

1 MANAGED CARE SERVICING AGREEMENT

2 **31466**

3 THIS AGREEMENT is made and entered, in duplicate, as of January 27,
4 2009, pursuant to a minute order adopted by the City Council of the City of Long Beach
5 at its meeting on January 6, 2009, by and between TRISTAR MANAGED CARE, INC., a
6 California corporation ("TRISTAR"), with principal offices at 100 Oceangate, Suite 700,
7 Long Beach, California 90802, and CITY OF LONG BEACH a municipal corporation
8 ("City"), with principal offices at 333 W. Ocean Boulevard, Long Beach, California 90802.

9 1. RECITALS.

10 This Agreement is made and entered with respect to the following facts,
11 which are incorporated by reference into the Agreement:

12 A. TRISTAR, for the purposes of this Agreement, is in the
13 business of providing case management services to workers' compensation third
14 party administrators and self-insured employers; and

15 B. City is obligated, either on its own behalf or contractually on
16 behalf of others, to (i) make workers' compensation benefit and coverage related
17 decisions to select injured workers; (ii) pay and adjust claims related to these
18 workers as per applicable statutes; and (iii) provide for managed care services as
19 may be deemed necessary; and

20 C. City desires to secure the services of TRISTAR for medical
21 networks and case management services. Case management consists of case
22 management and utilization review services.

23 D. TRISTAR has no exceptions to any provision, clause or
24 requirement outlined in the Integrated Managed Care Services Request for
25 Proposal dated August 15, 2008, including its exhibits and attachments.

26 E. TRISTAR has agreed that its services will conform to the
27 California Labor Code and any rules and regulations issued pursuant to the Code,
28 in existence at the time of execution of this Agreement or effective during the term

1 of this Agreement, and that TRISTAR shall perform its services in accordance with
2 the leading practices and standards in the business of case management and
3 utilization review.

4 F. TRISTAR shall ensure that adequate contractual language
5 exists with PPO and Medical Network providers that will allow the City to have
6 access to discounts.

7 In consideration of the covenants and agreements contained herein, the
8 parties agree as follows:

9 2. EFFECTIVE DATE AND TERM. This Agreement shall begin on
10 February 1, 2009, and shall end on January 31, 2010 (both days inclusive), unless
11 terminated earlier in accordance with Section 13. By mutual agreement and amendment
12 of this Agreement, the parties may extend the initial term for three (3) separate,
13 consecutive periods of one year each.

14 3. RESPONSIBILITIES OF TRISTAR.

15 A. TRISTAR shall provide to City medical networks in
16 accordance with the standards set forth in Exhibit "A", attached to and made part
17 of this Agreement by this reference.

18 B. TRISTAR shall medically manage each individual case
19 submitted to TRISTAR by City in accordance with the criteria established in this
20 Agreement and Exhibit "B", attached to and made part of this Agreement by this
21 reference.

22 C. TRISTAR shall perform the various systems implementations
23 and transfer and maintenance duties reasonably required by policies and
24 procedures established by City. TRISTAR shall make available individual case
25 notes, to the extent allowable under applicable state regulations, updating patients'
26 progress using transfer procedures implemented with the cooperation of City.

27 D. TRISTAR shall provide to City, TRISTAR's standard reports
28 and any custom reports as may be required and previously agreed to. In the case

1 of a special request, TRISTAR will make every effort to provide the report the
2 same day or the following business day, as long as no special programming is
3 required by TRISTAR. There will be no additional fees for standard reports.
4 TRISTAR shall provide standard reports monthly, quarterly and annually. Standard
5 reports are defined as:

- 6 i. Savings Summary;
- 7 ii. UR Referrals and Savings History, containing both
8 Detail and Summary information;
- 9 iii. Case Management Referrals and Savings History,
10 containing both Detail and Summary information;
- 11 iv. Average disability duration by claimant type and
12 condition.

13 E. TRISTAR shall designate a service coordinator, who shall be
14 an employee of TRISTAR, to be available to City to service City's account with
15 TRISTAR.

16 F. TRISTAR shall comply with all applicable laws, rules and
17 regulations relating to its services under this Agreement and shall obtain, maintain
18 and, upon request, provide to City proof of any and all necessary certifications,
19 licenses and regulatory approvals.

20 G. TRISTAR shall meet the guarantees described in Exhibit "D",
21 attached to and made part of this Agreement by this reference.

22 4. RESPONSIBILITIES OF CITY.

23 A. City shall designate TRISTAR as its exclusive provider of
24 case management services.

25 B. City understands and agrees that City shall retain the sole
26 responsibility for, and the sole authority to make, all decisions with respect to
27 benefit and coverage determinations for workers' compensation cases covered
28 under this Agreement. Additionally, City will also be responsible for the payment

1 of all related workers' compensation claims as may be required under applicable
2 law. TRISTAR will not be responsible for the provision of, or payment of, any
3 medical, indemnity, permanent disability or death benefits, medical-legal
4 expenses, vocational rehabilitation, or legal and other allocated expenses to which
5 the City's injured workers' may be entitled.

6 C. City shall be responsible for the payment of all applicable
7 audit fees and assessments levied against City by any governmental entity.
8 Notwithstanding the immediately preceding sentence, any late or inconsistent
9 payment penalties or fines assessed by any governmental entity shall be paid by
10 the party, either City or TRISTAR, responsible for causing the penalty or fine.
11 Disputes regarding responsibility for the payment of any penalty or fine shall be
12 resolved by good faith negotiations between the parties.

13 D. City shall fully cooperate with and assist TRISTAR in the
14 performance of TRISTAR's obligations under this Agreement. TRISTAR's
15 performance under this Agreement shall be dependent upon City's timely
16 performance of its obligations hereunder provided that TRISTAR acts timely and
17 promptly in its own regard. TRISTAR shall be entitled to rely upon information,
18 authorization, decisions or approvals provided by City to TRISTAR.

19 5. COMPENSATION.

20 A. In consideration for the services provided by TRISTAR to City
21 under this Agreement, City shall pay to TRISTAR the fees set forth in Exhibit "C",
22 attached to and made part of this Agreement by this reference.

23 B. TRISTAR may, at TRISTAR's sole discretion, adjust the fees
24 to be charged to City under this Agreement upon the occurrence of any of the
25 following events:

26 i. Any modification or amendment to this Agreement,
27 which affects any change in the services to be provided by TRISTAR under
28 this Agreement.

1 ii. Any modification of TRISTAR's administrative
2 procedures made at the request of City.

3 Any such adjustment in the fees pursuant to either subsection (i) or
4 (ii) above shall become effective on the effective date of the change in services
5 mutually agreed to in writing between the parties and shall be reflected in an
6 amendment to this Agreement. City shall have the right to terminate this
7 Agreement notwithstanding Article II, if City does not accept the adjustment in
8 fees.

9 C. TRISTAR shall prepare and deliver to City a statement
10 calculating the fees or other charges within fifteen (15) days after the end of the
11 month for which TRISTAR provided services. City shall pay the fees to TRISTAR
12 by the statement due date. In the event City disputes any portion of any
13 statement, City shall timely pay the undisputed portion and work with TRISTAR
14 towards the timely resolution of the disputed amount.

15 6. REPRESENTATIONS AND WARRANTIES.

16 A. City represents and warrants that this Agreement and the
17 transactions and activities contemplated by it (i) are within the municipal powers of
18 City; (ii) have been duly authorized by all necessary action of City; (iii) constitute
19 the legal, valid and binding obligations of City, enforceable against it in accordance
20 with their terms; and (iv) do not and will not conflict with or result in a breach of any
21 of the provisions of, or constitute a default under the provisions of any law,
22 regulation, licensing requirement, charter provision, or other instrument applicable
23 to City or its employees or to which City is a party or by which City may be bound.

24 B. TRISTAR represents and warrants that this Agreement and
25 the transactions and activities contemplated hereby (i) are within the corporate
26 powers of TRISTAR; (ii) have been duly authorized by all necessary corporate
27 action of TRISTAR; (iii) constitute legal, valid and binding obligations of TRISTAR,
28 enforceable against it in accordance with their terms; and (iv) do not and will not

1 conflict with or result in a breach of any of the provisions of, or constitute a default
2 under the provisions of any law, regulation licensing requirement, charter
3 provision, bylaw or other instrument applicable to TRISTAR or its employees or to
4 which TRISTAR is a party or by which TRISTAR may be bound.

5 7. BOOKS AND RECORDS.

6 A. TRISTAR shall establish and maintain case data, in a
7 mutually agreed upon manner and format, on each case referred to TRISTAR for
8 City.

9 B. TRISTAR and City shall maintain such books and records,
10 including but not limited to, payment records, notices, accounting and
11 administrative records, as shall reasonably be required to accurately account for
12 all services provided pursuant to this Agreement and any matters necessary for
13 the proper administration of this Agreement. Such books and records shall be
14 maintained in accordance with the generally accepted accounting principles and
15 shall be maintained for at least seven (7) years, and such obligation shall not
16 terminate upon termination of this Agreement.

17 C. TRISTAR and City each shall have the mutual right, during
18 the term of this Agreement and any extension of the initial term, to inspect, audit
19 and copy, on no less than thirty (30) days prior notice to the other party, and
20 during normal business hours or at such other times as may be agreed upon, said
21 relevant books and records as they pertain to this Agreement. Such information
22 shall be provided to each party pursuant to procedures designed to protect the
23 confidentiality of patient health care records in accordance with applicable legal
24 requirements and recognized standards of professional practice.

25 8. STATUS OF PARTIES. The parties agree that TRISTAR, its
26 affiliated corporations, and the agents and employees of TRISTAR and its affiliated
27 corporations, in the performance of this Agreement, shall act in an independent capacity
28 as independent contractors and not as officers or employees of City.

1 9. CONFIDENTIALITY.

2 A. The parties acknowledge and agree that each has developed
3 certain trade secrets, client lists, software, knowledge, data, tools, methodologies,
4 processes, plans, procedures, techniques, manuals, treatment protocols, clinical
5 indicators, case rates, provider payment structure information, underwriting
6 methodology, proprietary rating plans, provider practice data, employee-outcomes
7 data, audit reports, actuarial analyses and other proprietary information
8 (collectively "Confidential Information"). For purposes of this Agreement, the party
9 that has developed Confidential Information to which the other has access is
10 referred to as the "Protected Party." Except with the express written consent of
11 the Protected Party, or as provided herein, other one party shall not disclose to
12 others or take or use for its own purposes or the purpose of others at any time any
13 Confidential Information of the Protected Party not otherwise in the public domain
14 that may have been or may be obtained by the other party by reason of its
15 relationship with the Protected Party. The parties further agree that this provision
16 shall also be applied to all information that is designated as confidential or
17 proprietary in writing by the Protected Party, whether by letter or by use of a stamp
18 or legend before or at the time any such information is disclosed or delivered to
19 the other party unless disclosure is required by subpoena, court order, the Public
20 Records Act, or the confidential information becomes publicly available without
21 breach of this Agreement by City. Notwithstanding the foregoing provisions, the
22 parties recognize that a patient's medical records are confidential and shall not be
23 disclosed to third parties without the consent of the patient, unless otherwise
24 permitted or required by applicable law.

25 B. This Agreement shall not be construed to grant either party
26 any license or similar rights to Confidential Information disclosed or delivered to it
27 by the other party. The parties agree that any breach by a receiving party of its
28 obligation under this Agreement may result in irreparable injury to the Protected

1 Party. Accordingly, in seeking enforcement of any of these obligations, the
2 Protected Party shall be entitled, in addition to all other remedies, to seek
3 injunctive and other equitable relief to prevent or restrain the breach of this
4 Agreement.

5 10. DISPUTE RESOLUTION. In the event of any controversy or dispute
6 arising out of or relating to this Agreement, the parties agree to exercise their best efforts
7 to resolve the dispute as soon as possible. To invoke the dispute resolution process set
8 forth in this Section, the invoking party shall give to the other party written notice of its
9 decision to do so, including a description of the issues subject to the dispute and a
10 proposed resolution thereof. Within ten (10) days after receipt of notice, a face-to-face
11 meeting by TRISTAR and City shall take place to attempt to resolve the issues. If the
12 designated representatives cannot resolve the dispute, the parties shall meet within thirty
13 (30) days after the initial meeting and describe the dispute and their respective proposals
14 for resolution. If the dispute cannot be resolved at the second meeting, then the parties
15 reserve the right to pursue all legal remedies available to them.

16 11. INDEMNITY AND INSURANCE.

17 A. TRISTAR shall defend, indemnify, and hold harmless City, its
18 officers, agents and employees, from and against any and all liability, loss,
19 damage or expense, including punitive damages and attorney's fees, incurred in
20 connection with claims or demands for damages of any nature whatsoever, except
21 to the extent such claims or demands arise from or are caused by the sole
22 negligence or wrongful acts of City.

23 B. Prior to commencement of work under this Agreement,
24 TRISTAR shall furnish to City one or more original Certificates of Insurance and
25 Endorsements completed and executed by an agent authorized to bind the
26 insurer. Subject to TRISTAR's right to reasonable deductibles in such amounts as
27 approved by City, TRISTAR shall obtain and maintain for the duration of this
28 Agreement, at TRISTAR's sole expense, insurance written by companies

1 authorized and admitted to do business in the State of California or rated A:VIII or
2 better by A.M. Best Company in the following types and amounts:

3 i. Workers' Compensation Insurance with the statutory
4 limits required by the laws of the State of California and Employers' Liability
5 with minimum limits of \$1,000,000 per accident and \$1,000,000 per
6 occupational injury.

7 ii. Commercial General Liability Insurance equivalent in
8 scope to ISO CG 00 01 11 85 including but not limited to premises and
9 operations, personal and advertising injury, products and completed
10 operations, independent contractors and contractual liability, with minimum
11 limits of \$1,000,000 per occurrence, \$1,000,000 products and completed
12 operations sublimit, and \$2,000,000 general aggregate. This insurance
13 shall include "The City of Long Beach, its agencies, commissions, boards,
14 officials, employees, and agents" as additional insured on an endorsement
15 equivalent in coverage scope to an ISO CG 20 26 11 85 endorsement.

16 iii. Commercial Automobile Liability Insurance equivalent
17 in scope to ISO CA 00 01 06 92 covering Symbol 1 ("Any Auto") with a
18 minimum combined single limit of \$1,000,000.

19 iv. Professional Liability Insurance or Errors and
20 Omissions Liability Insurance with minimum limits of \$1,000,000 per claim
21 and \$2,000,000 general aggregate. If this coverage is written on a "claims
22 made" form, coverage shall be continuous by renewal or extended reporting
23 period for not less than 24 months following completion of the Agreement
24 and acceptance of the work by City. Coverage, including renewals, shall
25 contain the same retroactive date as the original policy applicable to this
26 Agreement.

27 C. TRISTAR shall make available to City, during normal business
28 hours, all books, records, and other information relating to the insurance required

1 by this Agreement and City shall have the right to inspect each of the policies and
2 endorsements. TRISTAR, upon City's request, shall cause its insurers to provide
3 to City, at no cost, copies of all policies and endorsements.

4 D. Any self-insurance program, self-insured retention, or
5 deductibles must be separately approved in writing by City's Risk Manager or
6 designee and shall protect the City, its agencies, commissions, boards, officials,
7 employees and agents in the same manner and to the same extent as they would
8 have been protected had the policy or policies not contained retention or
9 deductibles. Each policy shall be endorsed to state that coverage shall not be
10 reduced, non-renewed, or canceled except after thirty (30) days prior written notice
11 to the City, and shall be primary and not contributing to any other insurance or
12 self-insurance maintained by City. TRISTAR's insurance shall waive subrogation
13 against City, its officials and employees for bodily injury (including death), property
14 damage, and any other loss. TRISTAR shall notify City in writing within five (5)
15 business days after any insurance required in this Agreement has been voided by
16 the insurer or canceled by TRISTAR. TRISTAR shall require that all
17 subcontractors that it uses in the performance of this Agreement maintain
18 insurance in compliance with this Agreement unless otherwise agreed in writing by
19 City's Risk Manager or designee.

20 Within thirty (30) days prior to expiration of the insurance required by this
21 Agreement, TRISTAR shall furnish to City certificates of insurance and endorsements
22 evidencing renewal of the coverage.

23 Any modification or waiver of these insurance requirements shall only be
24 made with the written approval of City's Risk Manager or designee. The procuring or
25 existence of insurance shall not be construed or deemed as a limitation on liability
26 relating to TRISTAR's performance of this Agreement or as performance of or
27 compliance with the indemnification provisions of this Agreement.

28 In the event TRISTAR is unable, after using its best efforts, to obtain any of

1 the above-mentioned coverages, it shall immediately notify City. City shall then have the
2 opportunity to immediately terminate this Agreement or to purchase insurance on
3 TRISTAR'S behalf and to deduct the cost of such insurance from the next payment due
4 to TRISTAR.

5 12. DEFAULT.

6 A. The following are events of default under this Agreement:

7 i. Any breach of this Agreement which is not cured by
8 breaching party within ten (10) days after receipt of notice of such breach
9 by the other party.

10 ii. The discovery by City of the falsity of any
11 representation or warranty made to City by TRISTAR pursuant to Article 6
12 hereof.

13 iii. The levying of any attachment, execution of any
14 process against TRISTAR which is not promptly removed or the filing of any
15 petition under any bankruptcy statute against TRISTAR or the appointment
16 of any receiver or trustee to take possession of TRISTAR's properties which
17 is not set aside or terminated within ten (10) days from the occurrence
18 thereof.

19 B. The failure of either party to declare a default upon the
20 occurrence of an event constituting a default shall not waive that party's right to
21 declare a default upon the occurrence of any subsequent event.

22 13. TERMINATION.

23 A. This Agreement may be terminated by City or TRISTAR as
24 follows:

25 i. Upon thirty (30) days prior notice for any reason.

26 ii. Upon ten (10) days prior notice in the event of a
27 default.

28 iii. Immediately upon notice in the event of fraud,

1 abandonment, gross or willful misconduct, insolvency, or lack of legal
2 capacity to act by the other party.

3 B. Notwithstanding the termination of this Agreement, this
4 Agreement shall continue to apply to the extent needed for all obligations and
5 liabilities incurred by each party prior to such termination to be fully performed and
6 discharged by such parties.

7 C. City shall have the right, in the event of a termination of this
8 Agreement, to immediate possession of all electronic records not previously
9 provided, and this right may be exercised at any time after termination.

10 14. HIRING AND ASSIGNMENT OF EMPLOYEES.

11 A. City agrees that during the term of and for a period of two (2)
12 years after the termination of this Agreement, it will not, without prior written
13 consent of TRISTAR, hire any employee of TRISTAR or its affiliate who was
14 assigned to, or performed, any service for City in connection with this Agreement.

15 B. Each party reserves the right to change its designated
16 representative or staff assigned to the services performed under this Agreement.
17 The City requires thirty (30) days notice for changes in the designated
18 representative and fourteen (14) days notice in changes in staff.

19 15. GENERAL PROVISIONS.

20 A. The subject headings of the Articles of this Agreement are
21 included for purposes of convenience only and shall not affect the construction of
22 interpretation of any of its provisions.

23 B. This Agreement sets forth the entire understanding of the
24 parties and supersedes any prior agreement or understanding, oral or written,
25 relating to the subject matter hereof. No supplement, modification or amendment
26 of this Agreement shall be binding unless executed in writing by all the parties. No
27 waiver of any of the provisions of this Agreement shall be deemed, or shall
28 constitute, a waiver of any other provision, whether or not similar, nor shall any

OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

1 waiver constitute a continuing waiver. No waiver shall be binding unless executed
2 in writing by the party making the waiver.

3 C. TRISTAR may not assign, sell, transfer or otherwise convey,
4 pledge or encumber any of its rights, obligations or interests under this Agreement
5 without the prior written consent of the City.

6 D. Except as otherwise provided herein, the provisions hereof
7 shall inure to the benefit of, and be binding upon, the successors, assigns, heirs,
8 executors and administrators of the parties hereto.

9 E. This Agreement shall be governed by and construed in
10 accordance with the laws of the State of California. In the event that any provision
11 of this Agreement is held by a court of competent jurisdiction to be unenforceable
12 or void in any jurisdiction, the other provisions of this Agreement shall remain in
13 full force and applicable law shall be construed in order to effectuate the purpose
14 and intent of this Agreement.

15 F. Each notice referred to in this Agreement shall be in writing
16 and shall be given when delivered by hand, or is deposited in the U.S. Postal
17 Service registered and return receipt, addressed to each party at the address set
18 forth below or at such other address as such party, by notice to the other party,
19 may designate from time to time. Notice shall be deemed given on the date
20 personal hand delivery is made or on the date shown on the return receipt.

21
22 If to TRISTAR:
23 TRISTAR Managed Care, Inc.
24 100 Oceangate, Suite 700
25 Long Beach, CA 90802
26 Attention: President

27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

If to City:
City of Long Beach
333 West Ocean Boulevard
13th Floor
Long Beach, CA 90802
Attention: City Manager

G. This Agreement is not intended or designed to or entered for the purpose of creating any benefit or right for any person or entity or any kind that is not a party to this Agreement.

H. TRISTAR shall not use the name of the City, its officials or employees in any advertising or solicitation for business, nor as a reference, without the prior approval of City's Manager or his designee.

I. Termination or expiration of this Agreement shall not affect rights or liabilities of the parties which accrued prior to termination or expiration of this Agreement.

J. In the event of any conflict or ambiguity between the Agreement and any Exhibit, the terms of the Agreement shall govern.

K. TRISTAR, by executing this Agreement, certifies that, at the time it executes this Agreement and for its duration, TRISTAR does not and will not perform services for any other client which would create a conflict, whether monetary or otherwise, as between the interests of the City and the interests of any other client of TRISTAR.

L. This Agreement shall be deemed the creation of both parties and it shall not be construed or interpreted against either party as the drafter.

M. The Proposal submitted to City by TRISTAR is incorporated by reference to the extent that it does not contradict this Agreement. If there is any inconsistency between the Proposal and this Agreement, then this Agreement

OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

1 shall govern.

2 IN WITNESS WHEREOF, the parties have caused this Agreement to be
3 executed in duplicate by their authorized representatives as of the date first stated above.

4 TRISTAR MANAGED CARE, INC., a California
5 corporation

6 1/29, 2009 By [Signature]
7 President
8 Thomas J. Vahl
9 (Type or Print Name)

10 1/29, 2009 By B. D. Thibault
11 Secretary
12 Richard Thibault
13 (Type or Print Name)

14 "TRISTAR"

15 CITY OF LONG BEACH, a municipal
16 corporation

17 By [Signature] Assistant City Manager
18 City Manager

19 "City"

EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER.

20 This Agreement is approved as to form on February 3, 2009.

21 ROBERT E. SHANNON, City Attorney

22 By [Signature]
23 Deputy

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT "A"
MEDICAL NETWORKS

I. TRISTAR shall develop a customized Medical Network for the City at no additional charge. The Medical Network shall be of sufficient size and scope as to address the needs of the City's employee population. TRISTAR shall promote the Medical Network to City's employees through early intervention case management, panel posters and access to an electronic directory tailored to the City. TRISTAR shall ensure that the City's employees have access to medical care including specialists. TRISTAR shall work with the City to develop a methodology to measure the anticipated benefits and savings related to Medical Provider Networks including increased quality care and a decrease in the life of a claim, indemnity costs and medical costs. TRISTAR shall ensure that Medical Network design adheres to current and any future California laws, rules and regulations.

II. TRISTAR shall provide reports on the services given by the Medical Provider Network which will include, but not be limited to, access data. TRISTAR shall provide the following performance measures as part of access measurement:

A. Quarterly Geoaccess reports by county and zip code that documents adequate numbers of all types of physicians and allied health professionals.

B. Quality Assurance Checklist containing the following elements:

(i) Adherence to ACOEM guidelines and cooperation with UR;

(ii) Return of summary form with visit outcome.

C. Quality Assessment Reports

EXHIBIT "B"

I. CASE MANAGEMENT

City is adopting an Early Intervention Model. TRISTAR shall provide the Case Management services listed below, based on this Model:

1.1 Utilization Review Criteria. TRISTAR shall provide Utilization Review based on referrals by City. TRISTAR'S utilization review standards shall meet or exceed all California laws, rules and regulations. TRISTAR shall:

(a) Verify initial ICD-9 code assignments.

(b) Review and pre-approve subsequent treatment plan updates and request medical authorization for services which (i) are not included in the initial pre-established treatment plan submitted by the medical provider or (ii) do not fall within TRISTAR'S pre-established treatment plan.

(c) Establish appropriate treatment plan update intervals for concurrent review of services provided by the medical provider.

(d) Assist with referral to medical providers for the provision of medically necessary services not provided by the provider requesting the referral.

1.2 Utilization Review Quality Metrics and Performance Standards. TRISTAR shall perform the items on the following Quality Assurance Checklist:

(a) TRISTAR shall make a prospective or concurrent decision within one (1) business day but not more than three (3) business days after receipt of reasonably necessary information to make determination.

(b) TRISTAR shall communicate with claimant regarding outcome within thirty (30) days after receipt of reasonably necessary information to make the determination.

(c) TRISTAR's communications regarding all decisions of treatment shall provide the date of the decision, guidelines used, reviewer's name, dispute resolution and mandatory language as required.

1 (d) TRISTAR shall provide to City Detail and Summary information,
2 including Return on Investment (ROI) calculation, showing savings on each UR referral.

3 1.3 Telephonic Case Management. TRISTAR shall provide telephonic case
4 management services on claims referred by the City. For all Claims referred to
5 Telephonic Case Management arising from injuries or illnesses occurring on or after the
6 effective date of this Agreement, TRISTAR shall assist in the coordination of services
7 between City and the medical provider to support the injured worker's return to work and
8 improved medical outcomes, as follow:

9 (a) 3 point (adjuster, provider and patient unless the patient is
10 represented by legal counsel) contact within one (1) business day after City referral
11 including Initial Telephonic Case Management Assessment Report which shall include:
12 date of last appointment, date of next appointment, work status, treatment plan, projected
13 disability, claimant contact, nurse analysis/comment, and plan of action within five (5)
14 business days.

15 (b) Follow-up within one (1) to two (2) business days after identified
16 appointment to determine outcome and to identify modified and full duty return to work
17 opportunities.

18 (c) Where possible, coordinating treatment plans and return to work
19 dates with the treating physician for full and/or modified duty, negotiating provider
20 reimbursement amounts, and/or arranging for patient transfers to medical providers for
21 injured workers receiving care from non-network medical providers; provided that
22 TRISTAR shall not be responsible for any patient transportation costs associated with the
23 transfer of an injured worker from one medical provider to another.

24 (d) Proactively coordinate return to modified duty with injured worker,
25 employer and City.

26 (e) If an injured worker seeks or receives care from a non-network
27 medical provider and is referred by City to TRISTAR, City shall provide to TRISTAR all
28 medical and other information necessary for TRISTAR to provide case management

1 services. TRISTAR shall use its best efforts to provide appropriate services for injured
2 workers receiving treatment from a non-network medical provider. Further, TRISTAR
3 shall consult with City prior to providing any such services, including patient transfer
4 arrangements, on behalf of an injured worker receiving care from a non-network medical
5 provider.

6 1.4 Telephonic Case Management Quality Metrics and Performance Measures.

7 A. TRISTAR shall provide case management savings quantified in
8 summary and case detail format. TRISTAR shall calculate savings and list the savings
9 by line item.

10 B. TRISTAR shall perform in accordance with its Quality Assurance
11 Checklist which shall include:

- 12 (i) 3 point (adjuster, provider and patient unless the patient is
13 represented by legal counsel) contact within one (1) business day;
- 14 (ii) Initial assessment report within five (5) business days;
- 15 (iii) Follow-up on appointments within two (2) business days after
16 appointment, updates of plan of action, treatment plan and return to work;
- 17 (iv) Progress updates no less than every thirty (30) days provided
18 through City's case management system (commonly known as IVOS);
- 19 (v) Promoting network at every possible opportunity (specialists,
20 MRI, PT, DME, RX, etc.);
- 21 (vi) Maintain contact with City as significant events occur including
22 alerts to initial evaluation and on "request to proceed";
- 23 (vii) Completed outcomes summary worksheet at case closure to
24 detail savings;
- 25 (viii) Detailed progress reports when and if requested by City.

26 1.5 Task and Field Quality Metrics and Performance Measures.

27 TRISTAR shall meet the following performance measures on its Quality
28 Assurance Checklist:

- 1 (a) Case assigned to case manager within one (1) business day;
2 (b) File reviewed by case manager within one (1) business day;
3 (c) Contact made with employee, provider and employer within two (2)
4 business days;
5 (d) Initial report made to City within fourteen (14) days (Final report if
6 Task Assignment);
7 (e) Progress reports given to City every thirty (30) days or as requested.
8 1.6 Claim File Closure. TRISTAR shall determine the appropriate time for
9 closure and notify the City within one (1) business day. TRISTAR shall use the following
10 criteria:
11 (a) Discontinuation of treatment because medical necessity was not
12 found;
13 (b) Return-to-work after termination of an active treatment plan;
14 (c) Medical treatment completed or permanent and stationary status
15 reached;
16 (d) No further value-added services can be performed;
17 (e) Request that the case be closed (may be for reasons of
18 Compensability); or
19 (f) Medical Case Closure form with instructions for reopening the case.
20

21 II. UTILIZATION MANAGEMENT AND QUALITY ASSURANCE

22 Depending on the severity of the work-related illness or injury and under the
23 direction of the Physician Advisor (licensed physician working on behalf of TRISTAR),
24 TRISTAR shall provide concurrent review of various treatment stages on any claims that
25 fall within the criteria mentioned above in Sections 1.1 and 1.4.

26 TRISTAR shall develop, under the direction of the Physician Advisor, and
27 establish and implement workers' compensation utilization management standards
28 system of utilization management (including case management) and quality assurance

1 program, the purpose of which is to promote adherence to generally accepted medical
2 standards of care for decision-making regarding medically necessary care to encourage
3 medical providers to provide high quality services in a cost effective manner.

4 The TRISTAR utilization management and quality assurance program consists of
5 case management pre-certification of admissions, length of stay criteria, concurrent and
6 retrospective review of specified services, pre-certification of specified procedures,
7 retrospective ambulatory review, medical management, return to work planning, medical
8 provider guidelines and injured worker and medical provider certification recommendation
9 dispute procedures.

10 The TRISTAR utilization management and quality assurance program shall be
11 operated in cooperation with medical providers in a manner that is consistent with any
12 applicable medical provider agreements and state workers' compensation law.

13
14 III. PEER REVIEW

15 When necessary and appropriate under TRISTAR's peer review protocols,
16 TRISTAR shall provide to City physician peer review services to support identified
17 utilization management issues. The Physician Advisor shall oversee the provision of
18 peer clinical review for all cases where clinical determination is needed for an admission,
19 procedure or services which receives a negative recommendation or non-
20 recommendation during an initial review rendered by a case manager. The criteria for
21 inclusion into the TRISTAR Peer Review Program are:

- 22 (a) Inconsistent medical opinions with no clear direction for treatment;
- 23 (b) Non-compliant treating physician;
- 24 (c) Nurse's recommendation of "no care" combined with City's intention
25 to deny ongoing treatment and/or petition to the Administrative Director of the California
26 Department of Workers' Compensation, or its equivalent in any other state, for change of
27 treating physician;
- 28 (d) Nurse's recommendation against a surgical procedure;

1 (e) Unusual procedure or procedure not currently recognized by the
2 medical community, e.g., experimental;

3 (f) Cases in which the date of injury exceeds standard referral criteria,
4 excessive medical treatment is at issue or on-site nursing is not appropriate;

5 (g) When protocol/guideline system recommends peer review; or

6 (h) Retroactive review of medical treatment or procedure for
7 appropriateness and /or necessity on a case-by-case basis.

8
9 IV. MEDICAL DISPUTE RESOLUTION

10 In the event City disagrees with TRISTAR's case management recommendations
11 regarding the provision of services to an injured employee, the parties agree to adhere to
12 the following medical dispute resolution process:

13 (a) Level I Medical Disputes. For medical disputes between the City's
14 claims adjustor and the case manager involving a pre-recommended treatment plan with
15 an estimated claims level below One Thousand Dollars (\$1,000.00), as determined by
16 the case manager, the claims adjustor and case manager shall promptly provide the
17 necessary summary information to City's claims supervisor and TRISTAR'S case
18 management technical lead, respectively, for resolution.

19 (b) Level II Medical Disputes. For medical disputes between the City's
20 claims adjustor and the case manager involving pre-recommended Treatment Plan with
21 an estimated claims level greater than One Thousand Dollars (\$1,000.00), as determined
22 by the case manager, the claims adjustor and case manager shall promptly provide the
23 necessary summary information to City's branch or office manager and TRISTAR'S
24 account manager, respectively, for resolution.

25 The parties agree to use their best efforts to resolve all medical disputes within
26 seventy-two (72) hours after City's receipt of the necessary summary information from
27 TRISTAR. In those instances where the parties cannot reach an agreement as to the
28 appropriate treatment to be provided to an injured worker and City's proposed alternative

1 course of treatment varies materially, as determined by the Physician Advisor in his or
2 her sole discretion, from the treatment plan recommended by TRSITAR and its medical
3 providers, TRISTAR shall have the right to cease providing case management services
4 relating to the injured worker's care.

5 In the event City repeatedly fails to approve TRISTAR's recommendations for
6 utilization review, TRISTAR may terminate this Agreement upon thirty (30) days prior
7 notice to City.

8 Notwithstanding the medical dispute resolution process described above and
9 TRISTAR's obligations to perform case management services on behalf of City under this
10 Agreement, City retains the sole responsibility and authority to accept or deny workers'
11 compensation claims and to make workers' compensation benefit and coverage-related
12 decisions.

13
14 V. EXPERT TESTIMONY

15 If the medical care providers appeal any of TRISTAR'S recommendations for
16 payment to the Workers' Compensation Appeals Board (WCAB), or its equivalent in any
17 state, TRISTAR shall send a witness to the hearing at the WCAB to testify and defend its
18 recommendations. TRISTAR shall not charge for the first appearance with respect to a
19 contested bill if such appearance is within a one hundred (100) mile radius of a TRISTAR
20 office location. If TRISTAR is required to appear on a second day with respect to the
21 same bill or it is outside the above stated area, City shall pay to TRISTAR Eighty-Five
22 Dollars (\$85.00) per hour for actual and direct travel time incurred by TRISTAR's
23 personnel to and from the WCAB hearing and for each hour any TRISTAR employee is in
24 attendance at the WCAB. Partial hours shall be charged on a pro rata basis in minimum
25 increments of fifteen (15) minutes. Following termination of this Agreement, TRISTAR
26 shall continue to provide expert witness testimony concerning any work performed
27 pursuant to this Agreement at TRISTAR'S then current rates and on its then current
28 terms and conditions.

OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT "C"
COMPENSATION
(see attached)

PRICING MATRIX

Utilization Review

Hourly Rate	\$ (not quoted)
Flat Rate – Pre-Certification	See below
Flat Rate – Concurrent	\$75.00
Flat Rate – Retrospective	\$75.00
Flat Rate – Inpatient Hospital	\$100.00 per initial pre-certification; thereafter, \$85.00 per hour (includes review of treatment guidelines for appropriateness of care including length of stay and need for assistant surgeon; directing into PPO and confirmation letters)
Flat Rate – Outpatient	\$75.00 per initial pre-certification; thereafter, \$85.00 per hour (includes review of treatment guidelines for appropriateness of care, directing into PPO and confirmation letters)
Flat Rate – Appeals	\$75.00
Flat Rate – Physician Review	
<ul style="list-style-type: none"> • Physician Advisor Level 1: • Physician Advisor Level 2: 	<p>\$200.00 per hour (includes review of medical records and communication of decision in writing to all parties)</p> <p>\$250.00 per hour (includes review of medical records, discussion with treating physician and communication of decision in writing to all parties)</p>
% of Savings	% (not quoted)

Medical Case Management

1-30 days TCM Flat	\$300.00
31-60 days TCM Flat Rate	\$200.00
61-90 days TCM Flat Rate	\$100.00
Other TCM Fee Structure	91 days forward is \$100 per 30 days
Hourly TCM Rate	\$90.00
Hourly Field Rate	\$90.00 per hours, plus expenses
Task Rate(s) -MD Visit -MD Visit & Home Visit	\$ (not quoted)

MPN

Custom Network Set-Up (each) - \$1,725	Creation of custom versions of the TMC MPN network; set-up a customer specific provider search site and creation of the network submission data file.
Custom Network State Submission (each) - \$5,175	TMC will manage the State application for the custom network.
Monthly Maintenance for a Custom Network - \$575	Includes management of the custom network and support of custom network public search site.

OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4864

EXHIBIT "D"

PERFORMANCE GUARANTEES

For services rendered pursuant to this Agreement, TRISTAR guarantees the following performance levels for case management:

A. On all new telephonic or field case management assignments, a three-point contact (that is, contact to the adjuster, to the provider, and to the claimant) will be performed within one (1) business day after receipt of the assignment.

B. All decisions for utilization review will be performed within the statutory time limits.

C. Written utilization review determinations (for example, authorizations, modifications, and denials) will be performed within one (1) business days after such determinations.

D. Follow-up contact with the provider will be performed within two (2) business days after all scheduled appointments.

In order to ensure that TRISTAR achieves the desired performance levels, City will perform semi-annual audits to monitor outcomes with respect to each of the above-mentioned performance criteria. Utilizing a representative random sampling of no less than ten percent (10%) of the total bills and/or cases reviewed in the prior six (6) month period, City will review each performance criteria for the six-month period being audited for completion and accuracy. Scoring will be tracked for each criteria to determine whether or not the performance level was achieved and to what percentage of the time within the selected sample. City will then compute a composite average score for all criteria.

TRISTAR guarantees a composite score of ninety percent (90%). If the score is eighty-

OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

1 four percent (84%) or less, then TRISTAR shall reimburse to City five percent (5%) of
2 TRISTAR's service fees for six (6) months following the computation of the composite
3 score. If the Agreement is expiring or is terminated and there are not six months
4 remaining, then TRISTAR shall refund five percent (5%) of TRISTAR's service fees to
5 City within thirty (30) days after such expiration or termination. This provision shall
6 survive expiration or termination of the Agreement.

7
8 Notwithstanding these provisions regarding the composite score, TRISTAR shall submit a
9 written action plan to City within fifteen (15) days after a computation showing a
10 composite score below eighty-four percent (84%). If at any time the volume of bills or
11 case management referrals received by TRISTAR exceeds normal monthly averages by
12 thirty percent (30%) or more, then City agrees that such abnormal volumes will be
13 considered within any audit with respect to the time frames for processing.

14
15
16
17
18
19
20
21
22
23
24
25
26
27
28