

THIRD PARTY CLAIMS ADMINISTRATION CONTRACT

THIS AGREEMENT, entered into on April 14, 2009 by and between The City of Lancaster hereinafter called "PRINCIPAL," and CARL WARREN & COMPANY, hereinafter called "CONTRACTOR," is for certain services as outlined in connection with the duties and responsibilities of administering a program of self-insurance.

W I T N E S S E T H

WHEREAS, PRINCIPAL has undertaken to self-insure and is in need of a qualified third party to whom to delegate the responsibilities and duties of administering said partially or totally self-insured insurance program, and

WHEREAS, CONTRACTOR is engaged in the supervision and administration of programs for self-insurance,

NOW, THEREFORE, PRINCIPAL and CONTRACTOR mutually understand and agree as follows:

1. GENERAL

CONTRACTOR shall: (a) supervise and administer the Self-Insurance program for PRINCIPAL; (b) represent the PRINCIPAL in all matters related to the investigation, adjustment, processing, supervision and resolution of liability claims for money damages asserted by third parties against the PRINCIPAL (and other participants in the program as specified); and (c) provide to PRINCIPAL during the term of this Agreement all the services more particularly set forth hereinafter.

2. INVESTIGATIVE SERVICES

CONTRACTOR shall provide complete investigative and analytical services including, but not limited to: (a) receipt and examination of all reports of accidents, incidents, claims or cases which are or may be the subject of such claims reported by PRINCIPAL to CONTRACTOR; and (b) the investigation of such accidents, incidents, claims or cases where examination warrants such investigation or when requested by PRINCIPAL, such investigation to include on-site investigation, photographs, interviewing of witnesses, determination of losses and other such investigative services necessary to determine liability and loss but not to include Allocated Expenses and extraordinary professional services set forth below.

Regarding Allocated Expenses, PRINCIPAL agrees to pay for the cost of all reasonable and supportable extraordinary services and costs, including but not limited to, professional photography, police reports, independent medical examinations, professional engineering services, laboratory services, bulk copy jobs, private investigators, legal costs and fees and work performed by accountants. CONTRACTOR shall charge PRINCIPAL for non-staff investigators or adjusters when, in the opinion of CONTRACTOR, such assistance is necessary and reasonably related to the monetary exposure.

3. SETTLEMENT AUTHORITY

CONTRACTOR shall have discretionary settlement authority up to \$ Zero.

4. CLAIMS ADJUSTMENT SERVICES

CONTRACTOR shall provide complete claims adjustment services on each accident or incident that may be the subject of a claim against the PRINCIPAL which is reported to CONTRACTOR by the PRINCIPAL. Such services shall include, but not be limited to (a) the maintenance of a claim file on each potential or actual claim reported to CONTRACTOR; (b) whenever its investigation results in a determination that PRINCIPAL has sustained a liability to a third party, CONTRACTOR shall process any such claim or potential claim for settlement in accordance with the PRINCIPAL'S instructions for settlement of such claims; and (c) obtaining all release agreements or proofs of loss on settlement of any claim or potential claim. Specific service instructions will be added to this contract as an exhibit. If subrogation is pursued, the rates in Section 8 will apply unless a separate contingency fee agreement is agreed to by PRINCIPAL and CONTRACTOR.

5. ADMINISTRATIVE SERVICES

CONTRACTOR shall provide at least the following administrative services: (a) assignment of a Principal Account Adjuster to the PRINCIPAL; (b) providing PRINCIPAL with electronic access to all reported claims during the term of this Agreement, indicating the status of each reported open claim assigned to CONTRACTOR, the details of each such claim, the outstanding reserves for each claim and details of all claim payments; and (c) periodic review and adjusting of reserves on all open claims. Account specific reports and attendance at meetings (including round trip travel) shall be provided by CONTRACTOR at the same rates provided in Section 8 as services.

6. LEGAL SUPPORT SERVICES

CONTRACTOR shall provide at least the following legal support services on each claim wherein the claimant has commenced litigation: (a) Upon notification by PRINCIPAL that litigation has been filed on an open claim, CONTRACTOR shall notify PRINCIPAL and, in accordance with PRINCIPAL'S instructions, the PRINCIPAL'S excess insurance carrier and/or excess reporting authority, pool or group (the "excess entity") and/or trial attorney assigned by PRINCIPAL to handle the case and provide such excess entity and/or trial attorney with all information and files concerning claim; (b) maintain liaison with PRINCIPAL'S excess entity and/or trial attorney and provide such investigation services as are required by such attorney during pre-trial and trial stages; and (c) assist PRINCIPAL'S excess entity and/or trial attorney with discovery and other legal processes.

7. PERIOD OF AGREEMENT

This Agreement is for a period of thirty six (36) months commencing April 1, 2009 and ending March 31, 2011, with a \$1 increase in hourly rate in year two, after which date, this Agreement shall renew for one (1) year periods of time and rates will be reviewed annually.

8. CONSIDERATION

PRINCIPAL agrees to pay, effective April 1, 2009 the following claim handling fees for CONTRACTOR'S services:

Fee Category:

| | |
|------------------------------|--|
| Services | \$53.00 per hour/billing unit |
| Mileage | .55 per mile/or IRS rate (the greater of) |
| Telephone | 8 % of Services |
| Photocopies | .25 cents per page |
| Pages/Stenographic | \$4.50 |
| Photographs | \$2.50 each |
| Duplicated Photographs | \$1.50 each |
| Office Expense | 18 % of Services |
| Set up fee | 1 hour Services Rate above |
| Data Processing | \$35.00 per suffix (i.e. per line entry) |
| 1099 Preparation | Included |
| Cassettes | Included |
| Index/OFAC* (per submission) | \$18.00 each |
| Miscellaneous ** | At Cost |
| Compass2 / mycarlwarren | \$1,000 per year annual administrative invoice (payment annually) |

* Index includes ISO and OFAC.

** Miscellaneous includes but is not limited to actual costs for hotels, airfare, meals while on overnight travel, copying court documents etc.

Incident reports not requiring any claimant contact or investigation will be reviewed and entered into an incident report log for \$50 per incident if PRINCIPAL so requests.

Unless a multi-year contract term is in effect, this fee schedule shall be subject to negotiations between PRINCIPAL and CONTRACTOR at no less than one (1) year intervals following the effective date of the Agreement. Charges for non-file-related professional services performed at the specific request of PRINCIPAL will be billed on an as quoted basis.

PRINCIPAL agrees to pay charges for outside adjusters other than CONTRACTOR'S adjusters and file related expenses such as medical reports, police reports, etc. on a pass through basis with no additional fees added.

9. DATA PROCESSING

(a) The following standard services are included in this cost and in the annual \$1,000 administrative fee - claims data electronically for up to three recipients and access to mycarlwarren.com for up to three users. For security purposes, access to mycarlwarren and any subscriptions will automatically terminate at the end of thirty six (36) months. PRINCIPAL shall be responsible for notifying CONTRACTOR to renew user subscriptions and access or to substitute users.

(b) Additional users or recipients shall be charged on a per person basis at an annual fee of \$250.

(c) Special reports, new reports and data feeds can also be requested. They are subject to a cost per quote at a rate per project or per hour once the scope has been agreed upon. CONTRACTOR does not possess any interest, title, lien or right to any client data or records. Therefore, upon termination of the contract, CONTRACTOR is relieved of all obligations to provide data processing services to PRINCIPAL and will deliver to PRINCIPAL all data and records in a readily available excel or PDF format. If a different format is desired by PRINCIPAL, CONTRACTOR will provide it to PRINCIPAL at an agreed upon and reasonable cost and timeline.

10. PRINCIPAL'S RESPONSIBILITIES

PRINCIPAL shall provide CONTRACTOR with copies of all relevant documents upon request and without charge and shall make available any PRINCIPAL employee for interviews by CONTRACTOR at reasonable times concerning any investigation of a claim or incident pursuant to this Agreement.

CONTRACTOR shall bill PRINCIPAL and furnish PRINCIPAL with invoices for services rendered in accordance with the fee schedule set forth in the Agreement. Each invoice will include the claim or other matters for which a fee is being charged and the amount of the associated fee for that claim or matter. Payment shall be due and payable within thirty (30) days of receipt. PRINCIPAL shall report all billing discrepancies in writing to CONTRACTOR within thirty (30) days and adjustments will be promptly considered. PRINCIPAL will become delinquent when any undisputed invoice has been outstanding for over ninety (90) days. CONTRACTOR may elect to limit access to data and/or suspend and/or terminate this Agreement in the event PRINCIPAL fails to pay CONTRACTOR. Good faith disputed amount(s) will not be considered in establishing delinquency. CONTRACTOR will notify PRINCIPAL of such failure to pay and if PRINCIPAL does not cure such failure, excluding any good faith disputed amount, within ten (10) banking days after the date of such notice ("the cure period"), CONTRACTOR may immediately limit access to data and/or suspend and/or terminate this Agreement as of the first business day following expiration of the cure period, and/or send the outstanding invoices to a collection agency to pursue recovery of outstanding amounts plus fees and interest.

11. CONFLICT OF INTEREST

In the event a claim or incident is reported to CONTRACTOR by PRINCIPAL and it is determined that the actual or potential claimants therein are also clients of CONTRACTOR, then CONTRACTOR shall immediately notify PRINCIPAL of such potential conflict of interest so PRINCIPAL may have the option to choose an independent investigator and adjuster.

12. CANCELLATION OF AGREEMENT

This Agreement may be terminated by either party with or without cause upon giving other party written notice at least ninety (90) days prior to the date of termination.

13. DISPOSITION OF FILES ON TERMINATION OF AGREEMENT

(a) All files on each claim shall be property of the PRINCIPAL.

(b) In the event of expiration of the Agreement, non-renewal thereof, or cancellation, CONTRACTOR shall bill the PRINCIPAL, subject to the rates quoted in Section 8 herein above, for work completed by CONTRACTOR on each claim. Upon receipt of payment of outstanding invoices (including those in 13c below), CONTRACTOR shall promptly forward all completed and pending claim files to the PRINCIPAL unless PRINCIPAL requests CONTRACTOR to continue to process any files on a time and expense basis as provided for in the CONTRACTOR'S Rate Manual at the time such services are rendered.

(c) PRINCIPAL agrees to pay CONTRACTOR for the internal and/or external cost of retaining, storing, retrieving, logging, packing and shipping files which are stored on or off premises by CONTRACTOR.

14. HOLD HARMLESS

PRINCIPAL agrees to defend any legal action commenced against CONTRACTOR caused directly or indirectly by the alleged wrongful or negligent acts, errors or omissions of PRINCIPAL; and indemnify CONTRACTOR against any liability, loss, cost or damage including attorneys' fees resulting therefrom.

CONTRACTOR agrees to defend any legal action commenced against PRINCIPAL caused directly or indirectly solely by the wrongful or negligent acts, errors or omissions of the CONTRACTOR, employees, agents or others engaged by CONTRACTOR and to indemnify PRINCIPAL against any liability, loss, cost or damage including attorneys' fees resulting there from.

15. AUDITS

The CONTRACTOR’S files shall be made available for audits at any time upon reasonable notice. Reasonable notice shall be defined as thirty (30) days or as otherwise agreed by the parties. If special retrieval or shipment of the requested files is necessary, PRINCIPAL shall reimburse CONTRACTOR at cost. The CONTRACTOR reserves the right to reject an auditor proposed by PRINCIPAL if the proposed auditor may gain an unfair competitive advantage over CONTRACTOR by conducting such an audit.

IN WITNESS WHEREOF, the parties hereto have caused these present to be signed by the duly authorized Officers as of the day and year first above written.

(CONTRACTOR)

(PRINCIPAL)

CARL WARREN & COMPANY

BY: _____

BY: _____

TITLE: _____

TITLE: _____

DATE: _____

DATE: _____