of similar meaning; and, (c) should reasonably be recognized as confidential information or documentation that was: (a) subject to disclosure under the Michigan Freedom of Information Act (FOIA); (b) already in the possession of the receiving party without an obligation of confidentiality; (c) developed independently by the receiving party, as demonstrated by the receiving party, without violating the disclosing party’s proprietary rights; (d) obtained from a source other than the disclosing party without an obligation of confidentiality; or, (e) publicly available when received, or thereafter became publicly available (other than through any unauthorized disclosure by, through, or on behalf of, the receiving party). For purposes of this Contract, in all cases and for all matters, State Data is deemed to be Confidential Information.

- b. Obligation of Confidentiality. The parties agree to hold all Confidential Information in strict confidence and not to copy, reproduce, sell, transfer, or otherwise dispose of, give or disclose such Confidential Information to third parties other than employees, agents, or subcontractors of a party who have a need to know in connection with this Contract or to use such Confidential Information for any purposes whatsoever other than the performance of this Contract. The parties agree to advise and require their respective employees, agents, and subcontractors of their obligations to keep all Confidential Information confidential. Disclosure to a subcontractor is permissible where: (a) use of a subcontractor is authorized under this Contract; (b) the disclosure is necessary or otherwise naturally occurs in connection with work that is within the subcontractor's responsibilities; and (c) Contractor obligates the subcontractor in a written contract to maintain the State's Confidential Information in confidence. At the State's request, any employee of Contractor or any subcontractor may be required to execute a separate agreement to be bound by the provisions of this Section.
- c. Cooperation to Prevent Disclosure of Confidential Information. Each party must use its best efforts to assist the other party in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the foregoing, each party must advise the other party immediately in the event either party learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Contract and each party will cooperate with the other party in seeking injunctive or other equitable relief against any such person.
- d. Remedies for Breach of Obligation of Confidentiality. Each party acknowledges that breach of its obligation of confidentiality may give rise to irreparable injury to the other party, which damage may be inadequately compensable in the form of monetary damages. Accordingly, a party may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies which may be available, to include, in the case of the State, at the sole election of the State, the immediate termination, without liability to the State, of this Contract or any Statement of Work corresponding to the breach or threatened breach.
- e. Surrender of Confidential Information upon Termination. Upon termination of this Contract or a Statement of Work, in whole or in part, each party must, within 5 calendar days from the date of termination, return to the other party any and all Confidential Information received from the other party, or created or received by a party on behalf of the other party, which are in such party’s possession, custody, or control; provided, however, that Contractor must return State Data to the State following the timeframe and procedure described further in this Contract. Should Contractor or the State determine that the return of any Confidential Information is not feasible, such party must destroy the Confidential Information and must certify the same in writing within 5 calendar days from the date of termination to the other party.

33. Data Privacy and Information Security.

- a. Undertaking by Contractor. Without limiting Contractor’s obligation of confidentiality as further described, Contractor is responsible for establishing and maintaining a data privacy and information



security program, including physical, technical, administrative, and organizational safeguards, that is designed to: (a) ensure the security and confidentiality of the State Data; (b) protect against any anticipated threats or hazards to the security or integrity of the State Data; (c) protect against unauthorized disclosure, access to, or use of the State Data; (d) ensure the proper disposal of State Data; and (e) ensure that all employees, agents, and subcontractors of Contractor, if any, comply with all of the foregoing. In no case will the safeguards of Contractor's data privacy and information security program be less stringent than the safeguards used by the State, and Contractor must at all times comply with all applicable State IT policies and standards, which are available to Contractor upon request.

- b. Audit by Contractor. No less than annually, Contractor must conduct a comprehensive independent third-party audit of its data privacy and information security program and provide such audit findings to the State.
- c. Right of Audit by the State. Without limiting any other audit rights of the State, the State has the right to review Contractor's data privacy and information security program prior to the commencement of Contract Activities and from time to time during the term of this Contract. During the providing of the Contract Activities, on an ongoing basis from time to time and without notice, the State, at its own expense, is entitled to perform, or to have performed, an on-site audit of Contractor's data privacy and information security program. In lieu of an on-site audit, upon request by the State, Contractor agrees to complete, within 45 calendar days of receipt, an audit questionnaire provided by the State regarding Contractor's data privacy and information security program.
- d. Audit Findings. Contractor must implement any required safeguards as identified by the State or by any audit of Contractor's data privacy and information security program.
- e. State's Right to Termination for Deficiencies. The State reserves the right, at its sole election, to immediately terminate this Contract or a Statement of Work without limitation and without liability if the State determines that Contractor fails or has failed to meet its obligations under this Section.

34. RESERVED.

35. RESERVED.

- 36. Records Maintenance, Inspection, Examination, and Audit.** The State or its designee may audit Contractor to verify compliance with this Contract. Contractor must retain, and provide to the State or its designee and the auditor general upon request, all financial and accounting records related to the Contract through the term of the Contract and for 4 years after the latter of termination, expiration, or final payment under this Contract or any extension ("**Audit Period**"). If an audit, litigation, or other action involving the records is initiated before the end of the Audit Period, Contractor must retain the records until all issues are resolved.

Within 10 calendar days of providing notice, the State and its authorized representatives or designees have the right to enter and inspect Contractor's premises or any other places where Contract Activities are being performed, and examine, copy, and audit all records related to this Contract. Contractor must cooperate and provide reasonable assistance. If any financial errors are revealed, the amount in error must be reflected as a credit or debit on subsequent invoices until the amount is paid or refunded. Any remaining balance at the end of the Contract must be paid or refunded within 45 calendar days.

This Section applies to Contractor, any parent, affiliate, or subsidiary organization of Contractor, and any subcontractor that performs Contract Activities in connection with this Contract.

- 37. Warranties and Representations.** Contractor represents and warrants: (a) Contractor is the owner or licensee of any Contract Activities that it licenses, sells, or develops and Contractor has the rights necessary to convey title, ownership rights, or licensed use; (b) all Contract Activities are delivered free from any



security interest, lien, or encumbrance and will continue in that respect; (c) the Contract Activities will not infringe the patent, trademark, copyright, trade secret, or other proprietary rights of any third party; (d) Contractor must assign or otherwise transfer to the State or its designee any manufacturer's warranty for the Contract Activities; (e) the Contract Activities are merchantable and fit for the specific purposes identified in the Contract; (f) the Contract signatory has the authority to enter into this Contract; (g) all information furnished by Contractor in connection with the Contract fairly and accurately represents Contractor's business, properties, finances, and operations as of the dates covered by the information, and Contractor will inform the State of any material adverse changes; and (h) all information furnished and representations made in connection with the award of this Contract is true, accurate, and complete, and contains no false statements or omits any fact that would make the information misleading. A breach of this Section is considered a material breach of this Contract, which entitles the State to terminate this Contract under Section 23, Termination for Cause.

- 38. Conflicts and Ethics.** Contractor will uphold high ethical standards and is prohibited from: (a) holding or acquiring an interest that would conflict with this Contract; (b) doing anything that creates an appearance of impropriety with respect to the award or performance of the Contract; (c) attempting to influence or appearing to influence any State employee by the direct or indirect offer of anything of value; or (d) paying or agreeing to pay any person, other than employees and consultants working for Contractor, any consideration contingent upon the award of the Contract. Contractor must immediately notify the State of any violation or potential violation of these standards. This Section applies to Contractor, any parent, affiliate, or subsidiary organization of Contractor, and any subcontractor that performs Contract Activities in connection with this Contract.
- 39. Compliance with Laws.** Contractor must comply with all federal, state and local laws, rules and regulations.
- 40. RESERVED.**
- 41. RESERVED.**
- 42. Nondiscrimination.** Under the Elliott-Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101, *et seq.*, and the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101, *et seq.*, Contractor and its subcontractors agree not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, marital status, or mental or physical disability. Breach of this covenant is a material breach of this Contract.
- 43. Unfair Labor Practice.** Under MCL 423.324, the State may void any Contract with a Contractor or subcontractor who appears on the Unfair Labor Practice register compiled under MCL 423.322.
- 44. Governing Law.** This Contract is governed, construed, and enforced in accordance with Michigan law, excluding choice-of-law principles, and all claims relating to or arising out of this Contract are governed by Michigan law, excluding choice-of-law principles. Any dispute arising from this Contract must be resolved in Michigan Court of Claims. Contractor consents to venue in Ingham County, and waives any objections, such as lack of personal jurisdiction or *forum non conveniens*. Contractor must appoint agents in Michigan to receive service of process.
- 45. Non-Exclusivity.** Nothing contained in this Contract is intended nor will be construed as creating any requirements contract with Contractor. This Contract does not restrict the State or its agencies from acquiring similar, equal, or like Contract Activities from other sources.
- 46. Force Majeure.** Neither party will be in breach of this Contract because of any failure arising from any disaster or acts of god that are beyond their control and without their fault or negligence. Each party will use commercially reasonable efforts to resume performance. Contractor will not be relieved of a breach or delay caused by its subcontractors. If immediate performance is necessary to ensure public health and safety, the State may immediately contract with a third party.



47. Dispute Resolution. The parties will endeavor to resolve any Contract dispute in accordance with this provision. The dispute will be referred to the parties' respective Contract Administrators or Program Managers. Such referral must include a description of the issues and all supporting documentation. The parties must submit the dispute to a senior executive if unable to resolve the dispute within 15 business days. The parties will continue performing while a dispute is being resolved, unless the dispute precludes performance. A dispute involving payment does not preclude performance.

Litigation to resolve the dispute will not be instituted until after the dispute has been elevated to the parties' senior executive and either concludes that resolution is unlikely, or fails to respond within 15 business days. The parties are not prohibited from instituting formal proceedings: (a) to avoid the expiration of statute of limitations period; (b) to preserve a superior position with respect to creditors; or (c) where a party makes a determination that a temporary restraining order or other injunctive relief is the only adequate remedy. This Section does not limit the State's right to terminate the Contract.

48. Media Releases. News releases (including promotional literature and commercial advertisements) pertaining to the Contract or project to which it relates must not be made without prior written State approval, and then only in accordance with the explicit written instructions of the State.

49. Website Incorporation. The State is not bound by any content on Contractor's website unless expressly incorporated directly into this Contract.

50. Order of Precedence. In the event of a conflict between the terms and conditions of the Contract, the Exhibits, a purchase order, or an amendment, the order of precedence is: (a) the purchase order; (b) the amendment; (c) Exhibit A; (d) any other Exhibits; and (e) the Contract.

51. Severability. If any part of this Contract is held invalid or unenforceable, by any court of competent jurisdiction, that part will be deemed deleted from this Contract and the severed part will be replaced by agreed upon language that achieves the same or similar objectives. The remaining Contract will continue in full force and effect.

52. Waiver. Failure to enforce any provision of this Contract will not constitute a waiver.

53. Survival. The provisions of this Contract that impose continuing obligations, including warranties and representations, termination, transition, insurance coverage, indemnification, and confidentiality, will survive the expiration or termination of this Contract.

54. Entire Contract and Modification. This Contract is the entire agreement and replaces all previous agreements between the parties for the Contract Activities. This Contract may not be amended except by signed agreement between the parties (a "**Contract Change Notice**").

**STATE OF MICHIGAN**

Contract #071B7700116
Long Term Disability Administration Services

**EXHIBIT A
STATEMENT OF WORK
CONTRACT ACTIVITIES****PROJECT REQUEST**

This Contract is to provide third party claims administration for Long Term Disability (LTD) Income Protection Plan (LTD Plan) for the State of Michigan (State). The Contractor must, in part, provide claims administration, claim processing, claim investigation, claim reporting, record keeping, overpayment recovery, appeal process administration, subrogation, return-to-work support, dispute resolution, auditing and billing, claim reserving, claims investigation for disability claims from State employees enrolled in the program.

The effective date of the contract will be March 30, 2017 through March 29, 2020 with five optional one year renewals.

BACKGROUND

The State is self-insured for its obligations under the LTD Plan which provides wage loss benefits for disabled State employees. This benefit is an optional employee selection and is only available to State employees enrolled in the program.

REQUIREMENTS

- a) See Exhibit D for LTD Performance Standards.

1.1 Systems Compatibility

- a) The State's Human Resource Management Network (HRMN) system utilizes Lawson software. The Contractor must interface via electronic data feed with this system to upload and download all claim information as defined by the State. Electronic interface with the Workers' Compensation (WC) Third Party Administrator (TPA) is also required.
- b) Contractor is responsible for any changes, and any associated costs therein, to their systems or processes required to support the receipt and processing of State files. Electronic protocols for electronic data transfer will be consistent with the State's I.T. technical policies, standards and procedures see section 1.2 Environment.
- c) RESERVED.
- d) Contractor uses several types of measurement tools to assess customer satisfaction and quality assurance, including:
 - *Third party consultant to conduct engagement surveys of existing clients.*
 - *Annual Stewardship meeting with Key clients to assess quality and satisfaction.*
 - *Annual Client Focus Group of key partners to obtain feedback on Contractor's performance and future initiatives.*
 - *Direct electronic survey to client stakeholders allowing discreet and anonymous feedback-performed annually.*
- e) Contractor's methodologies to solicit feedback about services rendered by client, and monitor and track complaints.



Contractor shall assign a Senior Account Executive to monitor performance and obtain feedback on services provided. This will be done via routine meetings, project calls and in-person risk management meetings with clients. Complaints, issues and needs will be tracked via Customer Relationship Management tool- Salesforce. This tool is used to document the progress and completion of open projects, tasks and issues.

- f) Contractor's tracking system will monitor the types, frequency, progress and resolution of complaints and grievances.

Changes in procedure will be documented in Contractor's Client Service Handling instructions, which are stored both within the tracking system and the claims system.

1.2 Environment

The links below provide information on the State's Enterprise information technology (IT) policies, standards and procedures which includes security policy and procedures, eMichigan web development, and the State Unified Information Technology Environment (SUITE).

Contractors must conform to State IT policies and standards. All services and products provided must comply with all applicable State IT policies and standards.

Enterprise IT Policies, Standards and Procedures:

http://michigan.gov/dtmb/0,4568,7-150-56355_56579_56755---,00.html

All software and hardware items provided by the Contractor must run on and be compatible with the MDTMB Standard Information Technology Environment. Additionally, the State must be able to maintain software and other items produced as the result of the Contract. Therefore, non-standard development tools may not be used unless approved by MDTMB. The Contractor must request, in writing, approval to use non-standard software development tools, providing justification for the requested change and all costs associated with any change. The State must approve any tools, in writing, before use on any information technology project.

It is recognized that technology changes rapidly. The Contractor may request, in writing, a change in the standard environment, providing justification for the requested change and all costs associated with any change. The State must approve any changes, in writing, and MDTMB, before work may proceed based on the changed environment.

Enterprise IT Security Policy and Procedures:

<http://www.michigan.gov/documents/dmb/1210.32.pdf>

http://www.michigan.gov/documents/dmb/1325_193160_7.pdf

http://www.michigan.gov/documents/dmb/1335_193161_7.pdf

http://www.michigan.gov/documents/dmb/1340_193162_7.pdf

The State's security environment includes:

- MDTMB Single Login.
- MDTMB provided SQL security database.
- Secured Socket Layers.
- SecureID (State Security Standard for external network access and high risk Web systems)

MDTMB requires that its single - login security environment be used for all new client-server software development. Where software is being converted from an existing package, or a client-server application is being purchased, the security mechanism must be approved in writing by the State's Project Manager and MDTMB Office of Enterprise Security.

1.3 Accessibility

Persons designated by the Program Manager, shall have electronic access to, and be able to copy into a Microsoft Office format, all claim information maintained by the third-party administrator. Such electronic



information shall include all information necessary to identify and determine current status and all activity performed for a claim.

- a) Contractor's level of electronic access along with the amount of claim detail provided.

Contractor offers the client the ability to access the claim system via secure browser connection using Internet Explorer. The read-only access to the system allows the client to look at all of the information associated with an existing claim, including payments, adjuster's notes, plan-of-action documentation, images, and correspondence. Access is real-time, so information added to the claim is available immediately.

- b) Approach used to obtain a release of medical information from claimants, and sample of the Contractor's medical release form.

Within 24 hours after a claim is registered into the claims platform, an introductory letter with an information packet is mailed to the employee. Included in this packet is the medical release of information. The introductory letter explains the necessity of completing the medical authorization form and returning it to the adjuster.

1.4 Turnaround Times

The Contractor must provide services as described in this Contract on an accurate and timely basis as described elsewhere in this Contract. Claim accuracy is defined by industry standards.

- a) Contractor's claims processing procedures and edits are applied when claims are opened, pending, approved or denied.

LTD claims are built by the service center and assigned to the disability unit manager. The disability unit manager reviews the new claim for LTD coverage and assigns to the examiner. A diary is set to the examiner for the new pending claim and a follow up diary is set for the disability unit manager for 21 days future. LTD claims are coded as opened at that time. Claims are coded as delayed (pending) at 15 days if all necessary claim documents are not received. Claims are coded as accepted if all necessary claim documents are received and medical documentation supports total disability as defined in the Plan. Claims are coded as denied if all necessary claim documents are received and medical documentation does not support total disability as defined in the Plan.

- b) Open claim review process.

Upon claim registration, the disability manager reviews the claim for coverage. The Disability Unit Manager reviews are completed on all claims at 21 days and every 90 days thereafter which reviews claim handling, payments, and timeliness. Quarterly audits are completed on each examiner. The examiner's results are tied to their annual performance goals. Training is conducted for individuals not attaining at least 90% on the audit. Financial audits are completed monthly to review initial payment on LTD claims.

- c) Contractor's time standard for making a disability determination.

Determinations to accept, delay or deny a claim are made within 5 business days upon receipt of all necessary information, which includes signed medical release, signed reimbursement agreement and medical certification.

- d) RESERVED.



1.5 Claims Intake

- a) The Contractor will be able to receive claims by any method, including telephone (toll-free), facsimile (fax), e-mail, regular mail delivery, electronic data transfer, and Internet based claim services. The Contractor must implement any of these claim-reporting methodologies upon request.
- b) Contractor will develop protocols for electronic data transfer that are consistent with the State's requirements to ensure data security; see section 1.2 Environment.
- c) The Contractor must develop, at their own expense, the necessary electronic interfaces or file transfer protocols to allow such electronic file transfer to occur. These must comply with all State data security provisions.

Contractor will provide and make any additional interfaces or modifications as required at Contractor's own expense and will comply with the State data security provisions.

- d) The Contractor must also interface with the Workers Compensation Third Party Administrator.

Contractor will create any additional interfaces or modifications at Contractor's own expense if the need arises.

- e) Contractor's process of notification to the employer and injured worker of claim receipt (Indemnity and Medical only).

All claims received by Contractor are faxed within 24 hours to the department case managers. The faxes contain the following data: location name, claim number, claimant's name employee number, date of injury, an injury description, claim type, adjuster and the claim's open date. Within 24 hours after a claim is registered into the claims platform, an introductory letter with an informational packet is mailed to the employee for both indemnity and medical only claims.

- f) Contractor's types of data captured; level of automated edits used to support triage decisions; types of standards used to triage the case and steps to initiate disability case management intervention.

Contractor's claim registration captures demographic information: name, address, age, social security number; as well as detail surrounding the type and cause of injury, body part injured, occupational and location coding. All relevant data from the investigation, medical, and legal arenas are placed in the claim system.

The initial assignment to the claim adjuster is completed at the claim supervision level. Contractor's system indexing alerts at the time of claim registration of any prior events for that injured employee.

1.6 Claim Investigation

- a) All LTD claims require a three point contact be initiated within one business day of receipt of claim by Contractor and documented in the claim file. This three-point contact shall include contact with the employee, the employing agency, and the treating provider.
- b) As a representative of the State, contact with employees by the Contractor must be conducted in a polite and professional manner. Examiners or other representatives of the Contractor who fail to conduct themselves in a manner deemed inappropriate by the State must be removed from the State account. The Project Manager and Program Manager will establish specific evaluation criteria. The decision of the State shall be final.
- c) The Contractor must assist the State in developing informational material that informs the employee of their rights under the State's disability programs and must assure that information is readily provided to assist claimants.



- d) The Contractor must document all attempts to contact, and all contacts with the claimant, the employer, and the treating provider. The information obtained from these contacts must be accurately documented in the claim file. This information will be the basis for any subsequent decisions relative to the payment or denial of the claim and must be placed in the file within 24 hours of contact.
- e) Contractor's management reports generated daily to depict the frequency, type and outcomes of contacts.

Contractor records 100% of the phone calls, see section 3.2.d. The manager will listen to any call where there is a complaint as to the professionalism and courtesy of Contractor's staff. Any complaint with merit is addressed with the staff member. The recording is played for the staff member. Further actions from participating in customer service training modules, random review of future calls, and performance management as appropriate occur.

1.7 State Access to Files

Upon providing reasonable verbal or written notice to the Contractor of the need for such information, the State must receive all paper and electronic files and have electronic and paper access to any and all files maintained by the Contractor. All requests for such information must be provided through the State's Program Manager. The Contractor must comply with all legislated medical information privacy requirements.

1.8 Freedom of Information Act Requests

Any and all requests for information under the Freedom of Information Act that relates to files or data maintained by the Contractor on behalf of the State must be directed to the State's Program Manager for proper disposition.

2. Claims Auditing, Loss Fund and Fees

2.1 Audits

- a) The State shall require the Contractor to undergo independent financial and performance audits, at no additional expense to the State, to assure both the financial and operational viability of the disability management programs, including but not limited to a Service Organization Type 2 (SOC2) or comparable audit as approved by the State's Program Manager. This audit shall analyze the security, availability, integrity, confidentiality and privacy of the Contractor's system and claims processing as identified by the Program Manager. These audits will require the Contractor to provide timely assistance and otherwise full cooperation, detailed claim information, data base access, hard copy claim file access, staff access, and space access to the group selected to perform the indicated audit. These audits may be performed annually. The Program Manager will determine the type of audit and frequency to be provided within reason.

Contractor will conduct a SOC 2 audit of controls annually for the life of this contract. Contractor is currently SOC 1, Type 2 certified for LTD Claims handling.

- b) Contractor's types and frequency of independent audits contractor's company undergoes to ensure system integrity and contract compliance.

Contractor will conduct annual independent audits of Service Organization Controls (SOC 1) and is currently SOC1, Type 2 certified. Contractor performs an annual audit of compliance based on the contractual performance standards. A published report of those results, with corresponding supporting documentation is released to the State.

- c) Contractor's methodologies established to monitor compliance with any applicable State or Federal guidelines

Contractor's Corporate Compliance division is responsible for compliance with the various state regulations, maintaining licensing and conducting seminars/training sessions in order that all adjusters are kept abreast of the latest industry regulations.



Contractor has developed a comprehensive training program, as well as a rich catalogue of continuing education courses through Contractor's University which is available to all users. Many research tools and pertinent educational items are continually available to all staff through claims system including Annual Statute updates and licensing requirements.

2.2. Loss Fund

- a) Loss Fund invoices must include at a minimum, claim number, claimant employee ID number, payee name, payment date, paid from date, paid through date, claim payment type and amount.
- b) Invoices for loss fund shall be submitted to the Program Manager on a weekly basis, or mutually agreed upon basis and shall include any payroll withholding amounts from the claimant's benefit amount.

2.3 Fees

The fees established under this Contract are on a per claim basis for handling the standard claims activity associated with LTD related claims, and is all-inclusive for that claim activity. Please see Exhibit C. Pricing for additional services related fees, if not included in the standard per claim fee, must be specifically presented to the State's Program Manager and agreed to prior to acceptance. Please see terms and condition; section 54 Entire Contract and Modification. Unless otherwise specified, all data and reporting fees must be included in the per claim fee. The basis on which such fees are to be charged must also be provided.

3.0 Staffing

3.1 Contractor Representatives

The Contractor must appoint a Project Manager specifically assigned to State accounts, who will respond to State inquiries regarding the Contract Activities, answering questions related to ordering and delivery, etc. (the "Contractor Representative").

The Contractor must notify the Program Manager at least 30 calendar days before removing or assigning a new Contractor Representative.

*Contractor Representative:
Chad Johnson, Sr. Account Executive.*

3.2 Customer Service Toll-Free Number

- a) The Contractor must provide a toll-free number for the State to make contact with the Contractor Representative. The Contractor Representative must be available for calls during the State's operating hours Monday – Friday, 8:00 a.m. to 5:00 p.m. EST.
- b) A toll-free number must be established to allow for toll-free claim reporting and toll-free inquiry and information.
- c) The Contractor must provide a telephone recording system for all adjusting staff to be provided for recorded conversations and quality assurance. All telephone calls must be recorded and preserved for the life of the claim. The State must have access to any recorded conversations. All telephone messages will be returned within one business day from the date the message is left for the Contractor.
- d) Contractor's current system or steps for implementation or development of a phone system.

All recordings are captured, stored and accessed in open, standardized file formats, regardless of their source, Data such as Start Date/Time of Recording, Call Duration, Number Dialed/Caller ID, Extension and others are captured by the recording software

3.3 Work Hours



The Contractor must provide Contract Activities during the State's normal working hours Monday – Friday, 8:00 a.m. to 5:00 p.m. EST.

3.4 Key Personnel

- a) The Contractor must provide adequate staffing designated to the State account in order to support all claims processing and support services required by the State and the LTD Benefit Plan. Examiner caseloads for standard and litigated claims must be at levels so not to impede on timely, accurate, and responsible claims management. The Contractor must monitor staffing and/or subcontractors to meet the quality expectations. If it is determined by Contractor that additional staffing is required after the award of this contract, the Contractor will provide the additional staffing at no additional cost to the State. The State reserves the right to require removal of any personnel deemed unsatisfactory by the State or the addition of personnel to meet service level guarantees.
- b) The Contractor must identify the Key Personnel numbered below, indicate where they will be physically located, describe the functions they will perform, and provide current chronological résumés.

The State and Contractor agree that the Contractor shall have a point of contact designated in each of these functional areas of 1.) Claim processing 2.) Information Technology 3.) Finance/Accounting 4.) Implementation 5.) Account Management 6.) Project Management and others as agreed upon by the State and Contractor. These points of contact shall have knowledge and expertise with service delivery to the State.

- c) The Contractor must appoint individuals who will be directly responsible for the day-to-day operations of the Contract ("Key Personnel"). Key Personnel must be specifically assigned to the State account, be knowledgeable on the contractual requirements, and respond to State inquires within one business day.
- d) The State has the right to recommend and approve in writing the initial assignment, as well as any proposed reassignment or replacement, of any Key Personnel. Before assigning an individual to any Key Personnel position, Contractor will notify the State of the proposed assignment, introduce the individual to the State's Program Manager, and provide the State with a resume and any other information about the individual reasonably requested by the State. The State reserves the right to interview the individual before granting written approval. In the event the State finds a proposed individual unacceptable, the State will provide a written explanation including reasonable detail outlining the reasons for the rejection. The State may require a 30-calendar day training period for replacement personnel.
- e) Contractor will not remove any Key Personnel from their assigned roles on this Contract without the prior written consent of the State. The Contractor's removal of Key Personnel without the prior written consent of the State is an unauthorized removal ("Unauthorized Removal"). An Unauthorized Removal does not include replacing Key Personnel for reasons beyond the reasonable control of Contractor, including illness, disability, leave of absence, personal emergency circumstances, resignation, or for cause termination of the Key Personnel's employment. Any Unauthorized Removal may be considered by the State to be a material breach of this Contract, in respect of which the State may elect to terminate this Contract for cause under Termination for Cause in the Standard Terms. It is further acknowledged that an Unauthorized Removal will interfere with the timely and proper completion of this Contract, to the loss and damage of the State, and that it would be impracticable and extremely difficult to fix the actual damage sustained by the State as a result of any Unauthorized Removal. Therefore, Contractor and the State agree that in the case of any Unauthorized Removal in respect of which the State does not elect to exercise its rights under Termination for Cause, Contractor will issue to the State the corresponding credits set forth below (each, an "Unauthorized Removal Credit"):

(i) For the Unauthorized Removal of any Key Personnel designated in the applicable Statement of Work, the credit amount will be \$25,000.00 per individual if Contractor identifies a replacement approved by the State and assigns the replacement to shadow the Key Personnel who is leaving for a period of at least 30 calendar days before the Key Personnel's removal.



(ii) If Contractor fails to assign a replacement to shadow the removed Key Personnel for at least 30 calendar days, in addition to the \$25,000.00 credit specified above, Contractor will credit the State \$833.33 per calendar day for each day of the 30 calendar-day shadow period that the replacement Key Personnel does not shadow the removed Key Personnel, up to \$25,000.00 maximum per individual. The total Unauthorized Removal Credits that may be assessed per Unauthorized Removal and failure to provide 30 calendar days of shadowing will not exceed \$50,000.00 per individual.

3.5 Organizational Chart

- a) The Contractor must provide an overall organizational chart that details staff members, by name and title, and subcontractors. Organizational charts must be updated and provided to the Program Manager as staff member changes are made.
- b) Contractor's staffing structure and processes that support the identification of client needs and resolution of client concerns.

Contractors' Account Managers shall be empowered to make decisions regarding the State account. The Account Manager shall work closely with Contractor's executive and management staff to provide customized leadership and direction to the professionals involved in the program. Customer concerns and/or complaints will be routed to the Account Manager for review and resolution as quickly as possible, and if needed, will be escalated to the appropriate management or executive staff for response. Contractor will track any complaint filed and the resulting resolution of those issues and will use the information to identify any trends, changes or enhancements to the program throughout the term.

- c) Contractor audits performance standards required by staff function in terms of productivity, accuracy, timeliness and customer relations.

The audit measures accuracy, timeliness, appropriateness, and ensures that claim files are moved to resolution as quickly as possible. 100% of the phone calls within the call center and adjusting staff are recorded. Any assertion of an unprofessional allegation is investigated and addressed. If a deficiency is noted in the staff's interaction, counseling, training and performance management may be considered.

- d) Contractor's evaluation of staff and result sharing.

Nine claims per disability examiner per quarter are formally audited. The Disability Unit Manager maintains a diary on all open files. Nine claims per disability examiner per quarter are audited for initial payment accuracy. Individual results are not shared with customers.

3.6 Disclosure of Subcontractors

- a) If the Contractor intends to utilize subcontractors, the Contractor must disclose the following: The legal business name; address; telephone number; a description of subcontractor's organization and the services it will provide; information concerning subcontractor's ability to provide the Contract Activities; complete description of the Contract Activities that will be performed or provided by subcontractor; and price of the subcontractor's work.
- b) The State reserves the right to reject any proposed subcontractor. In the event the State finds a proposed subcontractor unacceptable, the State will provide a written explanation including reasonable detail outlining the reasons for the rejection.

4.0 Claim Determination

- a) Claim determination shall be made in accordance with the State Plan. The Contractor verify claimants' plan enrollment through the demographic feed or human resources contact and must ensure that determinations are in accordance with the LTD Plan and meet all other quality related expectations.



b) Claims involving serious complexity, high potential for subrogation and recovery, high profile or high financial exposure cases will require additional review by Contractor's claims management to collectively identify issues and obstacles and develop a strategic plan of action and document the review in the claim file.

c) Contractor's steps taken to ensure disability determination decisions are appropriately made.

Contractor's disability unit manager reviews all claims once the claim determination is made and every 90 days thereafter to ensure the claim activities are appropriate. Nurse reviews are completed on all mental health claims at 90 days of disability to determine if further actions are needed.

d) Contractor's protocol for notifying LTD Program Manager and claimants of pended claims, claim approval and denials.

Contractor will call claimants when claims are denied and explain the appeal process. A formal denial letter with the appeal process document will be mailed to the claimant via regular and certified mail.

Claimants are mailed an approval letter advising of claim approval, period of approval, and need for additional medical documentation if unable to return to work.

A missing form letter will be mailed to claimants on claims where a claim determination cannot be made due to missing information. The claimant has 15 days to provide the missing information or the claim will be denied as incomplete.

e) Process for case monitoring, tracking and reported once approved.

Approved claims are reviewed on a diary basis to determine need for updated medical certification or other claim actions are needed. Regular disability unit manager review provides input for additional future activities if necessary. Nurse reviews are completed on all mental health claims at 90 days of disability to determine if further actions are needed.

4.1 Claim File Documentation

a) All files must be documented in a logical manner that allows a reviewer the ability to quickly review all claim activity and determine the current status of a claim. Files must also be documented in a consistent manner with all pertinent material related to the claim and such documentation shall be current in the file from receipt by the Contractor.

b) Claim files must be separated to reflect the distinct aspects of the claim. Examples include but are not limited to medical documentation, legal notices, litigation correspondence, payment information, claim notes, forms required by the State LTD Plan etc.

c) Claim examiner notes must be current and maintained electronically in a current and accurate manner. At a minimum, claim file notes must contain but not be limited to, statement of coverage, detailed and comprehensive summary of all telephone conversations, attempted telephone contacts and any contacts connected to the claim, summary of investigations, claim determination and rationale, subrogation potential, summary of medical received, plan of action (including current summary of claim, medical status, proactive action based strategy, and anticipated date of claim resolution), disputes, claim appeal information and any documentation connected to the claim.

d) All claim files and information shall be retained by the Contractor for the life of this contract. Upon expiration or termination of this contract, all claim files, paper and electronic, and related information shall be returned to the State or its designated representative.

e) Some of the current claims in open or re-open status have an electronic claim file along with an associated paper claim file. The paper claim file may contain information not converted into the



electronic file. Contractor shall either create an electronic record or retain the paper file for the life of this contract.

- f) Data elements will be captured in Contractor's system as follow:

Claim accepted date; claim delayed date and reason (if applicable); claim denied date and reason (if applicable); claim received date; claim reporting method; claim reported by; last day worked; return to work date; Injury/illness description; average weekly wage; associated ICD Code; attending physician; payment transaction data including payee, gross and net wages, from and through dates (if applicable), check date and number, payment category; claim payment deductions including federal, state and local taxes, FICA, pension offset, social security offset, other income, and overpayment recovery; independent medical exam tracking including vendor, doctor, doctor specialty, reason for exam, result of exam, exam date, exam fee.

- g) Contractors shall take security measures to protect the confidentiality of each claimant's medical and personal identifiable information.

Claim system access will be limited to authorized and approved users. All user access requests are documented and approved by Contractor's IT after authorization from management. Individual user IDs are assigned to each person and security settings will be associated with each ID which limit the data available to them based on their job role.

4.2 Claim Payments

- a) Unless otherwise determined by the State, the Contractor shall be responsible for processing all claim payments to eligible State employees.
- b) The Contractor shall provide claim payments accurately, 99% of claim benefit payments must be calculated correctly with a payment error rate of not more than one percent.
- c) All claim payments and associated claim expenses shall be recorded as associated with the individual claim.
- d) Claim payments are to be made bi-weekly for those claims less than six months old and monthly for those claims over six months.
- e) All claim payments are to be made in accordance with requirements as provided in the LTD Benefits Plan or procedures and regulations established by the State along with proper documentation and notice to all relevant parties.
- f) In the event of an overpayment, Contractor will immediately notify the State Program Manager and claimant and document in the claim file the reason for the overpayment, amount of the overpayment and plan of action for recovery.

A report will be sent quarterly which identifies the claim number, claimant name, reason for overpayment, dates of overpayment, amount of overpayment.

The overpayment information will be documented in the claim file indicating the reason for the overpayment, period of overpayment, and amount of overpayment.

Contact will be made with the claimant via telephone to advise of the overpayment. A detailed explanation with the calculation of the overpayment will be sent to the claimant with recovery expectations.

- g) The State will not be responsible for overpayments on claims resulting from error within the scope of Contractor's control. Any overpayment resulting from error within the scope of Contractor's control is



the responsibility of the Contractor. Contractor will immediately credit the State in full amount of the overpayment and apply the credit directly to the affected claim. Overpayment recovery is the responsibility of the Contractor and all recoveries must be credited to the affected claim.

- h) Contractor will provide an overpayment process to minimize overpayment occurrence and maximize overpayment recovery. Implementation of this process will require approval from the Program Manager. The Program Manager reserves the right to require changes to the Contractor's overpayment process in the event the Program Manager finds the process ineffective.

Upon receipt reimbursement, Contractor will credit the employee's claim file. If the reimbursement is for the prior year, the employee will receive a Claim of Right letter from Contractor in January of the following year in which the reimbursement was received.

- i) All claims, payments and associated claims expenses must be recorded as associated with the individual claim. All claim benefit checks issued by the Contractor shall include expiration statement of 180 days from the date it was issued if not cashed by recipient within that period of time.
- j) Frequency of reviewing open claims and system

The claim payment system is integrated within the claim management system. Clients have access to view all claim payments, claim notes, financials and demographic information within the claim system. The adjuster reviews the diary as the merits of the file dictate. The unit manager maintains a perpetual diary to review the claim at 90 day intervals. Reviews are dependent upon both automated system diaries as well as manual reviews set by the examiner and/or unit manager.

- k) Contractor' shall have procedures in place to assure timely and accurate coordination of supplements and offsets (e.g., Workers' Compensation, Social Security, Retirement, Unemployment Benefits etc.)

Other income offsets will be added to the employee's claim immediately upon notice of such benefits. The examiner will set a diary to trigger future offset events, such as the Social Security Disability application process and the pension application process

- l) Order in which claimants apply for SSDI benefits, and process for overpayment agreements.

Contractor shall continuously review all claims to determine whether a claimant will be asked to apply for SSDI. Once Contractor identifies those claims which appear to fit the SSDI criteria, those individuals will be advised to apply for SSDI. Typically, the SSDI application process begins at 6 months of disability. Reimbursement agreements are required to be signed at the onset of the claim. LTD benefits will not be issued until the signed reimbursement agreement is received by Contractor. This signed reimbursement agreement is valid for the life of the claim. Contractor engages preferred vendor, IBI, to guide the claimant through the process and improve the outcome for the claimant. Contractor requires a signed agreement to sweep the claimant's bank account to collect any retroactive lump sum SSDI award.

4.3 Medical Case Management

- a) At a minimum, the Contractor shall request Independent Medical Evaluations (IME) in the follow circumstances:
 - The treating physician is not cooperating or not facilitating communication.
 - There is a question of disability.
 - There are only subjective complaints.
 - There is a question of how a physician is handling a case.
 - There is a need to substantiate medical findings
 - Reasoning for the IME referral must be documented in the claim notes.
- b) Criteria and continued evaluation process of IME doctors used shall be provided to the Program Manager for approval.



- c) Contractors selected panel of specialists for IME referrals.

Contractor may use a vendor for IME Physician management, Contractor is responsible for negotiating terms, setting quality standards and holding IME physicians and Networks to the highest standard.

- d) RESERVED.

- e) Contractor's determination for Doctor Selection for IME's, and factors taken into consideration when selecting an IME to perform an IME.

The disability examiner will determine the specialty of the IME doctor and at times choose a specific doctor. The disability unit manager and/or nurse will make recommendations for a specific IME doctor or specialty depending on the facts of the claim. Factors considered when assessing an IME include delayed recovery, lack of objective findings, and lack of ongoing and active treatment. All physicians selected must be board certified and be of equal or greater credential.

- f) Performance measurements of Contractor's IME program.

Through Quality Assurance process, all written reports are reviewed for appropriate restrictions and limitations, clinical appropriateness, as well as ensuring adjuster questions are answered completely. Inadequate reports and physicians evaluations are flagged through this process. Contractor will reach out to all Physicians whose reports have been flagged to address issues. Contractor's National IME Network manager, Contractor does negotiate rates with IME Companies to ensure Contractor can service all of client's needs in all areas and specialties.

- g) Protocols in place to ensure that the most appropriate doctor is selected for the IME

The disability examiner will determine the specialty of the IME doctor and at times choose a specific doctor. The disability unit manager and/or nurse will make recommendations for a specific IME doctor or specialty depending on the facts of the claim.

- h) A medical consultant or medical case manager, defined as an employee with a relevant clinical background in nursing or medicine (RN or MD), must be utilized, at a minimum, in the following situations:

- When an claimant is not responding to treatment
- When there is a lack of compliance with medical regimen
- When there is a chemical dependency
- When there is long-term physiotherapy
- When there is prescription medication dispensed long-term (over 1 year)
- When physician visits are more than is typical for the type of injury/illness
- When referrals are more than typical for the type of injury/illness
- When prescriptions are more than typical for the type of injury/illness
- When the case extends substantially beyond the expected resolution date
- When the medical situation is a mix of occupational/non-occupational conditions
- When the claimant and/or their support system are not capable of coordinating services, setting appointments or comprehending medical needs
- When the claimant does not comply with medical treatment
- When the original Injury or illness causes a secondary health problem to occur

- i) Initiation process for medical case management

The disability examiner will request a meeting with the team lead and nurse to review the medical documentation and claim to set claim actions. If the plan allows, nurse case management is assigned when the medical condition is complex, to assist with return-to-work opportunities including restricted duty, or when there are multiple specialties involved with the claimant's care. With consent of the State Contractor has a proprietary modified duty off-site program which can be engaged to temporarily place an employee with restrictions in a non-profit setting.



- j) RESERVED.
- k) Checks and balances are in place to ensure the cases meeting referral criteria will in fact be referred

Contractor's claim adjusters are trained to recognize cases requiring case management assignments. All open claims have a supervisory diary to provide an additional level of control on recognizing claims needing this type of assignment. Contractor's quality assurance program and management round-table discussions also provide visibility in order to meet this criteria.

- l) Process for co-morbidity claims

Co-morbid conditions are tracked within the claims system with primary, secondary and tertiary diagnosis. Claims with co-morbid conditions are reviewed with the disability manager and/or team lead to determine how the co-morbid condition affects the ability to return to work. Co-morbid conditions are considered in conjunction with the primary disabling condition utilizing the Official Disability Guidelines (ODG), nurse review, and manager/team lead roundtable discussions to create concise action plans and claim activities. Claims which add a mental health component after initial approval are reviewed by the nurse at 90 days of the new mental health diagnosis.

- m) Policies, procedures, protocols, in place to identify deficiencies in the case management process

A monthly quality review will be performed by the Quality Review department comprised of experienced case management nurses. A review of a minimum of 10% of each file is conducted monthly. If quality issues are identified, increased reviews will be implemented, quantity depending on the seriousness of the issue, and include open case files as well. Individual case manager quality issues are addressed and disciplinary action taken as necessary. Contractor understands the success of the case management program is dependent upon continual monitoring. Cases will be reviewed to assure timely contact is maintained with all parties, an active and aggressive case management plan is documented and being followed, appropriate documentation of case management savings and assuring that the nurse is bringing an overall positive impact to the case. Quality review scores are reviewed with nurses monthly and are a significant part of their ongoing and formal annual evaluation process. Contractor will provide a list of claims and file information upon request.

4.4 Subrogation

- a) The Contractor shall review and monitor all claims for subrogation potential involving third-party liability against any and all outside parties for which this subrogation may be appropriate. All reviews for subrogation potential must be documented in the claim notes.
- b) The Contractor shall document all subrogation efforts. The Contractor must collectively consult with the State's Departmental contact and appropriate division of the Attorney General's office and the State's Program Manager prior to actively pursuing any questionable third-party situation.
- c) All amounts received through subrogation must be provided to the State as a reduction of the cost of the claim expenses recorded for that specific claim. Subrogation expenses must be included as part of the per claim fees assessed by the Contractor as part of the normal claim fee. This includes bankruptcy court filing and action for overpayment recoveries.

Contractor's efforts and claim handling expenses in subrogation recovery will not be charged to the file. Costs incurred by the Attorney General's office, such as bankruptcy court filings, or other legal expenses will not be paid by the Contractor.

- d) Resources utilized to pursue subrogation opportunities.

Claim adjuster notifies Contractor's Technical Claim Manager of any potential subrogation claim. The Technical Claim Manager monitors each claim by use of the claim diary system. Contractor will engage experts, particularly in mechanical failures, to provide an expert opinion. The Claim Adjuster will put the



responsible party as well as the claimant on notice of a potential third-party action. Claims requiring legal intervention are elevated to the Program Manager and the Attorney General's office. Contractor Claim Adjusters' must be knowledgeable and experienced in subrogation recovery.

4.5 Fraud

- a) If the Contractor detects or becomes aware of any potentially fraudulent activity, throughout the Contractor's management of any claim, the Contractor must immediately provide the State's Program Manager with any and all relevant evidence to substantiate the detection of such fraudulent activity prior to any actions on the claim. Contractor will work with the State to setup a plan for claim denial overpayment processing and/or termination.
- b) The Program Manager, or designee, will maintain responsibility for investigation and will interact with Contractor on an as needed basis. Contractor must assist in and support further investigations if requested by the State's Program Manager.

4.6 Disability Management

- a) Contractor must proactively facilitate and support return to work efforts appropriate for the specific disability and consistent with direction provided by the Program Manager.
- b) The State promotes case management in each department throughout state government. Each of the State's departments typically have a Case Manager who is designated as the department's representative dealing with the third-party administrator and return to work issues. The Contractor must make all efforts to assist the departmental Case Managers and, when requested, to participate in any case management meetings reasonably scheduled by the Program Manager.
- c) Process and criteria for facilitating an employee's early return to work.

The examiner and/or nurse case manager will continually communicate with the treating physician as to the employee's ability to return to work, and request restrictions. Once restrictions are received from the treating physician, the examiner will contact the employer to inquire as to their ability to return the employee back to work within the restrictions provided. The examiner and/or nurse case manager continually request the treating physician to document the employee's work abilities. As the restrictions change, the examiner will reach out to the employer to determine the employers ability to accommodate. If the restrictions do not lessen as the claimant recovers, or if the objective medical findings do not support the restrictions, the examiner may request a functional capacity evaluation or an independent medical examination.

- d) Information captured if the employer makes alternate duty, or transitional temporary work available.

Contractor will identify those claimants who have restricted releases and work with the departments to place the individuals back in active employment. At the request of the State and to the extent the plan allows, Contractor will engage nurse case managers to assist the employee and the department in a successful return-to-work transition. Contractor will capture the restricted and transitional work assignments electronically in the claim.

- e) Steps taken If the State is unable to accommodate an employee's work restrictions

The disability examiner will request an IME to confirm the validity of restrictions or request restriction clarification from the treating provider. This clarification will include any restrictions noted by the Official Disability Guidelines and job description for the treating provider to review.

Contractor offers a Modified Duty Off-Site (MDOS) product which is an innovative program offered to the request of the State to reduce the cost and duration of lost-time incidences by assisting in returning their employees back to work following period of disability or injury. Contractor shall work with area non-profit agencies to provide placements for employees with temporary restrictions that are unable to return to their usual occupation.



5. Claim Dispute Resolution

The appeal process is regulated by Civil Service Regulation 5.18. The regulation may be found at: http://www.michigan.gov/documents/Regulation_5_128248_7.18.pdf. This regulation provides for classified employees to file complaints regarding benefits under group insurance plans. There are multiple levels to the appeal process. The first level appeal request are with the Contractor. The Contractor will conduct a thorough and timely review for each appeal request. There should be enough information in the Contractor's appeal decision and in the claim file to assist all appeals levels in reaching a decision. The Contractor's appeal review process must be approved by the Program Manager.

6.0 Documentation Ownership

- a) All hard copy and electronic claim files, data and documentation associated with all claim files is the property of the State unless specifically agreed to otherwise.
- b) Any software developed by the Contractor utilizing funds provided under this Contract is the property of the State.

Any custom software developed by Contractor at the State's request to be used specifically for the execution of this contract, Contractor agrees it will be property of the State.

- c) Any capital equipment purchased utilizing funds provided under this Contract is the property of the State.

7. Project Management

7.1 Project Plan

- a) The Contractor must provide a detailed project plan. This project plan shall include but not be limited to the plan for implementation and contract execution.
- b) The Contractor will carry out this project under the direction and control of the Program Manager. All transition and Project Plans for implementation are subject to the approval of the State's Program Manager.
- c) Within 14 calendar days of the Effective Date, the Contractor must submit a project plan to the Program Manager for final approval. The plan must include: (a) the Contractor's organizational chart with names and title of personnel assigned to the project, which must align with the staffing stated in accepted proposals; and (b) the project breakdown showing sub-projects, tasks, and resources required.

The Project Plan for implementation and the corresponding timeline or calendar must describe in detail:

- All major project milestones;
 - The anticipated outcomes for each milestone;
 - Contractor's proposed transition process from the prior Contractor, if applicable;
 - All tasks, duties, or responsibilities associated with contract administration and implementation;
 - Names and titles of key implementation staff;
- d) If the Program Manager notifies Contractor of any critical issues, Contractor must respond within one business day with an adequate and appropriate resolution and execution plan. If Contractor identifies any critical issues affecting services, it must notify the Program Manager within one business day.
 - e) Contractor's issue management process and escalation procedures.

Contractor will assign a Senior Account Executive to monitor performance and obtain feedback on services provided. This is done through routine meetings, project calls and in-person risk management meetings with the State. Complaints, issues and needs will be tracked by Contractor. Contractor maintains an Account Management Intranet site that contains a toolbox of project management tools, solutions warehouse and escalation procedures.



7.2. Meetings

Meetings will be conducted with the Contractor's project manager at a minimum of once per month or at the discretion of the Program Manager or designee for the purpose of reviewing progress and providing necessary guidance to the Contractor in solving problems which arise. In addition, there will also be ongoing communication with the Contract team.

The State may request other meetings, as it deems appropriate.

7.3. Reporting

- a) All reporting requirements contained in Insurance Regulations, other State Statutes, Federal Legislation, or State Directives are the responsibility of the Contractor on behalf of the State. The Program Manager reserves the right to review and make changes to any documents prepared for filing with any governmental agency before Contractor files the documents.
- b) The Contractor will complete, process and transmit all forms required under the LTD Plan and all applicable parties, on the State's behalf.
- c) As agreed upon with the Program Manager, the Contractor will submit written summaries of progress outlining the work accomplished during the reporting period; work to be accomplished during the subsequent reporting period; problems, real or anticipated, which should be brought to the attention of the State's Program Manager; and notification of any significant deviation from previously agreed-upon work plans.
- d) The Contractor shall provide real time on-line reporting access to the State's Program Manager and provide reports based on any data the Program Manager requires to be collected at a frequency agreed to by the Contractor and Program Manager.
- e) The Contractor must provide a monthly electronic database (e.g. Microsoft Access) which reflects all claims activity within the reporting period. This database must also provide a five year history reflecting all aggregate claim information as of the valuation date. The database must include the ability to edit reports and run additional customized reports on any combination of data elements.
- f) Contractor must track independent medical evaluation (IME) costs and outcomes. Reports must be provided to the State's Program Manager on a quarterly basis and must include, at a minimum, claim number, claimant name, employee ID #, date of IME, IME Doctor, reason for the IME, IME opinion, action taken on claim as a result of an IME, and cost of IME.
- g) Contractor must track all overpayments. Reports must be provided to the State's Program Manager on a monthly basis. The report must include but not be limited to claim number, claimant name, employee ID number, gross amount of overpayment, reason for the overpayment, any money recovered, overpayment balance, plan of recovery and expected date for full overpayment recovery.
- h) Contractor must track all claims that are involved in vocational rehabilitation. Reports must be provided to the State's Program Manager on a quarterly basis in Excel format. The report must include but not be limited to claim number, claimant name, date of injury, injury description, diagnosis, date of referral to vocational rehabilitation, vocational rehabilitation company, vocational rehabilitation counselor (VRC), current amount paid to date in vocational rehabilitation expenses, status of vocational rehabilitation, VRC's current plan of action, summary of recent activity, vocational rehabilitation closed date.
- i) Contractor will provide a monthly reconciliation report reflecting a reconciliation of the funds deposited in the TPA's account against the claims that have been actually paid and the checks that have been returned or that may not have cleared the account.
- j) Contractor will provide a weekly report, in Microsoft Excel format, reflecting claims having any activity within six months prior to the date of the report. This report shall include claim status, claim number,



claimant name, employee ID, benefit begin date, benefit end date, date benefits are authorized through, claim end date and disposition/reason the claim has ended.

- k) On an as needed basis, the State's Program Manager may request Ad Hoc reports. The Contractor must comply with such requests. If the requests are of such magnitude to require additional information technology resources or staffing commitments, the Contractor must document such requirements and provide a cost estimate to the State. Further development of such ad-hoc reports will only proceed with written authorization from the State's Program Manager. Any requests for ad-hoc reporting must be directed to the State's Program Manager for review and approval.
- l) RESERVED.

8. Invoice and Payment

8.1. Invoice Requirements

Invoices must be provided in an electronic format, acceptable to the Program Manager, on a monthly basis and must be provided within 10 business days from the end of the month for which the invoice applies. Invoices must include an itemized list of all claims and identifiable costs associated with providing administrative services under this Contract and shall be defined and broken down by department and agency codes. Any changes in the invoices must be confirmed with the Program Manager. Charges for claims handling expenses must be separated from other service fees and must be so identified on billing document.

All invoices submitted to the State must include: (a) date; (b) purchase order; (c) quantity; (d) description of the Contract Activities; (e) unit price; (f) shipping cost (if any); and (g) total price. Overtime, holiday pay, and travel expenses will not be paid.

8.2. Payment Methods

The State will make payment for Contract Activities via electronic funds or wire transfer.

9. RESERVED



STATE OF MICHIGAN

Contract No. 071B7700116

Long Term Disability Third Party Administration Services

Exhibit B

GENERAL PROPOSAL REQUIREMENTS

RESERVED.



STATE OF MICHIGAN

Contract No. 071B7700116
 Long Term Disability Third Party Administration Services

Exhibit C PRICING

1. Price proposals must include all costs, including but not limited to, any one-time or set-up charges, fees, and potential costs that Contractor may charge the State (e.g., shipping and handling, per piece pricing, and palletizing).
2. Prompt payment terms: 2% discount off invoice if paid within 21 days after receipt of invoice.
3. Contractor offers a 3% Multi-Contract discount for WC and LTD Contracts.
4. Pricing Schedule

FEE PER FILE			
LINE OF BUSINESS/SERVICE	YEAR ONE RATE	YEAR TWO RATE	YEAR THREE RATE
LTD (ALL PLAN TYPES)			
New LTD Claim (Vol = 3,081)	\$359 per file	\$361 per file	\$372 per file
LTD greater than 24 Months open (Vol = 2,100 per month)	\$33 per month open	\$34per month open	\$35 per month open
Payment Issuance (Vol= 28,110)	\$10 per payment	\$10 per payment	\$10 per payment
Per Enrollee Per Month (PEPM) (Vol =40,410)	\$1.40 PEPM	\$1.45 PEPM	\$1.45 PEPM
Estimated Annual Fee with 3% Multi-Contract discount	\$2,810,737	\$2,864,677	\$2,921,995



Exhibit D, Performance Standards

The Contractor must track and report on the following measures/standards in order to measure compliance with performance. Contract based performance audits may be verified through external audit activity. The contractor must allow third party audits to measure performance standards. The State’s Program Manager and contractor’s Account Manager will evaluate performance guarantees. The final decision regarding performance penalties is that of the State’s Program Manager.

Performance Category	Performance Criteria	Standard	Penalty (percentage of fees if standard is not met)
Customer Service to Claimant and State	Telephone Response Time/Wait Time	95% Less than 1 minute	0.25%
	Speed of answer	Within 30 seconds	0.25%
	Abandonment rate	<= 5%	0.25%
	Percentage of calls that receive busy signal.	<= 1%	0.25%
	Telephonic conversation recording system is functional and operational during core business hours.	100%	0.25%
Claims Processing	Claims: 3 point Contact initiated within 1 business day from the date received by contractor.	97% of all claims received in audit period.	0.50%
	Claim determination within 14 calendar days from the date Contractor was notified of claim.	99%	0.50%
	Benefit payments made within 7 calendar days from date benefit is due.	99%	0.50%
	Claim benefit payment accuracy. Number of benefit payments paid correctly divided by total number of payments.	99% (Sample Based)	0.50%
	Claim coding accuracy. Claims coded correctly divided by total number of claims.	95% (Sample Based)	0.50%
Reporting	All specified reports required under this contract received within 14 days after the end of the reporting period.	100%	0.25%
	Ad Hoc Reports received within timeframes agreed to between contractor and Program Manager.	100%	0.25%
	All specified reports required under this contract will reflect correct and accurate information for the reporting period.	100%	0.25%
Invoice/Billing	All loss fund and services invoices and billings required under this contract will reflect correct and accurate information for the billing period.	100%	0.25%
Account Management	Return call and/or email to State of Michigan requests within 1 business day from the date of message.	100%	0.25%



Exhibit E, IME Rates

Schedule of Rates for Independent Medical Examinations (IME) by Specialty

Region	PM & R	Neuro	Ortho	Psych
Michigan	\$950-\$1800	\$1400-\$2200	\$1000-\$2000	\$1050-\$2400

*** Please note that no show fees and cancellation fees vary from physician to physician.***



Exhibit F, IME Credentialing

MCMC Provider Credentialing Process Overview

MCMC’s recruitment and credentialing program is extremely rigorous and we are confident it exceeds any corresponding legislation. MCMC initiates the recruitment/credentialing process via a Provider Credentialing Application, which requires candidates to provide the following information:

- Curriculum Vitae
- Provider Agreement
- Current unrestricted state licenses
- Board certifications
- Professional Liability insurance confirmation sheet

Once the provider agreement is complete and all required documentation is received, the credentialing department implements the verification process. The credentialing department performs the verification of all providers and is confident that MCMC’s primary source verification requirements meet those mandated by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), NCQA, and URAC.

Below are the list of credentials that must be verified and the sources used in order to verify these credentials. Verification serves two distinct purposes: to verify providers’ key credentials, and to check for any adverse actions or quality issues against providers that may affect their ability to perform independent medical evaluations. All adverse actions and quality issues are reviewed by our Credentialing Committee and they determine whether we will credential and use the provider for independent medical evaluations.

Credential	Verification Source
Boards	ABMS Board Certified Docs / American Osteopathic Association/ American Board of Podiatric Surgery
NPDB/Medicare/Medicaid Sanctions	NPDB Continuous Query. The Data Bank notifies MCMC within 24 hours of receiving a report on an MCMC provider. MCMC is notified of the of the following adverse actions: <ul style="list-style-type: none"> • Medical Malpractice Payment Reports • State Licensure Actions • Exclusion or Debarment Actions • Government Administrative Actions • Clinical Privileges Actions • Health Plan Actions • Professional Society Actions • DEA/Federal Licensure Actions • Judgment or Conviction Reports • Peer Review Organization Actions
State Licenses	State Boards
State Licensing Body Sanctions	State Boards
DEA Registration	NTIS

