SECTION VII: AGREEMENT PROVISIONS

AGREEMENT NO. #C000497

THIS Agreement is entered into by and between New York State Insurance Fund, an agency of the State of New York, having its principal place of business at 199 Church Street, New York, New York 10007 (hereinafter referred to as "FUND" and _____("Contractor"), a corporation authorized to do business in the State of New York with a principal place of business located at _____, and collectively referred to as "the Parties."

WITNESSETH

WHEREAS, on May 29, 2018, the Department of Civil Service issued a Request for Proposal (RFP) entitled, "Pharmacy Benefit Services for The Empire Plan, Excelsior Plan, Student Health Plan, and New York State Insurance Fund Workers' Compensation Prescription Drug Programs," to secure the services of a qualified organization to provide Program Services as defined in the RFP; and

WHEREAS, after thorough review and evaluation by the State of Proposals received in response to the RFP, the Contractor's Proposal was selected as representing the best value to the State; and

WHEREAS, the FUND, in reliance upon the expertise of the Contractor, desires to engage the Contractor to deliver the Program Services, pursuant to the terms and conditions set forth in this Agreement;

THEREFORE, the Parties agree as follows:

ARTICLE I: DEFINITION OF TERMS

1.1.0 **Affiliate** means a person or organization which, through stock ownership or any other affiliation, directly, indirectly, or constructively controls another person or organization, is controlled by another person or organization, or is, along with another person or organization, under the control of a common parent.

1.2.0 **Agreement or Contract** means the Agreement entered into between the Parties resultant from this RFP that was issued May 29, 2018.

1.3.0 **AWP** means the Medi-Span AWP Price for the eleven (11) digit NDC of the drug dispensed as of the date the Prescription was filled, unless the Parties mutually agree in writing to utilize a different source for AWP information.

1.4.0 **Brand Drug** means a Prescription drug sold under a trade name other than its chemical name that is manufactured and marketed by a single manufacturer (or single group of manufacturers pursuant to agreement among the manufacturers) where the manufacturer holds or held a patent protecting the active ingredient from generic competition. The classification of a drug as brand or other category shall be based on indicators provided by the drug pricing reporting service that is used by the PBM, as updated regularly.

1.5.0 **Business Day(s)** means every Monday through Friday, except for days designated as Business Holidays by the FUND.

1.6.0 **Business Holiday(s)** means days designated by the FUND as Business Holidays prior to January 1st of each Calendar Year.

1.7.0 **Calendar Year/Annual** means a period of 12 months beginning with January 1st and ending with December 31st.

1.8.0 **Call Center Hours** means 24 hours a Day, 365 days a year.

1.9.0 **Claimant** means an injured employee who sustains an at-injury accident (loss) while in the employ of individuals or companies that have Workers' Compensation Insurance policies with NYSIF.

1.10.0 **Compound Drug(s)/Medication(s)** means a drug with two or more ingredients (solid, semi-solid or liquid), at least one of which is a Covered Drug with a valid NDC requiring a Prescription for dispensing, combined in a method specified in a Prescription issued by a medical professional. The end result of this combination must be a Prescription medication for a specific patient that is not otherwise commercially available in that form or dose/strength from a single manufacturer. The Prescription must identify the multiple ingredients in the Compound, including active ingredient(s), diluents(s), ratios or amounts of product, therapeutic use, and directions for use. The act of compounding must be performed or supervised by a licensed Pharmacist. Any commercially available product with a unique assigned NDC requiring reconstitution or mixing according to the FDA approved package insert prior to dispensing will not be considered a Compound Prescription by the NYSIF Program.

1.11.0 **Contract or Agreement** means the Agreement entered into between the Parties resultant from this RFP.

1.12.0 **Contractor** means the successful Offeror selected as a result of the evaluation of Contractors' Proposals submitted in response to Exhibit B, the Request for Proposals entitled "Pharmacy Benefit Services for The Empire Plan, Excelsior Plan, Student Employee Health Plan and New York State Insurance Fund Workers' Compensation Prescription Drug Program and who executes a contract with the FUND to provide Program Services.

1.13.0 **Controlled Drug** means drugs designated by federal law or New York State law as a Class I, II, III, IV or V substance. A Controlled Drug includes but is not limited to: some tranquilizers; stimulants; and pain medications.

1.14.0 **Covered Drug(s)** means medically necessary and appropriate drugs that are causally related to the loss.

1.15.0 **Day(s)** means calendar Days unless otherwise noted.

1.16.0 **Department or DCS** means the New York State Department of Civil Service.

1.17.0 **Dedicated Call Center** means a group of Customer Service Representatives trained and capable of responding to a wide range of questions, complaints, and inquiries specific to the NYSIF Program. The Customer Service Representatives are dedicated to the NYSIF Program and do not work on any other accounts.

1.18.0 **Designated Specialty Pharmacy** means all facilities owned, operated, subcontracted or otherwise affiliated with the Contractor or any Key Subcontractor of the Contractor to provide certain Specialty Drugs/Medications. All facilities must meet all legal and contractual requirements as set forth in the Agreement.

1.19.0 **Designated Specialty Pharmacy Hard Edit** means a Network Pharmacy claims adjudication edit that will result in denial of the claim for a Specialty Drug/Medication under the Specialty Pharmacy Process after the Grace Period for Specialty Drugs has elapsed.

1.20.0 **Designated Specialty Pharmacy Passive Edit** means a Network Pharmacy claims adjudication edit that will prompt processing of the claim at the Designated Specialty Pharmacy but will permit continued processing and coverage for a Specialty Drug/Medication at the

Network Pharmacy under the Specialty Pharmacy Process after the Grace Period for Specialty Drugs has elapsed.

1.21.0 **Discounted Ingredient Cost(s)** means the cost to the NYSIF Program for a specific drug or drugs dispensed to a Claimant after the Contractor has applied the appropriate discount exclusive of any associated dispensing fee(s), other costs.

1.22.0 **Employee** means "Employee" as defined in 4 NYCRR Part 73, as amended, or as modified by collective bargaining agreement.

1.23.0 **Employer** means the "Employer" as defined in 4 NYCRR Part 73, as amended.

1.24.0 **ET** means prevailing Eastern Time.

1.25.0 **Equal Employment Opportunity (EEO)** means the federal law designed to protect most U.S. employees from employment discrimination based upon that employee's (or applicant's) race, color, religion, sex or national origin.

1.26.0 **Final Paid Claim** means a claim processed and paid by the Contractor for a Prescription drug provided to a Claimant, including but not limited to, claims for Prescriptions filled at a retail Pharmacy or through the Mail Service Pharmacy Process or the Specialty Pharmacy Process. A claim that is denied prior to processing is not considered a Final Paid Claim. In addition, a claim that is processed and paid but is subsequently voided, reversed, or otherwise adjusted is not a Final Paid Claim. Zero balance claims are considered Final Paid Claims.

1.27.0 **FUND or NYSIF** means the New York State Insurance Fund.

1.28.0 **FUND or NYSIF Program** means the Workers' Compensation Pharmacy Benefits Management program administered by the New York State Insurance Fund.

1.29.0 **Generic Drug** means a prescription drug sold under its chemical name or drug sold under a name other than its chemical name by a manufacturer other than the manufacturer that held the original patent for the active ingredient in the drug that is therapeutically equivalent and interchangeable with drugs having the same quantity of active ingredient(s) and approved by the U.S. Food and Drug Administration. The term Generic Drug shall include "authorized generics" marketed by or in conjunction with the manufacturer that is the holder of the original patent for the active ingredient of the drug and drugs sold either after patent protection has expired or those drugs without patent protection. Any drug approved through an FDA Generic Drug

approval process, including any FDA approval process established for approving generic equivalents of brand name biologic drugs, shall be classified as a Generic Drug.

1.30.0 **GPI** means Generic Product Identifier as defined by Medi-Span Master Drug Database by Wolter Kluwar Health.

1.31.0 **Grace Fill** means a Claimant's initial or very first dispensing of a Specialty Drug/Medication covered under the NYSIF Program's Specialty Pharmacy Program.

1.32.0 **Guaranteed Discount(s)** means the Contractor's fixed, contracted, guaranteed Ingredient Cost discounts for Brand Drugs expressed as a percent off of AWP dispensed through the Mail Service Pharmacy Process. For Specialty Drug/Medications dispensed through the Specialty Pharmacy Program, Guaranteed Discounts means the Contractor's fixed, contracted, guaranteed Ingredient Cost discounts for Brand and Generic drugs expressed as a percent off of AWP.

1.33.0 **Guaranteed Maximum Dispensing Fee(s)** means the quoted dispensing fee(s) the Contractor guarantees that the actual average dispensing fee assessed under Pass-through Pricing will not exceed. This Guaranteed Maximum Dispensing Fee(s) is applicable to the NYSIF Program for Generic, Brand and Compound Drugs, calculated separately, for prescriptions dispensed by Retail Network Pharmacies.

1.34.0 **Guaranteed Minimum Discount(s)** means the guaranteed Ingredient Cost discount(s) as expressed as a percent off of the aggregate AWP and is applicable to Generic and Brand Drugs, separately, dispensed through Retail Pharmacy Network as well as Generic Drugs dispensed through the Mail Service Pharmacy Process.

1.35.0 **Hard Edit** means a Network Pharmacy claims adjudication edit that will result in denial of the claim.

1.36.0 **HIPAA** means Health Insurance Portability and Accountability Act of 1996, as amended.

1.37.0 **Implementation Date** means the first day of the month following a minimum implementation period of 60 Days subsequent to the Attorney General's Office and Office of State Comptroller's approval of the Agreement that results from this RFP, but no sooner than January 1, 2019.

1.38.0 **Ingredient Cost(s)** means the cost to the NYSIF Program for a specific drug, or drugs dispensed to a Claimant exclusive of any associated dispensing fee(s), other costs, through application of the NYSIF Program's Lesser of Logic.

1.39.0 **Instant Enrollment/"Short Fill" Service** means allowing injured workers of NYSIF policy holders immediate acceptance by any pharmacy in the Contractor's network in order to provide a limited number of cost-effective medication benefits.

1.40.0 **Key Subcontractor(s)** means those vendors with whom the Contractor subcontracts to provide Program Services and incorporates as a part of the Contractor's Program Team. Key Subcontractors include all vendors who will provide $100,000 or more in Program Services over the term of the Agreement that results from this RFP, as well as any vendor who will provide Program Services in an amount lower than the $100,000 threshold, and who is a part of the Contractor's account team.

1.41.0 **Limited Distribution Drug** means a Specialty Drug/Medication whose distribution is limited by the manufacturer to select Pharmacies and as a result of this restriction is not available to be dispensed from the Designated Specialty Pharmacy(ies) and/or Mail Service Pharmacy.

1.42.0 **Mail Service Pharmacy Process** means the method that the Contractor employs to accept, process, and dispense Prescriptions for Covered Drugs to Claimants through the mail or other home delivery service, excluding any drug eligible under the Specialty Pharmacy Process. For those Claimants not participating in the Specialty Pharmacy Process, the Mail Service Pharmacy Process means the method that the Contractor employs to accept, process, and dispense Prescriptions for Covered Drugs to Claimants through the mail or other home delivery service including any drug that could be classified as a Specialty Drug/Medication, or that require special preparation or handling, using one or more Mail Service Pharmacy Process Facilities or other entities approved as distribution channels for dispensing Limited Distribution Drugs to Claimants through the Mail Service Pharmacy Process. Prescriptions are considered to be submitted through the Mail Service Pharmacy Process if they are submitted by phone, fax, internet, e-prescribing or mail to any Mail Service Pharmacy Process Facility. All Prescriptions filled through the Mail Service Pharmacy Process shall be processed in strict accordance with the provisions of this Agreement including all pricing provisions related to the Mail Service Pharmacy Process. Prescriptions dispensed through the Retail Pharmacy Network and delivered to the Claimant through the mail shall not be considered to have been filled through the Mail Service Pharmacy Process provided the Claimant or their Physician presented the Prescription directly to the dispensing Network Pharmacy. The Contractor or its Key Subcontractor will not refer a Claimant or their Physician to a retail Pharmacy without also making the Claimant aware of the Mail Service Pharmacy Process.

1.43.0 **Mail Service Pharmacy Process Facility(ies)** means all facilities owned, operated, subcontracted or otherwise affiliated with the Contractor or any Key Subcontractor of the Contractor capable of being utilized by the Contractor in the Mail Service Pharmacy Process, including any mail service intake facility. For those Claimants participating in the Specialty Pharmacy Process, the Designated Specialty Pharmacy is not considered a Mail Service Pharmacy Process Facility. All facilities must meet all legal and contractual requirements.

1.44.0 **Maximum Allowable Cost** means the maximum price the NYSIF Program shall be charged and the dispensing retail Network Pharmacy shall be paid on a pass-through basis for the Ingredient Cost of a drug required to be included on the Program MAC List managed by the Contractor.

1.45.0 **Medically Necessary Drug** means any drug which, as determined by the Contractor, is: (i) provided for the diagnosis or treatment of a medical condition; (ii) appropriate for the symptoms, diagnosis or treatment of a medical condition; (iii) within the standards of generally accepted health care practice; and (iv) not used for cosmetic purposes.

1.46.0 **Medical Professional(s)** means a Doctor of Medicine (M.D.) or a Doctor of Osteopathy (D.O.) licensed without limitation or restriction to practice medicine. For benefits provided in the NYSIF Program, and for no other purpose, Physician also means a Doctor of Dental Surgery (D.D.S.), a Doctor of Dental Medicine (D.D.M), a Podiatrist and any other health care professional licensed to prescribe medication, when he or she is acting within the scope of his or her license.

1.47.0 **MWBE** means Minority and Women Owned Business Enterprises.

1.48.0 **Narrow Therapeutic Index (NTI) Drugs** means a drug that small variances in blood levels can cause changes in the effectiveness or toxicity of that drug.

1.49.0 **NCPDP** means the *National Council for Prescription Drug Programs,* an American National Standards Institute (ANSI)-accredited, standards development organization providing healthcare solutions that improve patient safety and health outcomes, while also decreasing costs.

1.50.0 **NDC** means the National Drug Code number assigned to a pharmaceutical product obtained by the manufacturer of the product through a U.S. Food and Drug Administration administered process.

1.51.0 **Network Pharmacy** means a Pharmacy, other than those Pharmacies meeting the definition of Mail Service Pharmacy Process Facilities or a Designated Specialty Pharmacy, which has

entered into an agreement with the Contractor, or any Affiliate or Key Subcontractor of the Contractor, to provide Covered Drugs to Claimants, including limited distribution or Specialty Drugs. The Contractor's records shall be conclusive as to whether a Pharmacy has a Network Pharmacy agreement in effect on the date a drug is dispensed.

1.52.0 **Non-Network Pharmacy** means any Pharmacy, other than a Network Pharmacy, a Mail Service Pharmacy Process Facility or a Designated Specialty Pharmacy, which has not entered into an agreement with the Contractor, or any Affiliate or Key Subcontractor of the Contractor, to provide Covered Drugs to Claimants.

1.53.0 **Non-Preferred Drug** means an FDA approved prescription drug that is covered by the NYSIF Program, but is not included on the Contractor's and/or its Key Subcontractor's Preferred Drug.

1.54.0 **NYS or State** means the State of New York.

1.55.0 **Offeror** means any responsible and eligible entity submitting a responsive Proposal to this RFP. It shall be understood that references in the RFP to "Offeror" shall include said entity's proposed Key Subcontractor or Affiliates, if any.

1.56.0 **OSC** means the New York State Office of the State Comptroller.

1.57.0 **Over-the-Counter Drug (OTC)** means a drug approved by the FDA, which has been determined to be safe and effective for use by the general public without a doctor's Prescription.

1.58.0 **Pass-through Pricing** means the NYSIF Program is charged the same Ingredient Cost and/or dispensing fee paid to the dispensing Network Pharmacy or Mail Service Pharmacy for the Generic Drug, Brand Drug, Compound Drug or vaccine dispensed.

1.59.0 **Pharmacist** means a person who is legally licensed to practice the profession of Pharmacy. He or she must regularly practice such profession within the scope of their license.

1.60.0 **Pharmacy or Pharmacies** means any establishment, which is registered as a Pharmacy with the appropriate State licensing agency or is a Veterans Affairs Hospital Pharmacy, and regularly dispenses medications that require a Prescription from a Physician.

1.61.0 **Pharmacy Benefit Services or Program Services** means all of the services to be provided by the Contractor as set forth in this RFP.

1.62.0 Pharmacy Submitted Ingredient Cost or Pharmacy Submitted Pricing or Submitted Cost means the value entered by the Pharmacy in field 409, 'Ingredient Cost Submitted' of Telecommunication D.0 issued by the National Council for Prescription Drug Programs, Inc. For purposes of adjudication of Compound claims the value shall be no more than the total AWP of all ingredients in the Compound.

1.63.0 Pharma Revenue means any and all revenues generated from agreements between pharmaceutical manufacturers and the Contractor, or any Affiliate or Key Subcontractor of the Contractor, which relate to NYSIF Program utilization and/or Pharmacy benefit management services provided under this Agreement. Such revenues include revenue described by any name, but not limited to, revenues described as formulary rebates, market share rebates, administrative fees, AWP caps or by any other name.

1.64.0 Physician means a Doctor of Medicine (M.D.) or a Doctor of Osteopathy (D.O.). He or she must be legally licensed without limitations or restrictions, to practice medicine. For benefits provided in the NYSIF Program, and for no other purpose, Physician also means a Doctor of Dental Surgery (D.D.S.), a Doctor of Dental Medicine (D.D.M), a Podiatrist and any other health care professional licensed to prescribe medication, when he or she is acting within the scope of his or her license.

1.65.0 Preferred Brand Drug means a FDA approved brand name prescription drug that is included on the Preferred Drug List developed by the Contractor for the NYSIF Program.

1.66.0 Preferred Drug List or PDL means a list of FDA approved brand name and generic prescription drugs developed by the Contractor for the Program.

1.67.0 Prescription/Prescription Order means the written or oral request for drugs issued by a Physician duly licensed to make such a request in the ordinary course of his or her professional practice. This order must be written in the name of the person for whom it is prescribed or be an authorized refill of that order.

1.68.0 Procuring Agencies means the New York State Department of Civil Service (DCS) and the New York State Insurance Fund (NYSIF).

1.69.0 Program MAC List means the Programs' specific Maximum Allowable Cost (MAC) List managed by the Contractor to set the maximum price the Program shall be charged and the dispensing retail Network Pharmacy shall be paid on a pass through basis for the Ingredient Cost of a drug required to be included on the Program MAC List.

1.70.0 **Program Services or Pharmacy Benefit Services** means all of the services to be provided by the Contractor as set forth in this Agreement.

1.71.0 **Program Team** means the Contractor and those Key Subcontractors, if any, utilized by the Contractor who collectively undertake and perform the Program Services which are the subject of the Agreement.

1.72.0 **Proposal or Submissions** means the Contractor's Administrative Proposal, Technical Proposal and Cost Proposal, including all responses to supplemental requests for clarification, information, or documentation, submitted during the course of the Procurement.

1.73.0 **Retail Pharmacy Network** means the Contractor's credentialed network of participating independent, chain Pharmacies, and specialty Pharmacies contracted to deliver services to Claimants.

1.74.0 **RFP or Procurement** means the Request for Proposals entitled "Pharmacy Benefit Services for The Empire Plan, Excelsior Plan, Student Employee Health Plan and the New York State Insurance Fund Workers' Compensation Prescription Drug Programs," dated May 29, 2018.

1.75.0 **Specialty Drugs/Medications** means drugs that treat rare disease states; drugs requiring special handling, special administration, or intensive patient monitoring/testing; biotech drugs developed from human cell proteins and DNA, targeted to treat disease at the cellular level; or, other drugs used to treat patients with chronic or life threatening diseases identified as specialty medications through the mutual agreement of the parties.

1.76.0 **Specialty Pharmacy Process** means the method that the Contractor employs to accept, process, and dispense Prescriptions for Covered Drugs to Claimants through the Designated Specialty Pharmacy(ies) or a Limited Distribution Drug Pharmacy. Prescriptions are considered to be submitted through the Specialty Pharmacy Process if they are a Limited Distribution Drug submitted directly to the Limited Distribution Drug Pharmacy, or if they are a Specialty Drug/Medication submitted directly to the Designated Specialty Pharmacy, by phone, fax, internet, e-prescribing or mail. All Prescriptions filled through the Specialty Pharmacy Process shall be processed in strict accordance with the provisions of the contract to be agreed upon by the FUND and the Contractor.

1.77.0 **Therapeutic Equivalent Drug** means a drug that can be expected to produce essentially the same therapeutic outcome and toxicity.

1.78.0 Transition Plan means a written plan for transition, which outlines, at a minimum, the tasks, milestones and deliverables associated with transitioning the Program to a new Contractor.

1.79.0 Usual and Customary (U&C) means the retail price charged to the general public as submitted by the dispensing Pharmacy during claims processing.

1.80.0 WCB means the New York State Workers' Compensation Board.

ARTICLE II: AGREEMENT DURATION AND AMENDMENTS

2.1.0 This Agreement shall be subject to and effective upon the approval of the New York State Attorney General's Office ("AG") and the NYS Office of the State Comptroller ("OSC"). The term of the Agreement shall include an implementation period followed by five (5) years of Program Services. It is the FUND's intent that all contractual responsibilities, other than implementation activities, will begin on January 1, 2019, through and including December 31, 2023, and subject to the termination provisions contained herein.

2.2.0 The Agreement is subject to amendment(s) only upon mutual consent of the Parties, reduced to writing and approved by the AG and the OSC.

2.3.0 Upon termination of this Agreement the FUND shall have the right to award a new contract to another Contractor.

ARTICLE III: INTEGRATION

3.1.0 This Agreement, including all Exhibits, copies of which are attached hereto and incorporated by reference, constitutes the entire Agreement between the Parties. All prior Agreements, representations, statements, negotiations, and undertakings are superseded hereby.

3.2.0 All statements made by the FUND shall be deemed to be representations and not warranties.

ARTICLE IV: DOCUMENT INCORPORATION AND ORDER OF PRECEDENCE

4.1.0 The Agreement consists of:

4.1.1 The body of the Agreement (that portion preceding the signatures of the Parties in execution), and any amendments thereto;

4.1.2 Appendix A – Standard Clauses for All New York State Contracts;

4.1.3 Appendix B – Standard Clauses for All FUND Contracts;

4.1.4 Appendix C – Third Party Connection and Data Sharing Agreement;

4.1.5 Appendix D – Participation by Minority Group Members and Women With Respect to State Contracts: Requirements and Procedures;

4.1.6 The following Exhibits attached and incorporated by reference to the body of the Agreement:

4.1.6a Exhibit A: which includes: the MacBride and Non-Collusive Bidding Certification;

4.1.6b Exhibit B: the Request for Proposals entitled "Pharmacy Benefit Services for The Empire Plan, Excelsior Plan, Student Employee Health Plan, and New York State Insurance Fund Workers' Compensation Prescription Drug Programs," dated May 29, 2018, and Exhibit B-1, the official Procuring Agencies response to questions raised concerning the RFP;

4.1.6c Exhibit C: the Contractor's Proposal; and related materials clarifying the Contractor's Proposal;

4.1.6d Exhibit D: Specialty Pharmacy Program Dispensing Fees

4.1.7 In the event of any inconsistency in, or conflict among, the document elements of the Agreement identified above, such inconsistency or conflict shall be resolved by giving precedence to the document elements in the following order:

4.1.7a First, Appendix A – Standard Clauses for All New York State Contracts;

4.1.7b Second, Appendix B – Standard Clauses for All FUND Contracts;

4.1.7c Third, Appendix D – Participation by Minority Group Members and Women With Respect to State Contracts: Requirements and Procedures;

4.1.7c Fourth, any Amendments to the body of the Agreement;

4.1.7d Fifth, the body of the Agreement;

4.1.7e Sixth, Exhibit B, the Request for Proposals entitled "Pharmacy Benefit Services for The Empire Plan, Excelsior Plan, Student Employee Health Plan and New York State Insurance Fund Prescription Drug Programs," dated May 29, 2018

and Exhibit B-1, the official Procuring Agencies response to questions raised concerning the RFP;

4.1.7f Seventh, Exhibit C: the Contractor's Proposal; and related materials clarifying the Contractor's Proposal; and

4.1.7g Eighth, Exhibit E, Specialty Pharmacy Program Dispensing Fees;

4.1.8 The terms, provisions, representations and warranties contained in the Agreement shall survive performance hereunder.

ARTICLE V: LEGAL AUTHORITY TO PERFORM

5.1.0 Contractor agrees that it shall perform its obligations under this Agreement in accordance with all applicable federal and NYS laws, rules and regulations, policies and/or guidelines now or hereafter in effect.

5.2.0 The Contractor shall maintain appropriate corporate and/or legal authority, which shall include but is not limited to the maintenance of an administrative organization capable of delivering the Program Services in accordance with the Agreement and the authority to do business in the State of New York or any other governmental jurisdiction in which the Program Services are to be delivered.

5.3.0 The Contractor shall provide the FUND with written notice within two (2) Business Days of the Contractor becoming aware of, or obtaining, notice in writing of the initiation of any legal action or suit (whichever occurs first) which relates in any way to the Agreement, or which may affect the performance of Contractor's duties under the Agreement.

ARTICLE VI: PROGRAM SERVICES

6.1.0 The Contractor shall provide all of the Program Services as set forth herein this Article VI of the Agreement for the entire term of the Agreement. All Program Services shall be provided in accordance with the New York State Workers' Compensation Law and its implementing regulations, and other NYS and Federal Law as may be applicable. In addition, the Contractor shall deliver the Program Services in such a manner so as to comply with all provisions of this Agreement. The Contractor may provide certain services through key subcontracts with the prior review and approval of the FUND. Each subcontract entered into with a corporate entity separate from the Contractor for the purpose of delivering Program Services must be

maintained throughout the term of the Agreement unless such change is approved in writing by the FUND. The FUND must be explicitly identified as the intended beneficiary of the key subcontract. The Contractor must maintain significant financial, legal, and audit oversight of any of its Key Subcontractors. The Contractor remains fully responsible for all services and actions performed under this Agreement. The Contractor shall submit all key subcontracts to the FUND for its approval. The Contractor shall submit all such key subcontracts with no redactions to the FUND before execution for its review and approval. **(Note: Costs/Fees for all services required under this Agreement shall be included in the Contractor's Claims Administrative Fee).**

6.1.1 Control of Plan. Unless otherwise stated in this Agreement, the FUND retains the sole and absolute authority to design, amend, terminate or modify, in whole or in part, all or any portion of the NYSIF Program, including the sole authority to control and administer the NYSIF Program and any assets of the NYSIF Program. The FUND shall also have complete discretionary, binding and final authority to construe the terms of the NYSIF Program, to interpret ambiguous NYSIF Program language, to make factual determinations regarding the provision of benefits and the payment of drug claims, to review denied claims and to resolve complaints by Claimants. Contractor agrees to be a fiduciary for the purpose of initial claim adjudication.

6.2.0 <u>Program Implementation</u>

6.2.1 The Agreement includes an implementation period beginning upon approval of the Agreement by the AG and OSC. During this time, the Contractor must undertake and complete all implementation activities, including but not limited to those specific activities set forth in the Implementation and Start-up Guarantee Section 7.1.0 of the Agreement. Such implementation activities must be complete no later than December 31, 2018 so that the NYSIF Program is fully operational on January 1, 2019.

6.3.0 <u>Account Team</u>

6.3.1 The Contractor must maintain an organization of sufficient size with staff that possesses the necessary skills and experience to administer, manage, and oversee all aspects of the NYSIF Program during implementation, operation, and transition.

6.3.1a The account team must be comprised of qualified and experienced individuals who are acceptable to the FUND and who are responsible for ensuring that the operational, clinical, and financial resources are in place to operate the NYSIF Program in an efficient manner;

6.3.1b The Contractor must ensure that there is a process in place for the account team to gain immediate access to appropriate corporate resources and senior management necessary to meet all NYSIF Program requirements and to address any issues that may arise during the performance of the Agreement.

6.3.2 The Contractor's dedicated account team must be experienced, accessible, and sufficiently staffed to:

6.3.2a provide timely responses (within 1 to 2 Business Days) to administrative and clinical concerns and inquiries posed by the FUND for the duration of the Agreement to the satisfaction of the FUND. The FUND shall provide to Contractor a written list of names of those individuals in its workforce (as defined in 45 CFR §160.103) that are authorized to receive or access Enrollee PHI on its behalf; and

6.3.2b immediately notify the FUND in writing of actual or anticipated events impacting NYSIF Program costs and/or delivery of services to Claimants such as, but not limited to, legislation, litigation, drug recalls and withdrawals, class action settlements, and operational issues.

6.3.3 The Contractor's dedicated account team must ensure that the NYSIF Program is in compliance with all legislative and statutory requirements. If the Contractor is unable to comply with any legislative or statutory requirements, the FUND must be notified in writing immediately.

6.4.0 **Customer Service:** The Contractor is responsible for all customer support and services including, but not limited to:

6.4.1 Maintaining call center(s) located in the United States staffed by fully trained customer service representatives and supervisors available 24 hours a day 365 Days a year. The Contractor must maintain a Dedicated Call Center for the Program between the hours of 7:00am and 7:00pm ET. During off hours, calls may be routed to a designated call center(s) located in the United States staffed by fully trained customer services representatives and supervisors. The call center(s) must also provide immediate access to Pharmacist(s) 24 hours a day, 365 days a year. The call center(s) must meet the Contractor's proposed customer service telephone guarantees set forth in Section 7.7.0 of this Agreement;

6.4.2 Customer service staff must use an integrated system to log and track all Claimant calls. The system must create a record of the Claimant contacting the call center, the call type, and all customer service actions and resolutions;

6.4.3 Customer service representatives must be trained and capable of responding to a wide range of questions, complaints and inquiries including but not limited to: NYSIF Program benefit levels, refills, order status, prices and billing, point of service issues, prior authorization and eligibility, Mail Service Pharmacy Process, Specialty Pharmacy Process services and complaints, and Preferred Drug List alternatives; and

6.4.4 Maintaining a backup customer service staff located in the United States with NYSIF Program-specific training to handle any overflow when the Dedicated Call Center is unable to meet the Contractor's customer service performance guarantees as set forth in Section 7.7.0 of this Agreement. This backup system would also be utilized in the event the primary customer service center(s) become unavailable.

6.5.0 Enrollee Communication Support

6.5.1 All Claimant communications developed by the Contractor are subject to FUND review and prior written approval, including but not limited to any regular standardized direct communication with Claimants or their Physicians in connection with Claimant drug utilization or the processing of Claimant claims either through mail, e-mail, fax or telephone. The FUND in its sole discretion reserves the right to require any change it deems necessary;

6.5.2 The Contractor must work with the FUND to develop appropriate customized forms and letters for the NYSIF Program, including but not limited to mail order forms, prior authorization letters, Preferred Drug List, etc. All such communications must be approved by the FUND; and

6.5.3 The Contractor must assist NYSIF is developing a customized Claimant information packet that will include information on available prescription drug services as well as a permanent ID card to be used when filling injury-related prescriptions.

6.6.0 Enrollment Management: The Contractor is responsible for the maintenance of accurate, complete, and up-to-date enrollment files, located in the United States, based on information provided by the FUND. These enrollment files shall be used by the Contractor to process retail,

mail order and specialty pharmacy claims, provide customer service, and produce management reports and data files. The Contractor is required to provide enrollment management services including, but not limited to:

6.6.1 Initial testing

6.6.1a Performing an initial enrollment load to commence upon receipt from the FUND during NYSIF Program implementation. The file may be an encrypted, fixed length ASCII text file that is transmitted using a secure transmission protocol or a custom file format. The determination will be made by the FUND; and

6.6.1b Testing to determine if the enrollment file and enrollment transactions loaded correctly and that the enrollment system interfaces with the claims processing system to accurately adjudicate claims. The Contractor must submit enrollment test files to the FUND for auditing, provide the FUND with secure, online access required to ensure accurate loading of NYSIF Program enrollment data, and promptly correct any identified issues to the satisfaction of the FUND.

6.6.2 Providing an enrollment system capable of receiving secure enrollment transactions every day, including weekends and holidays, and having all transactions fully loaded to the claims processing system within twelve (12) hours of release of a retrievable file by the NYSIF. The Contractor shall immediately notify the NYSIF of any delay in loading enrollment transactions. In the event the Contractor experiences a delay due to the quality of the data supplied by the NYSIF, the Contractor shall immediately load all records received (that meet the quality standards for loading) within twelve (12) hours of their release, as required. The NYSIF will release enrollment changes, including all additions, modifications and deletions since the previous transmission, to the Contractor in an electronic format daily (every day, including weekends and holidays). On occasion, the NYSIF will release more than one enrollment file within a 24-hour period. The Contractor must be capable of loading both files within the twelve (12) hour performance standard. The format of these transactions will be a fixed length ASCII text file. The ASCII text file is encrypted and transmitted each business day using a secure transmission protocol. Upon selection, the Contractor will be provided with the claim eligibility file specifications and the schedule for the transmission of the file;

6.6.3 Ensuring the security of all enrollment information as well as the security of a HIPAA compliant computer system in order to protect the confidentiality of Claimant data

contained in the enrollment file. Any transfers of enrollment data within the Contractor's system or to external parties must be completed via a secured process;

6.6.4 Providing a backup system or have a process in place where, if enrollment information is unavailable or not current at the point of service, Claimants can obtain Prescriptions without interruption, at the point of service. Short fill policies should be included in the Pharmacy Provider manual;

6.6.5 Cooperating fully with any FUND initiatives to use new technologies, processes, and methods to improve the efficiencies of maintaining enrollment data including any enrollment file conformance testing requested during the course of this Agreement;

6.6.6 Ability to manually load/correct an enrollment record and to contact the Pharmacy to allow the adjudication of a Prescription in an urgent or emergency situation. Occurrences of these situations are very rare; and

6.6.7 The Contractor must provide an instant enrollment or "short fill" service to injured workers of NYSIF policyholders. This service should allow immediate acceptance by any pharmacy in the Contractor's network in order to provide a limited number of cost-effective medication benefits to the Claimant.

6.7.0 **Reporting:** The Contractor is responsible for accurate reporting services including, but not limited to:

6.7.1 Generating and submitting monthly, quarterly, semi-annual and annual reports per NYSIF specification. Specifications will be provided upon vendor selection;

6.7.2 Capturing and providing the FUND with electronic file of eligibility and authorization on the GC3, or similar code level. The Contractor should have the capability to capture drug denials on the GPI and NDC code levels;

6.7.3 Supplying reports in paper format and/or in an electronic format (Microsoft Access, Excel, Word) as determined by the FUND. This includes, but is not limited to, reports and data files listed in Article XV of this Agreement;

6.7.4 Providing direct, secure access to the Contractor's claims system and any online and web-based reporting tools to the FUND's offices;

6.7.5 Providing Ad Hoc Reports and other data analysis at no additional cost. The exact format, frequency, and due dates for such reports shall be specified by the FUND. Information required in the Ad Hoc Reports may include but is not limited to providing:

6.7.5a Forecasting and trend analysis data;

6.7.5b Data necessary to track drug pricing;

6.7.5c Utilization data on the Mail Order Pharmacy and the Special Pharmacy Program;

6.7.5d Utilization review savings;

6.7.5e Benefit design modeling analysis;

6.7.5f Reports to meet clinical program review needs;

6.7.5g Reports segregating claims experience for specific populations; and

6.7.5h Reports to monitor Agreement compliance.

6.7.6 The Contractor must work with NYSIF to resolve reporting issues according to the timeframes described in Article XV.

6.8.0 **Consulting:** The Contractor is responsible for providing advice and recommendations regarding the Program. Such responsibility shall include, but not be limited to:

6.8.1 Informing the FUND in a timely manner concerning such matters as cost containment strategies, new drugs, conversion from Brand Drugs to Generic Drugs and how it will impact cost, Preferred Drug List configuration, technological improvements, e-prescribing, Pharmacy innovations, and State/Federal legislation (i.e., Prescription drug mandates, etc.) that may affect the Program. The Contractor must provide information and recommendations to the FUND on Preferred Drug List (PDL) placement of new generic and biological therapies prior to release into the marketplace to the extent such information is available in the public realm. The Contractor must also make available to the FUND one or more members of the clinical or account management team to discuss the implications of these new trends and developments. The FUND is not under any obligation to act on such advice or recommendation; and

6.8.2 Assisting the FUND with recommendations and evaluation of proposed benefit design changes and implementing any changes necessary to accommodate NYSIF Program modifications resulting from collective bargaining, legislation, or within the statutory discretion of the State. Recommendations must include a preliminary analysis of all

associated costs, a clinical evaluation, and the anticipated impact of proposed NYSIF Program modifications and contemplated benefit design changes on Claimants.

In the event of a design change and the Contractor requests any change in compensation such change will be in accordance with Article VIII of this Agreement.

6.9.0 Network Management

6.9.1 Retail Pharmacy Network

6.9.1a The Contractor must maintain a credentialed and contracted Retail Pharmacy Network that meets or exceeds the NYSIF Program's minimum access standards throughout the term of the Agreement.

6.9.1b The NYSIF Program requires the Contractor have available to Claimants on January 1, 2019 the Retail Pharmacy Network it proposed in Exhibit C, Contractor's Proposal, of this Agreement, in accordance with the requirements set forth in Section 7.4.0 guaranteeing effective implementation of their Retail Pharmacy Network.

6.9.1c The Contractor is required to substantially maintain the composition of independent Network Pharmacies in its Retail Pharmacy Network. Substantially maintain the composition means that, in developing its Retail Pharmacy Network, the Contractor is expected have contracts through the term of the Contract with independent pharmacies accounting for seventy-five percent (75%) or more of the NYSIF Program's prescription drugs dispensed through independent pharmacies, provided such Pharmacies meet the requirements of Sections 6.9.2 and 6.9.3 of this Agreement, and are willing to accept the proposed aggressive reimbursement rates.

6.9.1d The Contractor shall include in its Retail Pharmacy Network any Pharmacy(ies) upon the FUND's request, where such inclusion is deemed necessary by the FUND to meet the needs of Claimants even if not otherwise necessary to meet the minimum access guarantees in Section 7.4.0 of this Agreement.

6.9.1e Any changes made by DCS to the scope of its agreement with the Contractor for Prescription Drug Program Services after execution of this Agreement, including but not limited to the request to include any individual independent Network

Pharmacy(ies), shall have no impact on this Agreement or cost thereunder, unless the change is agreed to by NYSIF.

6.9.1f The Contractor must effectively communicate the content (including any subsequent changes) and requirements of the NYSIF Program's Preferred Drug List to their Retail Pharmacy Network.

6.9.1g Prior to January 1, 2019, the Contractor must ensure that their Network Pharmacies have the correct claim identification information (i.e. RX BIN #, RXPCN, RXGRP, effective date, phone number for questions, etc.) to facilitate accurate claims submission and uninterrupted access for NYSIF Program Claimants.

6.9.1h The Contractor must establish a process to provide Claimants with access to Limited Distribution Drugs through the Retail Pharmacy Network.

6.9.2 Pharmacy Credentialing

6.9.2a The Contractor must ensure its Retail Pharmacy Network is credentialed in accordance with all applicable federal and state laws, rules and regulations.

6.9.2b The Contractor must credential Pharmacies in a timely manner and shall have an effective process by which to confirm Network Pharmacies continuing compliance with credentialing standards.

6.9.2c The Contractor must maintain credentialing records and make them available for review by the FUND upon request.

6.9.3 Pharmacy Contracting: The Contractor is responsible for providing Pharmacy contracting services including, but not limited to:

6.9.3a Ensuring that all Network Pharmacies contractually agree to and comply with all of the NYSIF Program's requirements and benefit design specifications;

6.9.3b Ensuring that Network Pharmacies accept as payment-in-full, the Contractor's reimbursement for all claims processed based on the NYSIF Program's Lesser of Logic, as set forth in Section 11.6.0 of this Agreement;

6.9.3c Notifying the FUND in writing of any plan to renegotiate the financial terms of any Network Pharmacy contract utilized by the NYSIF Program for any Pharmacy that is located in the State of New York, or for any such Pharmacy located outside NYS that accounts for more than 0.25% of total NYSIF Program final paid claim Ingredient Costs;

6.9.3d Notifying the FUND in writing within one (1) (Business day of any changes to contracts with Retail Pharmacy Network chain Pharmacies or independent Pharmacies negotiating collectively with the Contractor, including but not limited to, those identified as participating in the Contractor's network;

6.9.3e Committing to administering Pharmacy contracts consistent with all representations made in the Contractor's cost proposal, including all representations regarding the administration of generic pricing and maintenance of the Program's MAC list; and

6.9.3f Ensuring there are mechanisms in place to circumvent the referral of bills by participating pharmacies to third party billers for collection.

6.9.4 **Pharmacy and Program Audit:** The Contractor must have a staffed audit unit employing a comprehensive Pharmacy audit program that includes, but is not limited to:

6.9.4a Providing ample audit resources including access to the Contractor's online claims processing system to the FUND and the OSC at their respective offices through the date of the final financial settlement of the Agreement;

6.9.4b Providing FUND access and monthly updates to the Prescription Drug industry pricing source material (e.g. Medi-Span) that the Contractor will be utilizing for the NYSIF Program for the purposes of conducting routine audits of claims data;

6.9.4c Conducting routine and targeted on-site audits of Network Pharmacies, the Mail Service Pharmacy and the Specialty Pharmacy(ies). Pharmacies that deviate significantly from patterns of dispensing in terms of cost, drug selection, overrides, Days supply or utilization are to be identified and targeted for on-site and desk audits in accordance with established selection and screening criteria. On-site audits must also be conducted upon request by the FUND, or when information is received by the Contractor that indicates a pattern of conduct by a Pharmacy that is not consistent with the NYSIF Program's design and objectives. Periodic, on-site audits must be conducted at least once during the

course of the five (5) year resultant Agreement for Pharmacies that fall into the top fifty (50) in terms of total dollar spend for the NYSIF Program. Any modifications to the proposed Pharmacy audit programs must receive prior approval by the FUND;

6.9.4d Providing reports to the FUND detailing audits planned, audits initiated, audits in progress, audits completed, audit findings, audit recoveries, and any other enforcement action by the Contractor. The Contractor must inform the FUND in writing of any allegation or other indication of potential fraud and abuse identified within seven (7) Business Days of such allegations or identification. The FUND must be fully informed of all fraud and abuse investigations impacting the NYSIF Program upon commencement regardless of whether the individual fraud and abuse investigation has a material financial impact to the State;

6.9.4e The Contractor must maintain the capability and contractual right to effectively audit the NYSIF Program's Retail Pharmacy Network, including the use of statistical sampling audit techniques and the extrapolation of errors;

6.9.4f Agreement to fully cooperate with all FUND and/or OSC audits consistent with the requirements of Appendices A and B as set forth in this Agreement, including provision of access to protected health information and all other confidential information when required for audit purposes as determined by the FUND and OSC as appropriate. The Contractor must respond to all State audit requests for information and/or clarification within fifteen (15) Business Days. The Contractor must perform timely reviews and respond in a time period specified by the FUND to preliminary findings submitted by the FUND and the Comptroller's audit unit in accordance with the requirements of Article XVII, "Audit Authority." Such audits may include, but are not limited to: mail order claims; Non-Network Pharmacy claims; and on-line Pharmacy claims. Use of statistical sampling of claims and extrapolation of findings resulting from such samples shall be acceptable techniques for identifying claims errors. The selected Contractor shall facilitate audits of network pharmacies as requested by the NYSIF and/or OSC;

6.9.4g Remitting 100% of pharmacy audit recoveries to the FUND within thirty (30) Days upon final audit determination consistent with the process specified in Article XIV "Payments/(credits) to/from the Contractor" and Appendix B of this Agreement;

6.9.4h Utilizing the auditing tools and performance measures proposed by the Contractor to identify fraud and abuse by Network Pharmacies and/or Claimants; and

6.9.4i Permitting the FUND or a designated third party to audit pharmacy bills and drug company revenues.

6.10.0 **Mail Service Pharmacy Process:** The Contractor must provide all aspects of the Mail Service Pharmacy Process. Such responsibility shall include, but not be limited to:

6.10.1 Having a fully staffed and fully operational Mail Service Pharmacy Process throughout the term of the resultant Agreement, utilizing one or more Mail Service Pharmacy Process Facilities meeting all New York State legal requirements. The Mail Service Pharmacy Process must be capable of dispensing all covered, FDA approved medications including any drug that could be classified as Specialty Drugs/Medications or requires special preparation or handling for up to a 90-day supply. Contractor must establish a process to provide Claimants with access to Limited Distribution Drugs placing no additional steps or burdens on the Claimant. Prescriptions are considered to be "submitted through the Mail Service Process" if they are submitted by phone, fax, internet, e-prescribing or mail to any Mail Service Pharmacy Process Facility, regardless of how the Prescription is filled. All covered Prescriptions, except for Limited Distribution Drugs, submitted through the Mail Service Pharmacy Process or through a Mail Service Pharmacy Process Facility shall be charged to the NYSIF Program based on the Contractor's mail service pricing terms and dispensing fees (if any) applicable to Brand name, Generic, and Compound Drug claims as set forth in Article XI, "NYSIF Program Claims Reimbursement" of this Agreement, including Specialty Drugs/Medications for certain enrollees. Limited Distribution Drugs submitted through the Mail Service Pharmacy Process shall be charged to the NYSIF Program based on the Contractor's Retail Network pricing terms and dispensing fees (if any) applicable to Brand Name, Generic and Compound Drug claims as set forth in Article XI, "NYSIF Program Claims Reimbursement" of this Agreement. The Mail Service Pharmacy Process shall apply the same Program benefit design features as the Network Pharmacies, including but not limited to Mandatory Generic Substitution, DUR, Prior Authorization and Preferred Drug List;

6.10.2 Ensuring that all the FUND approved edits including, but not limited to, enforcing utilization edits (i.e. refill to soon, duplicate therapy, etc.) are built into the Prescription

fulfillment system to protect a claimant's safety as well as to control NYSIF Program costs;

6.10.3 Ensuring that all Mail Service Pharmacy Process Facilities utilized in the Contractor's Mail Service Pharmacy Process meet all Prescription drug packaging regulatory requirements. Any facility located outside New York State that will provide service for the NYSIF Program must be registered with the NYS Department of Education and meet all requirements of Section 6808-b of NYS Education Law. The Mail Service Pharmacy Process must recognize the full prescribing authority of Medical Professionals granted by NYS where allowed by state law;

6.10.4 Providing a simple, user friendly method(s) of ordering, reordering, or transferring Prescriptions from retail to mail. Maintaining a Dedicated Call Center located in the United States employing a staff of Pharmacists, and a staff of fully trained customer service representatives, and supervisors available 24 hours a day 365 Days a year that must meet the Contractor's Mail Service Pharmacy Process guarantees set forth in Article VII, "Performance Guarantees" of this Agreement;

6.10.4a The Contractor must have an integrated system for customer service staff to utilize to respond to, log and track all Claimant inquiries. The system must create a record of the Claimant contacting the call center, the call type and all customer service actions and resolutions; and

6.10.4b Customer service representatives must be trained and capable of responding to a wide range of questions, complaints and inquiries including but not limited to: NYSIF Program benefit levels, refills, order status, prices and billing, point of service issues, prior authorization and eligibility, Mail Service Pharmacy Process, Specialty Pharmacy Process services and complaints, and Preferred Drug List alternatives. Callers must be able to reorder and check order status through both the website and the telephone line.

6.10.5 Providing pre-addressed, postage-paid mail service envelopes to Claimants, and for inclusion in FUND publications, at the request of the FUND;

6.10.6 Having efficient procedures in place to handle routine Prescriptions, "urgent" Prescriptions, and Prescriptions that require "special" handling (i.e. temperature control, limited shelf life, high cost, etc.);

6.10.7 Providing standard mail service delivery using packaging that is appropriate for the drug dispensed and the address it is shipped to at no additional cost to the NYSIF Program or the Claimant. Easy open caps also must be provided to Claimants upon request at no additional cost;

6.10.8 Having a system in place to track all Prescriptions (both intervention and non-intervention) received for processing through the Mail Service Pharmacy Process from the date the Prescription is received to the date the mailing agent picks up the package. The Contractor must also be able to track fill accuracy rates;

6.10.9 Maintaining a process to collect information necessary to ensure claimant safety. The process should collect such information as drug allergies, chronic medical conditions, and other medications taken on a regular basis;

6.10.10 Maintaining a system that notifies Claimants about potential health and safety issues with their Prescriptions;

6.10.11 Maintaining efficient procedures regarding inventory management of the Mail Service Pharmacy Process Facility(ies) including, but not limited to, backorders, inventories of high demand drugs, supplies of difficult to obtain drugs, back-up supplier contracts, etc.;

6.10.12 Providing prompt notification to Claimants regarding out of stock items, partial fill orders, and changes to Prescriptions (e.g., approved or required dispensing of generics instead of Brand drugs). In out of stock situations, the Contractor must have a system in place to ensure that Prescriptions are filled in the most efficient manner whether it be through an alternate facility(ies) or obtaining a re-stock from a supplier. If necessary, the Contractor shall call the Claimant first to obtain permission to contact their Physician to offer alternative medications, or to offer to return the prescription. If the Physician authorizes use of an alternative medication, a letter notifying the Claimant of the change must be sent to the Claimant before the medication is shipped or must accompany the Prescription;

6.10.13 Calling the prescribing Physician when a DAW-1 is indicated on the Prescription to confirm that the Physician understands the financial impact to the claimant and/or the FUND to determine if the Physician is willing to allow the generic version of the drug to be dispensed to the Claimant. If the Physician was previously contacted regarding the same Prescription for a particular Brand Drug for the same Claimant and required that the Brand Drug be dispensed, no call is required. If the Physician authorizes use of the

generic version of the drug, a phone call shall be made to the Claimant of the approved change before the medication is shipped or the Contractor shall include a letter with the Prescription informing the Claimant of their physician's approval. If the Claimant has indicated on the mail service order form that they do not wish their Physician to be contacted for such determinations, no call shall be made;

6.10.14 Notifying the Claimant of nationwide out of stock issues, including information from the manufacturer or wholesaler regarding the anticipated date that the drug will resume shipment;

6.10.15 Utilizing best efforts to complete Physician clarification, verification, or other interventions within the five (5) Business Day service level standard. Should this require more than eight (8) Business Days, the Contractor shall call the Claimant and offer the Claimant the option of returning the prescription or continuing the intervention attempt;

6.10.16 Ensuring that the consent of the Claimant is obtained prior to calling the prescribing Physician with the exception of calls made for purposes of clarification, verification, settlement of other intervention claim issues or DAW-1 confirmations;

6.10.17 Providing all necessary clinical and educational support to NYSIF Program Claimants, and/or their family/caregiver utilizing the Mail Service Pharmacy Process, including Claimants taking injectable, infusion or other drugs requiring special handling or special administration;

6.10.18 Having a backup mail order facility(ies) to handle any overflow and/or situations where the primary mail order facility is unavailable;

6.10.19 Promoting the utilization of the Mail Service Pharmacy Process through targeted mailings, Physician communications, etc. if the FUND determines that such promotions are in the best financial interests of the FUND. All such activities, including mailings, are subject to change and require the prior written approval of the FUND. Any regular direct communication with Claimants or their Physicians in connection with Claimant drug utilization or the processing of Claimant claims, either through mail, e-mail, fax or telephone must be submitted for the FUND's approval. The cost of any approved promotion shall be borne by the Contractor, unless the FUND specifically requests a particular activity not required to be performed under the resultant Agreement. The FUND will not approve any mail order promotions that it determines will not result in a reduced net cost to the NYSIF Program;

6.10.20 The Contractor shall act in the best interests of the NYSIF Program when dispensing Generic Drugs through the Mail Service Pharmacy Process by avoiding the dispensing of NDC's with higher AWPs unless market conditions exist making dispensing the more cost effective NDC impractical or impossible;

6.11.0 Specialty Drugs/Medications

6.11.1 The Contractor must provide Claimants with access to all Medically Necessary Specialty Drugs/Medications covered by the Program through its Retail Pharmacy Network, Mail Service Pharmacy Process and Specialty Pharmacy. In the case of Limited Distribution Drugs, the Contractor shall provide Claimants with access in accordance with the following:

6.11.1a *Retail Pharmacy Network Access*

The Contractor shall secure the participation of the authorized distributor in its Retail Pharmacy Network and bill the Program consistent with the Contractor's contracted discount off of AWP for the Limited Distribution Drug, plus any dispensing fee.

6.11.1b *Mail Service Pharmacy Process Access*

The Contractor must facilitate the Claimant's receipt of the Limited Distribution Drug. The Offeror shall secure the participation of the authorized distributor in its Retail Pharmacy Network and bill the Programs consistent with the Offeror's contract discount off AWP for the Limited Distribution Drug, plus any dispensing fee. The Claimant shall be charged the applicable retail Copayment.

6.11.2 Specialty Pharmacy Program

6.11.2a The Contractor must provide Claimants with access to all Medically Necessary Specialty Drugs/Medications covered by the NYSIF Program through its proposed Specialty Pharmacy Program. Such responsibility must include, but not be limited to:

6.11.2a(1) Developing a listing of the Specialty Drugs/Medications proposed for inclusion in the Specialty Pharmacy Program;

6.11.2a(2) Having a fully staffed and fully operational Specialty Pharmacy Program in which Specialty Drugs/Medications are provided by one

or more Designated Specialty Pharmacies. All Designated Specialty Pharmacies must meet all New York State legal requirements. Any facility located outside New York State that will provide service for the NYSIF Program must be registered with the NYS Department of Education and meet all requirements of Section 6808-b of NYS Education Law. The Specialty Pharmacy Process must recognize the full prescribing authority of Medical Professionals granted by NYS where allowed by state law.

6.11.2a(3) The Contractor must establish a process to provide Claimants with access to Limited Distribution Drugs not available through the Designated Specialty Pharmacy(ies), which places no additional steps or burdens on the Claimant. The Offeror shall secure the participation of the authorized distributor in its Retail Pharmacy Network and bill the Programs consistent with the Offeror's contracted discount off AWP for the Limited Distribution Drug, plus any dispensing fee. The Claimant shall be charged the applicable retail Copayment.

6.11.2a(4) Providing a fully staffed and fully operational customer support call center available to Claimants 24 hours a day, 365 Days a year including Pharmacists, clinicians, and registered nurses trained in a Claimant's specific Specialty Drug/Medication therapies. The Contractor must provide callers with access to customer service staff and Pharmacists through the NYSIF Program's toll-free telephone line who are able to respond timely to questions, complaints and inquiries including but not limited to: Program benefit inquiries, refills, order status, prices and billing, point of service issues, prior authorization and eligibility, Mail Service Pharmacy Process, Specialty Pharmacy Process services and complaints, and Preferred Drug List alternatives. Callers must be able to reorder and check order status through the toll-free telephone line.

6.11.2a(5) Administering a safety monitoring system that complies with the Food and Drug Administration (FDA) Amendments Act of 2007 which requires a Risk Evaluation and Mitigation Strategy (REMS)

from the Specialty Drugs/Medications manufacturers to ensure the benefits of a drug outweigh its risks.

6.11.2a(6) Completing Physician consultation, coordination of care, patient care management and other interventions on a clinically appropriate and timely basis.

6.11.2a(7) Providing all necessary clinical and educational support to Claimants, and/or their family/caregiver utilizing the Specialty Pharmacy Process, including but not limited to explaining the treatment plan and ancillary supplies, disease/drug education, side-effect management, compliance management and administration training.

6.11.2a(8) Applying the same NYSIF Program benefit design features as the Mail Service Pharmacy Process, including but not limited to Mandatory Generic Substitution, DUR, Prior Authorization, and Preferred Drug List.

6.11.2a(9) Ensuring that all the FUND's approved edits including, but not limited to, enforcing utilization edits (e.g. refill to soon, duplicate therapy, etc.) are built into the Prescription fulfillment process system to protect a claimants safety as well as to control NYSIF Program costs.

6.11.2a(10) Ensuring that all Designated Specialty Pharmacies utilized in the Contractor's Specialty Pharmacy Program meet all Prescription drug packaging regulatory requirements. The Contractor must ensure that Specialty Drugs/Medications are shipped to Claimants in appropriate packing materials so that Specialty Drugs/Medications are safe and effective and delivered on time.

6.11.2a(11) Providing a simple, user friendly method(s) of ordering, reordering, and transferring Prescriptions from retail and mail to the Designated Specialty Pharmacy(ies) including pre-addressed postage paid Specialty Pharmacy Program envelopes. The Contractor must send a Specialty Pharmacy Program letter to Claimants who have received a Grace Fill of a Specialty

Drug/Medication through a Network Pharmacy. The letters must be sent within thirty (30) Days of the Prescription being filled to Enrollees who have received a Specialty Drug/Medication.

6.11.2a(12) Maintaining a comprehensive system for the Contractor's staff to utilize to track all Claimant inquiries including, but not limited to; NYSIF Program benefits, refills, order status, prices and billing, point of service issues, prior authorization and eligibility, Mail Service Pharmacy Process, Specialty Pharmacy Process services and complaints and Preferred Drug List alternatives. The system shall include call type, customer service actions and resolutions.

6.11.2a(13) Having a system in place to track all Prescriptions received for processing through the Specialty Pharmacy Process from the date the Prescription is received to the date the Prescription is shipped. The Contractor must also be able to track fill accuracy rates.

6.11.2a(14) Maintaining a process to collect information from individuals necessary to ensure claimant safety. The process should collect such information as drug allergies, chronic medical conditions, and other medications taken on a regular basis.

6.11.2a(15) Ensuring that the Designated Specialty Pharmacy(ies) have efficient procedures regarding inventory management including, but not limited to, backorders, inventories of high demand drugs, supplies of difficult to obtain drugs, backup supplier contracts, etc.

6.11.2a(16) Providing notification to Claimants as soon as possible for out of stock items, partial fill orders, and changes to Prescriptions (e.g., dosing or method of administration). In out of stock situations, the Contractor must have a system in place to ensure that Prescriptions are filled in the most efficient manner whether it be through an alternate facility(ies) or obtaining a re-stock from a supplier. The Contractor must contact the Claimant's Physician, if necessary, to offer alternative medications or offer to return the Prescription. If the Physician authorizes use of an alternative medication, a letter notifying the Claimant of the change must be sent to the Claimant

before the medication is shipped or must accompany the Prescription.

6.11.2a(17) Promptly notifying the FUND of nationwide out of stock issues, including information from the manufacturer or wholesaler regarding the anticipated date that the drug will resume shipment.

6.11.2a(18) Having backup Designated Specialty Pharmacies to handle any overflow and/or situations where the primary Specialty Program facility is unavailable.

6.11.2a(19) Recommending newly launched Specialty Drugs/Medications for inclusion in the Specialty Pharmacy Program based on the established criteria/definition of Specialty Drug/Medications, in a format to be approved by the FUND. Prior to inclusion in the NYSIF Program, or if not accepted by the FUND to be included in the NYSIF Program, the Contractor must bill the NYSIF Program for these Prescriptions consistent with the Contractor's contracted discount off of AWP at the dispensing Network Pharmacies or the Guaranteed Discount at the Mail Service Pharmacy Process, based on where each Prescription was actually dispensed. Inclusion of new Specialty Drugs/Medications shall have a cost-neutral or positive financial impact on the NYSIF Program, and in no case shall the Ingredient Cost of a newly added Specialty Drug/Medication charged to the Program exceed the Guaranteed Discount on Specialty Pharmacy Drugs.

6.12.0 <u>Claims Processing</u>

6.12.1 The Contractor must provide all aspects of claims processing. Such responsibility shall include but not be limited to:

6.12.1a Verifying that the NYSIF Program's benefit design has been loaded into the system appropriately to adjudicate and calculate cost sharing and other edits correctly;

6.12.1b Accurate and timely processing of all claims submitted under the NYSIF Program in accordance with the FUND requirements at the time the claim was incurred as specified to the Contractor by the FUND;

6.12.1c Charging the NYSIF Program consistent with the Contractor's proposed pricing quotes;

6.12.1d Developing and maintaining claim payment procedures, guidelines, and system edits that guarantee accuracy of claim payments for covered expenses only, utilizing all edits as proposed and approved by the FUND. The Contractor shall utilize refill too soon edits and duplication of therapy edits for all claims unless exceptions are specifically approved in advance by the FUND. The Contractor's system must ensure that refilling Prescriptions prior to use of the minimum prescribed Days supply does not result in over dispensing;

6.12.1e Managing Preferred Drug List placement of drugs consistent with the NYSIF Program design;

6.12.1f Maintaining claims histories for 24 months online and archiving older claim histories for up to 6 years with procedures to easily retrieve and load claim records;

6.12.1g Maintaining the security of the claim files and ensuring HIPAA compliance;

6.12.1h Reversing all attributes of claim records, e.g. AWP, quantity, Days supply, etc., processed in error including the reversal of any Claim Administration Fee associated with the original claim and crediting the NYSIF Program for all costs associated with the claim processed in error including but not limited to the Claim Administration Fee; and

6.12.1i Agreeing that all claims data is the property of the State. The Contractor cannot share, sell, release, or make the data available to third parties in any manner without the prior consent of the FUND. The FUND understands that the selected Contractor will be required to share certain claims data with pharmaceutical manufacturers for purposes of obtaining for the NYSIF Program all Pharma Revenue due it under the Agreement. The Contractor shall inform the FUND of the types of data being shared for these specific authorized purposes.

6.12.2 Maintaining a backup system and disaster recovery system for processing claims in the event that the primary claims payment system fails or is not accessible;

6.12.3 Maintaining a claims processing system capable of integrating and enforcing the various utilization review components of the NYSIF Program, including, but not limited to: Mandatory Generic Substitution, Prior Authorization, messaging capability in the current NCPDP format and a concurrent DUR program to aid the Pharmacist at the point of sale;

6.12.4 Maintaining an electronic claims processing system capable of obtaining information from Network Pharmacies to ensure consistent enforcement of the NYSIF Program's mandatory generic substitution provisions. In particular, the claims processing system must be capable of capturing information concerning the availability of the generic at the Pharmacy submitting the electronic claim. If a Generic Drug is available to be dispensed by the Retail Pharmacy Network, the NYSIF Program's mandatory generic substitution rules shall be applied. If the Network Pharmacy does not have the A-rated or authorized generic in stock, mandatory generic substitution provisions will not apply and the Claimant shall receive the Brand Drug and the Program charged based on generic pricing. The NYSIF Program shall reject claims for Brand Drugs subject to mandatory generic substitution that are submitted with a DAW-0 code with appropriate messaging and requires resubmission of the claim since a DAW-0 code provides no indication of Generic Drug availability in the Pharmacy. The NYSIF Program logic for the Pharmacy Submitted DAW codes is listed below:

Pharmacy Submitted DAW	Pricing
0*	Brand
1	Generic
2	Generic
3	Generic
4	Generic
5	Generic
6	Generic
7	Brand
8	Generic
9	Generic

*Logic applies unless the claim is rejected pursuant to 6.12.4

6.12.5 Maintaining a claims processing system capable of ensuring that claims are consistently processed with the appropriate brand name/generic/compound classification in accordance with the requirements set forth in Article XI: "NYSIF Program Claims Reimbursement" of this Agreement.

6.12.6 Maintaining a Program specific MAC List for Pharmacies;

6.12.7 Processing Non-Network Pharmacy claims submitted to the Contractor as paper bills in accordance with Chapter V of title 12 NYCRR, as follows:

6.12.7a Brand Drugs, including Specialty Drugs/Medications, must be charged to the NYSIF Program at the New York State Workers' Compensation Board rates, currently a 12% discount off of AWP, plus a $4 Dispensing Fee; and

6.12.7b Generic Drugs, including Specialty Drugs/Medications, must be charged to the NYSIF Program at the New York State Workers' Compensation Board rates, currently a 20% discount off of AWP, plus a $5 Dispensing Fee.

6.12.8 Processing all manually submitted claims including but not limited to, out of network claims, and in-network manual claims, in accordance to the Contractor's proposed Claims Adjudication Guarantee;

6.12.9 Analyzing and monitoring claim submissions to promptly identify errors, fraud and abuse and reporting to the FUND such information in a timely fashion in accordance with a FUND approved process The NYSIF Program shall be charged only for accurate (i.e., the correct dollar amount) claims payments of covered expenses. The NYSIF Program will be charged a Claims Administration Fee only for Final Paid Claims. The Contractor will credit the NYSIF Program the amount of any overpayment regardless of whether any overpayments are recovered from the Pharmacy and/or Claimant in instances where a claim is paid in error due to Contractor error, or due to fraud or abuse. The Contractor shall report fraud and abuse to the appropriate authorities. In cases of overpayments resulting from errors only found to be the responsibility of the FUND, the Contractor shall use reasonable efforts to recover any overpayments and credit 100% of any recoveries to the NYSIF Program upon receipt; however the Contractor, is not responsible to credit amounts that are not recovered;

6.12.10 Establishing a process where Pharmacies can verify eligibility of Claimants during Call Center Hours;

6.12.11 Requiring network pharmacies to submit to the Contractor for each drug dispensed the Pharmacy's Submitted Cost to ensure that the NYSIF Program is charged according to the NYSIF Program's Lesser of Logic; and,

6.12.12 Having a process in place (fully staffed with ample telephone trunks) available 24 hours a Day, seven Days a week where a Pharmacist can call to quickly resolve point of service issues.

6.13.0 Utilization Management

6.13.1 Mandatory Generic Substitution at Retail and Mail

To ensure strict adherence to the NYSIF Program's Mandatory Generic Substitution Requirement and protect the financial interests of the NYSIF Program, the Contractor is required to:

6.13.1a Unless otherwise directed by the FUND, apply mandatory generic substitution to all specific NDC's of Brand Drugs for which there is an FDA approved A-rated Generic Drug (including but not limited to, Generic Drugs rated AA, AB, AN, AO, AT, etc.) or an authorized Generic Drug as permissible by NYS law. Network Pharmacies shall comply with all state laws related to mandatory generic substitution. The NYSIF Program's mandatory generic substitution provisions shall apply to any claim where the A-rated or authorized Generic Drug is required or permitted to be substituted under state law. Mandatory generic substitution provisions will not apply to B-rated or unrated Generic Drugs or in the unlikely event that state law prohibits dispensing of the A-rated or authorized Generic Drug.

6.13.1b Monitor the pharmaceutical industry on behalf of the FUND to identify Generic Drugs expected to enter the market. Prior to the actual introduction of the Generic Drug to market, the Contractor shall inform the FUND of anticipated shipping dates of the first Generic Drug introduced into the market for one or more strengths of a particular Brand Drug.

6.13.1c Charge the NYSIF Program based on the Program MAC List price assigned to the GPI of the dispensed Brand Drug subject to the NYSIF Program's Lesser of Logic plus the applicable dispensing fee as set forth within Article XI, "NYSIF Program Claims Reimbursement," of this Agreement.

6.13.1d Promptly notify and receive FUND prior written approval for any and all exceptions to the NYSIF Program's mandatory substitution provisions. Following commencement of mandatory generic substitution, the Contractor must receive FUND written approval prior to suspending enforcement of the NYSIF Program's mandatory generic substitution provisions.

6.13.1e Maintain an electronic claims processing system capable of obtaining information from Network Pharmacies to ensure consistent enforcement of the NYSIF Program's mandatory generic substitution provisions. In particular, the claims processing system must be capable of capturing information concerning the availability of the Generic Drug at the Network Pharmacy submitting the electronic claim. If a Generic Drug is available to be dispensed by the Network Pharmacy, the NYSIF Program's mandatory generic substitution rules shall be applied. If the Network Pharmacy does not have the A-rated or authorized Generic Drug in stock, mandatory generic substitution provisions will not apply and the Claimant shall receive the Brand Drug and the NYSIF Program charged based on Generic Drug pricing. The Contractor's claims processing system must reject, with appropriate messaging, claims for Brand Drugs subject to mandatory generic substitution that are submitted with a DAW-0 code requiring resubmission of the claim (since a DAW-0 code provides no indication of Generic Drug availability in the Pharmacy). Similar rules can be applied to other DAW submission codes as necessary to ensure consistent, accurate application of the NYSIF Program's mandatory generic substitution requirements.

6.13.1f Immediately notify the FUND of changes (from brand to generic or generic to brand) in the NDC classification submitted by the Contractor, subject to the NYSIF Program's definitions of Brand and Generic Drugs contained in Article I of the Agreement.

6.14.0 Clinical Management/Drug Utilization Review (DUR)

6.14.1 To ensure that the resources available to the NYSIF Program are utilized for appropriate, Medically Necessary Drug therapy, the Contractor is required to administer a prior authorization program which includes, at a minimum:

6.14.1a A Prior Authorization Program for high cost Prescription drugs that are prescribed for very specific medical indications. Only medications that have been identified

by the Contractor as appropriate for Prior Authorization and reviewed by the FUND shall be included in the Prior Authorization Program. The Prior Authorization Program also subjects specific drugs in certain categories to clinical criteria before benefits are authorized for payment including but not limited to: anti-obesity agents; topical tretinoin; antifungal agents; Hepatitis C agents; Hepatitis B agents for interferon use; select Osteoporosis agents; Respiratory Syncytial Virus (RSV) Therapy agents, select stimulant agent; Multiple Sclerosis agents; Low Molecular Weight Heparin agents; Growth Hormones; Cancer; Pain/Arthritis; Psychosis agents and, Pulmonary Arterial Hypertension agents. Only medications that have been identified as appropriate for the Prior Authorization Program by the Contractor and reviewed by the FUND shall be included in the Prior Authorization Program;

6.14.1b Monitoring market changes and recommending deletions or additions to the list of drugs requiring Prior Authorization on an ongoing basis which must be reviewed by the FUND prior to implementation of any changes to the list of medications;

6.14.1c Promptly loading approved prior authorization received by the NYSIF Program into the claims processing system;

6.14.1d Loading one or more files of Prior Authorization approved-through dates from the incumbent contractor, prior to the January 1, 2019 implementation date, once an acceptable file is received and a lag file seven (7) days after the implementation date to capture any Prior Authorizations that may have been in process but not yet concluded as reported in the initial file.

6.14.1e A prior authorization process that is fully automated without requiring dispensing pharmacies to manually contact the Contractor to request review by NYSIF as specified in Exhibit B, the Requests for Proposals entitled "Pharmacy Benefit Services for The Empire Plan, Excelsior Plan, Student Employee Health Plan and the New York State Insurance Fund Workers' Compensation Prescription Drug Programs RFP," of this Agreement. The Contractor should provide training and training materials to NYSIF staff in the utilization of this process.

6.14.2 Concurrent Drug Utilization Review (DUR)

To safeguard claimant health and ensure adherence with the NYSIF Program's benefit design, the Contractor must administer a concurrent DUR program which includes at a minimum:

6.14.2a A point of service system at all Retail Pharmacy Network locations, Mail Service Pharmacy Process Facilities and Specialty Pharmacies which is continually updated with the latest patient safety edits with the capacity to "message" Pharmacists related to safety issues prior to the dispensing of the Prescription drug;

6.14.2b A fully integrated point of service system capable of enforcing the NYSIF Program's benefit design features; and

6.14.2c A point of service edit specifically related to Opioid Weaning that can be implemented only when there is a NYS Worker's Compensation Notice of decision to do so.

6.14.3 Retrospective Drug Utilization Review (DUR)

To safeguard the Claimant's health the selected Contract must administer a Retrospective DUR Program which:

6.14.3a Using the Contractor's standards, evaluates the Claimants Prescription drug utilization against the Claimants profile using FDA and other evidence based guidelines to identify potential safety related concerns. The Contractor shall alert the prescribing Physicians to drug specific, Claimant-specific health, safety and utilization issues including potential overuse of narcotics acetaminophen or other identified high risk drugs;

6.14.3b Identifies potential drug therapy complications for Claimants, develops Physician alerts (subject to the FUND's review and approval) and sends the alerts to the prescribing Physician; and

6.14.3b Reports the results of its Retrospective DUR Program initiatives, including outcomes, to the FUND on a monthly basis in a mutually agreed upon format.

6.14.3 Physician Education

6.14.3a Subject to FUND review and approval, the Contractor must undertake a Physician education program involving communications with prescribing Physicians which includes at a minimum:

6.14.3a(1) Analysis of Physician's drug or condition specific prescribing patterns;

6.14.3a(2) Educating Physicians about the clinical and economic aspects of their prescribing decisions. Any communication with Physicians prescribing medications for Claimants shall make the Physician aware of the distribution channel most cost effective to the NYSIF Program;

6.14.3a(3) Reporting the results of its Physician Education initiatives to the FUND on a quarterly basis in a mutually agreed upon format; and

6.14.3a(4) The Physician Education Program may not be funded by pharmaceutical manufacturers.

6.14.4 Patient Education

6.14.4a Subject to FUND review and approval, the Contractor must develop and implement a Patient Education program consisting of communications to Claimaints which:

6.14.4a(1) Upon initial fill of an Opioid drug, Claimants will be informed of the risks associated with use of the drug;

6.14.4a(2) Reports the results of its patient education initiatve to NYSIF on a monthly basis in a mutually agreed upon format; and

6.14.4a(3) The Patient Education Program may not be funded by pharmaceutical manufacturers.

6.15.0 Preferred Drug List Development and Management

The Contractor must provide PDL development and management services for the NYSIF Program. Such responsibility shall include but not be limited to:

6.15.1 Creating and maintaining a formulary that is tailored to NYSIF specifications, including the categorization of drugs, e.g. drugs requiring prior authorization, covered drugs dispensed not requiring prior authorization;

6.15.2 Providing NYSIF with a list of therapeutic categories routinely excluded from coverage;

6.15.3 Agreeing that the Contractor does not and will not accept payments from drug companies to promote specific products;

6.15.4 Notifying NYSIF a minimum of three weeks prior to any additions, deletions and modifications to the existing formulary and whether or not the affected drugs are covered or require prior authorization;

6.15.5 Notifying NYSIF a minimum of three weeks prior to the inclusion of new drugs in the formulary and specify whether or not the drugs are covered or require prior authorization;

6.15.6 Providing NYSIF with an electronic file of all formulary drugs including dosages, NDC numbers, GPI and GC3 codes. The frequency of this file submission will be determined by NYSIF and will be provided upon vendor selection; and

6.15.7 The Contractor must ensure any proposed Preferred Drug List and Program benefit designs comply with all applicable federal and NYS laws, rules, and regulations including, but not limited to, the Affordable Care Act of 2010 requirements, to cover preventive care services with no cost-sharing to Enrollees and does not discriminate in any way.

ARTICLE VII: PERFORMANCE GUARANTEES

The Parties agree that the following guarantees and the corresponding credit amounts for failure to meet the Contractor Performance Guarantees shall be implemented effective January 1, 2019. The Contractor acknowledges and agrees that failure to perform the Program Services features in such a manner which either meets or exceeds any, and/or all of the Contractor Performance Guarantee(s) as set forth in this Article, and/or fails to make any payment(s) of any such credit amounts for such failure to meet any Performance Guarantee(s) does not relieve the Contractor of the performance of the activities, duties, and obligations as otherwise set forth in the Agreement. Credit amounts are cumulative. Amounts due from the Contractor to the FUND for failure to perform and audit credit amounts, as determined pursuant to Article XIV of this Agreement, shall be made in such amounts as

determined by the FUND to be final. Upon such determination, the FUND shall notify the Contractor, in writing, and the Contractor shall apply such amounts as a credit against the monthly Claims Administration Fee in accordance with Article XIV of this Agreement within thirty (30) Days of receiving such notification by the FUND. These amounts must also be applied as a credit against the Claim Administration Fee reported in the Annual Financial Report.

7.1.0 Implementation and Start-up Guarantees and Credit Amount

7.1.1 ***Guarantee:*** The Contractor guarantees that all Implementation and Start-up activities will be completed no later than December 31, 2018 so that, effective January 1, 2019, the Contractor can assume full operational responsibility for the NYSIF Program. For the purpose of this guarantee, the Contractor must, on January 1, 2019, have in place and operational:

7.1.1a A contracted Retail Pharmacy Network that meets the access standards set forth in Section 7.4.0 of this Agreement. Additionally, in order to meet the Contractor's implementation guarantee, the Retail Pharmacy Network implemented on January 1, 2019 must meet all requirements set forth in Section 6.9.0 of this Agreement and be available to fill Enrollee Prescriptions for all Covered Drugs including Specialty Drugs/Medications(for those claimants that don't participate in the Specialty Pharmacy Program);

7.1.1b A fully operational Mail Service Pharmacy Process utilizing facilities as necessary to ensure that Claimants have access to all Covered Drugs, including Specialty Drugs/ Medications (for those groups that don't participate in the Specialty Pharmacy Program) as set forth in Section 6.10.0 of this Agreement. The Contractor must have a plan in place to facilitate the transfer of Prescription information, including open refills and prior authorizations from the previous program administrator and outline the procedures they will utilize to assure a smooth mail service transition for Claimants;

7.1.1c A fully operational Specialty Pharmacy Program utilizing facilities as necessary to ensure that Claimants have access to all covered Specialty Drugs/Medications as set forth in Section 6.11.2 of this Agreement. The Contractor must have a plan in place to facilitate the transfer of specialty Prescription information, including open refills and prior authorizations, from the

previous provider of service and outline the procedures that will be utilized to assure a smooth Specialty Pharmacy Program transition for affected Claimants;

7.1.1d A fully operational call center providing all aspects of customer support and services as set forth in Section 6.4.0 of this Agreement. The call center must be open and operational a minimum of thirty (30) days prior to the NYSIF Program Implementation Date and through and including four (4) months after termination of the Contract to assist Enrollees with questions concerning NYSIF Program transition, per Article XVI;

7.1.1e An online claims processing system that applies FUND approved edits and point of service edits, including drug utilization review edits, as set forth in Section 6.12.0 of this Agreement; and

7.1.1f An online claims processing system with real time access to the most updated, accurate enrollment and eligibility data provided by the FUND to correctly pay claims for eligible Claimants consistent with NYSIF Program benefit design, including any benefit design changes implemented during the term of the Contract, and contractual obligations.

7.1.2 ***Credit Amount:*** The Contractor's quoted percent to be credited for each day that all Implementation and Start-Up requirements are not met is (TBD percent (TBD%) of the 2019 Claims Administration Fee (prorated on a daily basis).

7.2.0 <u>Enrollment Management Guarantee and Credit Amount</u>

7.2.1 ***Guarantee:*** The Contractor guarantees that one hundred percent (100%) of all NYSIF Program enrollment records that meet the quality standards for loading will be loaded into the Contractor's enrollment system within twelve (12) hours of release by the FUND.

7.2.2 ***Credit Amount*****:** For each 24 hour period beyond twelve (12) hours from the release by the FUND that one hundred percent (100%) of the NYSIF Program enrollment records that meet the quality standards for loading is not loaded into the Contractor's enrollment system, the Contractor shall credit against the NYSIF Program's Claims Administration Fee the amount of $(TBD).

7.3.0 <u>Management Reports and Claim Files Guarantee and Credit Amount</u>

7.3.1 ***Guarantee:*** For each management report or claim file listed in Article XV of this Agreement, the Contractor guarantees that accurate management reports and claims files shall be delivered to the FUND no later than their respective due dates inclusive of the date of receipt.

7.3.2 ***Credit Amount*****:** For each management report or claim file listed in Article XV of this Agreement that is not received by its respective due date, the Contractor shall credit against the NYSIF Program's Claims Administration Fee the amount of $(TBD) per report per each Business Day between the due date and the date the management report or claims file is received by the FUND inclusive of the date of receipt.

7.4.0 <u>Retail Pharmacy Network Access Guarantee and Credit Amount</u>

7.4.1 ***Guarantee:*** The Contractor guarantees that effective January 1, 2019 and throughout the term of the Agreement:

7.4.1a At least ninety percent (90%) of Claimants in urban areas will have access to a Network Pharmacy. The minimum access guarantee for Claimants in urban areas is at least one (1) Network Pharmacy within two (2) miles of an Claimant's home;

7.4.1b At least ninety percent (90%) of Claimants in suburban areas will have access to a Network Pharmacy. The minimum access guarantee for Claimants in suburban areas is at least one (1) Network Pharmacy within five (5) miles of an Claimant's home; and

7.4.1c At least seventy percent (70%) of Claimants in rural areas will have access to a Network Pharmacy. The minimum access guarantee for Claimants in rural areas is at least one (1) Network Pharmacy within fifteen (15) miles of a Claimant's home.

7.4.2 ***Credit Amount:***

7.4.2a The Contractor shall credit against the NYSIF Program's Claims Administration Fee the amount of $(TBD) for each .01 to 1.0% below the ninety percent (90%) minimum access guarantee for any quarter in which the Network Pharmacy Access for Urban Areas Guarantee is not met by the Contractor.

7.4.2b The Contractor shall credit against the NYSIF Program's Claims Administration Fee the amount of $(TBD) for each .01 to 1.0% below the ninety percent (90%) minimum access guarantee for any quarter in which the Network Pharmacy Access for Suburban Areas Guarantee is not met by the Contractor.

7.4.2c The Contractor shall credit against the NYSIF Program's Claims Administration Fee the amount of $(TBD) for each .01 to 1.0% below the seventy percent (70%) access guarantee for any quarter in which the Network Pharmacy Access for Rural Areas Guarantee is not met by the Contractor.

7.4.3 Measurement of compliance with each access guarantee in Section 7.4.0 of this Agreement will be based on a "snapshot" of the Retail Pharmacy Network taken on the last Day of each quarter within the current Plan Year. The results must be provided in the format contained in Exhibit B "Pharmacy Benefit Services for The Empire Plan, Excelsior Plan, Student Employee Health Plan, and New York State Insurance Fund Workers' Compensation Prescription Drug Programs" of the RFP. The report is due thirty (30) Days after the end of the quarter.

7.5.0 Turnaround Time for Claims Adjudication Guarantee and Credit Amount

7.5.1 ***Guarantee:*** The Contractor guarantees that at least ninety-nine and five-tenths percent (99.5%) of submitted claims that require no additional information in order to be properly adjudicated that are received by the Contractor shall be turned around within ten (10) Business Days from the date the claim is received in the FUND's designated post office box to the date the Explanation of Benefits is received by the mailing agent.

7.5.2 ***Credit Amount:*** For each .01 to .25% of Enrollee-submitted claims that require no additional information in order to be properly adjudicated that are received by the Contractor and not turned around within ten (10) Business Days from the date the claim is received in the Contractor's NYSIF designated post office box to the date the Explanation of Benefits is received by the mailing agent, below the standard of ninety-nine and five-tenths percent (99.5%), as calculated on a quarterly basis, the Contractor shall credit against the NYSIF Program's Claims Administration Fee the amount of $(TBD).

7.6.0 Turnaround Time for Mail Service Prescriptions Guarantee and Credit Amount

7.6.1 ***Guarantee:*** The Contractor guarantees that at least ninety-five percent (95%) of all non-intervention mail service Prescriptions will be turned around in two (2) Business Days (not including the date of Prescription receipt). Turnaround time is measured from the day after the Prescription is received by the Mail Service Pharmacy to the date the Prescription is received by the mailing agent. For example, a Prescription order received on Monday, January 6, 2019, by the mail service Pharmacy, must be received by the mailing agent no later than Thursday, January 9, 2019;

7.6.2 ***Credit Amount:*** For each .01 to 1.0% below ninety-five percent (95%) percent of all non-intervention mail service Prescriptions not turned around within two (2) Business Days, calculated on a quarterly basis, the Contractor shall credit against the NYSIF Program's Claims Administration Fee the amount of $(TBD).

7.6.3 ***Guarantee*****:** The Contractor guarantees that at least ninety-eight percent (98%) of all intervention mail service Prescriptions shall be turned around in five (5) Business Days (not including the date of Prescription receipt). Turnaround time is measured from the date the Prescription is received by the mail service Pharmacy to the date the Prescription is received by the mailing agent. For example, a Prescription order received on Monday, January 6, 2019 by the Mail Service Pharmacy must be received by the mailing agent no later than Tuesday, January 14, 2019.

7.6.4 ***Credit Amount:*** For each .01 to 1.0% below ninety-eight percent (98%) of all intervention mail service Prescription not turned around within five (5) Business Days, calculated on a quarterly basis, the Contractor shall credit against the NYSIF Program's Claims Administration Fee the amount of $(TBD).

7.7.0 Program Call Center Telephone Guarantees and Credit Amounts

7.7.1 ***Guarantees:***

7.7.1a ***Call Center Availability*****:** The NYSIF Program's service level standard requires that the Contractor's telephone line will be operational and available to Claimants and pharmacies at least ninety-nine and five-tenths percent *(*99.5%) of the Contractor's Call Center Hours. The Call Center availability shall be reported monthly and calculated quarterly;

7.7.1b ***Call Center Telephone Response Time:*** The NYSIF Program's service level standard requires that at least ninety percent (90%) of the incoming calls to the Contractor's telephone line will be answered by a customer service representative within sixty (60) seconds. Response time is defined as the time it takes incoming calls to the Contractor's telephone line to be answered by a customer service representative. The Call Center telephone response time shall be reported monthly and calculated quarterly;

7.7.1c ***Telephone Abandonment Rate*****:** The NYSIF Program's service level standard requires that the percentage of incoming calls to the Contractor's telephone line in which the caller disconnects prior to the call being answered by a customer service representative will not exceed three percent (3%). The telephone abandonment rate shall be reported monthly and calculated quarterly; and

7.7.1d ***Telephone Blockage Rate*****:** The NYSIF Program's service level standard requires that not more than three percent (3%) of incoming calls to the customer service telephone line will be blocked by a busy signal. The telephone blockage rate shall be reported monthly and calculated quarterly.

7.7.2 ***Credit Amounts:***

7.7.2a ***Call Center Availability*****:** For each .01 to .25% below the standard of ninety-nine and five-tenths percent (99.5%) that the Contractor's telephone line is not operational and available to Claimants and Pharmacies during the Contractor's Call Center Hours calculated on a quarterly basis, the Contractor shall credit against the NYSIF Program's Claims Administration Fee the amount of $(TBD) per quarter;

7.7.2b ***Call Center Telephone Response Time*****:** For each .01 to 1.0% of incoming calls to the Contractor's telephone line below the standard of ninety percent (90%) that is not answered by a customer service representative within sixty (60) seconds, calculated on a quarterly basis, the Contractor shall credit against the NYSIF's Program's Claims Administration Fee the amount of $(TBD) per quarter;

7.7.2c ***Telephone Abandonment Rate*****:** For each .01 to 1.0% of incoming calls to the Contractor's telephone line in which the caller disconnects prior to the call being answered by a customer service representative in excess of three percent (3%) calculated on a quarterly basis, the Contractor shall credit against the NYSIF Program's Claims Administration Fee the amount of $(TBD) per quarter; and

7.7.2d *Telephone Blockage Rate*: For each .01 to 1.0% of incoming calls to the Contractor's telephone line that is blocked by a busy signal, in excess of three percent (3%), calculated on a quarterly basis, the Contractor shall credit against the NYSIF Program's Claims Administration Fee the amount of $(TBD) per quarter.

7.8.0 Program Claims Processing System Guarantee and Credit Amount

7.8.1 *Guarantees:*

7.8.1a *Processing System Availability:* The Contractor guarantees that the NYSIF Program's online claims processing system be available at least ninety-nine and five-tenths percent (99.5%) of the time excluding periods of scheduled down time which shall be reported in advance to the FUND and kept to a minimum, based on a 24 hours a Day, 7 Days a week availability; and

7.8.1b *Processing System Accuracy:* The Contractor guarantees that the NYSIF Program's online claims processing system accurately process claims at the point of service in accordance with the NYSIF Program's benefits design at least ninety-nine and five-tenths percent (99.5%) of the time excluding periods of scheduled down time which shall be reported in advance to the FUND and kept to a minimum, based on a 24 hours a Day, 7 Days a week availability.

7.8.2 *Credit Amounts:*

7.8.2a *Processing System Availability:* For each .01 to .25% below the standard of ninety-nine and five-tenths percent (99.5%) that the Contractor's online claims processing system for the NYSIF Program, based on a 24 hours a Day, 7 Days a week availability, excluding periods of scheduled down time, which shall be reported in advance to the FUND and kept to a minimum, is not available, as calculated on a quarterly basis, the Contractor shall credit against the NYSIF Program's Claims Administration Fee the amount of $(TBD) per each quarter; and

7.8.2b *Processing System Accuracy:* For each .01 to .25% below the standard of ninety-nine and five-tenths percent (99.5%) that the Contractor's online claims processing system for the NYSIF Program, based on a 24 hours a Day, 7 Days a week availability, excluding periods of scheduled down time, which shall be

reported in advance to the FUND and kept to a minimum, does not accurately process claims at the point of service in accordance with the Program's benefits design, as calculated on a quarterly basis, the Contractor shall credit against the NYSIF Program's Claims Administration Fee the amount of $(TBD) per each quarter.

ARTICLE VIII: MODIFICATION OF PROGRAM SERVICES

8.1.0 In the event that laws or regulations enacted by the Federal government and/or the State of New York have an impact upon the conduct of this Agreement in such a manner that the FUND determines that any design elements or requirements of the Agreement must be revised, the FUND shall notify the Contractor of any such revisions and shall provide the Contractor with a reasonable time within which to implement such revisions.

8.2.0 In the event the FUND requires changes in Program design elements or requirements of the Agreement, the FUND shall notify the Contractor of such changes and shall provide the Contractor with reasonable notice to implement such changes.

8.3.0 To the extent that any of the events as set forth in this Article shall take place and constitute a material and substantial change in the delivery of services that are contemplated in accordance with the terms of the NYSIF Program as of the Effective Date and which the Contractor is required to perform or deliver under the Agreement, the Contractor may submit a written request to the FUND to initiate review of the fee(s) received by the Contractor for services provided and guarantees made by the Contractor under the terms of the Agreement, accompanied by appropriate documentation. The FUND reserves the right to request, and the Contractor shall agree to provide additional information and documentation the FUND deems necessary to verify that an increase in the fee(s), or modification of the guarantees is warranted. The FUND will agree to modify the fee(s) to the extent necessary to compensate the Contractor for documented additional costs determined by the FUND to be reasonable and necessary. The FUND will agree to modify guarantees as determined by the FUND to be necessary to reflect NYSIF Program modifications. Should the FUND approve the Contractor's request to modify the fee(s) and/or guarantees, such approval shall be subject to written amendment and approval by OSC and the AGSC. The Contractor shall implement changes as required by the FUND with or without final resolution of any fee proposal.

8.4.0 Any changes made by DCS to the scope of its contract with the Contractor for Prescription Drug Program Services after execution of this Agreement, including but not limited to the request to

include any individual independent Network Pharmacy(ies), shall have no impact on this Agreement or cost thereunder, unless the change is agreed to by NYSIF.

ARTICLE IX: ENROLLMENT INFORMATION AND RECORDS

9.1.0 The Contractor shall maintain records from which may be determined at all times the names of all Claimants insured hereunder and the benefits in force for each such Claimant, together with the date when any insurance became effective and the effective date of any change in benefits.

9.2.0 The FUND shall transmit enrollment information provided by the Claimant to the Contractor for the NYSIF Program in an electronic format consistent with Section 6.6.2 of this Agreement. The eligibility rules and the enrollment reports generated as a result of these eligibility rules shall be the sole means of determining valid enrollment for benefits under the NYSIF Program.

9.3.0 The FUND and the Claimants shall furnish to the Contractor all information that the Contractor may reasonably require with regard to any matters pertaining to the enrollment of Claimants under this Agreement. A person will not be entitled to or deprived of benefits under the Agreement due to clerical errors.

9.4.0 The FUND agrees to provide the Contractor with reasonable access to records of the FUND which may have a bearing on the benefits provided by the Contractor or calculation of the Contractor's Claims Administration Fee as set forth under Article XIV of this Agreement.

ARTICLE X: DATA SHARING AND OWNERSHIP

10.1.0 All claims and other data related to the NYISF Program is the property of the State. Upon the request of the FUND, the Contractor shall share appropriate claims data with FUND consultants. Except as directed by a court of competent jurisdiction in New York State, or as necessary to comply with applicable New York State or Federal law, or with the written consent of the Claimant, the Contractor shall not share, sell, release, or make the data available to third parties in any manner without the prior written consent of the FUND. The FUND understands that the Contractor is required to share certain claims data with pharmaceutical manufacturers for purposes of obtaining for the NYSIF Program all Pharma Revenue due it under the Agreement. The Contractor shall inform the FUND of the types of data being shared for these specific authorized purposes.

ARTICLE XI: NYSIF PROGRAM CLAIMS REIMBURSEMENT

The Program shall be charged for dispensed drugs consistent with the provisions of this Article XI.

11.1.0 General Provisions

11.1.1 All discounts and dispensing fees for Brand, Generic Drugs and Specialty Drugs/Medications must be guaranteed for the entire term of this Agreement without qualification or condition. In addition, the Contractor's Compound Drug pricing methodology set forth in Article XI of this Agreement must be guaranteed for the entire term of this Agreement without qualification or condition.

11.2.0 Average Wholesale Price (AWP) Source and Brand, Generic Drug, and Compound Drug Classification

The pricing formulas set forth in this Article are based on the classification of drugs as either Brand Drugs, Generic Drugs, or Compounded Drugs.

11.2.1 Throughout the term of the Agreement, the Contractor shall utilize Medi-Span as the source of Average Wholesale Price (AWP) information for purposes of calculating Ingredient Cost unless the parties mutually agree in writing to use a different source for AWP information. The AWP used for pricing purposes during claim adjudication should be the AWP in effect on the date the drug was filled.

11.2.2 During the term of the Agreement, in the event the national reporting service (as identified by the Contractor in its Proposal) changes its methodology related to any of the information fields used in the FUND's classification of Brand and Generic Drugs, or its methodology for coding drugs in connection with these information fields, the Contractor is obligated to inform the FUND in writing of such changes within thirty (30) Days of learning of such changes. Upon written notification, the Parties will meet and agree in writing to any Brand and/or Generic Drug classification changes that may be necessary to enable the Parties to maintain the same economic position and obligations as are set forth in the Agreement.

11.2.3 Notwithstanding any other provision of the Agreement to the contrary, if, during the term of this Agreement, industry events have caused the Contractor's source of AWP to become obsolete or no longer available, the FUND and the Contractor shall agree on revised pricing terms. In no event shall the NYSIF Program's actual costs for drugs increase as

the result of new pricing terms. The Contractor shall notify the FUND in writing as soon as any information indicating a problem with the future use of the Contractor's AWP source is received. Within two weeks of the initial notification, the Contractor shall submit a written detailed proposal to NYSIF, if sufficient information is available to prepare such proposal, and in any event no less than 120 days prior to the effective date of revisions, for effectively revising pricing terms including but not limited to a file containing the Contractor's pricing for all drugs dispensed during the prior six months utilizing the current AWP source and the Contractor's revised pricing for such drugs using the proposed methodology. The Contractor's proposal should ensure continued alignment of the Contractor's interests with those of the NYSIF Program. Final determination of the revised pricing terms will be made by the FUND.

11.2.4 ***Classification Methodology General***

11.2.4a Drugs shall be classified for pricing purposes under this Agreement in accordance with the FUND classification determinations based on the definitions contained in Article I of this Agreement. No later than November 15th of each NYSIF Program Year, the Contractor shall submit for FUND written approval a file containing all NDCs dispensed through the NYSIF Program during the prior year and the classification of each NDC derived from application of the Contractor's electronic classification process. To the extent the Contractor's electronic process results in classifications inconsistent with NYSIF determinations, the Contractor commits to modify its classification methodology to replicate the results of the FUND's determination, including the steps set forth in Section 11.2.4b below. The FUND's determination shall be final.

11.2.4b To the extent the electronic process fails to comprehensively replicate drug classifications specified by the NYSIF Program in Exhibit B, the Requests for Proposals entitled "Pharmacy Benefit Services for The Empire Plan, Excelsior Plan, Student Employee Health Plan, and the New York State Insurance Fund Workers' Compensation Prescription Drug Programs," of this Agreement consistent with the definitions of Brand and Generic Drugs set forth in Section VIII of this Agreement, the Contractor agrees to modify to the extent possible its electronic processing system before January 1, 2019, including setting appropriate Copayment levels as required, and to undertake all other necessary manual steps to ensure that the result of the prescription processing process from

a cost basis to the NYSIF Program is in accordance with the FUND's determination of classification.

11.2.4c The Contractor shall conduct a year end reconciliation each NYSIF Program Year to ensure that the claim amount charged to the NYSIF Program is in accordance with the definition of Brand and Generic Drugs set forth in Section VIII of this Agreement. The reconciliation will include claims paid during the Plan Year and is to be completed by February 15th of the following year. If the FUND's review of the Contractor's reconciliation indicates an adjustment is required, then the FUND reserves the right to make an adjustment to the Contractor's submitted reconciliation. The Contractor shall credit or debit the Plan as applicable no later than 30 Days following the date of reconciliation and reflect the result in the Annual Financial Statement.

11.3.0 Brand Drug Determination Methodology

11.3.1 The classification of a drug as a Brand Drug for the purpose of applying the appropriate pricing formula shall be based on the definition of the Brand Drug set forth in Section 1.4.0. The Contractor shall utilize an electronic process for claims processing using [Source to be determined by Contractor's Proposal] indicators to determine classification with the results subject to the review and approval of the FUND for consistency with Section 1.4.0 prior to commencement of the contract on January 1, 2019. The Contractor agrees that the FUND's determination shall be final.

11.3.2 A drug labeled with the identifier "M" or "O" in the Medi-Span Multi-Source code shall be processed as a Brand Drug unless the same drug is identified as "G" in the Medi-Span Brand-Name code. In addition to drugs identified as "M" or "O" in the Medi-Span Multi-Source code, a drug that is identified as "N" in the Medi-Span Multi-Source code shall be designated a Brand Drug if the drug is identified as "T" in the Medi-Span Brand- Name code. To the extent the electronic process fails to comprehensively replicate drug classifications proposed by the NYSIF Program in this Section 11.3.2 of this Agreement consistent with the definition of Brand Drug set forth in Section 1.4.0 of this Agreement, the Contractor agrees to modify its electronic processing system before January 1, 2019, and to undertake all other necessary manual steps to ensure that the result of the prescription processing process to the NYSIF Program is in accordance with the correct classification.

11.3.3 To the extent the Contractor cannot process claims consistent with the FUND's Brand Drug determinations, the reconciliation process set forth above will be performed.

11.4.0 Generic Drug Determination Methodology

11.4.1 The classification of a drug as a Generic Drug for the purpose of applying the appropriate pricing formula shall be based on the definition of Generic Drug set forth in Section 1.29.0 of this Agreement. The Contractor shall utilize an electronic process using Medi-Span indicators to establish classification with the results subject to the review and approval of the FUND prior to commencement of the contract on January 1, 2019. The Contractor agrees that the FUND's determination shall be final.

11.4.2 A drug identified as "Y" in the Medi-Span Multi-Source code shall be designated as a Generic Drug. In addition to drugs identified as "Y" in the Medi-Span Multi-Source code, a drug identified as "N" in the Medi-Span Multi-Source Code shall be designated as a Generic Drug if the corresponding Medi-Span Brand-Name code for such drug is "B" or "G." In addition, a drug identified as "G" in the Medi-Span Brand-Name Code shall be designated as a Generic Drug, regardless of the identifier designated in the Medi-Span Multi-Source code. To the extent the electronic process fails to comprehensively replicate the drug classification proposed by the Program in this 11.4.2 of this Agreement consistent with the definition set forth in 1.29.0 of this Agreement, the Contractor agrees to modify its electronic processing system before January 1, 2019, including setting appropriate Copayment levels as required, and to undertake all other necessary manual steps to ensure that the result of the prescription processing process to the NYSIF Program is in accordance with the correct classification.

11.4.3 To the extent the Contractor cannot process claims consistent with the FUND's Generic Drug determinations, the reconciliation process set forth above will be performed.

11.5.0 Compound Drug Determination Methodology

The Contractor shall implement a process to review Compound claim submissions for compliance with the contracted definition. The classification of a drug as a Compound Drug for the purpose of applying the appropriate pricing formula shall be based on the definition of Compound Drug set forth in Section 1.10.0 of this Agreement.

11.6.0 Program's Lesser of Logic

The NYSIF Program's Lesser of Logic applies to all claims processed under the NYSIF Program. Retail Generic Prescriptions assigned a MAC price shall be charged to the NYSIF Program at the following Lesser of Logic: the lowest of the Pharmacy-Submitted Ingredient Cost plus dispensing fee; the Pharmacy's Usual and Customary Price (no dispensing fee is to be paid on claims when the pricing basis is Usual and Customary); the AWP discount contracted with the Network Pharmacy plus dispensing fee; or the Maximum Allowable Cost plus dispensing fee. Retail Brand Prescriptions and Generic Prescriptions that are not assigned a MAC price shall be charged to the NYSIF Program at the following Lesser of Logic: the lowest of the Pharmacy's Usual and Customary Price (no dispensing fee is to be paid on claims when the pricing basis is usual and customary); the Discounted Ingredient Cost contracted with Network Pharmacy plus dispensing fee; or the Pharmacy-submitted Ingredient Cost plus dispensing fee. Mail Service Pharmacy Generic Prescriptions shall be charged to the NYSIF Program at the following Lesser of Logic: The lowest of the Pharmacy-Submitted Ingredient Cost plus dispensing fee; the Pharmacy's Usual and Customary Price (no dispensing fee is to be paid on claims when the pricing basis is Usual and Customary; the Minimum Guaranteed Discounted Ingredient Cost for Brand Drugs off of AWP plus dispensing fee; the Maximum Allowable Cost plus dispensing fee; or the WCB Fee Schedule. Mail Service Pharmacy Brand and Specialty Pharmacy Brand and Generic Prescriptions shall be charged to the Plan at the following Lesser of Logic: the lowest of the Pharmacy-Submitted Ingredient Cost plus dispensing fee; the Pharmacy's Usual and Customary Price (no dispensing fee is to be paid on claims when the pricing basis is usual and customary); the Guaranteed Discounted Ingredient Cost off of AWP plus dispensing fee; or the WCB Fee Schedule. Once the Lesser of Logic has been applied, the pricing methodology resulting in the lowest claim cost to the NYSIF Program is determined, and to that amount any applicable sales tax is added.

11.7.0 Mandatory Generic Substitution at Retail and Mail

The Contractor shall:

11.7.1 Apply mandatory generic substitution to all specific NDC's of Brand Drugs for which there is an FDA approved A-rated Generic Drug (including but not limited to, Generic Drugs rated AA, AB, AN, AO, AT, etc.) or an authorized Generic Drug as permissible by NYS law. Network Pharmacies shall comply with all state laws related to mandatory generic substitution. The Contractor shall apply mandatory generic substitution to all specific NDC's (inactive or active) of Brand Drugs. The NYSIF Program's mandatory generic substitution provisions shall apply to any claim where the A-rated or authorized Generic

Drug is required or permitted to be substituted under state law. Mandatory generic substitution provisions will not apply to B-rated or unrated Generic Drugs or in the unlikely event that state law prohibits dispensing of the A-rated or authorized Generic Drug.

11.7.2 Monitor the pharmaceutical industry on behalf of the FUND to identify Generic Drugs expected to enter the market. Prior to the actual introduction of the Generic Drug to market, the Contractor shall inform the FUND of anticipated shipping dates of the first Generic Drug introduced into the market for one or more strengths of a particular Brand Drug.

11.7.2a Charge the Program based on the Program MAC List price assigned to the GPI of the dispensed Brand Drug subject to the NYSIF Program's Lesser of Logic set forth in Section 11.6.0 of this Agreement, plus the applicable dispensing fee as set forth in Section 11.8.3m of this Agreement.

11.7.2b Receive FUND written approval for any and all exceptions to the NYSIF Program's mandatory generic substitution provisions. Following commencement of mandatory generic substitution, the Contractor must receive FUND approval prior to suspending enforcement of the NYSIF Program's mandatory generic substitution provisions.

11.7.2c Maintain an electronic claims processing system capable of obtaining information from Network Pharmacies to ensure consistent enforcement of the NYSIF Program's mandatory generic substitution provisions. In particular, the claims processing system must be capable of capturing information concerning the availability of the Generic Drug at the Network Pharmacy submitting the electronic claim. If a Generic Drug is available to be dispensed by the Network Pharmacy, the NYSIF Program's mandatory generic substitution rules shall be applied. If the Network Pharmacy does not have the A-rated or authorized Generic Drug in stock, mandatory generic substitution provisions will not apply and the Enrollee shall receive the Brand Drug and the NYSIF Program charged based on Generic Drug pricing. The Contractor's claims processing system must reject, with appropriate messaging, claims for Brand Drugs subject to mandatory generic substitution that are submitted with a DAW-0 code requiring resubmission of the claim (since a DAW-0 code provides no indication of Generic Drug availability in the Pharmacy). Similar rules shall be applied to other DAW submission codes as necessary to ensure consistent, accurate application of the

NYSIF Program's mandatory generic substitution requirements. These rules are specified in Section 6.12.4 of this Agreement.

11.7.3 Immediately notify the FUND in writing of changes (from brand to generic or generic to brand) in the NDC classification submitted by the Contractor.

11.8.0 Retail Pharmacy Network Claims

11.8.1 The cost of all Covered Drugs dispensed at Network Pharmacies shall be charged to the NYSIF Program consistent with the requirements set forth in this Section, including but not limited to application of the Lesser of Logic set forth in Section 11.6.0 of this Agreement. Under no circumstances may the Claimant be charged costs not specifically provided for under the NYSIF Program benefit design.

11.8.1a The Contractor shall ensure that the Network Pharmacy will charge the NYSIF Program the Discounted Ingredient Cost as determined through the application of the Lesser of Logic detailed in Section 11.6.0 of this Agreement plus the Contractor's applicable pharmacy contracted dispensing fee set forth in 11.11.3 for all drugs dispensed through a Network Pharmacy;

11.8.1b The Contractor shall administer a control process at point of service to protect the NYSIF Program from any inflated AWP costs associated with "repackaged" drugs charged to the NYSIF Program; and

11.8.1c The Contractor is required to maximize savings to the NYSIF Program through negotiation of customized Retail Pharmacy Network contracts that offer aggressive pricing and discounts, consistent with this Agreement and the Contractor's proposal in Exhibit C. The Contractor agrees that all records supporting the pass-through pricing are subject to audit by the FUND and its consultants or other State auditors with authority under Article VIII and/or Appendices A and B of this Agreement. In addition, access to or hard copies of all Retail Pharmacy Network contracts must be made available, in Albany County as deemed necessary for the FUND or other State auditors with authority under Article XVIII and/or Appendices A and B of this Agreement to evaluate whether the Contractor is meeting the requirements of the Agreement.

11.8.2 Retail Pharmacy Network Brand Drug Pricing

11.8.2a The Contractor shall charge the NYSIF Program utilizing Pass-through Pricing for all Brand Drugs dispensed to Claimants through the Network Pharmacies. The Contractor's contracted discount off of AWP and pharmacy contracted dispensing fee(s) for Brand Drugs shall be applicable to all individual Prescriptions for Brand Drugs dispensed to Claimants from a Network Pharmacy.

11.8.2b The Contractor shall use the following Ingredient Cost and dispensing fee to charge the NYSIF Program for each Prescription for a covered Brand Drug dispensed by a Network Pharmacy throughout the term of the Agreement subject to application of the Lesser of Logic as set forth in Section 11.6.0 of this Agreement.

11.8.2b(1) ***Ingredient Cost of Brand Drug Dispensed at Retail Pharmacy***
Pass-through Pricing based on the terms of the Contractor's agreement with the dispensing Pharmacy related to Brand Drugs. (Pricing is subject to an overall annual minimum discount of (TBD) % off the aggregate AWP and annual maximum dispensing fee of (TBD) for all Brand Drugs dispensed through Network Pharmacies.)

11.8.2c The Contractor shall guarantee an overall minimum discount off of the aggregate AWP for all Brand Drugs dispensed at Retail Network Pharmacies as defined in the RFP. The Contractor guarantees the Program that its management of Brand Drug costs dispensed by pharmacies shall result in the NYSIF Program achieving the Contractor's proposed overall Guaranteed Minimum Discounts of [TBD] during the Plan Year. The discounts achieved off of the aggregate AWP for all Brand Drugs as a result of Pass-through Pricing will be calculated utilizing the following formula: 1 minus (Sum of Ingredient Costs of dispensed Brand Drugs divided by sum of AWP of dispensed Brand Drugs). The aggregate discount calculation will be based on Pharmacy Prescriptions filled with a Brand Drug where the NYSIF Program was the primary payer. Claims submitted for secondary payer consideration, Compound Drug claims, Non-Network claims, and claims submitted by governmental entities must be excluded from the aggregate discount calculation. In addition, claims with a calculated AWP discount greater than 50% must be verified by the Contractor that the quantity and the validity of the calculated discount is correct, subject to the approval of the FUND.

11.8.2d If the overall aggregate discounts obtained, as calculated utilizing the formula set forth in the prior paragraph, are less than the Guaranteed Minimum Discounts of [TBD], the Contractor shall reimburse the NYSIF Program the difference between the Ingredient Cost the NYSIF Program was charged utilizing Pass-through Pricing and the Ingredient Cost the NYSIF Program would have been charged if the Guaranteed Minimum Discount off of the aggregate AWP of [TBD] had been obtained. The NYSIF Program will be credited annually for this difference in Ingredient Cost. The NYSIF Program shall retain the benefit of any cost savings, in excess of the Contractor proposed Guaranteed Minimum Discounts off the aggregate AWP for all Brand Drugs dispensed by pharmacies.

This calculation shall be performed for each NYSIF Program year based on claims paid for each incurred year. The calculations must be completed by February 15th of the following year. The Contractor shall pay/credit the NYSIF Program the applicable amount, if any, within 30 Days following the February 15th calculation. If the FUND's review of the Contractor's calculations indicates an adjustment to the calculation is required, then the FUND reserves the right in its sole discretion to make an adjustment to the Contractor's calculations. On July 31st following each Plan Year, the Contractor shall perform a reconciliation to include claims incurred in each NYSIF Program year and paid through June of the following Program year. Based on this reconciliation, the FUND shall receive an adjustment, if necessary, within 30 Days following the date of the reconciliation. The NYSIF Program shall retain the benefit of any cost savings, in excess of the Contractor's Guaranteed Minimum Discount off the aggregate AWP of [TBD]. Any shortfall in the Guaranteed Minimum Discount cannot be recovered by the Contractor in subsequent years.

11.8.3 <u>Retail Pharmacy Network Generic Pricing</u>

The Contractor shall:

11.8.3a Maximize the discount achieved on behalf of the Program for Generic Drugs dispensed by Network Pharmacies. The Contractor or its Key Subcontractor, if any, must manage the Programs' MAC List consistent with, or better than, their most aggressive generic pricing list used to reimburse Pharmacies. The Contractor shall charge the NYSIF Program utilizing Pass-through Pricing for all Generic Drugs dispensed to Claimants through the Network Pharmacies.

11.8.3b Create and maintain a single Program-Specific Maximum Allowable Cost (MAC) List for called the Program MAC List setting the maximum price the NYSIF Program shall be charged, and the amount the dispensing Network Pharmacy shall be paid, for the Ingredient Cost for the drugs required to be included on the Program MAC List. Under no circumstances shall the MAC price assigned exceed the Discounted Ingredient Cost to the NYSIF Program achieved through Pharmacy submitted pricing or pricing achieved by using the Contractor's Retail and Mail Service Pharmacy Guaranteed Maximum Discount off of AWP of [TBD] applied to the AWP of the dispensed Generic Drug.

Note: The FUND respectively, reserves its right for the Contractor to create and maintain a second MAC List should industry or programmatic events necessitate the use of a second list. The use of a second MAC List will be at the sole discretion and approval of the FUND. The Guaranteed Minimum Discounts and the overall maximum dispensing fee guarantees for generic drugs will be subject to negotiation if a second MAC List is utilized.

11.8.3c Assign a MAC price to all NDCs of drugs included within a GPI, including NDCs of all Brand Drugs, containing an A-rated or authorized Generic Drug form of the original Brand Drug in the GPI. The Contractor shall add the GPI to the Programs' MAC List and set a MAC price for the GPI in accordance with Section 6.13.1 of this Agreement. The provisions of this Section require that MAC pricing be applied in no event later than 21 Days after the first shipment of the first Generic Drug from the manufacturer to a wholesaler or retailer. For those Generic Drugs with an established GPI that are already subject to MAC pricing the Contractor is required to immediately apply MAC pricing to any generic NDC added to the GPI. All A-rated or authorized Generic Drugs shall be MAC'd in all instances including, but not limited to circumstances in which the FUND in its sole discretion decides not to enforce mandatory generic substitution of the Brand Drug in that GPI. There shall be one MAC price applicable to all NDCs included in the GPI on the Programs' MAC List. The MAC price shall be consistent with the process in Section 11.8.3b. However, depending on particular market factors, it may be in the best interests of the NYSIF Program, and therefore appropriate, for more than one MAC price to be assigned within a GPI. Such situations would require that the Contractor provide any information

the FUND deems necessary to support such action and obtain prior written approval from the FUND.

11.8.3d Assign a MAC price to all NDCs of B-rated or unrated Generic Drugs included within a GPI that does not include an A-rated or authorized Generic Drug. The Contractor shall add the GPI to the Programs' MAC List and set a MAC price for the Generic Drug NDCs included in the GPI as soon as practicable, but in no event later than 14 Days after the first shipment of the first Generic Drug from the manufacturer to a wholesaler or retailer. The Contractor shall not apply the MAC price to the NDC(s) for Brand Drugs dispensed in the GPI and shall not enforce the NYSIF Program's mandatory generic substitution provisions for Brand Drugs dispensed in this GPI. There shall be one MAC price applicable to all Generic Drug NDCs included in the GPI. However, depending on particular market factors, it may be in the best interests of the NYSIF Program, and therefore appropriate, for more than one MAC price to be assigned within a GPI. Such situations would require that the Contractor provide any information the FUND deems necessary to support such action and obtain prior written approval from the FUND.

11.8.3e Charge the NYSIF Program for Generic Drugs not on the MAC List dispensed utilizing pass-through pricing of the Contractor's pharmacy contracted discount applied to the AWP of the dispensed Generic Drug. The only Generic Drugs not on the MAC List shall be Generic Drugs included in GPIs required to be on the Programs' MAC List but which have not yet been assigned a MAC price within the required time frame.

11.8.3f The Contractor shall inform the FUND of any market based condition which makes the strict compliance with Section 11.8.3b-11.8.3e of this Agreement contrary to the financial interests of the NYSIF Program. The FUND in its sole discretion may waive such requirements.

11.8.3g Monitor the Programs' MAC List pricing to ensure that NDCs contained in GPIs subject to MAC pricing are paying at the MAC price after application of the NYSIF Program's Lesser of Logic provisions. The Contractor shall notify the NYSIF Program of any GPIs subject to MAC pricing in which the majority of claims are processing at a basis other than the MAC price.

11.8.3h Agree that there shall be no increases to Programs' MAC List prices where such adjustment is intended to limit the discount achieved on behalf of the NYSIF Program to the Guaranteed Minimum Discount off of the aggregate AWP as set forth in Section 11.8.3m below, for all Generic Drugs dispensed by Network Pharmacies during the Program year.

11.8.3i Provide to the FUND full access to the Programs' MAC List used to price Generic Drugs dispensed by Network and Mail Service Pharmacies for the NYSIF Program. The Contractor must be prepared to provide valid documented market rationale to support their Programs' MAC pricing should the FUND request this information. In order to protect the NYSIF Program's financial interests from the date of the award until the termination date of the Agreement, the Contractor must agree that any increases to the Programs' MAC pricing must be justified to the FUND with valid documented market rationale. Following selection, the Contractor shall manage the content of the Programs' MAC List consistent with the requirements of this Agreement. Prices assigned to required new additions to the Programs' MAC List shall be equivalent to the Contractor's most aggressive MAC price for that drug. Throughout the term of the Agreement, the Contractor commits to use its best efforts to maintain the aggregate effectiveness of its Programs' MAC List. The Contractor must ensure that MAC pricing is reduced to an appropriate level based on any change in market conditions such as increased competition within a GPI.

11.8.3j The Contractor shall strictly enforce all requirements of the NYSIF Program's mandatory generic substitution provision as detailed in Section 11.7.0 of this Agreement.

11.8.3k The Contractor guarantees that its management of Generic Drug costs dispensed by Network Pharmacies, including maintenance of the Programs' specific MAC List, and application of pricing provisions related to Generic Drugs that do not meet the requirements for inclusion on the Programs' specific MAC List, shall result in the NYSIF Program achieving the Contractor's overall Guaranteed Minimum Discount off of the aggregate AWP as set forth in Section 11.8.3m below, for all Generic Drugs dispensed by Network Pharmacies during the Program year. The discount achieved off of the aggregate AWP for all Generic Drugs as a result of Pass-through Pricing shall be calculated utilizing the following formula: 1 minus (Sum of Ingredient Costs of dispensed Generic Drugs

at Retail and Mail Service Pharmacies divided by sum of the AWP of dispensed Generic Drugs). The aggregate discount calculation shall be based on Final Paid Claim Network Pharmacy Prescriptions filled with a Generic Drug where the NYSIF Program was the primary payer. Claims submitted for secondary payer consideration, Compound Drug claims, Non-Network pharmacy claims, and claims submitted by governmental entities are excluded from the aggregate discount calculation. In addition, claims with a calculated AWP discount greater than 90% and a total AWP greater than $500 must be verified by the Contractor that the quantity and validity of the calculated discount is correct subject to the approval of the Fund. The setting of an overall minimum discount off of the aggregate AWP for all Generic Drugs dispensed at Network and Mail Service Pharmacies shall in no way modify the Contractor's contractual obligation to maximize the NYSIF Program's aggregate discount above the Contractor's overall Guaranteed Minimum Discount off of the aggregate AWP.

11.8.3l If the overall aggregate discount obtained, as calculated utilizing the formula set forth in Section 11.8.3k, above, is less than the Guaranteed Minimum Discount set forth in Section 11.8.3m, the Contractor shall reimburse the NYSIF Program the difference between the Ingredient Cost the NYSIF Program was charged utilizing Pass-through Pricing and the Ingredient Cost the NYSIF Program would have been charged if the Guaranteed Minimum Discount off of the aggregate AWP set forth in Section 11.8.3m for all Generic Drugs was obtained.

This calculation shall be performed for each Program year based on claims paid for each incurred year. The calculations must be completed by February 15th of the following year. The Contractor shall pay/credit the NYSIF Program the applicable amount, if any, within 30 Days following the February 15th calculation. If the FUND's review of the Contractor's calculations indicates an adjustment to the calculation is required, then the FUND reserves the right in its sole discretion to make an adjustment to the Contractor's calculations and adjust the amount paid to or from the Contractor. On July 31st following each Program Year, the Contractor shall perform a reconciliation to include claims incurred in each Program Year and paid through June of the following Program Year. Based on this reconciliation, the NYSIF Program shall receive an adjustment, if necessary, within 30 Days following the date of the reconciliation. The NYSIF Program shall retain the benefit of any cost savings, in excess of the Contractor's Guaranteed

Minimum Discount off the aggregate AWP set forth in Section 11.8.3m for all Generic Drugs dispensed by Network and Mail Service Pharmacies. Any shortfall in the Guaranteed Minimum Discount set forth in Section 11.8.3m cannot be recovered by the Contractor in subsequent years.

11.8.3m The Contractor shall use the following Ingredient Cost and dispensing fee to charge the NYSIF Program for each covered Generic Drug dispensed by Retail Network Pharmacies throughout the term of the Agreement subject to the Lesser of Logic process set forth in Section 11.6.0 of this Agreement.

11.8.3m(1) ***Ingredient Cost of Generic Drug dispensed at Retail Pharmacy:***

Pass-through Pricing based on either the Programs' MAC List or the Contractor's pharmacy contracted discount applied to the AWP of the dispensed Generic drug for Generic Drugs not assigned a MAC. (Pricing is subject to an overall annual minimum discount of (TBD)% off of the aggregate AWP and maximum annual dispensing fee of (TBD) for all Generic Drugs dispensed through Network Pharmacies.)

11.8.4 <u>Retail Pharmacy Network Compound Drug Pricing</u>

Compound Drugs must be classified consistent with the definition in Section 1.10.0 of this Agreement.

The Contractor shall:

11.8.4a Implement the pricing methodology for Compound Drugs as set forth in Sections 11.8.4d and 11.8.4e below. The NYSIF Program's "Lesser of Logic" will apply;

11.8.4b Process Compound Drug claims in a manner that verifies the validity of the claim as a Compound Medication according to the NYSIF Programs' definition of a Compound Drug and provides appropriate claim level control procedures to protect the financial interests of the NYSIF Program;

11.8.4c Conduct due diligence as well as audit Network Pharmacies to ensure that drugs are being properly classified as Compound Drugs consistent with the NYSIF Programs' definition of a Compound Drug and to ensure that claims are

priced in accordance with the methodology for Compound Medications as set forth in Section 11.8.4d below; and,

11.8.4d The FUND will be charged the Contractor's pricing methodology utilizing Pass-through Pricing for Compound Drugs dispensed by Network Pharmacies; its dispensing fees; and if the Contractor proposed the use of NCPDP transaction standards for Compound Drugs, a level of effort fee based on the claims level of effort code in Exhibit V.A.

11.8.4d(1) The Contractor will notify the FUND, in writing, a minimum of 30 Days in advance of any changes to the Contractor's book of business Level of Effort fees, and such revised fees will be charged consistent with the pricing provisions of the Agreement.

11.8.4e [Insert Contractor's proposed Methodology from Exhibit V.A.]

11.9.0 <u>Mail Service Pharmacy Process Pricing – Brand Drugs, Generic Drugs, and Compound Drugs</u>

The Contractor shall:

11.9.1 Consistently enforce and administer all provisions of the NYSIF Program (including but not limited to mandatory generic substitution, drug utilization review, prior authorization, refill too-soon edits, etc.) to the claims dispensed through the Mail Service Pharmacy Process, consistent with the processing of claims through the Retail Pharmacy Network process.

11.9.2 Charge the NYSIF Program for those drugs dispensed to the Claimant in original manufacturer packaging, based on the Contractor's source of AWP for the 11-digit NDC of the package size dispensed through the Mail Service Pharmacy Process, subject to MAC pricing for Generic Drugs. If the drug is not dispensed to the Claimant in original manufacturer packaging (i.e., dispensed from bulk), the NYSIF Program shall be charged based on the Contractor's source of AWP for the 11-digit NDC of the package size from which the drug was originally dispensed by the Mail Service Pharmacy Process Facility, subject to MAC pricing for Generic Drugs. If the drug is dispensed from a bulk package size for which no AWP is reported in the Contractor's AWP source, the NYSIF Program shall be charged based on the reported AWP for the NDC of the largest package size contained in the Contractor's AWP source, subject to MAC pricing for Generic Drugs. The

NYSIF Program shall not be charged based on an NDC assigned to repackaged drugs or based on package sizes prepared by special arrangement with the original manufacturer unless such packaging offers a net savings to the NYSIF Program.

11.9.3 Charge the NYSIF Program based on the Contractor's pricing terms and dispensing fees applicable to brand, generic, and Compound Drug claims as set forth in 11.9.4, 11.9.5, and 11.9.6 for all Prescriptions submitted through the Mail Service Pharmacy Process. The NYSIF Program's Lesser of Logic shall be applied.

11.9.4 Mail Service Pharmacy Process - Brand Drug Pricing

The Contractor shall:

11.9.4a Classify Brand Drugs consistent with the definition in Section 1.4.0 of this Agreement as well as the methodology outlined in Section 11.3.0 of this Agreement.

11.9.4b Implement its fixed contracted Guaranteed Discount off of Average Wholesale Price (AWP) as set forth below in Section 11.9.4c, that shall be utilized to determine the Ingredient Cost of the Prescription to charge the NYSIF Program. The Contractor's Guaranteed Discount shall be applicable to all individual Prescriptions for Brand Drugs dispensed to Claimants through the Mail Service Pharmacy Process.

11.9.4c The Contractor shall use the following Ingredient Cost and dispensing fee to charge the NYSIF Program for each Prescription for a covered Brand Drug dispensed through the Mail Service Pharmacy Process throughout the term of the Agreement.

Brand Drug:	Ingredient Cost:	(TBD)% off AWP
	Dispensing Fee:	(TBD)

11.9.5 Mail Service Pharmacy Process - Generic Drug Pricing

The Contractor shall:

11.9.5a Classify Generic Drugs consistent with the definition in Section 1.29.0 of this Agreement.

11.9.5b The Contractor shall use the following Ingredient Cost and dispensing fee to charge the NYSIF Program for each Prescription for a covered Generic Drug dispensed through the Mail Service Pharmacy Process throughout the term of

the Agreement subject to the Lesser of Logic process set forth in Section 11.6.0 of this Agreement.

Ingredient Cost of Generic Drug dispensed at Mail Service Pharmacy: Pass-through Pricing based on either the Programs' MAC List or the fixed, contracted Mail Service Pharmacy Guaranteed Discount off the equivalent Brand Drug as set forth in Section 11.9.4c for the dispensing of Generic Drugs not assigned a MAC. (Pricing is subject to an overall annual minimum discount of (TBD)% off of the aggregate AWP for all Generic Drugs dispensed through the Mail Services Pharmacy.)

Dispensing Fee: $(TBD)

11.9.5c The Contractor must guarantee an overall minimum discount off the aggregate AWP for all Generic Drugs dispensed through the Mail Service Pharmacy, as set forth in 11.8.3 of this Agreement.

11.9.6 Mail Service Pharmacy Process - Compound Drug Pricing

The Contractor shall:

11.9.6a Classify Compound Drugs consistent with the definition in Section 1.10.0 of this Agreement;

11.9.6b Implement its pricing methodology for Compound Drugs as set forth below in Sections 11.9.6d and 11.9.6e. The Contractor's retail Brand Drug dispensing fee and the NYSIF Program's Lesser of Logic will apply;

11.9.6c Process Compound Drug claims in a manner that verifies the validity of the claim as a Compound Medication according to the NYSIF Program's definition and provides appropriate claim level control procedures to protect the financial interests of the NYSIF Program;

11.9.6d Conduct due diligence to ensure that drugs are being properly classified as Compound Drugs consistent with the NYSIF Program's definition of a Compound Drug and to ensure that claims are priced in accordance with the methodology for Compound Medications as set forth below in Section 11.9.6e below; and

11.9.6e The FUND will be charged the Contractor's pricing methodology utilizing Pass-through Pricing for Compound Drugs dispensed by Network Pharmacies; its dispensing fees; and if the Contractor proposed the use of NCPDP transaction standards for Compound Drugs, a level of effort fee based on the claims level of effort code in Exhibit V.A.

11.9.6e(1) The Contractor will notify the FUND, in writing, a minimum of 30 Days in advance of any changes to the Contractor's book of business Level of Effort fees, and such revised fees will be charged consistent with the pricing provisions of the Agreement.

11.9.7e [Insert Contractor's proposed Methodology from Exhibit V.A.]

11.10.0 Non-Network Pharmacy Claims

11.10.1 The cost to the NYSIF Program for Prescriptions for which non-network pharmacies submit direct claims for reimbursement shall be charged to the NYSIF Program. State Workers' Compensation Board laws and regulations, specifically, Section 440 of Chapter V, of Title 12 NYCRR (New York Codes Rules and Regulations).

11.10.2 The Contractor shall utilize the following methodology to charge the NYSIF Program:

11.10.2a Brand Drugs, including Specialty Drugs/Medications, must be charged to the NYSIF Program at the New York State Workers' Compensation Board rates, currently a twelve percent (12%) discount off of AWP, plus a $4 Dispensing Fee.

11.10.2b Generic Drugs, including Specialty Drugs/Medications, must be charged to the NYSIF Program at the New York State Workers' Compensation Board rates, currently a twenty percent (20%) discount off of AWP, plus a $5 Dispensing Fee.

11.11.0 Dispensing Fee

11.11.1 The Guaranteed Dispensing Fees and Maximum Guaranteed Dispensing Fees set forth in 11.11.3 of this Section must be guaranteed for the term of this Agreement.

11.11.2 No dispensing fee shall be charged to the NYSIF Program for any claim that is paid on the basis of the Pharmacy's Usual and Customary price.

11.11.3 The Contractor dispensing fee for Brand Drugs, Generic Drugs and Compound Drugs dispensed by Network Pharmacies shall be Pass-through Pricing, subject to an annual aggregate Maximum Guaranteed Dispensing fee set forth below. The Contractor's Guaranteed Dispensing fees for Brand Drugs, Generic Drugs and Compound Drugs dispensed by the Mail Service Pharmacy Process and the Designated Specialty Pharmacy are set forth below:

11.11.3a Network Retail Pharmacy Guaranteed Maximum Dispensing Fee:

$(TBD) Per Brand Drug
$(TBD) Per Generic Drug
$(TBD) Per Compound Drug

11.11.3b Mail Service Pharmacy Process Guaranteed Dispensing Fee:

$(TBD) Per Brand Drug
$(TBD) Per Generic Drug
$(TBD) Per Compound Drug

11.11.3c Designated Specialty Pharmacy dispensing fees may vary based on the specific NDC of the drug dispensed. Specialty Pharmacy Program dispensing fees are set forth in Exhibit V.D.

11.11.4 The Level of dispensing fees achieved as a result of Pass-through Pricing will be calculated utilizing the following formula:

Total Retail Network dispensing fees paid by the NYSIF Program on an annual basis divided by the number of Final Paid Claims at Retail Network Pharmacies for each of Generic, Brand and Compound claims.

11.11.5 If the overall aggregate dispensing fees paid, as calculated utilizing the formula set forth in Section 11.11.4 of this Agreement are more than the Guaranteed Maximum Dispensing Fee proposed for each of Brand, Generic and Compound claims at Retail Network Pharmacies, the Contractor shall reimburse the NYSIF Program the difference between the Dispensing fee the NYSIF Program was charged utilizing Pass-through Pricing and the Dispensing Fee the NYSIF Program would have been charged if the Guaranteed Maximum Dispensing Fee had been obtained. The NYSIF Program will be credited annually for this difference by February 15th. The NYSIF Program shall

retain the benefit of any cost savings in excess of the Guaranteed Maximum Dispensing Fees.

11.12.0 Specialty Pharmacy Program Pricing

The Contractor shall:

11.12.1 Consistently enforce and administer all provisions of the NYSIF Program (including but not limited to mandatory generic substitution, drug utilization review, prior authorization, refill too soon edits, etc.) to the claims dispensed through the Specialty Pharmacy Program, consistent with the processing of claims through the Retail and Mail Service Pharmacy Network processes.

11.12.2 Charge the Program for those drugs dispensed to the Claimant in original manufacturer packaging, based on the Contractor's source of AWP for the 11-digit NDC of the package size dispensed through the Specialty Pharmacy Program. If the drug is not dispensed to the Claimant in original manufacturer packaging (i.e., dispensed from bulk), the NYSIF Program shall be charged based on the Contractor's source of AWP for the 11-digit NDC of the package size from which the drug was originally dispensed by the Designated Specialty Pharmacy. If the drug is dispensed from a bulk package size for which no AWP is reported in the Contractor's AWP source, the NYSIF Program shall be charged based on the reported AWP for the NDC of the largest package size contained in the Contractor's AWP source. The NYSIF Program shall not be charged based on an NDC assigned to repackaged drugs or based on package sizes prepared by special arrangement with the original manufacturer unless such packaging offers a net savings to the NYSIF Program.

11.12.3 Charge the NYSIF Program based on the Contractor's pricing terms and dispensing fees applicable to brand and generic, Specialty Drug/Medication claims as set forth in Sections 11.12.4 through 11.12.7 for all Prescriptions submitted through the Specialty Pharmacy Program.

11.12.4 Classify Brand Drugs consistent with the definition in Section 1.4.0 of this Agreement as well as the methodology outlined in Section 11.3.0 of this Agreement.

11.12.5 Classify Generic Drugs consistent with the definition in Section 1.29.0 of this Agreement.

11.12.6 Subject to the terms of Section 11.2.2, implement its fixed contracted Guaranteed Discount off of Average Wholesale Price (AWP) of (TBD_% to determine the

Ingredient Cost of the Prescription to charge the NYSIF Program. The Contractor's Guaranteed Discount shall be applicable to the aggregate AWP of all Prescriptions for Brand Drugs and Generic Drugs dispensed to Claimants through the Specialty Pharmacy Program.

11.12.7 Act in the interests of the NYSIF Program when dispensing Generic Drugs through the Specialty Pharmacy Program by avoiding the dispensing of NDC's with higher AWPs unless market conditions exist making dispensing the more cost effective NDC impractical or impossible.

ARTICLE XII: 100% PHARMA REVENUE GUARANTEE

The Contractor is required to maximize savings to the NYSIF Program through negotiation of Pharma Revenue Agreements obtaining discounts or other consideration from manufacturers and passing through 100% of the value of the Pharma Revenue agreements to the NYSIF Program, including any consideration that would normally flow to the Contractor or Key Subcontractor(s) based on the NYSIF Program's utilization pursuant to the terms of those Pharma Revenue Agreements. In addition, all Pharma Revenue agreements with manufacturers and other entities applicable to the NYSIF Program must meet or exceed the Contractor's best existing Pharma Revenue agreements for all individual drugs ensuring that in no instance will the NYSIF Program receive less Pharma Revenue in any therapeutic class than other clients of the Contractor with a comparable benefit design and consistent preferred drug designations in the class provided the NYSIF Program's utilization of the drugs generating Pharma Revenue in the class is equal to or greater than those of other clients.

12.1.0 Negotiate Pharma Revenue agreements with manufacturers that maximize savings to the NYSIF Program, leveraging the significant enrollment of the NYSIF Program for each individual drug. The Contractor agrees that any Plan specific Pharma Revenue agreement shall derive total Pharma Revenue that meets or exceeds the Pharma Revenue derived from any other Pharma Revenue agreements the Contractor uses to administer its book of business for each individual drug.

12.2.0 Credit the NYSIF Program quarterly within 60 Days of the end of each quarter, the greater of 100% of the Pharma Revenue received or the minimum guaranteed amount set forth in Section 12.8.6.

12.3.0 Calculate and distribute Pharma Revenue to the NYSIF Program in a fully transparent and verifiable process. The Contractor agrees that all direct and indirect revenue arrangements with

manufacturers, suppliers, or other vendors shall be disclosed and the revenue generated related or attributable to the NYSIF Program's utilization be credited to the NYSIF Program. The Contractor must agree that the records, methods and calculations utilized to total and distribute these amounts to the NYSIF Program are subject to audit by the FUND or other State auditors with authority under Article XVII and/or Appendices A & B of this Agreement. In addition, all agreements must be provided as necessary for the NYSIF Program to evaluate Preferred Drug List decisions including direct access to any manufacturer contracts in unredacted form, under which the NYSIF Program is entitled to derive Pharma Revenue pursuant to the terms of this Agreement.

12.4.0 Not enter into any agreement that has the effect of diverting, shortchanging, or trading off any form of Pharma Revenue that would otherwise be due the NYSIF Program for other consideration. There shall be no fees charged to the NYSIF Program or received from a manufacturer, separate from the Claims Administration Fee as described and authorized in this Agreement, by the Contractor for rebate or other Pharma Revenue administration. The Contractor agrees that it will not divert, shortchange, or trade off Pharma Revenue that would otherwise inure to the NYSIF Program's financial benefit for Claimant drug utilization in return for reduced drug acquisition costs or other monetary or non-monetary consideration from manufacturers.

12.5.0 Upon selection and as a condition of contract award and throughout the term of the Agreement, the contractor shall provide at the request of the State all information and documentation related to Pharma Revenue agreements, including but not limited to, full direct access by FUND staff or its agents to complete unredacted Pharma Revenue agreements pursuant to which the NYSIF Program derives Pharma Revenue**.**

12.6.0 Utilize manufacturer agreements for the NYSIF Program that meet or exceed the Contractor's best existing Pharma Revenue agreements for all individual drugs. If the Contractor's business model allows for more than one Pharma Revenue agreement with manufacturers, the Contractor agrees that in no instance will the NYSIF Program receive less Pharma Revenue in any therapeutic class than other clients of the Contractor with a comparable benefit design and consistent preferred drug designations in the class provided the NYSIF Program's utilization of the drugs generating Pharma Revenue in the class is equal to or greater than those of other clients. The Contractor shall have a process satisfactory to the State to confirm compliance with this provision. The NYSIF Program shall receive a full pass-through of 100% of Pharma Revenue derived from any agreement with a pharmaceutical manufacturer. Where any Pharma Revenue contracts allow for higher Pharma Revenue for mail order claims, the Program will receive the full financial benefit of those higher rates receiving 100% of the Pharma Revenue derived from those agreements on

mail order claims. If manufacturer agreements provide less Pharma Revenue for Mail Service Pharmacy or Specialty Pharmacy claims than retail claims for the same drug, the terms of the manufacturer agreement applicable to retail claims shall be applied to Program Mail Service Pharmacy and Specialty Pharmacy claims for purposes of calculating the amount of Pharma Revenue due the NYSIF Program.

12.7.0 Ensure the Contractor's Minimum Pharma Revenue Guarantee Per Final Paid Claim, set forth in Section 12.8.6 is not contingent upon the NYSIF Program's participation in any of the Contractor's formulary management or intervention programs. Nor shall the Contractor's Pharma Revenue Guarantee Per Final Paid Claim be contingent or dependent on the timing of any patent expirations and/or introduction of generic equivalent drugs, including but not limited to early and/or at risk Generic Drug launches. The NYSIF Program will review the guaranteed amount only in the event of legislative, regulatory, or judicial action excluding patent litigation not specific to the Contractor's business practices that serves to void existing Pharma Revenue agreements materially compromising the Contractor's ability to obtain contracted Pharma Revenue necessary to meet the Minimum Pharma Revenue Guarantee Per Final Paid Claim.

12.8.0 Calculate and perform an annual reconciliation of the Pharma Revenue credit to the Pharma Revenue earned. As part of this annual reconciliation the Contractor is required to:

12.8.1 Calculate the Pharma Revenue guarantee on all Final Paid Claims, incurred for the respective NYSIF Program Year. The Pharma Revenue guarantee shall be on the aggregate level, not separated for each therapeutic class.

12.8.2 Credit the NYSIF Program an amount calculated based on the following formula: if in any NYSIF Program Year, the Pharma Revenue realized and credited to the Program by the Contractor is less than the amount due the NYSIF Program as determined utilizing the minimum Pharma Revenue credit set forth in Section 12.8.6, the amount of the credit shall be equal to the difference between the reported Pharma Revenue credited to the NYSIF Program and the Contractor's Minimum Pharma Revenue Guarantee Per Final Paid Claim set forth in Section 12.8.6.

12.8.3 Submit calculations and documentation supporting the amount of Pharma Revenue reported and credited to the NYSIF Program for FUND review and approval. The Contractor shall provide all information and documentation deemed necessary by the FUND to verify the NYSIF Program was credited with all Pharma Revenue due it under the terms of this Agreement.

12.8.4 If at the close of any NYSIF Program Year, the Pharma Revenue credited to the NYSIF Program is greater than the higher of the amount derived through application of the Pharma Revenue guarantee formula or the actual Pharma Revenue realized by the NYSIF Program, upon notice and verification by the FUND, the FUND shall pay the Contractor the difference between the amount previously credited and the higher of the minimum Pharma Revenue guaranteed amount, set forth in Section 12.8.6, or actual Pharma Revenue realized during the NYSIF Program Year.

12.8.5 If at the close of any NYSIF Program Year, the Pharma Revenue credited to the NYSIF Program is less than the actual Pharma Revenue realized by the NYSIF Program, the Contractor shall pay the NYSIF Program the difference between what was previously paid and the full amount due to the NYSIF Program in accordance with Article XIV, Payment/(Credits) to/from the Contractor, of this Agreement.

12.8.6 The Minimum Pharma Revenue amount due the NYSIF Program on an annual basis shall be calculated according to the formula: Contractor's Minimum Pharma Revenue Guarantee Per Final Paid Claim multiplied by the number of Final Paid Claims incurred for the respective Plan Year. The Contractor's Minimum Pharma Revenue Guarantee Per Final Paid Claim based on claims incurred for the respective Plan Year is:

12.8.6a $(TBD) for the Plan Year 2019.

12.8.6b $(TBD) for the Plan Year 2020.

12.8.6c $(TBD) for the Plan Year 2021.

12.8.6d $(TBD) for the Plan Year 2022.

12.8.6e $(TBD) for the Plan Year 2023.

ARTICLE XIII: CLAIMS ADMINISTRATION FEE

13.1.0 The Claims Administration Fee is the fee that the Contractor charges the NYSIF Program for all administrative services provided by the Contractor. This includes the administration of the FUND's Prescription Drug Program, as may be modified from time to time. The Contractor guarantees that the Claims Administration Fee shall be $(TBD) per Final Paid Claim. The Contractor shall:

13.1.1 Agree that its Claims Administration Fee is binding for the entire term of this Agreement, unless agreed otherwise by both the State and the Contractor.

13.1.2 Implement any changes necessary to accommodate NYSIF Program modifications resulting from collective bargaining, legislation, or within the statutory discretion of the State within sixty (60) Days of notice.

13.1.3 Agree not to request a higher Claims Administration Fee, and the FUND will not consider any modification to the Claims Administration Fee, that is not based on a material change to the NYSIF Program requiring the Contractor to incur additional costs. The determination of what constitutes a material change is at the sole discretion of the FUND. Implementation of an alternate formulary or multiple formularies shall not constitute a material change and the Contractor agrees to implement, if required, all alternative formularies at the Claims Administration Fee set forth in Section 13.1.0.

13.1.4 Submit detailed documentation of additional costs, over and above existing management costs, with any request for an increase in the Claims Administration Fee resulting from a material change in the benefit structure of the NYSIF Program. The FUND reserves the right to request and the Contractor must agree to provide any additional information and documentation the FUND deems necessary to verify that the request for an additional Claims Administration Fee is warranted. The FUND's decision to modify the Claims Administration Fee to the extent necessary to compensate the Contractor for documented additional costs incurred shall be at the sole discretion of the State.

13.1.5 Implement all benefit designs as required by the FUND with or without final resolution of any request for a Claims Administration Fee adjustment. Refusal to implement changes will constitute a material breach of this Agreement and the FUND will seek compensation for all damages resulting.

13.1.6 Agree the Claims Administration Fee shall be payable only for Final Paid Claims and that the NYSIF Program will not pay an additional Fee(s) or other charge for any claim that is denied prior to processing or any claim that is subsequently voided, reversed, or otherwise modified.

ARTICLE XIV: Payments/(Credits) to/(from) the Contractor

14.1.0 The Contractor agrees to manage such financial transactions in accordance with the following:

14.1.1 The NYSIF Program will reimburse the Contractor for claim payments and associated Claims Administration Fees no sooner than two (2) Business Days and no later than five

(5) Business Days after receipt of an accurate invoice, following each weekly claims processing cycle. The data file layout and file transmission protocol will be mutually agreed upon by the selected Contractor and the FUND during the implementation period.

14.1.2 Any credit amounts due from the Contractor to the FUND for failure of the Contractor to meet the performance guarantees set forth in this Agreement shall be applied as a credit against the Claims Administration Fees charged separately to the NYSIF Program in the next invoice(s).

14.2.0 Upon final audit determination by the FUND and consistent with the terms of Article XII 100% Pharma Revenue Guarantee of this Agreement, any audit liability amount assessed by the FUND shall be paid/credited to the NYSIF Program within thirty (30) Days of the date of final determination. For Pharmacy audits conducted by the Contractor, any Pharmacy audit recoveries shall be paid/credited to the NYSIF Program no later than thirty (30) Days after the final audit determination.

14.3.0 Drug litigation recoveries and settlements shall be paid to the NYSIF Program within fifteen (15) Days from the Contractor's receipt of such recoveries and settlements.

14.4.0 Sixty(60) Days after the end of the first quarter, the Contractor shall pay/credit the NYSIF Program the greater of (1) the actual Pharma Revenue received on behalf of the NYSIF Program or 2) the Minimum Pharma Revenue Guarantee Per Final Paid Claim, set forth in Section 12.8.6, multiplied by the number of Final Paid Claims incurred for the first quarter.

14.4.1 For each subsequent quarter of the NYSIF Program Year, the Contractor shall pay/credit the NYSIF Program the greater of: (1) the cumulative Pharma Revenue received on behalf of the FUND for the NYSIF Program Year, or (2) the minimum Pharma Revenue Guarantee Per Final Paid Claim set forth in Section 12.8.6 multiplied by the number of Final Paid Claims processed from the beginning of the NYSIF Program Year through the end of the respective quarter, less the cumulative amount of Pharma Revenue previously paid/credited to the FUND for the NYSIF Program Year.

14.4.2 The Contractor shall perform a reconciliation by May 31st of each year and the incremental Pharma Revenue amount shall be paid/credit to the Plan within thirty (30) Days of May 31st.

14.4.3 At the May 31st Pharma Revenue reconciliation, to the extent that any amount is owed by the Contractor, the Contractor shall pay/credit the Plan within thirty (30) Days after the Final Pharma Revenue reconciliation for the amount owed.

14.5.0 The FUND will pay the Claims Administration Fee on a monthly basis thirty (30) Days after receipt of an accurate invoice. Any credit amounts due from the Contractor to the FUND for failure to meet the performance guarantees set forth in the Agreement shall be applied as a credit against the Claims Administration Fee charged to the NYSIF Program.

14.6.0 This Agreement is not subject to Article XI-A of NYS Finance Law. The Contractor agrees that Program Services provided under the Agreement shall continue in full force and effect for a minimum of at least thirty (30) days beyond the payment due date as set forth in this Article XIV. If after the thirty-fifth (35) calendar day after receipt of an accurate invoice and claims data file, as set forth in this Article XIV, the Contractor has not yet received payment from the State for said invoice, the Contractor may proceed under the Dispute Resolution provision in Appendix B and the Agreement shall remain in full force and effect until such final decision is made, unless the Parties can come to a mutual agreement, in which case, the Agreement shall also remain in full force and effect.

ARTICLE XV: REPORTS AND CLAIM FILES

15.1.0 Annual Reports

15.1.1 ***Annual Financial Summary Report:*** The Contractor must submit an annual report of NYSIF Program charges and credits no later than seventy-five (75) Days after the end of each Calendar Year. These statements must detail, at minimum, claims paid during the year, claims administration costs, performance credits, audit credits, drug settlement proceeds, EGWP subsidies, and rebates (earned and paid). Such detail must include all charges by the Contractor to NYSIF;

15.1.2 ***Annual Mail Service Pharmacy Process Satisfaction Survey Summary Report:*** The Contractor must submit a report which details, in summary form, the results of Claimant satisfaction surveys designed to evaluate the level of NYSIF Program Claimants satisfaction with the Mail Service Pharmacy Process. The surveys should cover areas of order processing, quality of services, and timeliness. The format of the survey instrument and reports is subject to NYSIF input and approval. The report is due annually, on May

1st of the year following the Calendar Year being surveyed. The report must include Claimant comments and an accounting and resolution of any Claimant issues;

15.1.3 ***Annual Summary Reporting:*** The Contractor must prepare and present an annual report that details Program performance, industry trends, and anticipated market developments including the introduction of generics and potential new product developments. This presentation should include comparisons of NYSIF Program to book of business statistics, and other similar plan statistics. Clinical, financial, and service issues as well as strategies and opportunities for plan savings are to be comprehensively addressed. In addition, the Contractor should be proactive by reporting any areas that need improvement, potential problem areas, and any solutions that can be implemented. The annual presentation and report is due to the NYSIF sixty (60) Days after the Program Year;

15.1.4 ***Annual Report of Claims and Credits Paid by Agency:*** The Contractor must submit a report that details claims and credits paid by agency. The Contractor is required to submit this report in the current format specified by NYSIF in Exhibit B, the Requests for Proposals entitled "Pharmacy Benefit Services for The Empire Plan, Excelsior Plan, Student Employee Health Plan and the New York State Insurance Fund Workers' Compensation Prescription Drug Programs RFP," of this Agreement unless otherwise specified by the NYSIF. The report is due thirty (30) Days after the end of the Calendar Year. The report must accurately reflect only Final Paid Claims;

15.1.5 ***Mail Service Pharmacy Process Accuracy Annual Report:*** The Contractor is required to submit an annual report that provides a breakdown of the various errors and calculates the accuracy rate of transactions processed using the Offeror's Mail Service Pharmacy Process. The Contractor is required to work out the final format of this report with NYSIF. The report is due thirty (30) Days after the end of the Calendar Year;

15.1.6 ***Rebate True-up File:*** The Contractor is required to transmit a computerized file via secure transfer containing a yearly true-up of rebate records in a format specified by NYSIF. The true-up rebate file must match all of the billing records provided by the Contractor in the weekly pharmacy billing files. The report is due one hundred fifty (150) Days after the end of the Calendar Year. Issue resolution timeframe: within 1 week of the original submission;

15.1.7 ***Catastrophic Reinsurance and Low Income Cost Sharing Subsidy Reconciliation Reports:*** The Contractor is required to submit detailed annual reconciliation reports for the Catastrophic Reinsurance receipts and Low Income Cost Sharing subsidy for the EGWP by December 31st of the year following the year of incurred expenses.

15.2.0 Semi-Annual Reports

15.2.1 ***Top 100 Brand Name and Generic Drugs – Retail Pharmacy Report:*** The Contractor is required to submit a semi-annual report that details the top 100 brand name and top 100 Generic Drugs dispensed to Claimants of the NYSIF Program through the Offeror's Retail Pharmacy Network sorted by drug spend and script count. The report should include fields such as: drug name, indication of use (i.e. cholesterol, diabetes, etc.), preferred drug indicator, number of Rx's, number of Claimants utilizing the drug, Rx cost, average cost per script, average Copayment, and average Day's supply. The Contractor should closely follow the current format specified in Exhibit B, the Requests for Proposals entitled "Pharmacy Benefit Services for The Empire Plan, Excelsior Plan, Student Employee Health Plan and the New York State Insurance Fund Workers' Compensation Prescription Drug Programs RFP," of this Agreement. The numbers should be submitted on a year-to-year comparison basis. Any trends or abnormalities should be submitted in a narrative. The report is due sixty (60) Days after the end of the second and fourth quarter;

15.2.2 ***Top 20 Therapeutic Categories Report:*** The Contractor is required to submit a semi-annual report that details the top 20 therapeutic categories by drug spend on the Contractor's Flexible Formularies and Preferred Drug List (broken down by drug) utilized by Claimants of the NYSIF Program (combined Retail, Mail Service and Specialty Pharmacy). The report should include fields such as: drug name, number of Rx's, number of members utilizing the drug, Rx cost, average cost per script, preferred drug indicator, average Copayment, and average Day's supply. The Contractor should closely follow the current format specified in Exhibit B, the Requests for Proposals entitled "Pharmacy Benefit Services for The Empire Plan, Excelsior Plan, Student Employee Health Plan and the New York State Insurance Fund Workers' Compensation Prescription Drug Programs RFP," of this Agreement The numbers should be submitted on a year-to-year comparison basis. Any trends or abnormalities should be submitted in a narrative. The report is due sixty (60) Days after the end of the second and fourth quarter;

15.2.3 ***Top 100 Brand Name and Generic Drugs – Mail Service Pharmacy Report:*** The Contractor is required to submit a semi-annual report that details the top 100 brand name and top 100 Generic Drugs dispensed to Claimants of the NYSIF Program through the Contractor's Mail Service Pharmacy sorted by drug spend and script count. The report should include fields such as: drug name, indication of use (i.e., cholesterol, diabetes, etc), preferred drug indicator, number of Rx's, number of members utilizing the drug, Rx cost, average cost per script, preferred drug indicator, average Copayment, and average Days supply. The Contractor should closely follow the current format specified by NYSIF in Exhibit B, the Requests for Proposals entitled "Pharmacy Benefit Services for The Empire Plan, Excelsior Plan, Student Employee Health Plan and the New York State Insurance Fund Workers' Compensation Prescription Drug Programs RFP," of this Agreement. The numbers should be provided on a year-to- year comparison basis. Any trends or abnormalities should be provided in a narrative. The report is due sixty (60) Days after the end of the second and fourth quarter;

15.2.4 ***Top 100 Specialty Drugs – Specialty Pharmacy Report:*** The Contractor is required to submit a semi-annual report that details the top 100 Specialty Drugs dispensed to Claimants of the NYSIF Program through the Contractor's Designated Specialty Pharmacy sorted by drug spend and script count. The report should include fields such as: drug name, indication of use (i.e., cholesterol, diabetes, etc.), preferred drug indicator, number of Rx's, number of members utilizing the drug, Rx cost, average cost per script, preferred drug indicator, average Copayment, and average Days supply. The Contractor should closely follow the current format specified by the NYSIF in Exhibit B, the Requests for Proposals entitled "Pharmacy Benefit Services for The Empire Plan, Excelsior Plan, Student Employee Health Plan and the New York State Insurance Fund Workers' Compensation Prescription Drug Programs RFP," of this Agreement. The numbers should be provided on a year-to-year comparison basis. Any trends or abnormalities should be provided in a narrative. The report is due sixty (60) Days after the end of the second and fourth quarter.

15.3.0 <u>Quarterly Reports</u>

15.3.1 ***Quarterly Financial Summary Reports*****:** The Contractor must submit quarterly financial reports which present the NYSIF Program's experience for the most recent quarter (based on a Calendar Year) and the experience from the beginning of the Calendar Year to the end of the quarter being reported. The quarterly reports must also include projections of:

- annual financial performance;
- assessment of DCS Program costs;
- incurred claim triangles;
- Pharma Revenue;
- audit recoveries;
- drug settlement and litigation recoveries
- administrative expenses;
- trend statistics; and
- such other information as the Department deems necessary.

The reports are due on a quarterly basis, fifteen (15) Days after the end of the reporting period;

15.3.2 ***Quarterly Performance Guarantee Report:*** The Contractor must submit quarterly the NYSIF Program's Performance Guarantee report that details the Contractor's compliance with all of the Contractor's proposed Performance Guarantees. The report should include the areas of: Implementation; system availability; customer service (telephone availability, response time, blockage rate, abandonment rate); claims processing; management reports and claim files; enrollment; mail service turnaround; and Pharmacy composition and access. The Contractor should closely follow the current format specified by the NYSIF in Exhibit B, the Requests for Proposals entitled "Pharmacy Benefit Services for The Empire Plan, Excelsior Plan, Student Employee Health Plan and the New York State Insurance Fund Workers' Compensation Prescription Drug Programs RFP," of this Agreement. Documentation of compliance should be included with this report. The report is due thirty (30) Days after the end of the quarter;

15.3.3 ***Quarterly Network Access:*** The Contractor must submit a measurement of the Network access as proposed in Exhibit C, the Contractor's Proposal of this Agreement is based on a "snapshot" of the network taken on the last day of each quarter. The report is due thirty (30) Days after the end of the quarter;

15.3.4 ***Quarterly Audit Report:*** The Contractor must submit a quarterly audit report detailing audits planned, audits initiated, audits in progress, audits completed, audit findings, audit recoveries, and any other enforcement action by the Contractor. The report should include fields such as Pharmacy name, NABP number, recovery amounts, audit method or type, and basis for and method of recovery. The Contractor should closely follow the

current format specified by the NYSIF in Exhibit B, the Requests for Proposals entitled "Pharmacy Benefit Services for The Empire Plan, Excelsior Plan, Student Employee Health Plan and New York State Insurance Fund Workers' Compensation Prescription Drug Programs," of this Agreement. The report is due thirty (30) Days after the end of the quarter;

15.3.5 ***Quarterly Rebate and Other Pharma Revenue Report*****:** The Contractor is required to submit a report detailing the amount of rebates and other Pharma Revenue received from the Contractor during the quarter. The report must include breakdowns by each manufacturer and drug with quarterly and year-to-date numbers, as well as any adjustments that are performed. The report must also be broken down to each individual prescription filled. The Contractor should closely follow the current format specified by the NYSIF in Exhibit B, the Requests for Proposals entitled "Pharmacy Benefit Services for The Empire Plan, Excelsior Plan, Student Employee Health Plan and the New York State Insurance Fund Workers' Compensation Prescription Drug Programs RFP," of this Agreement. The Contractor's process for documenting rebates and other Pharma Revenue by manufacturer and issuing the payment of rebates and other Pharma Revenue to the DCS Program should not exceed sixty (60) Days from the end of the quarter in which the initial claims were processed. This report is due at the time the rebates and other Pharma Revenue are paid to the Program;

15.3.6 ***Quarterly Prior Authorization Report:*** The Contractor is required to submit a quarterly report that provides the number of prior authorization requests by individual drug. The report must include numerical breakdowns on the number of prior authorization requests made by the individual drug as well as the success/declination rate of these requests, as well as subsequent appeal. The report should follow format specified by the NYSIF in Exhibit B, the Requests for Proposals entitled "Pharmacy Benefit Services for The Empire Plan, Excelsior Plan, Student Employee Health Plan and the New York State Insurance Fund Workers' Compensation Prescription Drug Programs RFP," of this Agreement. The report is due thirty (30) Days after the end of the quarter;

15.3.7 ***Quarterly Rebate File:*** The Contractor is required to transmit a computerized file via secure transfer containing prescription rebate information for all earned rebates in a format specified by the FUND. The pharmacy rebate records in the Rebate File must match all prescriptions billed to the FUND by the Contractor. The report is due one hundred fifty (150) Days after the end of the quarter;

15.3.8 ***Additional Quarterly Reports:*** The Contractor is responsible for submitting the following, but not limited to, additional reports. The reports are due one hundred eighty (180) Days after the end of the quarter. The FUND will work with the Contractor to provide the specific formats for each report. Issue resolution timeframe: within one (1) week of the original submission.

- By NYSIF Office- Quarterly Top 25 Claimants by Drug Cost
- By NYSIF Office- Quarterly Top 25 Claimants by Rx Count
- By NYSIF Office- Quarterly Top 25 Medications by Drug Cost
- By NYSIF Office- Quarterly Top 25 Medications by Rx Count
- By NYSIF Office- Quarterly Top 10 Products by Drug Cost
- By NYSIF Office- Quarterly Top 10 Products by Rx Count
- By NYSIF Office- Quarterly Top 25 Schedule II Narcotics by Drug Cost
- By NYSIF Office- Quarterly Top 25 Schedule II Narcotics by Rx Count
- By NYSIF Office- Quarterly Top 25 Prescribers by Drug Cost
- By NYSIF Office- Quarterly Top 25 Prescribers by Rx Count
- By NYSIF Office- Quarterly Top 25 Schedule II Prescribers by Drug Cost
- By NYSIF Office- Quarterly Top 25 Schedule II Prescribers by Rx Count
- By NYSIF Office- Quarterly Top 25 DAW1 Prescribers by Drug Cost
- By NYSIF Office- Quarterly Top 25 DAW1 Prescribers by Rx Count
- By NYSIF Office- Quarterly Compound Prescribers by Drug Cost
- By NYSIF Office- Quarterly Compound Prescribers by Rx Count
- By NYSIF Office- Quarterly Top 25 Claimants with Multiple Prescribers
- By NYSIF Office- Quarterly Top 25 Claimants with Multiple Pharmacies
- Results of PBM's patient education initiatives

15.4.0 <u>Monthly Reports</u>

15.4.1 ***Card Issuance File:*** The Contractor is required to submit a computerized file via secure transfer with the names of all NYSIF Claimants who have been issued a permanent ID card that is used when filing their injury-related prescriptions. The Contractor is required to submit this report in the current format specified by NYSIF in Exhibit B, the Requests for Proposals entitled “Pharmacy Benefit Services for The Empire Plan, Excelsior Plan, Student Employee Health Plan and New York State Insurance Fund Workers’ Compensation Prescription Drug Programs,” of this Agreement unless otherwise specified by NYSIF. The report is due no later than fifteen (15) calendar Days after the end of the month being reported. Issue resolution timeframe: within 1 week of the original submission;

15.4.2 ***<u>Monthly Report of Paid Claims by Pharmacy and Rx Type</u>:*** The Contractor is required to submit a monthly report that provides summarized paid claims by Pharmacy

type by Rx type. This report must distinguish reversals and allow the FUND to verify Guaranteed Discounts. The Contractor is required to submit this report in the current format specified by NYSIF in Exhibit B, the Requests for Proposals entitled "Pharmacy Benefit Services for The Empire Plan, Excelsior Plan, Student Employee Health Plan and New York State Insurance Fund Workers' Compensation Prescription Drug Programs," of this Agreement unless otherwise specified by NYSIF. The report is due thirty (30) Days after the end of the month;

15.4.3 ***Monthly Report of Program MAC List:*** Each month the Contractor is required to submit an updated Program MAC List that details all the drugs included on the Program MAC List and the corresponding prices used to charge the NYSIF Program. The following information shall be included: GPI, drug name, form, strength, reference product, FDA rating, date the product was initially placed on the MAC List, initial MAC price, previous MAC price, current MAC price, effective date of current MAC price and the change in price from the previous Program MAC List. Drugs that are added or deleted from the Program MAC List shall be clearly marked or highlighted. The Contractor is required to submit this report in the current format specified by NYSIF in Exhibit B, the Requests for Proposals entitled "Pharmacy Benefit Services for The Empire Plan, Excelsior Plan, Student Employee Health Plan and New York State Insurance Fund Workers' Compensation Prescription Drug Programs," of this Agreement unless otherwise specified by NYSIF. The report is due thirty (30) Days after the end of the month;

15.4.4 ***Monthly Report of Generic and Brand Effective Rate, Specialty and Mail Service Performance:*** Each month the Contractor is required to submit a summary by month of performance of the Generic and Brand Effective Rates for Retail, Specialty Drugs, and Mail Service Pharmacy Brand Drug claims. The following information should be included for the Generic and Effective Rates – number of claims, Ingredient Cost, Dispensing Fee, Tax Paid, Total AWP, WCB Fee Schedule, Amount Paid, Actual Discount off WCB Fee Schedule, Claim Number, Unit Number, Office, NDC, GPI, DAW Type, Generic Availability. The Contractor is required to submit this report in the current format specified by NYSIF in Exhibit B, the Requests for Proposals entitled "Pharmacy Benefit Services for The Empire Plan, Excelsior Plan, Student Employee Health Plan and New York State Insurance Fund Workers' Compensation Prescription Drug Programs," of this Agreement unless otherwise specified by NYSIF. The report is due thirty (30) Days after the end of the month;

15.4.5 ***MAC Saving Reports:*** Each month the Contractor is required to submit a year-to-date and annualized savings projections of the MAC price increases and decreases based on expected utilization. The following information shall be included: GPI, Drug Name, Strength, Initial MAC Price, Current Price, Quantity Filled, Actual Savings, Annual Savings. The Contractor is required to submit this report in the current format specified by NYSIF in Exhibit B, the Requests for Proposals entitled "Pharmacy Benefit Services for The Empire Plan, Excelsior Plan, Student Employee Health Plan and New York State Insurance Fund Workers' Compensation Prescription Drug Programs," of this Agreement unless otherwise specified by NYSIF. The report is due thirty (30) Days after the end of the month;

15.4.6 ***Program Customer Service Monthly Reports:*** Each month the Contractor is required to submit a customer service report that measures the Contractor's customer service performance including customer service availability, customer service telephone response time, the telephone abandonment rate, the telephone blockage rate, claims processing, enrollment, and mail service turnaround. The Contractor is required to work out the final format of these reports with NYSIF. The reports are due fifteen (15) Days after the end of the month. For the first two months of the Agreement, these reports will be due on a weekly basis. After two months, NYSIF will re-examine the required frequency of these reports and establish due dates with the Contractor;

15.4.7 ***Additional Monthly Reports:*** The Contractor is responsible for submitting the following, but not limited to, additional reports. The reports are due no later than fifteen (15) calendar Days after the end of the month being reported. The FUND will work with the Contractor to provide the specific formats for each report. Issue resolution timeframe: within one (1) week of the original submission;

- Monthly Predictive Modeling Alert Summary
- Acetaminophen High Dosage
- Early Intervention Summary
- Early Intervention Detail
- Script Alert Summary
- Script Alert Detail
- Intervention Rx Summary
- Intervention Rx Detail
- Savings based on WCB Fee Schedule

15.5.0 Weekly Reports

15.5.1 ***Detailed Claim File Data:*** The Contractor must transmit to NYSIF a computerized file via secure transfer, containing only those pharmacy bills that are in accordance with the defined NYSIF business rules for pharmacy bill submission and contains only those pharmacy bills that have been successfully matched to an established NYSIF claim. NYSIF will provide a comprehensive list of edit rules and rejection codes that are based on the structure or content of a pharmacy bill record. The file will contain detailed claim records in the format specified by NYSIF in Exhibit B, the Requests for Proposals entitled "Pharmacy Benefit Services for The Empire Plan, Excelsior Plan, Student Employee Health Plan and New York State Insurance Fund Workers' Compensation Prescription Drug Programs," of this Agreement unless otherwise specified by NYSIF, to support the weekly invoice. NYSIF requires that all claims processed and reversed be included. The file must facilitate reconciliation of claim payments to amounts charged to the NYSIF Program and include the current status of the claim (i.e. fields identifying claims as paid, reversed). The Contractor is required to securely forward the required claims data on a claims processing cycle basis to NYSIF within 3 days after the end of each claims processing cycle.

15.5.2 ***Weekly Invoice:*** The Contractor must submit a weekly Vendor Invoice as follows:

15.5.2a Hard copy of the Vendor Invoice submitted to the FUND via USPS.

15.5.2b Electronic submission of the Vendor Invoice Details file supporting the charges on the Vendor Invoice.

15.5.2b(1) The Contractor must submit the Vendor Invoice Detail file in the form an ASCII text file. The purpose of the detailed invoice file is to provide the FUND with the information needed in order to programmatically reconcile the Vendor Invoice. The report is due on the Monday following the week reported. Issue resolution timeframe: within 1 week of the original submission;

15.5.3 ***Aging Bill Report File:*** The Contractor is required to submit a computerized pharmacy billing file via secure transfer with bills previously submitted in the Instant Enrollment/ "Short Fill" file that remain unmatched to an established NYSIF claim. In the event there are not records meeting the above criteria, an empty file should be transmitted. The report is due each Monday. Issue resolution timeframe: prior to the next scheduled submission.

15.5.4 ***Additional Weekly Reports:*** The Contractor is responsible for submitting the following, but not limited to, additional reports prior to the next scheduled submission. . The FUND will work with the Contractor to provide the specific formats for each report. The reports are due on the Monday following the week reported.

- Weekly Predictive Modeling Alert Summary
- Weekly Predictive Modeling Alert Detail

15.6.0 Daily Reports

15.6.1 ***Short File Report File:*** The Contractor is required to submit a computerized file via secure transfer with pharmacy bills for those injured workers of NYSIF policy holders where the bill cannot be matched to an established NYSIF claim. The report is due within twenty four (24) hours following the Day reported. Issue resolution timeframe: prior to the next scheduled submission.

15.6.2 ***Claim Eligibility/Enrollment File Error Report:*** The Contractor is required to submit a computerized file as confirmation of the receipt and processing of the NYSIF Eligibility/Enrollment file. The Contractor is required to submit this report in the current format specified by NYSIF in Exhibit B, the Requests for Proposals entitled "Pharmacy Benefit Services for The Empire Plan, Excelsior Plan, Student Employee Health Plan and New York State Insurance Fund Workers' Compensation Prescription Drug Programs," of this Agreement unless otherwise specified by NYSIF. The report is due daily. Issue resolution timeframe: prior to the next scheduled submission

15.7.0 Additional Reports Required at Other Frequencies

15.7.1 NYSIF may require additional reports, upon request, as specified by NYSIF in Exhibit B, the Requests for Proposals entitled "Pharmacy Benefit Services for The Empire Plan, Excelsior Plan, Student Employee Health Plan and New York State Insurance Fund Workers' Compensation Prescription Drug Programs," of this Agreement. Reports are required on a Yearly basis, but the Contractor should be prepared to provide these reports on a Quarterly and Monthly basis as requested by NYSIF. NYSIF may require such reports to include data collected for each NYSIF office and statewide.

ARTICLE XVI: TRANSITION AND TERMINATION OF CONTRACT

16.1.0 The Contractor must commit to fully cooperate with the successor contractor to ensure the timely, smooth transfer of information necessary to administer the NYSIF Program.

16.1.1 The Contractor must, within one hundred twenty (120) Days of the end of the Agreement, or within forty-five (45) Days of notification of termination, if the Agreement is terminated prior to the end of its term, provide the FUND with a detailed written plan for transition, which outlines, at a minimum, the tasks, milestones and deliverables associated with:

16.1.1a Transition of NYSIF Program data, including but not limited to a minimum of one year of historical Claimant data, detailed COB data, report formats, Mail Service Pharmacy, Specialty Pharmacy and retail scripts with available refills, prior authorization approved through dates, generic exceptions that have been entered into the adjudication system on behalf of the Claimant, as well as other data the successor organization may request and the FUND approves during implementation of the NYSIF Program in the format acceptable to the FUND. The transition of open refill prior authorization files should include but not be limited to the following:

16.1.1a(1) Providing a test file to the successor organization in advance of the implementation date to allow the new Contractor to address any potential formatting issues;

16.1.1a(2) Providing one or more pre-production files at least four (4) weeks prior to implementation that contains Claimant Prescription refill availability, one year of claims history and prior authorization and appeal approved through dates as specified by the FUND working in conjunction with the successor organization;

16.1.1a(3) Providing a second production file to the new contractor by the close of business January 2nd (or 2 days after this Agreement terminates) that contains all Claimant Prescription refill availability as specified by the FUND, working in conjunction with the selected successor contractor; and

16.1.1a(4) Providing a lag file seven (7) Days after the implementation date to capture any refills that may have been in process but not yet shipped

at the Contractor's Mail Service and Designated Specialty Pharmacy(ies) after the end of the year.

16.1.2 Transition of Claimant information on all non-transferable compounds and controlled medications.

16.1.3 Within fifteen (15) Business Days from receipt of the Transition Plan, the FUND shall either approve the Transition Plan or notify the Contractor, in writing, of the changes required to the Transition Plan so as to make it acceptable to the FUND.

16.1.4 Within fifteen (15) Business Days from the Contractor's receipt of the required changes, the Contractor shall incorporate said changes into the Transition Plan and submit such revised Transition Plan to the FUND.

16.1.5 The Contractor shall be responsible for transitioning the NYSIF Program in accordance with the approved Transition Plan.

16.1.6 To ensure that the transition to a successor organization provides Claimant's with uninterrupted access to their Prescription drug benefits and associated customer services, and to enable the FUND to effectively manage the Agreement, the Contractor is required to provide the following Contractor related obligations and deliverables to the NYSIF Program through the final financial settlement of the Agreement:

16.1.6a Provide all Contractor provided services associated with claims incurred on or before the scheduled termination date of the Agreement, including but not limited to paying network claims, Mail Service Pharmacy claims, Specialty Pharmacy claims, manual submit claims including but not limited to: Medicaid, VA , Skilled Nursing Facility claims, out of network claims, foreign claims, in-network claims, COB claims, Student Health Center Claims, and Medicare, reimbursing late filed claims if warranted, reimbursing customer credit balance accounts, resolution of Mail Service Pharmacy process and Specialty Pharmacy Process issues, continuing to provide updates on pending litigation and settlements and claims/rebate data for class action litigation that the Contractor or the AG has/may file on behalf of the NYSIF Program. In addition, the Contractor must continue to provide the FUND access to any online claims processing data and history and online reporting systems through the final settlement dates, unless the FUND notifies the Contractor that access may be ended at an earlier date;

16.1.6b Complete all required reports in Article XV "Reports and Claim Files";

16.1.6c Provide the NYSIF Program with sufficient staffing in order to address State audit requests and reports in a timely manner;

16.1.6d Agree to fully cooperate with all the FUND or OSC audits consistent with the requirements of Appendices A and B;

16.1.6e Perform timely reviews and responses to audit findings submitted by the FUND and the Comptroller's audit unit in accordance with the requirements set forth in Article XVII "Audit Authority";

16.1.6f Remit reimbursement due the NYSIF Program within fifteen (15) Days upon final audit determination consistent with the process specified in Article XVII "Audit Authority," Article XIV "Payments/(credits) to/(from) the Contactor" and Appendix B; and

16.1.7 The Contractor is required to receive and apply enrollment updates, keeping dedicated phone lines open with adequate available staffing to provide customer service at the same levels provided prior to termination of this contract, adjusting phone scripts, and transferring calls to a new vendor's lines.

16.1.8 The Contractor is required to transmit point of service messaging to their Retail Pharmacy Network upon the termination date of the Agreement instructing Pharmacists to submit NYSIF Program Claimant claims to the appropriate RXBIN, RXPCN, RXGRP or other claim identification information as specified by the FUND working in conjunction with the Contractor.

16.1.9 If the Contractor does not meet all of the Transition Plan requirements found in this Article, the Contractor **will permanently forfeit 100%** of all Claims Administrative Fees (prorated on a daily basis) from the due date of the Transition Plan requirements to the date the Transition Plan requirements are completed to the satisfaction of the FUND. The amount shall be calculated by dividing the Claims Administrative Fees for each cycle that includes a day the requirements are not met, by the number of days in that cycle and multiplying the quotient of that calculation by the number of days in the cycle during which the requirement was not met.

ARTICLE XVII: AUDIT AUTHORITY

In addition to the Audit Authority requirements specified in Appendices A and B to this Agreement, the following provisions shall apply:

17.1.0 The Contractor acknowledges that the FUND has the authority to conduct financial and performance audits of the Contractor's delivery of NYSIF Program services in accordance with the Agreement and any applicable State and federal statutory and regulatory authorities;

17.2.0 Such audit activity may include, but not necessarily be limited to, the following activities:

17.2.1 Review of the Contractor's activities and records relating to the documentation of its performance under this Agreement in areas such as determination of Claimant eligibility and application of various FUND program administrative features,

17.2.2 Comparison of the information in the Contractor's enrollment file to that on the enrollment reports issued to the Contractor by the FUND.

17.2.3 Assessment of the Contractor's information, utilization and demographic systems to the extent necessary to verify accuracy of data on the reports provided to the FUND in accordance with Article XV "Reports and Claim Files," of this Agreement.

17.3.0 The Contractor shall maintain and make available documentary evidence necessary to perform such reviews. Documentation maintained and made available by the Contractor may include, but is not limited to, source documents, books of account, subsidiary records and supporting work papers, claim documentation, pertinent contracts, Key Subcontracts, provider agreements, and correspondence;

17.4.0 The Contractor shall make available for audit all data in its computerized files that is relevant to and subject to the Agreement. Such data may, at the FUND's discretion, be submitted to the FUND in machine-readable format, or the data may be extracted by the FUND, or by the Contractor under the direction of the FUND;

17.5.0 The Contractor shall, at the FUND's request, and in a time period specified by the FUND, search its files, retrieve information and records, and provide to the auditors such documentary evidence as they require. The Contractor shall make sufficient resources available for the efficient performance of audit procedures. The FUND acknowledges that it may not access processing environments or systems that contain actual PHI of other clients of Contractor; this shall not limit OSC audit authority under Appendices A & B of this Agreement;

17.6.0 The Contractor shall comment on the contents of any audit report prepared by the FUND and transmit such comments in writing to the FUND within 30 days of receiving any audit report. The response will specifically address each audit recommendation. If the Contractor agrees with the recommendation, the response will include a work plan and timetable to implement the recommendation. If the Contractor disagrees with an audit recommendation, the response will give all details and reasons for such disagreement. Resolution of any disagreement as to the resolution of an audit recommendation shall be subject to the dispute resolution procedures set forth in Appendix B of this Agreement.

17.7.0 If the Contractor has an independent audit performed of the records relating to this Agreement, a certified copy of the audit report shall be provided to the FUND within ten (10) Days after receipt of such audit report by the Contractor.

17.8.0 The audit provisions contained herein shall in no way be construed to limit the audit authority or audit scope of the OSC as set forth in either Appendix A of this Agreement, Standard Clauses for All New York State Contracts, or Appendix B, Standard Clauses for All FUND Contracts.

17.9.0 The Contractor shall provide ample audit resources including access to the Contractor's online claims processing system to the FUND and the Office of the State Comptroller (OSC) at their respective offices through the date of the final financial settlement of the Agreement;

17.10.0 The Contractor shall provide the FUND with access and monthly updates to the Medi-Span Prescription Drug industry pricing source material that the Contractor will be utilizing for the Program;

17.11.0 The Contractor agrees to fully cooperate with the FUND and/or OSC audits consistent with the requirements of Appendices A and B as set forth in this Agreement, including provision of access to the FUNDs protected health information and all relevant other confidential information which may have an impact on this Agreement, when required for audit purposes as determined by the FUND and OSC as appropriate. The Contractor must respond to all State audit requests for information and/or clarification within fifteen (15) Business Days. The Contractor must perform timely reviews and respond in a time period specified by the FUND to preliminary findings submitted by the FUND and the Comptroller's audit unit in accordance with the requirements of this Article. Such audits may include, but are not limited to: mail order claims; Claimant submitted paper claims; and online Pharmacy claims. Use of statistical sampling of claims and extrapolation of findings resulting from such samples shall be

acceptable techniques for identifying claims errors. The selected Contractor shall facilitate audits of network pharmacies as requested by the FUND and/or OSC; and

17.12.0 The Contractor shall permit the FUND or a designated third party to audit all pharmacy bills and drug company revenues to ensure accuracy by Contractor in performing services under this Agreement and compliance with financial obligations, performance guarantees, business operations, and all other contractual obligations. Any designated third party must execute a confidentiality agreement reasonably acceptable to the FUND and Contractor. This shall not limit OSC audit authority under Appendices A & B of this Agreement.

ARTICLE XVIII: CONFIDENTIALITY

In addition to the Confidentiality requirements specified in Appendices A and B to this Agreement, the following provisions shall apply:

18.1.0 All claims and enrollment records relating to the Agreement are confidential and shall be used by the Contractor solely for the purpose of carrying out its obligations under the Agreement, for measuring the performance of the Contractor in accordance with the performance guarantees set forth in Article VII of this Agreement, and for providing the FUND with material and information as may be specified elsewhere in this Agreement;

18.2.0 Except as directed by a court of competent jurisdiction in New York State, or as necessary to comply with applicable New York State or Federal law, or with the written consent of the Claimant, no records may be otherwise used or released to any party other than the FUND or its agent by the Contractor, its officers, Employees, agents, consultants or Subcontractors either during the term of the Agreement or in perpetuity thereafter. Deliberate or repeated accidental breach of this provision may, at the sole discretion of the FUND, be grounds for termination of the Agreement;

18.3.0 The Contractor, its officers, Employees, agents, consultants and/or any Key Subcontractors agree to comply, during the performance of the Agreement, with all applicable Federal and State privacy, security and confidentiality statutes, including but not limited to the Personal Privacy Protection Law (New York Public Officer's Law Article 6-A, as amended), and its implementing regulations, policies and requirements, for all material and information obtained by the Contractor through its performance under the Agreement, with particular emphasis on such information relating to Claimants;

18.4.0 The Contractor shall be responsible for assuring that any Agreement between the Contractor and any of its officers, Employees, agents, consultants and/or Key Subcontractors contains a provision that strictly conforms to the various confidentiality provisions of this Agreement; and

18.5.0 The Contractor shall promptly advise the FUND of all requests made to the Contractor for information regarding the performance of services under this Agreement, including, but not limited to, requests for any material and information provided by the FUND except as required by Key Subcontractors or agents solely for the purpose of fulfilling the Contractor's obligations under this Agreement or as required by law.

18.6.0 In the event any material of Contractor's is requested pursuant to FOIL, the FUND will address the Contractor's interests fully in accordance with the procedures required by Article 6 of the Public Officer's Law and Appendix B of this Agreement.

ARTICLE XIX: USE AND DISCLOSURE OF PROTECTED HEALTH INFORMATION

19.1.0 For purposes of this Article, the term "Protected Health Information" ("PHI") means any information, including demographic information collected from an individual, that relates to the past, present, or future physical or mental health or condition of an individual, to the provision of health care to an individual, or to the past, present, or future payment for the provision of health care to an individual, that identifies the individual, or with respect to which there is a reasonable basis to believe that the information can be used to identify the individual. Within the context of this Agreement, PHI may be received by the Contractor from the FUND or may be created or received by the Contractor on behalf of the FUND. All PHI received or created by the Contractor as a consequence of its performance under this Agreement is referred to herein collectively as "FUND's PHI."

19.2.0 The Contractor acknowledges that FUND administers a Workers' Compensation Prescription Drug Program as that term is defined in HIPAA's implementing regulations at 45 CFR Parts 160 and 164. The Contractor further acknowledges that Contractor's provision of services under this Agreement may involve the disclosure to the Contractor of PHI from the FUND or from other parties on behalf of the Fund, and also may involve the Contractor's disclosure to the FUND of PHI as a consequence of such services performed under this Agreement. To the extent Contractor acts in a capacity that would make Contractor a "business associate" of the FUND if the FUND were a health plan and/or covered entity under HIPAA, Contractor shall adhere to the requirements as set forth in Article XIX of this Agreement. All consents and/or authorizations, if any, required for Contractor to perform the services hereunder and for the use and disclosure of

information, including FUND's PHI, as permitted under this Agreement have been obtained from Claimants.

19.3.0 ***Permitted Uses and Disclosures of the FUND's PHI*****:** The Contractor may use and/or disclose the FUND's PHI solely in accordance with the terms of this Agreement. In addition, the Contractor may use the FUND's PHI to provide data aggregation services relating to the health care operations of the FUND. Further, the Contractor may use and disclose the FUND's PHI for the proper management and administration of the Contractor if such use is necessary for the Contractor's proper management and administration or to carry out the Contractor's legal responsibilities, or if such disclosure is required by law or the Contractor obtains reasonable assurances from the person to whom the information is disclosed that it shall be held confidentially and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the Contractor of any instances of which it is aware in which the confidentiality of the information has been breached. Additionally, the Contractor may use and/or disclose NYSIF Programs PHI, as appropriate, (i) for treatment, payment and health care operations as described in 45 CFR Section 164.506(c)(2),(3)or (4); and (ii) to de-identify the information or create a limited data set in accordance with 45 CFR §164.514, which de-identified information or limited data set may, consistent with Section 19.4.0, below, be used and disclosed by Contractor only as agreed to in writing by the FUND and permitted by law.

19.4.0 ***Nondisclosure of the FUND's PHI*****:** The Contractor shall not use or further disclose the FUND's PHI otherwise than as permitted or required by this Agreement or as otherwise required by law. The Contractor shall limit its uses and disclosures of PHI when practical to the information comprising a Limited Data Set, and in all other cases to the minimum necessary to accomplish the intended purpose of the PHI's access, use, or disclosure.

19.5.0 ***Safeguards:*** The Contractor shall use appropriate, documented safeguards to prevent the use or disclosure of the FUND's PHI otherwise than as provided for by this Agreement. The Contractor shall maintain a comprehensive written information security program that includes administrative, technical, and physical safeguards appropriate to the size and complexity of the Contractor's operations and the nature and scope of its activities, to reasonably and appropriately protect the confidentiality, integrity and availability of any electronic PHI that it creates, receives, maintains, or that it transmits on behalf of the FUND pursuant to this Agreement to the same extent that such electronic PHI would have to be safeguarded if created, received, maintained, accessed or transmitted by a group health plan identified herein.

19.6.0 ***Breach Notification:***

19.6.1 ***Reporting:*** The Contractor shall report to the FUND any breach of unsecured PHI, including any use or disclosure of the FUND's PHI otherwise than as provided for by this Agreement, of which the Contractor becomes aware. An acquisition, access, transmission, use or disclosure of NYSIF Program PHI that is unsecured in a manner not permitted by HIPAA or this Agreement is presumed to be a breach unless the Contractor demonstrates that there is a low probability that NYSHIP's PHI has been compromised based on the Contractor's risk assessment of at least the following factors: (i) the nature and extent of NYSHIP's PHI involved, including the types of identifiers and the likelihood of re-identification; (ii) the unauthorized person who used NYSIF Programs PHI or to whom the disclosure was made; (iii) whether NYSIF Programs PHI was actually acquired or viewed; and (iv) the extent to which the risk to NYSIF Programs PHI has been mitigated. Further, the Contractor shall report to the FUND any security incident of which it becomes aware. "Security incident" shall mean the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information, or interference with system operations in an information system. The Contractor shall notify the FUND within five (5) business days of the date the Contractor becomes aware of the event.

19.6.2 ***Required Information:*** The Contractor shall provide the following information to the FUND within ten (10) business days of discovery except when, despite all reasonable efforts by the Contractor to obtain the information required, circumstances beyond the control of the Contractor necessitate additional time. Under such circumstances, the Contractor shall provide to the FUND with the following information as soon as possible and without unreasonable delay, but in no event later than thirty (30) Days from the date of discovery:

19.6.2a the date of the breach incident;

19.6.2b the date of the discovery of the breach;

19.6.2c a brief description of what happened;

19.6.2d a description of the types of unsecured PHI that were involved;

19.6.2e identification of each individual whose unsecured PHI has been, or is reasonably believed to have been, accessed, acquired, or disclosed during the breach;

19.6.2f a brief description of what the Contractor is doing to investigate the breach, to mitigate harm to individuals and to protect against any further breaches; and

19.6.2g any other details necessary to complete an assessment of the risk of harm to the individual.

19.6.3 The Contractor will be responsible to provide notification to individuals whose unsecured PHI has been or is reasonably believed to have been accessed, acquired or disclosed as a result of a breach, as well as the Secretary and the media, as required by 45 CFR Part 164.

19.6.4 The Contractor shall maintain procedures to sufficiently investigate the breach, mitigate losses, and protect against any future breaches, and to provide a description of these procedures and the specific findings of the investigation to the FUND upon request.

19.6.5 For purposes of this Agreement, "Unsuccessful Security Incidents" include activity such as pings and other broadcast attacks on Business Associate's firewall, port scans, unsuccessful log-on attempts, denials of service, and any combination of the above, so long as no such incident results in unauthorized access, use, or disclosure of electronic PHI, and for which no additional reporting shall be required.

19.6.6 The Contractor shall mitigate, to the extent practicable, any harmful effects from any use or disclosure of PHI by the Contractor not permitted by this Agreement.

19.7.0 ***Associate's Agents:*** The Contractor shall require all of its agents or Key Subcontractors to whom it provides the FUND's PHI, whether received from the FUND or created or received by the Contractor on behalf of the FUND, agree to the same restrictions and conditions on the access, use, and disclosure of PHI that apply to the Contractor with respect to the FUND's PHI under this Agreement.

19.8.0 ***Availability of Information to the FUND:*** The Contractor shall make available to the FUND such information and documentation as the FUND may require regarding any disclosures of PHI by the Contractor to fulfill the FUND's obligations to provide access to, to provide a copy of, and to account for disclosures of the FUNDS's PHI in accordance with HIPAA and its implementing regulations. The Contractor shall provide such information and documentation within a reasonable amount of time of its receipt of the request from the FUND.

19.9.0 ***Amendment of the FUND's PHI:*** The Contractor shall make the FUND's PHI available to the FUND as the FUND may require to fulfill the FUNDS's obligations to amend individuals' PHI

pursuant to HIPAA and its implementing regulations. The Contractor shall, as directed by the FUND, incorporate any amendments to the FUNDS's PHI into copies of the FUND's PHI as maintained by the Contractor.

19.10.0 ***Internal Practices*****:** The Contractor shall make its internal practices, policies and procedures, books, records, and agreements relating to the use and disclosure of the FUNDS's PHI, whether received from the FUND or created or received by the Contractor on behalf of the FUND, available to the FUND and/or the Secretary of the U.S. Department of Health and Human Services in a time and manner designated by the FUND and/or the Secretary for purposes of determining the FUND's compliance with HIPAA and its implementing regulations.

19.11.0 ***Termination:***

19.11.1 This Agreement may be terminated by the FUND at the FUNDS's discretion if the FUND determines that the Contractor, as a business associate, has violated a material term of this Article or of the Agreement with respect to the Contractor's obligations under this Article.

19.11.2 ***Disposition of the FUND's PHI:*** At the time this Agreement is terminated, the Contractor shall, if feasible, return or destroy all of the FUND's PHI, whether received from the FUND or created or received by the Contractor on behalf of the FUND, that the Contractor still maintains in any form and retain no copies of such information. Alternatively, if such return or destruction is not feasible, the Contractor shall extend indefinitely the protections of this Agreement to the information and shall limit further uses and disclosures to those purposes that make the return or destruction of the FUND's PHI infeasible.

19.12.0 ***Indemnification:*** The Contractor agrees to indemnify, defend and hold harmless the State and the FUND and its respective employees, officers, agents or other members of its workforce (each of the foregoing hereinafter referred to as "Indemnified Party") against all actual and direct losses suffered by the Indemnified Party and all liability to third parties arising from or in connection with any breach of this Agreement or from any acts or omissions related to this Agreement by the Contractor or its employees, officers, Key Subcontractors, agents or other members of its workforce. Accordingly, the Contractor shall reimburse any Indemnified Party for any and all actual and direct losses, liabilities, lost profits, fines, penalties, costs or expenses (including reasonable attorneys' fees) which may for any reason be imposed upon any Indemnified Party by reason of any suit, claim, action, proceeding or demand by any third party which results from the Contractor's

acts or omissions hereunder. The Contractor's obligation to indemnify any Indemnified Party shall survive the expiration or termination of this Agreement.

19.13.0 ***Miscellaneous:***

19.13.1 ***Amendments*****:** This Agreement may not be modified, nor shall any provision hereof be waived or amended, except in a writing duly signed by authorized representatives of the Parties and approved by the NYS Attorney General's Office and NYS Office of the State Comptroller. The parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary to achieve and maintain compliance with the requirements of HIPPA and its implementing regulations.

19.13.2 ***Survival*****:** The respective rights and obligations of Business Associate and Covered Entity under HIPAA as set forth in this Business Associate Agreement shall survive termination of this Agreement.

19.13.3 ***Regulatory References*****:** Any reference herein to a federal regulatory section within the Code of Federal Regulations shall be a reference to such section as it may be subsequently updated, amended or modified.

19.13.4 ***Interpretation*****:** Any ambiguity in this Agreement shall be resolved to permit covered entities to comply with HIPAA.

ARTICLE XX: NOTICES

20.1.0 All notices permitted or required hereunder shall be in writing and shall be transmitted either:

20.1.1 via certified or registered United States mail, return receipt requested;

20.1.2 by facsimile transmission;

20.1.3 by personal delivery;

20.1.4 by expedited delivery service; or

20.1.5 by e-mail.

Such notices shall be addressed as follows or to such different addresses as the parties may from time-to-time designate:

State of New York [Agency Name]

Name:
Title:
Address:
Telephone Number:
Facsimile Number:
E-Mail Address:

[Contractor Name]

Name:
Title:
Address:
Telephone Number:
Facsimile Number:
E-Mail Address:

20.2.0 Any such notice shall be deemed to have been given either at the time of personal delivery or, in the case of expedited delivery service or certified or registered United States mail, as of the date of first attempted delivery at the address and in the manner provided herein, or in the case of facsimile transmission or email, upon receipt.

20.3.0 The parties may, from time to time, specify any new or different address in the United States as their address for purpose of receiving notice under this Agreement by giving fifteen (15) days written notice to the other party sent in accordance herewith. The parties agree to mutually designate individuals as their respective representatives for the purposes of receiving notices under this Agreement. Additional individuals may be designated in writing by the parties for purposes of implementation and administration/billing, resolving issues and problems and/or for dispute resolution.

ARTICLE XXII: IRAN DIVESTMENT ACT

22.1.0 As a result of the Iran Divestment Act of 2012 (for purposes of this section only hereinafter referred to as "Act"), Chapter 1 of the 2012 Laws of New York, a new provision was added to the State Finance Law ("SFL"), §165-a, effective April 12, 2012. Under the Act, the Commissioner of the Office of General Services ("OGS") was charged with the responsibility to develop a list ("prohibited entities list") of "persons" who are engaged in "investment activities in Iran" (both are defined terms in the law). Pursuant to SFL § 165-a(3)(b), the initial list was posted on the OGS website on August 10, 2012.

22.2.0 By entering into the Agreement, Contractor certifies that it is not on the "Entities Determined To Be Non-Responsive Bidders/Offerors Pursuant to The New York State Iran Divestment Act

of 2012" list ("Prohibited Entities List") posted on the OGS website at http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf and further certifies that it will not utilize on the Agreement any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend the Agreement, it must provide the same certification at the time the Agreement is renewed or extended. Contractor also agrees that any proposed Assignee of the Agreement will be required to certify that it is not on the Prohibited Entities List before the Department may approve a request for Assignment of the Agreement.

22.3.0 During the term of the Contract, should the FUND receive information that a person (as defined in State Finance Law 165-a) is in violation of the above-referenced certification, the FUND will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment which is in violation of the Act within ninety (90) days after the determination of such violation, then the FUND shall take such action as may be appropriate and provided for by law, rule or contract, including, but not limited to, seeking compliance, recovering damages, or declaring the Contractor in default.

22.4.0 The FUND reserves the right to reject any request for renewal, extension, or assignment for an entity that appears on the Prohibited Entities List prior to the renewal, extension or assignment of the Agreement, and pursue a responsibility review with Contractor should it appear on the Prohibited Entities List hereafter.

ARTICLE XXIII: VENDOR RESPONSIBILITY

23.1.0 The Contractor is required to provide the FUND with an updated Vendor Responsibility Questionnaire when requested to do so by the FUND throughout the term of the Agreement. Regardless, the Contractor is required to report to the FUND any material changes in the information reported in its initial Vendor Responsibility Questionnaire.

23.2.0 The Contractor shall at all times during the Agreement term remain responsible. The Contractor agrees, if requested by NYSIF, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

23.3.0 Suspension of Work (for Non-Responsibility): NYSIF, in its sole discretion, reserves the right to suspend any or all activities under this Agreement, at any time, when NYSIF discovers information that call into question the responsibility of the Contractor. In the event of such

suspension, the Contractor must comply with the terms of the suspension order. Agreement activity may resume at such time as NYSIF issues a written notice authorizing a resumption of performance under the Agreement.

23.4.0 Termination (for Non-Responsibility): Upon written notice to the Contractor, a reasonable opportunity to be heard with the appropriate FUND officials or staff, the Contract may be terminated by NYSIF at the Contractor's expense where the Contractor is determined by NYSIF to be non-responsible. In such an event, NYSIF may complete the requirements of the Agreement in any manner NYSIF may deem advisable and pursue legal or equitable remedies for breach.

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Contractor: _____

Contract Number: #C000497

Agency Certification: "In addition to the acceptance of this contract, I also certify that original copies of this signature page shall be attached to all other exact copies of this contract."

NEW YORK STATE INSURANCE FUND

Date: _____ By: _____

Name: _____

Title: _____

SELECTED CONTRACTOR

Date: _____ By: _____

Name: _____

Title: _____

STATE OF)
) ss:
COUNTY OF)

On the _____ day of _____, _____, before me personally came _____, to me known, and known to me to be the person who executed the above instrument, who, being duly sworn by me, did for her/himself depose and say that (s)he is the _____ of _____ the corporation or organization described in and which executed the above instrument; and that (s)he signed his/her name thereto.

My commission expires: _____ _____

NOTARY PUBLIC

Approved as to Form:

BARBARA UNDERWOOD
ATTORNEY GENERAL

By: _____

Date: _____

Approved:

THOMAS P. DINAPOLI
COMPTROLLER

By: _____

Date: _____