

**CLAIMS SERVICE AGREEMENT
Self Insured/Two Party**

This CLAIMS SERVICE AGREEMENT ("Agreement") is made by and between NovaPro Risk Solutions, LP, a Georgia limited partnership with its principal office located at 401 West A Street, Suite 1400, San Diego, CA 92101 ("NovaPro"), and Fort Bend County, a body corporate and politic under the laws of the State of Texas, with its principal office located 301 Jackson Street, Richmond, TX 77469 (Client").

WITNESSETH

WHEREAS, the Client wishes to retain the services of NovaPro to provide Claims Management and related services as defined in Section 3, for its Self-Insured Workers' Compensation and Liability programs and desires to have NovaPro provide specific services in connection with such claims program, and

WHEREAS, NovaPro is willing to provide such services on the terms and conditions hereinafter stated, and

NOW THEREFORE, in consideration of the promises and the mutual covenants contained herein, the parties agree as follows:

Section 1. Definitions

As used in this Agreement, the following terms shall have the meanings ascribed to them in this Section 1.

1.1 Allocated Loss Adjustment Expenses. The following costs and expenses incurred and/or paid by NovaPro on Client's behalf in connection with the investigation, adjustment, settlement or defense of a particular Claim: Field Claims Services performed by NovaPro field office personnel or other third-parties, attorneys fees, court costs, and service of process expenses; charges for copies of police reports and other public records; medical evaluation fees; laboratory fees; expert witness fees; certified mail and courier expenses; subrogation and collection expenses; charges for credit bureau reports; photograph costs; costs for providing filing with Index Bureau, NATB or PILR, or other regulatory filing; ~~charges for bank service fees, check stock printing costs;~~ charges and fees for medical cost containment services such as utilization review, pre-admission authorization, hospital and provider bill audits and medical case management; travel costs and associated service fees for off-site meetings, settlement conferences, depositions, hearings and similar appearances necessary or appropriate to protect the interests of Client. Allocated Loss Adjustment Expenses shall not include Claims Management Fees payable to NovaPro as described in Section 2 nor the salaries, wages, or benefits paid to NovaPro's employees or offices and other overhead expenses associated with the performance of Claims Management Services by NovaPro hereunder.

1.2 Authority Limit. The term “Authority Limit” shall mean the limit of NovaPro’s authority established by Client in the Client Special Instructions for the administration, settlement, reserving and payment of Claims as described in Section 3.1.

1.3 Claim Loss and Expense Payment Account. A separate bank account is to be established for the purposes of paying Claims and related loss adjustment and other expenses.

1.4 Claims Management Services. Shall mean those services described in Section 3 herein.

1.5 Client Special Instructions. A written document signed by Client’s Director of Risk Management providing instructions to NovaPro on matters specified in this Agreement. Instructions may need to be modified to adapt to changes in mandates, thus this document will be reviewed jointly by the Client and NovaPro every 90 days and the most current version will be referred to in case of disputes.

1.6 Inception Date. The Inception date of this Agreement shall be 12:01 AM October 1, 2011.

1.7 Claim. Shall mean an occurrence or event reported to NovaPro where reserves are established or where payment is requested.

- a) An Indemnity claim is any claim that does not meet the criteria for a Medical Only claim.
- b) A Medical Only is an accepted, uncontested, allowable claim, with no potential subrogation, litigation, expected permanency, investigation, SIU or vocational issues, and no weekly indemnification.

1.8 Incident. Shall mean an occurrence or event reported to NovaPro for database entry only and where no claim technical activity is incurred.

1.9 Term of Agreement. The term of the Agreement shall commence on the Inception Date and continue until 11:59 PM September 30, 2014, with two 1-year options to renew. This contract may be terminated earlier as provided in Section 10 herein.

Section 2. Scope & Terms of NovaPro Service Obligations

2.1 Scope and Term of Service Obligations. Commencing on the Inception Date, Claims Management Services, Field Claims Services (as defined in 4.1) and other services as specified shall be performed by NovaPro hereunder with respect to all Claims with dates of loss falling under the effective dates of this Agreement. NovaPro shall have no obligation whatsoever to perform any services hereunder other than as specifically set forth herein.

2.2 Payment Terms. All uncontested sums due hereunder shall be paid by delivery of Client's check, or wire transfer to NovaPro's offices located at the address set forth herein within thirty (30) days following the receipt of invoice.

Section 3. Claims Management Services

3.1 Authority Limit. NovaPro will promptly notify Client in writing of any Claim which, in NovaPro's opinion, is reasonably expected to result in settlement payments to claimant, excluding administration, adjusting, defense and other costs and expenses.

3.2. Claims Management Services - Defined. NovaPro shall perform the following services ("Claims Management Services") and represents the Claims Management Services are in compliance with applicable law and regulations and in accordance with the highest industry standard practices and procedures with respect to serviced Claims during the Term hereof:

(a) Record, examine and report each Claim to Client, as well as any reserve established therefore by NovaPro.

(b) Maintain a Claim file for each Claim containing, among other things, documentation, which shall clearly show all file activity.

(c) Perform reasonable and necessary adjusting and clerical work in connection with Claims, including, without limitation, the following:

(i) Investigate all Claims according to NovaPro best practice standards and according to those standards as set by Client in the Client Special Instructions document. Investigation to be conducted with the engagement of NovaPro branch office personnel to perform Field Claims Services as defined in Section 4(ii) Evaluate any coverage issues in connection with the Claims and refer same to Client or counsel designated by Client with NovaPro's preliminary coverage assessment. Unless NovaPro is expressly directed by Client to do so, Client shall have the sole authority to issue written communications to third parties reserving Client's rights or denying coverage for any Claim.

(iii) Establish appropriate reserves for all Claims.

(iv) Incur and pay Allocated Loss Adjustment Expenses and other loss payments on behalf of Client according to approval and payment procedures to be established in writing with NovaPro's concurrence.

(v) Adjust, handle, or settle Claims in accordance with applicable law, the terms of this Agreement (to include those directions provided in Client Special Instructions), and industry standards.

(vi) Prepare and transmit checks, vouchers, and appropriate compromise agreements, releases, and other documents necessary or desirable to settle or otherwise close out Claims, as necessary, utilizing mutually agreed upon Claim disbursement, checking and coding procedures.

(vii) Provide monthly account reconciliation to the Client, along with a copy of the bank statement.

(viii) Provide Client with periodic (at least monthly) reports reflecting Claims activity as more specifically set forth in Section 5.1 herein.

(ix) Record and report to Client all indemnity, Allocated Loss Adjustment Expenses, and other charges and expenses paid or incurred.

(d) Where NovaPro has issued payments, prepare and forward Client's required federal and state 1099 filings and prepare and distribute 1099 Forms to all applicable payees pertaining to Claims administered by NovaPro under this Agreement.

(e) Provide excess insurers such reports as they may reasonably require within specific excess coverage reporting requirements. In order to accomplish such reporting, Client agrees to advise NovaPro on a timely basis of all pertinent excess insurance reporting requirements and/or reporting modifications for all annual periods for which claim administration services are provided.

(f) Report suspected fraud.

(g) Report and account for any such salvage, subrogation, special or second injury fund recovery and contribution collection.

(h) Promptly notify and consult with Client with respect to the following as provided in Client Special Instructions:

(i) Any Claim resulting in a lawsuit being instituted against NovaPro, or Client.

(ii) Any complaint being filed with, or any inquiry from, any insurance department or other regulatory authority relating to any Claim.

(iii) Any Claim within which NovaPro has identified potential grounds for denial of coverage or liability.

(iv) Any Claim NovaPro anticipates will result in loss payments in excess of threshold amounts established by Client by written notice to NovaPro.

(v) Any Claim that is open longer than a threshold period established by Client from time to time in writing or which involves allegations or injuries of a type or nature specified by Client, in writing.

Section 4. Field Claims Services

4.1 Field Claims Services - Defined. NovaPro may engage its own branch office staff and/or other qualified entities (with concurrence of Client) to perform the following services (hereinafter “Field Claims Services”) with respect to Claims. Such services shall include, but shall not be limited to: field investigations; witness interviews and summaries; appearance at hearings, administrative proceedings, depositions, settlement conferences and similar proceedings, and the preparation and transmittal of written reports and other functions related thereto. All such services shall be performed in compliance with applicable law and in accordance with industry practices and procedures.

Section 5. Reporting

5.1 Standard Claims Reports. NovaPro shall provide monthly and/or other periodic Claims reports as described in Schedule 2 (“Standard Claims Reporting”), attached herein.

5.2 Custom Claims Reports. If requested by Client, NovaPro shall exert its best efforts to develop custom Claims reports in accordance with written specifications provided by Client. Custom report development and programming shall be performed by NovaPro at its then current hourly billing rate for such services. Fees for such services shall be invoiced to Client upon completion and delivery to Client of each requested custom report. Uncontested Invoices shall be due and payable in full within thirty (30) days following the receipt of invoice . Each special or custom report developed by NovaPro hereunder may be added to Client’s Standard Claims Reports for the payment of an additional fee to be negotiated between the parties.

Section 6. Claims Files

6.1 Claims Files Retention. Closed files retained by NovaPro shall be preserved from the date of the last file activity for not more than the period of time required by the applicable insurance department or other regulatory body, or returned to owner at an earlier date at owner request. At the end of such period, NovaPro, at the expense of Client, shall return the closed file to owner in accordance with reasonable written instructions provided by owner.

6.2 File Audit Rights. All Claims files and records regarding the administration of Claims pursuant to this Agreement, including the financial records relating to the Claim Loss and Expense Payment Account and the payment of Claims and Allocated Loss Adjustment Expenses are owned by Client and may be audited, examined, and copied by Client, or its' representatives, or any state insurance department or other regulatory body that so requires, during normal business hours and upon reasonable notice. Client Agrees to provide to NovaPro the source documents, reports, memos and all other results of any and all audits, quality reviews or other performance assessments within one month of completion of the final written document referred to in this sentence.

6.3 Confidentiality. NovaPro shall take reasonable measures to maintain the confidentiality of the contents of Claims files and all data supplied to or developed by NovaPro relating to the Claims administered under this Agreement. NovaPro agrees it shall not disclose such data without the prior written consent of Client, or as otherwise expressly permitted by the terms of this Agreement except as may be required by any rule, regulation or authority. NovaPro acknowledges that Client and this Agreement are subject to the Texas Public Information Act and to the extent allowed by law this entire Agreement shall additionally be held in confidence by both parties and shall not be copied, described, or related in part or in whole by either party to a third party without prior written permission of the other party to this Agreement.

Section 7. Claim Loss and Expense Payment Account

7.1 Claim Loss and Expense Payment Account. As soon as possible following the Inception Date, a Claim Loss and Expense Payment Account shall be established by Client for the purpose of making Claims indemnity and Allocated Loss Adjustment Expense Payments. Unless otherwise agreed in writing by NovaPro, Client shall solely, and timely, fund the Claim Loss and Expense Payment Account in sixty thousand dollars (\$60,000.00), subject to change with concurrence of Client and NovaPro, and shall continue to maintain such funding level during the term of this Agreement. Any interest that may accrue on this account is for the benefit of the Client. NovaPro shall regularly provide information and estimates to Client to enable Client to adequately fund the Claim Loss and Expense Payment Account.

7.2 Recoveries. Any sums collected by NovaPro for salvage, subrogation, second or special injury fund recovery, deductible payment or contribution shall be

deposited in the Claim Loss and Expense Payment Account (if such an account has been established) or returned directly to Client as desired.

Section 8. Insurance, Licensing and Regulatory Matters

8.1 Insurance. At all times during the Term of Agreement, NovaPro shall maintain the insurance coverages listed in this section. Such insurance shall be written on Insurance Services Offices approved occurrence form. If any insurance coverage required is written on a "claims made" form rather than on an "occurrence" form shall (i) provide full prior acts coverage or have a retroactive date effective before the date of this Agreement, and (ii) be maintained for a period of at least three (3) years following the end of the term of this Agreement or contain a comparable "extended discovery" clause. All policies of insurance shall be issued by insurance companies currently rated A- or better by A.M. Best Company.

- a) Commercial General Liability Insurance with a limit of not less than \$1,000,000 each occurrence.
- b) Errors & Omissions Insurance providing coverage for all Claims Management Services performed by NovaPro in connection with this Agreement.
- c) Business Auto Liability Insurance. Automobile liability and property damage insurance covering all owned, non-owned and hired vehicles insuring against liability for bodily injury and death and for property damage in an amount not less than \$1,000,000 per occurrence.
- d) Workers' Compensation Insurance covering NovaPro employees as required by law with employers' liability insurance of not less than \$1,000,000 per occurrence and in the aggregate. NovaPro shall provide certificates of insurance which shall evidence all insurance required and provide that such insurance shall not be canceled, except on 30 days prior written notice to Fort Bend County. All Liability insurance policies shall name Fort Bend County as an additional insured.

The Workers' Compensation and Liability Insurance carriers shall grant a waiver of subrogation in the favor of Fort Bend County.

8.2 Licensing. NovaPro agrees at all times during the Term of Agreement, NovaPro, or its approved subcontractors engaged to perform services hereunder, shall maintain all requisite licenses and permits to perform the Claims Management Services in the jurisdiction(s) in which such services are to be performed under this Agreement.

8.3 Compliance. NovaPro shall at all times during the Term comply with all laws and regulations applicable to the performance of its obligations hereunder.

Section 9. Indemnification

9.1 NovaPro's Indemnification Obligation. NovaPro agrees to indemnify Client for all damages which Client may become liable to pay on any negligent or willful act or omission of NovaPro or any agent, servant, employee, representative, director, officer, shareholder, owner, successor, or assign of NovaPro and arising out of or incidental to the performance of any operation, activity, or obligation by NovaPro under this Agreement, including any and all reasonable and necessary attorney's fees and costs under this indemnity.

a) acts of NovaPro performed in bad faith or failures to act occurring as a result of NovaPro's negligence resulting in a breach of NovaPro's duties and obligations under this Agreement; or

b) acts of NovaPro which exceed the authority granted to it by Client under this Agreement; or

c) acts or failures to act of NovaPro which are not in compliance with lawful written instructions issued by Client to NovaPro provided such instructions are consistent with the scope, objectives and terms of this Agreement.

9. Survival of Obligations. The obligations of the parties set forth in this Section 9 shall survive termination of this Agreement.

Section 10. Term of Agreement

10.1 Voluntary Termination. This Agreement may be terminated at any time by either party, without cause, by giving the other party not less than sixty (60) days prior written notice of such termination.

10.2 Termination for Cause. This Agreement shall terminate at the election of Client or NovaPro if the other party breaches any material provision of this Agreement and fails to cure such breach within ten (10) business days after written notice thereof is given to the party, or in the event the breach is not capable of being cured within such ten (10) business day period, the breaching party has not commenced good faith efforts to cure such default within ten (10) business days and continued thereafter in good faith to diligently pursue the completion of such cure. Failure of Client to comply with Section 2.3 Payment Terms shall qualify as cause under this Section.

10.3 Procedures Upon Termination. Client shall, upon written notice to NovaPro, have the option to transfer control of all open and closed Claims. In such event, NovaPro shall cooperate fully with Client to effect an orderly transfer of Claim files, at Client's expense, to new third party adjuster, the owner or its representative. Upon

transfer of the files, NovaPro shall be relieved from any further obligation to provide services hereunder. The Client shall pay full fees to NovaPro for claims administered up to the date of Termination.

Section 11. Notices

All notices, requests, demands and other communications hereunder must be in writing (including email or facsimile transmission) and shall be deemed to have been duly given when received if delivered by hand, sent by email or facsimile transmission or by overnight courier providing delivery confirmation or mailed by first-class, registered or certified mail, return receipt requested, postage and fees prepaid, and addressed as follows: (or to such other address as any party shall designate in a written notice to the other parties hereto):

If to NovaPro: NovaPro Risk Solutions, LP
Attention: Rebecca Forbes
Compliance Manager
401 West A Street, Suite 1400
San Diego, California 92101
Tel: 619-557-2777
Fax: 619-557-2767

With copy to: NovaPro Risk Solutions, LP
Attention: Helana Barmore
10210 North Central Expressway, Suite 500
Dallas, TX 75231
Tel: 214-688-1992
Fax: 214-631-8195

If to Client: Fort Bend County
Office of Risk Management
Attention: Wyatt O. Scott
Director of Risk Management
301 Jackson Street
Richmond, TX 77469
Tel: 281-341-8630
Fax: 281-341-3751

If to Broker: Arthur J. Gallagher & Co.
Attention: Cyndi Boehle
Area Sr. Vice President
14241 Dallas Pkwy, #300
Dallas, TX 75254
Tel: 972-663-6126
Fax: 972-991-4061
Cyndi_Boehle@ajg.com

Section 12. Miscellaneous

12.1 Governing Law. This Agreement shall be construed and enforced in accordance with and governed by the laws of the State of Texas with venue in the state courts in Fort Bend County or federal courts in the Southern District of Texas.

12.2 Amendments, Etc. Neither this Agreement nor any of the terms hereof may be amended, changed, waived, discharged or terminated except by an instrument in writing signed by both of the parties hereto.

12.3 No Waiver. No delay on the part of any party hereto in exercising any right, power or privilege hereunder shall operate as a waiver thereof; nor shall any waiver on the part of any party hereto of any such right, power or privilege, or any single or partial exercise of any such right, power or privilege, preclude any further exercise thereof or the exercise of any other right, power or privilege.

12.4 Severability. If any part of this Agreement is contrary to, prohibited by or deemed invalid under, any applicable law of any jurisdiction, then such provision shall, as to such jurisdiction, be inapplicable and deemed omitted to the extent so contrary, prohibited or invalid, without invalidating the remainder hereof or affecting the validity or enforceability of such provision in any other jurisdiction.

12.5 Independent Contractor. At all times during the term of this Agreement, NovaPro shall be deemed to be an independent contractor to Client acting in the capacity as Client's agent subject to the limited authority granted herein. Nothing contained in this Agreement shall be deemed to create the relationship of employer and employee, partners, or joint venturers between Client and NovaPro. NovaPro shall not act as an insurer, nor shall it be ultimately financially responsible for payment or satisfaction of Claims or causes of action against Client.

12.6 Current Law & Regulation. This Agreement is entered into with the understanding that existing Federal, State or other jurisdictional regulations will remain in effect for the duration of this Agreement. Client agrees that should administrative or other costs of service provided hereunder be substantially increased as a result of modifications in existing law, enactment of new legislation, or promulgation of new administrative guidelines, NovaPro service fees may be renegotiated during the Agreement term. If revised fee agreements cannot be reached, NovaPro may terminate this Agreement, at its option, after thirty (30) days written notice to Client.

12.7 Counterparts. This Agreement may be executed simultaneously in two counterparts, each of which when so executed and delivered shall be deemed an original, but both of which together shall constitute one and the same instrument, and all signatures need not appear on any one counterpart.

13. Standard Claims Reporting

Monthly Loss Runs will be send via email or CD-Rom (2 sets). Required Reports as specified in the version of Client Special Instructions on the date when agreement is signed. Any additional report requests will be implemented on a case-by-case basis after Client approval of development estimate at prevailing rates.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the dates set forth below.

“NovaPro”

NovaPro Risk Solutions, LP, a Georgia limited partnership

By: Tom Turbyll Date: 9/20/11
Printed Name: Tom Turbyll
Title: Controller

“Client”

By: Robert Hebert Date: 10-31-2011
Printed Name: Robert Hebert Approved by Commissioners Court
Title: County Judge on 9-27-2011

**SCHEDULE 1
Fee Schedule**

	Fee per Claim	Flat Fee	Fee per Hour	Life of File	Life of Contract	Per Bill	T/E Mileage	Estimate of number of claims
State your guaranteed annual flat fee: Life of Contract - \$66,000								
Subrogation for Property Damage	Included							
Subrogation for Workers' Compensation	Included							
Subrogation for GL / AL	Included							
Attending TDI Hearings	Included							
Data Conversion	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
On-Line Computer Services	Included							
RMIS System and Services - Annual Administration Fee	All other access included in claim fees. \$150.00/hr custom report development							
Run-Off Costs (transition to another TPA at termination)	N/A							
Run IN costs (takeover from incumbent TPA)	N/A							
Field Services / Investigation	N/A						\$65.00	
Designated Doctor Review	Varies according to claim severity. Minimum is \$350.00 per review.							
RME Coordination								
Hospital Bill Audit	Pricing to be negotiated							
Physician Peer-Review	\$90.00 per bill							
Chiropractic Peer Review	\$125.00 per bill (Argus)							
Pre-Authorization	\$125.00 per bill, excluding Physician services. (Argus)							
Utilization Review	\$125.00 per bill, excluding Physician services. (Argus)							
Medical/Rx Bill Audits	\$6.50 per bill (Argus)							
Use of PPO Networks	N/A							
Rehabilitation Services	Not Offered							
Vocational Case Management	Not Offered							
Impairment Rating Review	Varies according to claim severity. Minimum is \$350.00 per review.							

Other Charges/Fees - Claims	
Explanation: Pricing does not include: <ul style="list-style-type: none"> • Allocated Loss Adjustment Expenses (ALAE) • RMIS Expenses as noted below. • Bill Review and Medical Cost Containment • Handling of potential bad faith and coverage disputes. The Client shall pay NovaPro for time and expense on file handling related to bad faith and coverage disputes. It is understood that NovaPro's activities are limited to assisting Client in the defense of these disputes 	
Other Charges/Fees: Allocated Loss Adjustment Expenses (ALAE)	
Explanation: The fee proposal submitted does not include allocated expenses, which are paid off of the claim file. Examples include, but are not limited to, the following. <ul style="list-style-type: none"> • fees to attorneys for claims in suit and for representation at hearings or pre-trial conferences; all court costs, court fees and court expenses; • fees for service of process; • costs of undercover operative and detective services; • costs for employing experts for the preparation of maps, professional photographs, accounting, chemical or physical analysis, diagrams and any other type of expert used in the preparation of litigation and used on a one-time basis to resolve disputes; • costs for employing experts for their advice, opinions, or testimony concerning claims under investigation or in litigation • costs for independent medical examinations and bill review, evaluations for rehabilitation (vocational or physical), pre-certification activities, utilization reviews and other medical cost containment measures to determine the extent of the 	
Other Charges/ Fees: DWC Reporting	
Explanation: included currently but subject to change when mandatory E-Billing Law goes into effect	
Other Charges/Fees	
Explanation:	
Do you require any deposits? <u>N</u> If yes, please explain purpose and dollar amounts:	
Does your proposal offer multi year pricing? <u>Y</u> If yes, explain how long pricing is in effect: <u>2 years</u>	
Name/Signature	
Company/Agency	

“NovaPro”
NovaPro Risk Solutions, LP, a Georgia limited partnership

By: Ton: Turbyll Date: 9/20/11
Printed Name: Ton: Turbyll
Title: Controller

“Client”

By: Robert Hebert Date: 10-31-2011
Printed Name: Robert Hebert Approved by Commissioners Court
Title: County Judge on 9-27-2011

**STATE OF TEXAS
COUNTY OF FORT BEND**

**ADDENDUM TO
CLAIMS SERVICE AGREEMENT EFFECTIVE OCTOBER 1, 2011**

THIS ADDENDUM is made and entered into by and between the Fort Bend County, a body corporate and politic under the laws of the State of Texas, acting herein by and through its Purchasing Agent according to Texas Local Government Code §262.011(d), hereinafter "County," and NOVAPRO RISK SOLUTIONS LP, hereinafter referred to as "Contractor," authorized to conduct business in the State of Texas.

WHEREAS, the parties have executed and accepted that certain CLAIMS SERVICE AGREEMENT effective October 1, 2011; and

WHEREAS, the following changes are incorporated as if a part of the original Agreement incorporated by reference in the same as if fully set forth verbatim herein:

1. The Parties expressly understood and agreed that this Agreement shall continue in full force for the Initial Term which begins October 1, 2011, and terminates September 30, 2012 unless earlier terminated by the Parties pursuant to the terms of this Agreement.
2. Unless sooner terminated pursuant to the terms of this Agreement, and upon approval of funding by the Commissioners Court during the budget process relating to any Renewal Term, this Agreement shall automatically renew on October 1, 2012, for an additional one-year term, and each successive October 1 for up to an additional four (4) years. The exercise of any option to renew under this provision shall be with the understanding that all terms and conditions, including the negotiated rates, remain unchanged and in full force and effect, unless this Agreement is specifically amended pursuant to Section 12.2 of this Agreement to make any changes in those terms. Non-competitive renewal shall be based upon the Contractor's positive performance and County's continuing need for the services.
3. County agrees to pay NovaPro Risk Solutions, LP., an annual sum not-to-exceed sixty six thousand dollars (\$66,000.00) for services provided under the Agreement.
4. County will pay Contractor within thirty (30) days of receipt of approved quarterly invoices. Pursuant to § 2251.021, Texas Government Code, a payment by a governmental entity is overdue on the 31st day after payment is due and pursuant to § 2251.025, Texas Government Code, an overdue payment bears interest set by that law. Therefore, all provisions to the contrary, particularly as contained in paragraph 2.3 or elsewhere, are hereby deleted.
5. It is expressly understood and agreed that in the event no funds or insufficient funds are appropriated by Fort Bend County under this Agreement, Fort Bend County shall notify all necessary parties that this Agreement shall thereafter terminate and be null and void on the last day of the fiscal period for which appropriations were made without penalty, liability or expense to Fort Bend County.
6. It is expressly understood and agreed that County has available the total maximum sum of funds hereinafter certified available by the County Auditor of Fort Bend County for the purpose of satisfying County's obligations under the terms and

provisions of this Agreement; that notwithstanding anything to the contrary, or that may be construed to the contrary, the liability of County as to payment under the terms and provisions of this Agreement is limited to this sum, plus additional amounts of funds from time to time certified available pursuant to Sections 111.061 through 111.073 of the Local Government Code, as amended, for the purpose of satisfying County's obligations under the terms and provisions of this Agreement; and that when and if all the funds so certified are expended for the purpose of satisfying County's obligations under the terms and provisions of this Agreement, the sole and exclusive remedy of Contractor is to terminate this Agreement.

7. County is a body corporate and politic under the laws of the State of Texas and claims exemption from sales and use taxes under Texas Tax Code Ann. § 151.309, as amended. Exemption certificates will be provided to Contractor upon request.
8. Contractor shall perform no custom work without prior written authorization from Fort Bend County.
9. The parties agree that under the Constitution and laws of the State of Texas, County cannot enter into an Agreement whereby County agrees to indemnify or hold harmless any other party; therefore, all references of any kind to indemnifying, holding or saving harmless for any reason whatsoever are hereby deleted.
10. **CONTRACTOR AGREES TO AND SHALL INDEMNIFY, SAVE AND HOLD HARMLESS AND DEFEND THE COUNTY, ITS OFFICIALS, AGENTS AND EMPLOYEES FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS AND LIABILITY OF EVERY KIND, INCLUDING BUT NOT LIMITED TO ATTORNEY'S FEES (WHETHER 1ST PARTY OR 3RD PARTY) AND RELATED COSTS, ARISING OUT OF OR CONNECTED IN ANY WAY WITH THE PERFORMANCE OF THE CONTRACTOR'S RESPONSIBILITIES UNDER THIS AGREEMENT, CAUSED BY THE CONTRACTOR'S SOLE NEGLIGENCE OR ITS SOLE INTENTIONAL ACT OR OMISSION IS CAUSED BY THE JOINT NEGLIGENCE OF THE CONTRACTOR AND ANY OTHER PERSON, OR ENTITY OR THE JOINT INTENTIONAL ACT OR OMISSION OF THE CONTRACTOR AND OTHER PERSON OR ENTITY.**
11. In addition to the Insurance Requirements identified in Section 8 of the Agreement, Contractor shall name Fort Bend County as an additional insured for all Commercial General Liability coverage and Business Auto Liability coverage.
12. Any notice required or permitted under this Agreement shall be sent to County, postage prepaid, certified or registered mail, or delivered in person or by facsimile, with verification, as follows:

A. Notice sent to:

Fort Bend County
301 Jackson, Suite 719
Richmond, Texas 77469
ATTN: County Judge

B. With copies to:

1. Fort Bend County Risk Management/Insurance
4520 Reading Road, Suite A
Rosenberg, TX 77471
ATTN: Director of Risk Management
 2. and Gallagher Benefit Services, Inc
14241 Dallas Parkway, Suite 300
Dallas, TX 75254
ATTN: Area Senior Vice President
13. All terms and conditions of the Agreement and any addenda, not modified herein shall remain in full force and effect and for the term of Agreement. If there is a conflict between this Addendum and the Agreement, the provisions of the Addendum shall prevail.

[execution page follows]

[remainder left blank]

IN TESTIMONY AND WITNESS OF WHICH this Agreement has been executed as follows:

FORT BEND COUNTY:

Robert E. Hebert

Robert E. Hebert, County Judge

10-31-2011

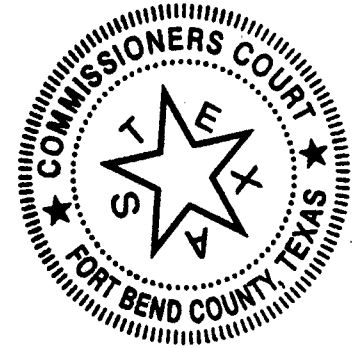
Date

Approved by Commissioners Court on
9-27-2011

Attest:

Dianne Wilson

Dianne Wilson, County Clerk



CONTRACTOR:

Tom Turbyll for NovaPro Risk Solutions

Date

9/20/11

AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$66,000.00 to accomplish and pay the obligation of Fort Bend County under this agreement.

Ed Sturdivant

Ed Sturdivant, Fort Bend County Auditor

Approved as to form:*

Michelle Rangel

Michelle Rangel, Assistant County Attorney

*By law, the County Attorney's Office may only advise or approve contracts or legal documents on behalf of the County. It may not advise or approve a contract or legal document on behalf of other parties. Our review of this document was conducted solely from the legal perspective of the County. Our approval of this document was offered solely for the benefit of the County. Other parties should not rely on this approval, and should seek review and approval by their own respective attorney.