

## **SERVICE AGREEMENT BETWEEN JERRY WHORTON, LLC, AND THE CITY OF BROKEN ARROW**

This contract is made on July 1, 2017 between **City of Broken Arrow (COBA)**, an **Oklahoma Municipal Corporation** and **Jerry Whorton LLC, dba Consolidated Benefits Resources (CBR)**.

### **Recitals:**

- COBA desires to retain CBR to provide services for workers' compensation claims administration.
- CBR conducts and operates a claims management program for the prevention, investigation, processing, accounting and payment of workers' compensation claims.

**IN CONSIDERATION** of the following terms and provisions, COBA and CBR agree regarding those claims subject to Oklahoma Workers' Laws resulting on; or open after July 1, 2017, as follows:

### **CBR Agrees To:**

- Provide a workers' compensation claims management program in accordance with the highest standards of its profession and CBR's usual and customary practices including, but not limited to:
- Compliance with COBA's claim requests during the life of the contract.
- Preparation and/or assistance with the filing of the Oklahoma MITF quarterly reports, the Oklahoma MITF annual reports, and Oklahoma Workers' Compensation Commission renewal.
- Approve and pay medical bills in accordance with the applicable Oklahoma Workers' Compensation statutes or by any other criteria as negotiated by COBA (whichever is less).
- Provide copies of documentation designating CBR's Oklahoma licensed adjusters upon request.
- Attend scheduled meetings with representatives of COBA to review and discuss claims and loss prevention strategies.
- Coordinate receipt of information and reports with outside medical providers in support or denial of an alleged injury.
- Investigate all submitted claims to determine validity in establishing that temporary total disability exists and make payment on a weekly basis.
- Determine validity and make payment of all Permanent Partial Disability (PPD), Permanent Total Disability (PTD), Vocational Rehabilitation, Taxes, Fees, and any other costs or benefits due under the statutes.
- Develop work related injury claim files after receipt of the First Notice of Injury.
- During the term of the Contract, and any extensions or renewals of the Contract, maintain in good standing its permit issued by the Oklahoma Workers' Compensation Commission to act as a servicing organization.
- Generate at least monthly unit or participant loss analysis reports with Plan totals to reflect:
  - Medical and indemnity payments
  - Reserves
  - Litigation status

- Expense reconciliation
- Alphabetical claimant listing
- Maintain insurance coverage which reflects the following:
  - Statutory workers' Compensation
  - \$1 million errors and omissions
  - \$500,000 fidelity bond or employee dishonesty policy
  - \$1 million Combined single limit of general liability, owned automobiles, non-owned automobiles, or hired automobiles.
- Medical management assignments will be jointly approved by COBA and CBR's claim supervisor prior to issuance. Said assignments will be issued on serious injuries when such professional management dictates, and when such cost will be accepted and approved by COBA.
- Obtain recorded statements and/or personal interviews of all new reports of injury that are questioned by participants or questionable in the view of CBR with regard to Compensability.
- Process all bills for payment and notify adverse party as to the amount of the claim.
- Provide assistance in protecting the subrogation rights of COBA.
- Coordinate Legal defense with outside attorney selected by COBA.
- Coordinate Excess Insurance filings for COBA. These filings include: file quarterly loss data reports, notify and coordinate claims that penetrate the SIR or Aggregate layer, file necessary reports to obtain claim reimbursement from the Excess Carrier and remit reimbursements to COBA.
- Submit data pursuant to Medicare Section 111 on behalf of COBA.
- Submit applicable data to the Insurance Services Office on behalf of COBA
- Submit applicable data to the Oklahoma Workers' Compensation Commission on behalf of COBA

**COBA Agrees To:**

- Provide appropriate personnel to coordinate workers' Compensation claims between CBR and COBA.
- Authorize settlements when warranted. Provide settlement authority to CBR within an amount to be determined by COBA.
- Choose legal representative and pay all legal fees directly related to each claim file if such fees are generated and approved by COBA.
- File all CC-Form 2's with CBR within 1 day of the date COBA was notified of the injury, or as soon as practicable.
- File all CC-Form 2's that result in Lost Time, with the Workers' Compensation Commission within 10 days of the date COBA was notified of the injury.
- Timely fund claims payment account.

**Service Fees:**

In consideration of the services outlined in this contract, the service fees will be as follows:

See Attachment "A".

**Terms and Cancellation Rights:**

The contract is considered to be a "life of contract" in that should the contract terminate, CBR's role and services cease. If open claims remain when the contract has terminated and these claims require professional services after the termination of the contract, CBR's services can be extended beyond the termination date if mutually agreed upon by both parties. Service fees for an extension are also subject to mutual agreement by both parties.

The term of this contract shall remain in force and effect for a period from July 1, 2017 through June 30, 2018.

In the event COBA files for Chapter 7 or Chapter 11 bankruptcy protection, or loses/surrenders its permit to self-insure in Oklahoma, this contract will terminate 30 days after date of filing of bankruptcy, or ending date of the Oklahoma self-insurance permit. CBR's services can be extended beyond this contract termination date if mutually agreed upon by both parties.

In the event COBA deems that CBR is not performing its services in the industry's usual and customary manner, COBA will give CBR written notice by certified mail specifying the manner in which COBA deems that CBR has failed to perform its services. CBR shall have 60 days from receipt of notice in which to correct defects in its performance. If the defects are not corrected, COBA may cancel this contract on 60 days written notice to CBR. Likewise, CBR may cancel this contract with 60 days' notice to COBA if COBA fails to perform any material obligation under this Contract and COBA fails to correct defects of their performance obligations.

Either party may cancel this contract without cause upon (60) sixty days' notice of the other party's receipt of written notice of cancellation.

**Complete Agreement:**

This contract supersedes all prior understandings between the parties and may only be modified by further written agreement signed by the parties hereto.

**Severability:**

Each of the provisions of this contract shall be enforceable independently of any other provision of this contract and independent of any other claim or cause of action.

**Assignment:**

This Contract may not be assigned by CBR without the express written approval of COBA.

**Records:**

All records, of any kind, relating to this Contract or to claims received, reviewed, processed or paid, shall be the property of COBA and shall be available for inspection or audit by COBA at any time. Upon termination or cancellation of this Agreement, all such records shall be held in trust by CBR for 6 months following the last

transaction arising under this Agreement, unless demand for possession of any or all such records is made by COBA whereupon any or all such records shall be immediately delivered by CBR to COBA.

**Hold Harmless Agreement**

CBR agrees to indemnify and hold harmless COBA from any and all liability, loss or damage that COBA may suffer as a result of claims, demands, costs or judgments against COBA arising from services performed by CBR as contemplated in this contract.

**Signatures:**

**Governing Law:**

This Agreement shall be governed by and construed in accordance with the laws of the State of Oklahoma without regard to the conflicts of laws or rules of any jurisdiction. The proper venue for any disputes arising hereunder shall be Tulsa County, Oklahoma.

This contract is offered for execution jointly by COBA and CBR.

**City of Broken Arrow (COBA)**

By \_\_\_\_\_  
Date

**Approved as to form:**

\_\_\_\_\_  
Assistant City Attorney

**Consolidated Benefits Resources (CBR)**

By \_\_\_\_\_  
Jerry Whorton Date

## **Attachment “A”**

### **Pricing for Contract Period July 1, 2017 through June 30, 2018**

#### **Annual Fee:**

During the term of the contract, CBR will charge an annual fee of \$70,000 to be billed monthly at \$5,833.33. This fee is valid for the first 120 Medical, Lost Time, and Litigated claims incurred during the contract year. For a contract year that exceeds 120 claims, a fee of \$600 per additional claim will be billed at the end of the year. This fee is guaranteed for an additional two (2) contract periods.

#### **Take-over of existing claims fee:**

After CBR gains possession of the claims, CBR will close as many claims as possible. For those claims still open after CBR has had possession of the claims for 90 days, CBR will charge a one-time fee of \$250 per claim.

#### **Data Conversion Fee:**

If the existing claims data is in a common data format, CBR should be able to internally convert the existing claims data without the use of the SIMS Claims System outside programmers. CBR will charge \$1,750 for this conversion.

#### **Attendance at Court/Commission hearings and mediations:**

CBR will bill \$75 per hour for attendance at a required hearing or mediation.