LISTON & DEAS PLLC
ATTORNEYS AT LAW
605 Crescent Blvd., Suite 200
Ridgeland, Mississippi 39157
Tel. (601) 981-1636
Tel. (601) 982-0371

William Liston III
william@listondeas.com

W. Lawrence Deas
lawrence@listondeas.com

April 12, 2019

Honorable Shad White, Auditor
Mississippi Office of the State Auditor
P. O. Box 956
Jackson, Mississippi 39205

Re: Retention Agreement for Pharmacy Benefit Investigation and Analysis

Dear Auditor White:

This letter in its executed form constitutes a Retention Agreement between the Mississippi Office of the State Auditor (hereinafter "client") and Liston & Deas, PLLC (hereinafter "law firm").

The scope of this retention of law firm by client pertains to the investigation and analysis of the State of Mississippi's (hereinafter "Mississippi") pharmacy benefit data generated by Mississippi and/or by any pharmacy benefit managers, pharmacy benefit administrators, and/or managed care plans or organizations (hereinafter collectively referred to as "PBMs"), including but not limited to, the analysis and interpretation of any documents constituting Mississippi's contractual agreements with such PBMs.

As evidenced by the signed Acknowledgment, the terms of this Retention Agreement are as follows:

(1) The relationship of Attorney and Client shall exist between law firm and client, the Mississippi Office of the State Auditor, and the key personnel of such Office, including Auditor Shad White, with all communications between law firm and such Office, including Auditor Shad White and other key personnel, subject to the attorney-client privilege;

(2) Following determination of the results of law firm's investigation, analysis and other work within the scope of this Retention Agreement, law firm will disclose such results to Auditor Shad White *via* written report which Auditor Shad White shall own in

his official capacity, and provided that client, after good faith consideration of such results by law firm, desires to proceed with litigation or other efforts for collection of pharmacy benefit overcharges from PBMs, client agrees to retain law firm, or to make a formal request for the retention of law firm to other authorized officers of the State of Mississippi, for the purposes of litigation and/or other collection efforts of such overcharges from PBMs;

(3) In the event client or other authorized officer of the State of Mississippi agrees to retain law firm for purposes of litigation or other efforts for collection of overcharges to the State of Mississippi by PBMs, the terms of such retention shall be reduced to writing in the form of a contingency fee or other retention agreement which comports with the requirements of Mississippi law for the retention of counsel and which is acceptable to law firm, client or other authorized officer of the State of Mississippi who may retain law firm;

(4) Law firm and client agree that no payment for services rendered by law firm or contractors employed by law firm shall be due from client under this agreement. Any and all compensation and/or reimbursement of costs or expenses shall be only made pursuant to the agreement anticipated in section (3);

(5) Client shall cooperate with law firm in obtaining and providing the documentation and data necessary for law firm's investigation, analysis and interpretation. Client and firm further acknowledge that no Personally Identifiable Information (PII) shall be required for analysis or provided to firm. Any such PII that comes into firm's possession shall be treated as confidential and shall not be disclosed unless ordered by a court of competent jurisdiction;

(6) Until execution of any contingency fee or other retention agreement with law firm, any work product of law firm, including any consultant reports which pertain to the investigation, analysis and interpretation within the scope of this Retention Agreement, shall be considered proprietary information of law firm, and client shall have no right to receive written, printed or electronic copies of the same. This section shall not apply to the report referenced in section (2);

(7) Client understands that law firm is bound by the Mississippi Rules of Professional Conduct and any statutes or rules which govern the conduct of attorneys, including but not limited to *Miss.R.Civ.P.* 11 and the Mississippi Litigation Accountability Act, and law firm reserves the right to decline further representation of client in the event that law firm believes that the results of its investigation or analysis do not give rise to a good faith basis for litigation or other collection efforts, or should law firm believe that the prosecution of litigation or collection efforts would be unsuccessful or uneconomical;

(8) Client shall retain the right to discharge law firm from the representation reflected by this Retention Agreement, but the attorney-client privilege shall survive any such discharge of law firm by client.

(9) Client understands and acknowledges that law firm cannot and does not warrant or guarantee final results in any matter, including any results generated by law firm's work within the scope of this Retention Agreement; and

(10) Law firm shall indemnify, defend, save and hold harmless, protect, and exonerate the client, its officers, employees, agents and representatives, and the State of Mississippi from and against claims, demands, liabilities, suits, actions, damages, losses and costs, including court costs, investigative fees and expenses, and attorneys' fees, and claims for damage arising out of or caused by law firm and/or its partners, principals, agents, employees and/or subcontractors limited to the extent the damages were caused by law firm's own negligence or intentional misconduct in the performance of or failure to perform this Contract.

As evidenced by signature of Auditor Shad White, client hereby agrees to the terms and conditions set forth in this Retention Agreement.

LISTON & DEAS PLLC

WILLIAM LISTON III

ACKNOWLEDGED AND AGREED:

HONORABLE SHAD WHITE,
AUDITOR FOR STATE OF MISSISSIPPI