

CLAIMS SERVICE AGREEMENT

between

**NEBRASKA RISK MANAGEMENT ASSOCIATION, INC.
100 North 12th Street, Suite 200
Lincoln, NE 68508**

and

**THE STATE OF NEBRASKA
DEPARTMENT OF ADMINISTRATIVE SERVICES
RISK MANAGEMENT DIVISION
301 Centennial Mall South
P.O. Box 94974
Lincoln, NE 68509-4974**

THIS SERVICE AGREEMENT (hereinafter referred to as “Agreement”) is made in Nebraska by and between Nebraska Risk Management Association, Inc. (“NRMA”) and the State of Nebraska (“State”).

WHEREAS, NRMA is licensed as a Third Party Administrator (“TPA”) by the Nebraska Department of Insurance; and

WHEREAS, the State operates an insurance program (“Program”) covering losses attributed to auto liability, first party auto, first party real and personal property, foster parents, employee dishonesty, and crime, which claims are covered by agency deductibles, self-insured retentions and excess insurance;

WHEREAS, State desires NRMA to provide certain claims services in connection with the Program; and

WHEREAS, NRMA desires to provide State such services upon the terms and conditions stated herein.

NOW, THEREFORE, in consideration of the mutual covenants contained in this Agreement, the parties agree as follows:

ARTICLE I. SERVICES PROVIDED BY THE TPA

1.01 Overview. As the State’s TPA, NRMA must possess the resources, flexibility, innovation, and commitment to service that provides value beyond simple “claims payment.” NRMA

must have the capabilities, expertise, and service commitment to excel in all areas of services in this Agreement. NRMA is expected to work closely with the State of Nebraska, Department of Administrative Service's Risk Management Division (hereinafter referred to as "Risk Management") and the Nebraska Attorney General's Office (hereinafter referred to as "Attorney General") to manage claims with a proactive claims management philosophy. This philosophy calls for excellence in the delivery of benefits and services for compensable injuries, the vigorous defense of non-compensable claims with clear explanations of denial decisions, and an overall expression of dignity and respect for claimants.

NRMA will be responsible for compliance with all laws, regulations, and policies relating to claims investigation and processing, preparation and filing of claims forms and reports with the State, communication with claimants and service providers, timely issuance of checks to claimants and service providers, maintenance of data and issuance of management reports of claims activity.

NRMA shall procure and pay for all permits, licenses and approvals necessary for the execution of this Agreement. NRMA shall comply with all applicable local, state, and federal laws, ordinances, rules, orders and regulations.

1.02 General. NRMA will provide the services described in this Agreement. State understands and acknowledges that NRMA will provide its services in accordance with usual and customary business practices of the industry. The State may, at any time with written notice to NRMA, make changes within the general scope of this Agreement. Changes in scope shall only be conducted with the written approval of the Risk Manager.

The State may, at any time work is in progress, by written order, request alterations in the terms of work as shown in the specifications, require the performance of extra work, decrease the quantity of work, or make such other changes as the State may find necessary or desirable. NRMA shall perform such additional or changed work as agreed upon by the parties. NRMA shall not claim forfeiture of Agreement by reasons of such changes by the State. Corrections of any deliverable services or performance of work required pursuant to this Agreement shall not be deemed a modification requiring a contract change or additional payment. In the event State requests NRMA to provide services that differ materially from those described in this Agreement, the additional cost of such services and out-of-pocket expenses will be paid by State at rates negotiated by the parties. Any such additional costs shall be approved by State in writing before being incurred by NRMA.

1.03 Claims Administration.

A. NRMA shall service during the term of this Agreement:

- 1.** Any Program claim or potential claims submitted to NRMA during the term of this Agreement;

2. Any reopened claim with an injury/occurrence date predating this Agreement and submitted to NRMA during the term of this Agreement; and
 3. Any claim that is open prior to the effective date of this Agreement, if separately agreed to in writing by the parties.
- B.** NRMA shall handle all claims for the lifetime of each claim or until the termination of this Agreement, whichever occurs first, pursuant to the terms and conditions of this Agreement and any service instructions agreed upon from time to time between the parties. NRMA will provide services for such claims consistent with the terms of this Agreement, the terms of the Program, and the laws, rules and regulations of the State of Nebraska.
- C.** General Responsibilities
1. NRMA shall provide an adequate number of professionally trained claim staff to assure completion of services requested in this Agreement.
 2. NRMA shall provide a toll free telephone number for communication with Risk Management and agencies.
 3. To the extent required for claims handling, NRMA shall assist in implementing risk control policies for the state and its agencies as approved by the Risk Manager.
 4. As needed for claims handling, NRMA shall conduct visits to state facilities to aid in analyzing and providing solutions to real or potential issues and problems.
 5. NRMA shall work with Risk Management and agencies in complying with state statute, rules and regulations and risk management policies.
 6. NRMA shall coordinate service strategies with the Risk Manager. This will include policies and procedures used by NRMA for scheduling service calls, training, accident investigations, follow-up visits, and responses to agency requests for services. This shall not be construed to require NRMA to obtain the permission of the Risk Manager prior to making contacts related to individual claims.
- D.** Receipt of Claims
1. NRMA shall provide a method or methods for agencies to report claims
 2. NRMA shall provide a toll free telephone number for claim reporting.
- E.** File Creation and Maintenance
1. Establish individual claim files for each reported claim, within three (3) working days of receipt of a claim. Claim files shall be subject to review, copying and printing by State, its representative or designee, at any reasonable time within normal business hours upon reasonable notice.
 2. NRMA shall provide on-line access to Risk Management as addressed in Addendum A.

F. Claim Management

1. NRMA shall review all claims and process each to conclusion in accordance with applicable statutes, rules and regulations, Risk Management operating procedures or other instructions.
2. NRMA shall investigate subrogation possibilities and assert or assist the State in asserting, any subrogation rights of State, subject to State's approval. State will receive any subrogation recoveries obtained by NRMA, less the costs of such recovery, including any costs NRMA or a third party has incurred for amounts they are otherwise entitled to receive under any agreement to provide subrogation recovery. The State shall be notified in advance if NRMA or a third party will incur any additional costs, and State shall approve any such costs in writing and in advance.

G. Reserves

1. NRMA shall maintain a current estimate of expected total cost of each claim and provide reserves and reserve calculation tracking including initial reserve establishment and all subsequent changes.

H. Claim Payments

1. NRMA shall make payment of benefits, losses, and expenses as necessary.
2. Perform necessary and customary administrative and clerical work in connection with each qualified claim or loss, including the preparation of checks or vouchers, releases, agreements and other documents needed to finalize a claim.

I. Claim Settlement & Litigation

1. NRMA shall adjust and where appropriate, settle and resist claims.
2. Unless directed otherwise by an insurance policy, settlements of liability claims must be approved by the Risk Manager and State Claims Board.
3. NRMA shall notify State, State's agent or carriers, as designated by the State, of all qualified claims or losses which exceed State's retention (or a lower threshold as required by any insurance policy), and if requested, provide information on the status of those claims or losses.
4. NRMA shall assist the Attorney General's office or approved defense counsel with the litigation of state claims and participate as needed in hearings and settlement actions.
5. NRMA shall transfer complete investigation files to the Attorney General's office whenever legal action is commenced against the State, or as otherwise requested by the State.
6. Record claims transactions of the Program in accordance with sound insurance and accounting practices.
7. Enlist the services of such other independent contractors, including, but not limited to, independent adjustment companies, managed care providers, preferred provider networks, medical specialists and legal service providers as necessary to determine claim compensability or otherwise assist in properly

resolving such claims, subject to State's prior approval and if approved, at State's expense.

J. Communication with the State

1. NRMA shall provide written reports to the Risk Manager on all claims meeting criteria agreed upon by the Risk Manager and NRMA.
2. NRMA shall furnish to the Risk Manager, state agencies, the state's insurance broker, the state's actuary, and others as requested by the Risk Manager, information reports in a format and on a schedule agreed to by the parties. Unless otherwise agreed upon in writing by the parties, NRMA shall provide State with a monthly report itemizing all claims processed by NRMA during the preceding month, including reports giving the status of losses, payments to date, estimated reserve amounts and other details relating to losses for purposes of State's loss analysis.
3. NRMA shall provide narrative reports and ad hoc reports as requested by the Risk Manager.
4. NRMA shall file all periodic reports required by regulatory agencies or courts, insurance companies, or other similar entities.
5. NRMA shall provide additional information, analysis, reports and services as requested by Risk Management.
6. At least quarterly, NRMA shall prepare for and complete in-person claims reviews with the Risk Manager and others as required by the Risk Manager.
7. As necessary, NRMA shall meet monthly with the Risk Manager to review claims, settlements, strategy, and Agreement performance.
8. As necessary, NRMA shall provide joint training sessions with state agencies regarding claims procedures, resolution process, and statutory and regulatory requirements.
9. NRMA shall log all service activities for the state in a format agreed upon by the Risk Manager and provide to Risk Manager on an agreed upon schedule.
10. As necessary, NRMA shall provide criteria used to determine the effectiveness of claim handling and claim supervision by NRMA and report accomplishments of the criteria to the Risk Manager.
11. NRMA shall have a SOC 2 report completed annually and must provide three (3) copies of the final SOC 2 report to the Risk Manager annually.

K. NRMA guarantees that it has the full legal right to the materials, supplies, equipment, and other items necessary to execute this Agreement. The Agreement price shall, without exception, include compensation for all royalties and costs arising from patents, trademarks and copyrights that are in any way involved in this Agreement. It shall be the responsibility of NRMA to pay for all royalties and costs, and the State must be held harmless from any such claims.

L. NRMA warrants that all persons assigned to perform work under this Agreement shall be employees of NRMA or specified subcontractors, and shall be fully qualified to perform the work required herein. Personnel employed by NRMA to fulfill the

terms of this Agreement shall remain under the sole direction and control of NRMA. NRMA shall include a similar provision in any contract with any subcontractor selected to perform work on the project.

The State reserves the right to require NRMA to reassign or remove from work any NRMA or subcontractor employee.

In respect to its employees, NRMA agrees to be responsible for the following:

1. Any and all employment taxes and/or other payroll withholding;
2. Any and all vehicles used by NRMA's employees, including all insurance required by state law;
3. Damages incurred by NRMA's employees within the scope of their duties under this Agreement;
4. Maintaining workers' compensation and health insurance and submitting any reports on such insurance to the extent required by governing state law; and
5. Determining the hours to be worked and the duties to be performed by NRMA's employees.

Notice of cancellation of any required insurance policy must be submitted to the State when issued and a new coverage binder shall be submitted immediately to ensure no break in coverage.

- M.** NRMA shall maintain reasonable records relating to its responsibilities under this Agreement. In the event of the termination of this Agreement, NRMA will provide State with the records in NRMA's possession relating to the Program and necessary for the continued operation of the Program. NRMA may make copies of and keep any and all files, at NRMA's expense, at NRMA's sole discretion or as instructed by any governmental or judicial authority.
- N.** NRMA shall, for a fee agreed upon by the parties, process all run-out or losses for 180 days following termination of this Agreement if requested in writing by the State.

ARTICLE II. OBLIGATIONS OF STATE

- 2.01** Payments to NRMA. State shall remit payment to NRMA for services performed based on the compensation schedule described herein. Payment will be made in compliance with the State of Nebraska Prompt Payment Act (See Neb. Rev. Stat. 81-2401 through 81-2408). State may require NRMA to accept payment by electronic means such as ACH deposit.
- 2.02** Allocated Expenses. State shall be responsible for these expenses which shall include but are not limited to:

- legal fees
- professional photographs
- medical records
- experts' rehabilitation costs
- accident reconstruction
- architects, contractors
- engineers
- police, fire, coroner, weather, or other such reports
- property damage appraisals
- extraordinary costs for witness statements
- official documents and transcripts
- sub rosa investigations
- medical examinations
- outside investigation
- extraordinary travel made at State's request
- court reporters
- fees for service of process
- pre-and post-judgment interest paid
- chemists
- collection costs payable to third parties on subrogation
- any other similar cost, fee or expense reasonably chargeable to the investigation, negotiation, settlement or defense of a claim or loss which must have the explicit prior approval of the State
- managed care
- index bureau reporting

2.03 Notification. State shall timely notify NRMA of any and all revisions to the Program and Program scope of coverage documents.

State shall timely notify NRMA if a claim is made or suit is filed, and shall immediately forward every demand, notice, summons or other process received.

2.04 Cooperation and Assistance. State shall cooperate with and assist NRMA in the investigation of any claim or loss submitted to NRMA, including providing such information as the time, place and circumstances of such occurrence and the names and addresses of any witnesses, as well as the verification of employment of any person submitting a claim for a work-related injury or illness.

2.05 Bank Account

NRMA will establish and maintain a bank account for the payment of claims, claim expenses, and other Program expenses at a bank of its choice. State warrants it will maintain a sufficient balance in this bank account to meet or exceed all expected paid claims, claims expenses and other Program expenses.

NRMA will have check drafting authority on said bank account to pay, as required, all medical and indemnity claims, claim expenses, and other Program expenses on check stock specific to the aforementioned account.

NRMA will secure State's approval and pre-funding for any check to be drafted in an amount equal to or greater than \$15,000.

NRMA will monitor daily and reconcile regularly said bank account and alert State to any potential funding deficiency. State will immediately take action to address any such notification.

At no time will NRMA use its own funds to pay claims, allocated loss adjustment expenses, Program expenses or any other expenses of the State. State warrants that it will maintain sufficient funds in the "administrative account" at all times to pay such claims, allocated loss adjustment expenses and Program expenses as they become due. State's failure to do so will be handled in accordance with Section 4.03 herein. Any bank charges resulting from inadequate funding including, but not limited to interest, stop payment charges and overdraft fees shall be the obligation of the State and shall be billed to the State when known, unless such charges are a direct result of negligence of NRMA or its employees or of a failure of NRMA to notify State of a funding deficiency or potential funding deficiency.

Claim expenses include allocated loss adjustment expenses including, but not limited to, legal services and defense costs, independent medical evaluations, photocopy and medical reports, police reports, surveillance, court reporter fees, transcript fees, copies of depositions, expert witness fees, rehabilitation services, and managed care. Program expenses include, but are not limited to, assessments, taxes and audit and actuary fees. It is recognized by NRMA that State is a state government and as such is exempt from taxes under Neb. Rev. Stat. §77-2704.15.

NRMA will provide State with copies of all checks issued, and shall produce an appropriate billing summary report for State.

3.01 Service Fees.

A. The annual claims service fee is \$235,000.

The State will pay the service fee in quarterly installments of \$58,750 each. NRMA shall remit a quarterly invoice to State for the quarterly service fee, 45 days after the beginning of each quarter. Each invoice shall be due and payable by State to NRMA within forty-five (45) days from the date State received the invoice, in accordance with the Nebraska Prompt Payment Act.

B. Should NRMA provide services to State in addition to services included in the annual service fee, as described under Article I, State shall pay fees to NRMA upon NRMA's performance of those additional services at rates negotiated by the parties for such services. Any such service and the associated fee shall be approved by State in writing in advance of performance of the service.

C. In the event of termination of this Agreement for any cause, responsibility of NRMA for State's claims shall cease upon the date termination is effective. State will be responsible for service fees to the last day of the month services are rendered, as well as any and all costs associated with retrieval and/or delivery of claims, claim files and State records to State's location.

3.02 Change in Service Fee. If NRMA's performance under this Agreement is made materially more burdensome or expensive due to a change in federal, state or local laws, rules or

regulations during the term of this Agreement, the parties will negotiate an appropriate adjustment to the fee paid to NRMA. If the parties cannot agree on an adjusted fee within ninety (90) days after NRMA sends written notice to State of the material change and its wish to negotiate an adjusted fee, then NRMA may terminate this Agreement upon ninety (90) days written notice to State.

In addition, NRMA shall have the right to review with State and prospectively adjust the service fees with agreement of State if relevant historical data, including but not limited to claim volume and mix of claims is erroneous, insufficient, or obsolete, or in the event of change in the operations or requirements of Self-Insured which materially changes the scope of services contemplated at the inception of this Agreement.

ARTICLE IV. TERM AND TERMINATION

4.01 **Term.** This Agreement will be in effect for a period of two years beginning July 1, 2012, and can be renewed for two (2) additional two (2)-year periods as mutually agreed upon by the parties.

4.02 **Early Termination by Either Party.** During the term of this Agreement or any period of extension, either party may terminate this Agreement upon the occurrence of any one of the following events and in accordance with the following procedures:

A. Should either party materially breach one or more provisions of this Agreement, the other party may terminate this Agreement by giving written notice stating the reason or reasons for termination.

Either party may, by providing a written notice of default to the breaching party, allow the breaching party to cure a failure or breach of contract within a period of thirty (30) days (or longer at the non-breaching party's discretion considering the gravity and nature of the default). Said notice shall be delivered by Certified Mail, Return Receipt Requested or in person with proof of delivery. Allowing time to cure a failure or breach of contract does not waive the non-breaching party's right to immediately terminate the Agreement for the same or different contract breach which may occur at a different time.

B. This Agreement may also terminate at the option and mutual agreement of the parties upon the execution of an agreement signed by both parties.

C. This Agreement will terminate effective immediately upon the delivery of written notice to the other party in the event of a conviction of a felony by the other party or a judicial or administrative determination of the other party's fraud or dishonesty, provided that such notice shall be given no later than thirty (30) days after the terminating party becomes aware of the conviction or judicial or administrative determination.

- D.** This Agreement will terminate effective immediately upon the delivery of written notice to the other party in the event such other party ceases doing business as a going concern, makes an assignment for the benefit of creditors, admits in writing its inability to pay its debts as they become due, files a voluntary petition in bankruptcy, files a petition seeking for itself any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar arrangement under any present or future statute, law or regulation, or files an answer admitting the material allegations of a petition filed against it in any such proceeding; or such other party consents to or acquiesces in the appointment of a receiver or liquidator of it or all of any substantial part of its assets or property; or such other party or its shareholders take any action looking to dissolution or liquidation; or any order for relief is entered against such other party under the federal bankruptcy laws.
- E.** This Agreement will terminate effective immediately upon the delivery of written notice to the other party at any time which is at least sixty (60) days after the commencement of any proceedings against such other party seeking reorganization, arrangement, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation, if such proceedings have not then been dismissed, or after the appointment without the other party's consent or acquiescence of any receiver or liquidator of it or of all or any substantial part of its assets and properties, if such appointment has not then been vacated.
- F.** Either party, in its sole discretion, may terminate this Agreement for any reason upon 180 days written notice to the other party.
- G.** The State may terminate this Agreement, in whole or in part, in the event funding is no longer available. The State's obligation to pay amounts due for fiscal years following the current fiscal year is contingent upon legislative appropriation of funds for this Agreement. Should said funds not be appropriated, the State may terminate this Agreement with respect to those payments for the fiscal years for which such funds are not appropriated. The State will give NRMA written notice thirty (30) days prior to the effective date of any termination. All obligations of the State to make payments after the termination date will cease. NRMA shall be entitled to receive just and equitable compensation for any authorized work which has been satisfactorily completed as of the termination date. In no event shall the NRMA be paid for a loss of anticipated profit.

4.03 NRMA's Exclusive Rights of Early Termination. NRMA may terminate this Agreement at any time for State's non-payment of fees due and owing NRMA under this Agreement, by giving written notice of default in payment to State, with the exception of non-payment due to Section 4.06 herein. Unless State fully cures its breach of payment terms within forty-five (45) days from the date of the notice of default, this Agreement will automatically terminate. In the event this Agreement terminates by State's failure to cure any payment default, State remains liable to NRMA for all fees due and owing to NRMA up to and including the effective date of termination. In no event shall NRMA be paid for a loss of anticipated

profit.

NRMA also may terminate this Agreement if State fails to adequately fund the bank account balance as described in Section 2.05, provided however, that NRMA immediately notifies the State of any potential funding deficiencies and provides the State a minimum of ten (10) days from such notification to transfer funds into the account. The State will notify NRMA during the ten (10) day period if circumstances exist which would prevent the State from having funds transferred into the account within the ten (10) day period. Should the State notify NRMA of such circumstances, State shall have reasonable additional time to transfer funds into the account. State acknowledges NRMA will make no claims, allocated loss adjustment expense, or other Program payment unless and until the State has sufficient funds in the "administrative account" to pay the same as set forth in Section 2.05 herein.

4.04 Termination by Government Action. This Agreement will terminate upon the effective date of any applicable federal, state or local law, rule or regulation, which nullifies or invalidates any of the services or provisions of this Agreement.

4.05 Procedures on Termination. In the event of termination of this Agreement, all obligations of the parties to this Agreement to each other will cease. NRMA will be paid, as provided in Article II, through the last day services are rendered. NRMA will render a final accounting of State's claims account and return within fifteen (15) days all of the State's claims and financial or other records in the possession of NRMA. NRMA will not be financially responsible for and will not administer any claims existing at the time of termination, unless otherwise agreed in writing by the parties. NRMA will make all records available for State to pickup at NRMA's location, provided that State has satisfied all of its obligations to NRMA, including but not limited to, State's obligation to pay NRMA's service fees. State will be responsible for any costs associated with the delivery of records to State's location.

Upon termination, regardless of the reason for or type of termination, NRMA shall cooperate with the State and any new TPA during the transition to a new TPA. Upon request of the state, NRMA shall provide all state information maintained by NRMA in a time frame agreed upon between the parties. Information provided via tape shall be in a format approved by the State and shall include, but not be limited to file layouts and legends. NRMA shall provide such explanation of the information provided as to facilitate a smooth transition. Payment to NRMA for provision of electronic data shall be as agreed upon by the parties.

4.06 Penalty. In the event that NRMA fails to perform any substantial obligation under this Agreement, the State may withhold all monies due and payable to NRMA, without penalty, until such failure is cured or otherwise adjudicated. If the State acts pursuant to this section to withhold any such monies due and payable to NRMA, it must first provide written notice to NRMA identifying any substantial obligation it asserts NRMA is not performing which serves as the basis for this action and, further, the corrective action it seeks in sufficient detail to give NRMA an opportunity to cure any failure or default within a period of five (5) days. Said notice shall be delivered by Certified Mail, Return Receipt Requested or in person

with proof of delivery.

NRMA is responsible for any penalty assessed to the State which is the result of NRMA's failure to perform any obligation under this Agreement. This includes, but is not limited to assessment of interest and attorney fees. Upon request by the State, NRMA shall also defend State against claims for such penalties and fees.

ARTICLE V. INDEMNIFICATION AND RELEASE

5.01 Mutual Indemnification. NRMA agrees to defend, indemnify, protect, save, and hold harmless State and State's officers and employees from any and all loss, cost, damage or exposure arising from the negligent or willful acts or omissions of NRMA and NRMA's officers, directors, agents and employees.

To the extent allowable by law, State agrees to defend, indemnify, protect, save and hold harmless NRMA and NRMA's officers, directors, agents and employees from any and all loss, cost, damage or exposure arising from the negligent acts or omissions of State and State's employees.

To the extent allowable by law, State will defend, hold harmless and indemnify NRMA and NRMA's officers, directors, agents and employees against any and all claims, liabilities, damages, judgments or expenses, including reasonable attorneys' fees, asserted against, imposed upon or incurred by NRMA that arise: (a) out of the negligence, willful action or dishonesty of State or State's employees; (b) from NRMA's non-negligent fulfilling of its obligations under this Agreement; or c) from NRMA's non-negligent following of State's instructions to NRMA.

ARTICLE VI: INSURANCE REQUIREMENTS

NRMA shall not commence work under this Agreement until all the insurance required hereunder has been obtained and such insurance has been approved by the State. NRMA shall not allow any subcontractor to commence work on his or her subcontract until all similar insurance required of the subcontractor has been obtained and approved by the State (or NRMA). Approval of the insurance by the State shall not limit, relieve or decrease the liability of the NRMA hereunder.

If by the terms of any insurance a mandatory deductible is required, or if NRMA elects to increase the mandatory deductible amount, NRMA shall be responsible for payment of the amount of the deductible in the event of a paid claim.

1. WORKERS' COMPENSATION INSURANCE

NRMA shall take out and maintain during the life of this Agreement the statutory Workers' Compensation and Employer's Liability Insurance for all of the contactors' employees to be engaged in work on the project under this Agreement and, in case any such work is sublet, NRMA shall require the subcontractor similarly to provide Worker's Compensation and Employer's Liability Insurance for all of the subcontractor's employees to be engaged in such work. This policy shall be written to meet the statutory requirements for the state in which the work is to be performed, including Occupational Disease. The amounts of such insurance shall not be less than the limits stated hereinafter.

2. COMMERCIAL GENERAL LIABILITY INSURANCE AND COMMERCIAL AUTOMOBILE LIABILITY INSURANCE

NRMA shall take out and maintain during the life of this Agreement such Commercial General Liability Insurance and Commercial Automobile Liability Insurance as shall protect NRMA and any subcontractor performing work covered by this Agreement from claims for damages for bodily injury, including death, as well as from claims for property damage, which may arise from operations under this Agreement, whether such operation be by NRMA or by any subcontractor or by anyone directly or indirectly employed by either of them, and the amounts of such insurance shall not be less than limits stated hereinafter.

The Commercial General Liability Insurance shall be written on an occurrence basis, and provide Premises/Operations, Products/Completed Operations, Independent Contractors, Personal Injury and Contractual Liability coverage. The policy shall include the State as an Additional Insured. This policy shall be primary, and any insurance or self-insurance carried by the State shall be considered excess and non-contributory. The Commercial Automobile Liability Insurance shall be written to cover all Owned, Non-owned and Hired vehicles.

NRMA shall maintain a blanket fidelity bond in an amount no less than \$1,000,000 with the State named as exclusive beneficiary. Any losses under this Agreement due to employee theft or dishonesty shall be fully repayable to the State. Repayment is due to the State immediately upon discovery of the loss. It shall be NRMA's responsibility to recover these funds and the State shall not be required to wait for repayment during the period of recovery.

3. INSURANCE COVERAGE AMOUNTS REQUIRED

a.	Workers' Compensation and Employer's Liability	
	Coverage A	Statutory
	Coverage B	
	Bodily Injury by Accident	\$100,000 each accident
	Bodily Injury by Disease	\$500,000 policy limit
	Bodily Injury by Disease	\$100,000 each employee
b.	Commercial General Liability	
	General Aggregate	\$2,000,000
	Products/Completed Operations Aggregate	\$2,000,000
	Professional Liability/Errors & Omissions	\$2,000,000
	Crime/Third Party Employee Dishonesty	\$2,000,000
	Personal/Advertising Injury	\$1,000,000 any one person
	Bodily Injury/Property Damage	\$1,000,000 per occurrence
	Fire Damage	\$50,000 any one fire
	Medical Payments	\$5,000 any one person
c.	Commercial Automobile Liability	
	Bodily Injury/Property Damage	\$1,000,000 combined single limit
d.	Umbrella/Excess Liability	
	Over primary insurance	\$1,000,000 per occurrence
e.	Blanket Fidelity Bond	\$1,000,000

EVIDENCE OF COVERAGE

NRMA shall furnish the State with a certificate of insurance coverage, which shall be submitted to the Department of Administrative Services, Risk Management Division at 301 Centennial Mall South, Lincoln, NE 68509-4974 or by facsimile 402-471-2800. These certificates shall include the name of the company, policy numbers, effective dates, dates of expiration and amounts and types of coverage afforded. If the State is damaged by the failure of NRMA to maintain such insurance, then NRMA shall be responsible for all reasonable costs properly attributable thereto.

Notice of cancellation of any required insurance policy must be submitted to the State when issued and a new coverage binder shall be submitted immediately to ensure no break in coverage.

ARTICLE VII. MISCELLANEOUS

- 7.01 **Governing Law.** This Agreement will be governed by the laws of the State of Nebraska. Any legal proceedings against the State of Nebraska shall be brought in accordance with the Contract Claims Act or other appropriate State of Nebraska administrative or judicial forums as defined by State law. NRMA must be in compliance with all Nebraska statutory and regulatory law.
- 7.02 **Entire Agreement.** The terms and provisions contained and referenced herein along with Addendum A constitute the entire Agreement between the parties and supersede any previous communications, representations or Agreements, either oral or written, with respect to the subject matter hereof. This Agreement may not be amended except in a writing signed by both parties.
- 7.03 **Counterparts.** This Agreement may be executed simultaneously in two or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.
- 7.04 **Severability.** If any provisions of this Agreement or application to any party or circumstances shall be determined by any court of competent jurisdiction to be invalid and unenforceable to any extent, the remainder of this Agreement, or the application of such provisions or circumstances other than those as to which it is determined to be invalid or unenforceable shall not be affected thereby, and each provision hereof shall be valid and shall be enforced to the fullest extent permitted by law. The rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.
- 7.05 **Survival.** The provisions of this Agreement regarding Indemnification and Release, Arbitration, and Survival will survive the expiration or termination of this Agreement.
- 7.06 **Sole Claims Administrator.** During the term of this Agreement and except as otherwise agreed to by the parties hereto, State agrees that NRMA shall be the sole claims administrator with respect to State's insurance program and that all new claims under the State's insurance program shall be forwarded to NRMA. State further agrees not to self-administer or adjust any insurance program claims or to forward any such claims to any other service organization or individual without NRMA's prior written consent. Neither compliance with requirements of the State Tort Claims Act nor compliance with requirements of the State Claims Board or Attorney General's Office shall be considered self-administration as that term is utilized in this section. Claims open prior to the effective date of this Agreement will continue to be handled as determined by the State, or as agreed to between NRMA and State under Section 1.03 herein.
- 7.07 **Practice of Law.** State recognizes that NRMA is not providing any legal advice with respect to its activities hereunder, and it is further understood and agreed that NRMA will not perform, and State will not request performance of any services which may constitute

the practice of law.

7.08 Confidentiality of Data. All data furnished by the State, or generated as the result of services performed under this agreement, and other information designated by the State in writing, shall be treated as confidential. NRMA reserves the right to use statistical information or other data, so long as the State's name and/or confidential data are adequately protected. All materials and information provided by the State or acquired by NRMA on behalf of the State shall be regarded as confidential information. All materials and information provided by the State or acquired by NRMA on behalf of the State shall be handled in accordance with Federal and State Law, and ethical standards. NRMA must ensure the confidentiality of such materials or information. All data including medical, financial and personnel information reviewed and collected in connection with this Agreement shall be held in strict confidence and shall not be released, disclosed, or published by NRMA without the written consent of the State. Release to the State or others required to provide a service under this Agreement shall not be a violation of this provision, provided they are informed of the confidentiality obligations herein.

The State shall have the unlimited right to publish, duplicate, use and disclose all information and data developed or derived by NRMA pursuant to this Agreement. NRMA agrees that data contained on tapes, discs, files, batch files, and other records pertinent to the NRMA's services provided to and on behalf of the State are property of the State and must be made capable of separate retrieval and distribution. NRMA must provide for the physical security of all such records and NRMA shall provide to the State written procedures documenting their security, off-site storage, and redundancy of all such records.

7.09 Solicitation of Employees NRMA and the State of Nebraska's Risk Management Division agree that during the term of this Agreement, and for the period of one (1) year thereafter, neither will, without the properly authorized written consent of the other, solicit to hire any employee of the other party who, during the term of this agreement, has performed, or contributed to the performance of, services hereunder. Publication of an advertisement for an open position in Risk Management shall not be considered "solicitation" for the purposes of this section.

7.10 Records Retention. NRMA will retain claim files for 24 months following date of closure. Thereafter, files will be returned to the State or forwarded to such location as may be designated by the State for continued storage, all at State's expense. NRMA will retain hard-copy checks for 24 months following the date of bank clearance. Thereafter, copies of checks may be maintained on microfiche or other electronic means, again at State's expense as subsequently agreed to by the parties. NRMA shall maintain transaction data for ten (10) years after a claim is closed. NRMA shall provide the State with advance written notice prior to disposing of any of State's records or data. Should the State request, NRMA shall continue to provide for the physical security and storage of such records or data until such time that the State can obtain these records from NRMA or such time that the records or data can be forwarded by NRMA to such location as may be designated by the State for

continued storage, as mutually agreed by the parties. Summary data shall be maintained indefinitely or until transferred to the State by written agreement.

7.11 **Regulatory Compliance.** Subject to Section 3.02 of this Agreement, in the event that any federal, state or local legislative or executive body enacts or promulgates legislation or regulation affecting the obligation of the parties under this Agreement, the parties agree to amend this Agreement in order to comply with any such legislation or regulation.

7.12 **Independent Contractor.** NRMA is an independent contractor. Nothing in this Agreement will be construed or deemed to create any other relationship between the parties, including one of employment or joint venture.

It is agreed that nothing contained herein is intended or should be construed in any manner as creating or establishing the relationship of partners between the parties hereto. NRMA represents that it has, or will secure at its own expense, all personnel required to perform the services under this agreement. NRMA's employees and other persons engaged in work or services required by NRMA under this agreement shall have no contractual relationship with the State; they shall not be considered employees of the State.

All claims on behalf of any person arising out of employment or alleged employment (including without limit claims of discrimination against NRMA, its officers or its agents) shall in no way be the responsibility of the State. NRMA will hold the State harmless from any and all such claims. Such personnel or other persons shall not require nor be entitled to any compensation, rights or benefits from the State including without limit, tenure rights, medical and hospital care, sick and vacation leave, severance pay or retirement benefits.

7.13 **No Guarantee.** NRMA shall not be responsible to State for guaranteeing that the overall Program undertaken shall provide a profit, or for the financial solvency or performance of the Program, its investors, its reinsurers or any other stakeholder.

7.14 **No Waiver of Rights.** The failure of any party to insist upon the strict observation or performance of any provision of this Agreement or to exercise any right or remedy will not impair or waive any such right or remedy.

7.15 **Assignment.** This Agreement shall be binding upon and inure to the benefit of the successors of each of the parties hereto, however neither this Agreement nor any rights or obligations hereunder may be assigned, delegated or transferred by either party without the prior written consent of the other party, except that State shall have authority to move the administration of this contract from the Department of Administrative Services Risk Management Division to another division or agency of state government with thirty (30) days notice to NRMA.

7.16 **Force Majeure.** If either party is rendered unable, wholly or in part, by force majeure or any other cause of any kind not reasonably within its control, to perform or comply with any obligations or conditions of this Agreement, upon giving reasonably detailed notice setting

forth such grounds to the other party, the obligations or conditions of this Agreement will be suspended during the continuance of inability to perform and such party will be relieved of all liability for failure to perform the obligations of this Agreement during such period. The term "force majeure" includes, but is not limited to, the following: Acts of God and the public enemy, fires, accidents, break downs, strikes, labor disputes, and any laws, orders, rules, regulations, acts or restraints of any governmental body or authority, civil or military, including any state department of insurance, which detrimentally impair the ability of the parties to this Agreement to perform their obligations, or any other causes beyond control of the parties hereto. Labor disputes with NRMA's own employees will not be considered a "force majeure event" and will not suspend performance requirements under this Agreement.

- 7.17 **Notice.** Unless otherwise specified in this agreement, all notices, certificates or other communications provided for, authorized or required under this Agreement will be sufficiently given and will be deemed given when delivered in person, mailed by certified or registered mail, postage prepaid, with proper address indicated below or when delivered by facsimile or e-mail. NRMA and State may, by written notice given by each to the other, designate any address or addresses to which notices, certificates or other communications to them will be sent when required as contemplated by this Agreement. Until otherwise provided by the respective parties, all notices, certificates and communications to each of them will be addressed as follows:

IF TO NRMA: Craig L. Nelson
 President
 Nebraska Risk Management Association, Inc.
 100 North 12th Street, Suite 200
 Lincoln, NE 68508

IF TO STATE: Shannon Anderson
 State Risk Manager
 Department of Administrative Services
 Risk Management Division
 301 Centennial Mall South
 P.O. Box 94974
 Lincoln, NE 68509-4974

Either party may change its address for notification purposes by giving notice of the change, and setting forth a new address and an effective date.

- 7.18 **Compliance with Civil Rights Law and Equal Opportunity Employment.** NRMA shall comply with all applicable local, State and Federal statutes and regulations regarding civil rights laws and equal opportunity employment. Neither NRMA nor any subcontractors shall discriminate against any employee or applicant for employment, to be employed in the performance of such Agreement, with respect to the employee or applicant's hire, tenure, terms, conditions, or privileges of employment, because of his race, color, religion, sex,

disability, or national origin.

- 7.19 **Conflict of Interest.** NRMA certifies that it shall not take any action or acquire any interest, either directly or indirectly, which will conflict in any manner or degree with the performance of its services hereunder or which creates an actual or appearance of conflict of interest.
- 7.20 **Advertising.** NRMA agrees not to refer to this Agreement in commercial advertising in such a manner as to state or imply that the company or its services are endorsed or preferred by the State. News releases pertaining to this Agreement shall not be issued without the prior written approval of State.
- 7.21 **State Property.** NRMA shall be responsible for the proper care and custody of any State-owned property which is furnished for NRMA's use during the performance of the Agreement. NRMA shall reimburse the State for any loss or damage of such property, normal wear and tear excepted.
- 7.22 **Site Rules and Regulations.** NRMA shall use its best efforts to ensure that its employees, agents and subcontractors comply with site regulations while on State premises.
- 7.23 **Audit Requirements.** All NRMA's books, records and documents relating to work performed or monies received under this Agreement shall be subject to audit at any reasonable time upon the provision of reasonable notice by the State. The State maintains the right to perform financial, performance and other special audits on such records maintained by NRMA through the Agreement period. These records shall be maintained for a period of five (5) full years from the date of final payment, or until all issues related to an audit, litigation or other action are resolved, whichever is longer. All records shall be maintained in accordance with generally accepted accounting principles.

In addition to, and in no way in limitation of any obligation in the Agreement, NRMA shall agree that it will be held liable for any State audit exceptions, and shall return to the State all payments made under the Agreement for which an exception has been taken or which has been disallowed because of such an exception. NRMA agrees to correct immediately any material weakness or condition reported to the state in the course of an audit.

- 7.24 **Inspection and Approval.** Final inspection and approval of all work required under the Agreement shall be performed by the designated State officials. The State and/or its authorized representatives shall have the right to enter any premises where NRMA or subcontractor duties under the Agreement are being performed, and to inspect, monitor or otherwise evaluate the work being performed. All inspections and evaluations shall be at reasonable times and in a manner that will not unreasonably delay work.
- 7.25 **Nebraska Technology Access Standards.** NRMA agrees to ensure compliance with current Nebraska Access Technology Standards. The intent is to ensure that all newly procured information technology equipment; software and services can accommodate

individuals with disabilities.

Information technology products, systems, and services including data, voice, and video technologies, as well as information dissemination methods, will comply with the Nebraska Technology Access Standards. A complete listing of these standards can be found at website <http://www.nitc.state.ne.us/standards/accessibility/> and are part of the State's terms and conditions.

7.26 Drug Free Workplace. NRMA certifies that it maintains a drug free workplace environment to ensure worker safety and workplace integrity. NRMA agrees to provide a copy of its drug free workplace policy at any time upon request by State.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their respective, duly authorized officers.

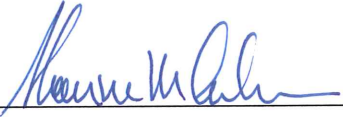
NEBRASKA RISK MANAGEMENT
ASSOCIATION, INC.

By: 

Its: President/Executive Director

Date: JUNE 6, 2012

STATE OF NEBRASKA

By: 

Its: State Risk Manager

Date: JUNE 7, 2012

ADDENDUM A
ADDITIONAL SERVICES AND FEES

In addition to the services and fees outlined in the Claims Service Agreement entered into between the parties, the following additional services will also be provided and for the additional fees specified:

Online Claims Access

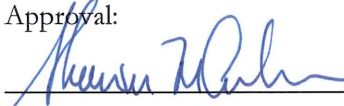
NRMA shall provide all required Riskmaster software for the State Risk Management to have online access to State claims data maintained by NRMA. Access at up to four (4) workstations identified by the State will be provided without additional charge. Installation of any additional work stations beyond this number is subject to NRMA's approval and payment of the then-existing software fee, along with a \$250.00 annual per user support fee, and the State agrees to reimburse NRMA for its payment of this support fee, subject as well to any further changes in that fee made by Riskmaster. However, NRMA will immediately inform State of any changes to the support fee and State's responsibility for payment to NRMA for support fees shall not exceed the actual amount Riskmaster bills to NRMA.

The State is responsible, at its own cost and expense, for supplying each such workstation and any other software or hardware that may be needed for operational purposes. Any NRMA staff time necessary to install this claims software, and provide any necessary training, so long as this time does not exceed 16 hours, is included as part of the annual fee established in 3.01A of the Claims Service Agreement. Not included is any NRMA staff time expended above this level will be charged to and payable by the State at the rate of \$75.00 per hour. Also not included is the set annual fee is any work related to the movement, relocation, or reinstallation of software programs or computers, hardware support, general operating systems support or management, or custom programming. Further, any related work required to be performed by Riskmaster or other outside vendor staff will be performed at their standard labor rates as disclosed and agreed to by the State and will be billed separately to NRMA by Riskmaster and any other involved vendor, and the State will then reimburse NRMA for those costs. All work and the associated costs which are not included in the annual fee will be approved by the State in writing before work begins. State's responsibility for payment to NRMA for related work performed by Riskmaster or other outside vendor staff shall not exceed the actual amount billed to NRMA.

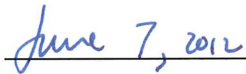
ADDITIONAL SERVICE TERMS AND CONDITIONS:

BILLING AND PAYMENT TERMS:

Invoices for payments must be submitted by NRMA with sufficient detail to support payment. Fees are payable within forty-five (45) days of receipt of invoice in accordance with Nebraska's Prompt Payment Act, Neb.Rev.Stat §§ 81-2401 to 81-2408, as amended. NRMA reserves the right to charge interest in accordance with the Nebraska Prompt Payment Act on balances not paid in full within forty-five days of receipt of invoice by the State.

Approval:  State of Nebraska

 NRMA

Date:  June 7, 2012

 June 6, 2012