

AGREEMENT BETWEEN COUNTY OF MONTEREY AND VISION SERVICE PLAN

This AGREEMENT is made and entered into by and between the County of Monterey, a political subdivision of the State of California, hereinafter referred to as "County," and Vision Service Plan (VSP), hereinafter referred to as "CONTRACTOR."

RECITALS

WHEREAS, County has invited proposals through the Request for Proposals (RFP # 10718) for an Administrative Service Only (ASO) self-funded vision plan benefit administrator, in accordance with the specifications set forth in this AGREEMENT; and

WHEREAS, CONTRACTOR has submitted a responsive and responsible proposal to perform such services in accord with the terms of RFP # 10718; and

WHEREAS, CONTRACTOR has the expertise and capabilities necessary to provide the services requested.

NOW THEREFORE, County and CONTRACTOR, for the consideration hereinafter named, agree as follows:

1.0 PERFORMANCE OF THE AGREEMENT

- 1.1 After consideration and evaluation of the CONTRACTOR's proposal, the County hereby engages CONTRACTOR to provide the services set forth in RFP # 10718 and in this AGREEMENT on the terms and conditions contained herein and in RFP # 10718. The intent of this AGREEMENT is to summarize the contractual obligations of the parties. The component parts of this AGREEMENT include the following:
 - This AGREEMENT, including all its attachments, exhibits and appendix
 - RFP # 10718 dated August 8, 2019, including all addenda, attachments and exhibits
 - CONTRACTOR's proposal dated September 5, 2019
 - Certificate of Insurance and Additional Insured Endorsements
- 1.2 All of the above-referenced contract documents are intended to be complementary. Work required by one of the above-referenced contract documents and not by others shall be done as if required by all. In the event of a conflict between or among component parts of the contract, the contract documents shall be construed in the following order: AGREEMENT, including all attachments, exhibits and appendix; RFP # 10718 Addenda; RFP # 10718, including all attachments and exhibits; CONTRACTOR's proposal; and Certificate of Insurance and Additional Insured Endorsements.

- 1.3 CONTRACTOR warrants that CONTRACTOR and CONTRACTOR's agents, employees, and subcontractors performing services under this AGREEMENT are specially trained, experienced, competent, and appropriately licensed to perform the work and deliver the services required under this AGREEMENT and are not employees of the County, or immediate family of an employee of the County.
- 1.4 CONTRACTOR, its agents, employees, and subcontractors shall perform all work in a safe and skillful manner and in compliance with all applicable laws and regulations. All work performed under this AGREEMENT that is required by law to be performed or supervised by licensed personnel shall be performed in accordance with such licensing requirements.
- 1.5 CONTRACTOR shall furnish, at its own expense, all materials, equipment, and personnel necessary to carry out the terms of this AGREEMENT, except as otherwise specified in this AGREEMENT. CONTRACTOR shall not use County premises, property (including equipment, instruments, or supplies) or personnel for any purpose other than in the performance of its obligations under this AGREEMENT.

2.0 SCOPE OF SERVICES

- 2.1 CONTRACTOR shall provide for and administer a self-funded vision benefit plan for eligible County of Monterey employees and eligible dependents, if dependent coverage is selected, all of whom shall be referred to as COVERED PERSONS.
 - 2.1.1 CONTRACTOR shall provide County with Member Benefit Summaries for distribution to COVERED PERSONS.
- 2.2 CONTRACTOR shall provide benefits to COVERED PERSONS as listed in the Schedule of Benefits, Exhibit A.
 - 2.2.1 Benefit Authorization must be obtained prior to a COVERED PERSON obtaining plan benefits from a Member Doctor.
 - 2.2.2 COVERED PERSON is to identify themselves as a CONTRACTOR Covered Person and MEMBER DOCTOR will obtain authorization.
 - 2.2.3 Any Benefit Authorization issued by CONTRACTOR shall constitute a certification to MEMBER DOCTOR that payment will be made.
 - 2.2.4 CONTRACTOR shall not be held liable to County for any Benefit Authorization issued in error in reliance on the latest eligibility information available to CONTRACTOR as provided by County.
- 2.3 CONTRACTOR shall pay or deny claims for Plan Benefits provided to COVERED PERSONS, less any applicable Copayment, within a reasonable time but not more than thirty (30) calendar days after CONTRACTOR has received a completed claim.
 - 2.3.1 Under special circumstances, CONTRACTOR may obtain an extension of fifteen (15) days by providing notice to the claimant of the reason for extension.
- 2.4 Plan Benefits are covered only when deemed Visually Necessary or Appropriate for the proper

treatment of COVERED PERSONS condition. Decisions of the doctor responsible for treatment are subject to review and final determination by CONTRACTOR.

- 2.4.1 COVERED PERSON may object to claim decision made by CONTRACTOR by requesting a full review of the denial. Request for review must be made within one hundred eighty (180) days following denial of claim.
- 2.4.2 CONTRACTOR shall maintain a second level appeal process for COVERED PERSONS. With sixty (60) calendar days of response to request for review of denial (Initial Appeal), COVERED PERSON may submit second appeal. CONTRACTOR shall communicate the final determination to the COVERED PERSON in compliance with all applicable state and federal laws and regulations and shall include specific reason(s) for the determination.
- 2.5 Upon request, CONTRACTOR shall make available to COVERED PERSONS necessary information describing Plan Benefits and procedures. CONTRACTOR shall also make available to County a copy of the Plan.
- 2.6 CONTRACTOR is responsible for maintenance of the MEMBER DOCTOR directory to include credentialing of all providers in accordance with NCQA (National Committee for Quality Assurance) standards and all applicable federal and state laws and regulations.
 - 2.6.1 CONTRACTOR shall provide County with an updated MEMBER DOCTOR list twice annually for distribution to COVERED PERSONS. List shall also be maintained online at CONTRACTOR's website and available through the toll-free Customer Service line.
- 2.7 County shall provide bi-weekly eligibility information to CONTRACTOR in a mutually agreed upon format and medium to identify all Enrollees who are eligible for coverage under the Plan. County will supply to CONTRACTOR, on or before pay date of each month, eligibility information sufficient to identify all Enrollees to be added to or deleted from CONTRACTOR's coverage rosters for the coming month. Eligibility information shall include designation of family status for each such enrollee, if dependent coverage is provided.
 - 2.7.1 County shall, when requested, make available for inspection by CONTRACTOR records having a bearing on the coverage of COVERED PERSONS under this Plan.
 - 2.7.2 Individuals will be accepted for coverage hereunder only upon meeting all the applicable requirements for eligibility as determined by County.
- 2.8 County shall provide all funds necessary to pay the Claim Amount associated with COVERED PERSONS pursuant to this Plan. CONTRACTOR shall submit invoices for claim payment reimbursements at the end of each month, but in any event, not later than thirty (30) days after the end of each month. Invoices shall be submitted to the person listed in Paragraph 5.1 of this AGREEMENT and the invoicing process set forth in Paragraph 5.2 shall govern.
- 2.9 County shall be allowed a grace period of thirty-one (31) days following the due date for making any payment of amounts due under this Plan. During the grace period, the Plan shall remain in full force and effect for all COVERED PERSONS. Failure to make any payment of amounts due by the end of the grace period, CONTRACTOR may notify County that the payment of amounts due has not been made, that coverage is canceled, and that the County is responsible for payment for the Claims Amount associated with Plan Benefits provided to COVERED PERSONS after the last

period for which amounts due were fully paid, including the grace period and through the effective date of the termination. County shall also remain responsible for payment with any Claims Amount associated with Benefit Authorizations outstanding at the time of termination, and for any legal and/or collection fees incurred by CONTRACTOR in collecting amounts due under this Plan.

- 2.10 County agrees to distribute to enrollees any disclosure forms, plan summaries or other materials that may be required to be given to plan subscribers by any regulatory authority. Such materials shall be distributed by County no later than thirty (30) days after receipt or as otherwise required under state law.
- 2.11 Pursuant to California Health and Safety Code Section 1366.25, Section 2.12 below is hereby incorporated into the Group Vision Care Plan, if, and only to the extent Cal-COBRA applies to the parties of this Plan.
- 2.12 The California Continuation Benefits Replacement Act of 1997 (Cal-COBRA) requires health care service plans providing contracted coverage to employers with 2 to 19 eligible employees to offer continuation coverage for purchase by qualified beneficiaries upon the occurrence of a qualifying event. CONTRACTOR and County are subject to the following obligations in connection with continuation of coverage:
 - 2.12.1 County agrees to provide CONTRACTOR with notice of any employee who has had a qualifying event, within thirty-one (31) days of the qualifying event. A qualifying event means any of the following events that, but for the election of continuation of coverage provided hereunder, would result in a loss of coverage under the group benefit plan to a qualified beneficiary:
 - The death of the covered employee.
 - The termination or reduction of hours of the covered employee's employment, except that termination for gross misconduct does not constitute a qualifying event.
 - The divorce or legal separation of the covered employee from the covered employee's spouse.
 - The loss of dependent status by a dependent enrolled in the group benefit plan.
 - With respect to dependent only, the covered employee's eligibility for coverage under Title XVIII of the United States Social Security Act (Medicare).
 - 2.12.2 CONTRACTOR shall provide continuation of coverage without lapse from the qualified effective date per the COBRA guidelines for qualified employees and dependents as notified by the County.

3.0 TERM OF AGREEMENT

- 3.1 The term of this AGREEMENT is from January 1, 2020 through and including December 31, 2024, with the option to extend this AGREEMENT for three (3) additional one (1)-year periods. County is not required to state a reason if it elects not to renew this AGREEMENT.
- 3.2 If County exercises its option to extend, all applicable parties shall mutually agree upon the

extension, including any changes in rate and/or terms and conditions. Both parties shall agree upon rate extension(s) or changes in writing.

3.3 County reserves the right to cancel this AGREEMENT, or any extension of this AGREEMENT, with a thirty (30)-day written notice without cause, or immediately with cause.

4.0 COMPENSATION AND PAYMENTS

4.1 CONTRACTOR shall be entitled to receive an Administration Fee of \$1.44 per enrollee (includes coverage for eligible dependents) per month.

4.2 Prices shall remain firm for the initial term of this AGREEMENT and, thereafter, may be adjusted annually as provided in this paragraph. County does not guarantee any minimum or maximum amount of dollars to be spent under this AGREEMENT.

4.3 Negotiations for rate changes shall be commenced, by CONTRACTOR, a minimum of ninety (90) days prior to the expiration of this AGREEMENT.

4.4 Any discount offered by the CONTRACTOR must allow for payment after receipt and acceptance of services, material or equipment and correct invoice, whichever is later. In no case will a discount be considered that requires payment in less than thirty (30) days.

4.5 CONTRACTOR shall levy no additional fees or surcharges of any kind during the term of this AGREEMENT without first obtaining approval from County in writing.

4.6 Tax:

4.6.1 Pricing as per this AGREEMENT is inclusive of all applicable taxes.

4.6.2 County is registered with the Internal Revenue Service, San Francisco office, and registration number 94-6000524. The County is exempt from Federal Transportation Tax; an exemption certificate is not required where shipping documents show Monterey County as consignee.

5.0 INVOICES AND PURCHASE ORDERS

5.1 Invoices for all services rendered per this AGREEMENT shall be billed directly to the Human Resources Department at the following address:

County of Monterey
Human Resources Department
Attn: Paulette Clark
168 W. Alisal Street, 3rd Floor
Salinas, CA 93901

5.2 CONTRACTOR shall reference "RFP 10718" on all invoices submitted to County. CONTRACTOR

shall submit such invoices periodically or at the completion of services, but in any event, not later than 30 days after completion of services. The invoice shall set forth the amounts claimed by CONTRACTOR for the previous period, together with an itemized basis for the amounts claimed, and such other information pertinent to the invoice. County shall certify the invoice, either in the requested amount or in such other amount as County approves in conformity with this AGREEMENT, and shall promptly submit such invoice to County Auditor-Controller for payment. County Auditor-Controller shall pay the amount certified within thirty (30) days of receiving the certified invoice.

- 5.3 All County of Monterey Purchase Orders issued for the AGREEMENT are valid only during the fiscal year in which they are issued (the fiscal year is defined as July 1 through June 30).
- 5.4 Unauthorized Surcharges or Fees: Invoices containing unauthorized surcharges or unauthorized fees of any kind shall be rejected by County. Surcharges and additional fees not included in the AGREEMENT must be approved by County in writing via an Amendment.

6.0 STANDARD INDEMNIFICATION

- 6.1 CONTRACTOR shall indemnify, defend, and hold harmless County, its officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys' fees) occurring or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this AGREEMENT, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with CONTRACTOR's performance of this AGREEMENT, unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of County. "CONTRACTOR's performance" includes CONTRACTOR's action or inaction and the action or inaction of CONTRACTOR's officers, employees, agents and subcontractors.

7.0 INSURANCE REQUIREMENTS

7.1 Evidence of Coverage:

- 7.1.1 Prior to commencement of this AGREEMENT, CONTRACTOR shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, CONTRACTOR upon request shall provide a certified copy of the policy or policies.
- 7.1.2 This verification of coverage shall be sent to the County's Contracts/Purchasing Department, unless otherwise directed. CONTRACTOR shall not receive a "Notice to Proceed" with the work under this AGREEMENT until it has obtained all insurance required and such, insurance has been approved by County. This approval of insurance

shall neither relieve nor decrease the liability of CONTRACTOR.

7.2 Qualifying Insurers: All coverages, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by County's Purchasing Officer.

7.3 Insurance Coverage Requirements: Without limiting CONTRACTOR's duty to indemnify, CONTRACTOR shall maintain in effect throughout the term of this AGREEMENT a policy or policies of insurance with the following minimum limits of liability:

- 7.3.1 Commercial General Liability Insurance, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broadform Property Damage, Products and Completed Operations, with a limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.
- 7.3.2 Business Automobile Liability Insurance, covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this AGREEMENT, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.
- 7.3.3 Workers' Compensation Insurance, if CONTRACTOR employs others in the performance of this AGREEMENT, in accordance with California Labor Code section 3700 and with Employer's Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.
- 7.3.4 Professional Liability Insurance, if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims-made" basis rather than an occurrence basis, CONTRACTOR shall, upon the expiration or earlier termination of this AGREEMENT, obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail coverage shall continue for at least three years following the expiration or earlier termination of this AGREEMENT.

7.4 Other Insurance Requirements:

- 7.4.1 All insurance required by this AGREEMENT shall be with a company acceptable to County and issued and executed by an admitted insurer authorized to transact Insurance business in the State of California. Unless otherwise specified by this AGREEMENT, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date CONTRACTOR completes its performance of services under this AGREEMENT.

7.4.2 Each liability policy shall provide that County shall be given notice in writing at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for CONTRACTOR and additional insureds with respect to claims arising from each subcontractor, if any, performing work under this AGREEMENT, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

7.4.3 *Commercial general liability and automobile liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional Insureds with respect to liability arising out of the CONTRACTOR's work, including ongoing and completed operations, and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the County and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the CONTRACTOR's insurance. The required endorsement form for Commercial General Liability Additional Insured is ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement form for Automobile Additional Insured endorsement is ISO Form CA 20 48 02 99.*

7.4.4 Prior to the execution of this AGREEMENT by County, CONTRACTOR shall file certificates of insurance with County's contract administrator and County's Contracts/Purchasing Division, showing that CONTRACTOR has in effect the insurance required by this AGREEMENT. CONTRACTOR shall file a new or amended certificate of insurance within five calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this AGREEMENT, which shall continue in full force and effect.

7.4.5 CONTRACTOR shall at all times during the term of this AGREEMENT maintain in force the insurance coverage required under this AGREEMENT and shall send, without demand by County, annual certificates to County's Contract Administrator and County's Contracts/Purchasing Division. If the certificate is not received by the expiration date, County shall notify CONTRACTOR and CONTRACTOR shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by CONTRACTOR to maintain such insurance is a default of this AGREEMENT, which entitles County, at its sole discretion, to terminate this AGREEMENT immediately.

8.0 LIABILITY

8.1 CONTRACTOR arranges for the provision of vision care services and materials through agreement with MEMBER DOCTORS, who are independent contractors responsible for exercising independent judgment. CONTRACTOR does not directly furnish vision care services or supply materials. Under no circumstances shall CONTRACTOR or County be liable for the negligence,

wrongful acts or omissions of any doctor, laboratory, or any other person or organization performing services or supplying materials in connection with this Plan.

9.0 RECORDS AND CONFIDENTIALITY

- 9.1 Confidentiality: CONTRACTOR and its officers, employees, agents, and subcontractors shall comply with any and all federal, state, and local laws, which provide for the confidentiality of records and other information. CONTRACTOR shall not disclose any confidential records or other confidential information received from the County or prepared in connection with the performance of this AGREEMENT, unless County specifically permits CONTRACTOR to disclose such records or information. CONTRACTOR shall promptly transmit to County any and all requests for disclosure of any such confidential records or information. CONTRACTOR shall not use any confidential information gained by CONTRACTOR in the performance of this AGREEMENT except for the sole purpose of carrying out CONTRACTOR's obligations under this AGREEMENT.
- 9.2 County Records: When this AGREEMENT expires or terminates, CONTRACTOR shall return to County any County records which CONTRACTOR used or received from County to perform services under this AGREEMENT.
- 9.3 Maintenance of Records: CONTRACTOR shall prepare, maintain, and preserve all reports and records that may be required by federal, state, and County rules and regulations related to services performed under this AGREEMENT.
- 9.4 Access to and Audit of Records: County shall have the right to examine, monitor and audit all records, documents, conditions, and activities of CONTRACTOR and its subcontractors related to services provided under this AGREEMENT. The parties to this AGREEMENT may be subject, at the request of County or as part of any audit of County, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this AGREEMENT for a period of three years after final payment under the AGREEMENT.

10.0 NON-DISCRIMINATION

- 10.1 During the performance of this AGREEMENT, CONTRACTOR and its subcontractors, shall not unlawfully discriminate against any person because of race, religious creed, color, sex, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age (over 40), or sexual orientation, either in CONTRACTOR's employment practices or in the furnishing of services to recipients. CONTRACTOR shall ensure that the evaluation and treatment of its employees and applicants for employment and all persons receiving and requesting services are free of such discrimination. CONTRACTOR and any subcontractor shall, in the performance of this AGREEMENT, fully comply with all federal, state, and local laws and regulations which prohibit discrimination. The provision of services primarily or exclusively to such target population as may be designated in this AGREEMENT shall not be deemed to be prohibited discrimination.

10.2 CONTRACTOR shall include the non-discrimination and compliance provisions of the clause in all AGREEMENTS with subcontractors to perform work under this AGREEMENT.

11.0 INDEPENDENT CONTRACTOR

11.1 In the performance of work, duties, and obligations under this AGREEMENT, CONTRACTOR is always acting and performing as an independent contractor and not as an employee of County. No offer or obligation of permanent employment with the County or County department or agency is intended in any manner, and CONTRACTOR shall not become entitled by virtue of this AGREEMENT to receive from County any form of employee benefits including but not limited to sick leave, vacation, retirement benefits, workers' compensation coverage, insurance or disability benefits. CONTRACTOR shall be solely liable for and obligated to pay directly all applicable taxes, including federal and state income taxes and social security, arising out of CONTRACTOR's performance of this AGREEMENT. In connection therewith, CONTRACTOR shall defend, indemnify, and hold County harmless from any and all liability which County may incur because of CONTRACTOR's failure to pay such taxes.

11.2 CONTRACTOR shall not assign, sell, or otherwise transfer its interest or obligations in this AGREEMENT without the prior written consent of County. None of the services covered by this AGREEMENT shall be subcontracted without the prior written approval of the County. Notwithstanding any such subcontract, CONTRACTOR shall continue to be liable for the performance of all requirements of this AGREEMENT.

11.3 Any subcontractor shall comply with all of County of Monterey requirements, including insurance and indemnification requirements as detailed in this AGREEMENT.

12.0 CONFLICT OF INTEREST

12.1 CONTRACTOR covenants that it, its responsible officers, and its employees having major responsibilities for the performance of work under this AGREEMENT, presently have no interest and during the term of this AGREEMENT will not acquire any interests, direct or indirect, which might conflict in any manner or to any degree with the full and complete performance of the services required to be rendered under this AGREEMENT.

13.0 COMPLIANCE WITH APPLICABLE LAWS

13.1 CONTRACTOR shall keep itself informed of and in compliance with all federal, state and local laws, ordinances, regulations, and orders, including but not limited to all state and federal tax laws that may affect in any manner the Project or the performance of the Services or those engaged to perform Services under this AGREEMENT. CONTRACTOR shall procure all permits and licenses, pay all charges and fees, and give all notices required by law in the performance of the Services.

- 13.2 CONTRACTOR shall report immediately to County's Contracts/Purchasing Officer, in writing, any discrepancy or inconsistency it discovers in the laws, ordinances, regulations, orders, and/or guidelines in relation to the Project or the performance of the Services.
- 13.3 All documentation prepared by CONTRACTOR shall provide for a completed project that conforms to all applicable codes, rules, regulations and guidelines that are in force at the time such documentation is prepared.

14.0 TIME OF ESSENCE

- 14.1 Time is of the essence in respect to all provisions of this AGREEMENT that specify a time for performance; provided, however, that the foregoing shall not be construed to limit or deprive a party of the benefits of any grace or use period allowed in this AGREEMENT.

15.0 PERFORMANCE ASSURANCE AND WAIVER OF BREACH

- 15.1 Assurance of Performance: If at any time, County believes CONTRACTOR may not be adequately performing its obligations under this AGREEMENT or that CONTRACTOR may fail to complete the Services as required by this AGREEMENT, County may request from CONTRACTOR prompt written assurances of performance and a written plan acceptable to County, to correct the observed deficiencies in CONTRACTOR's performance. CONTRACTOR shall provide such written assurances and written plan within ten (10) calendar days of its receipt of County's request and shall thereafter diligently commence and fully perform such written plan. CONTRACTOR acknowledges and agrees that any failure to provide such written assurances and written plan within the required time is a material breach under this AGREEMENT. If County accepts the plan it shall issue a signed waiver.
- 15.2 Waiver: No waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of this AGREEMENT shall be effective unless it is in writing and signed by the party waiving the breach, failure, right or remedy. No waiver of any breach, failure, right or remedy shall be deemed a waiver of any other breach, failure, right or remedy, whether or not similar, nor shall any waiver constitute a continuing waiver unless the writing so specifies.

16.0 INFORMATION PORTABILITY AND ACCOUNTABILITY ACT-HIPAA COMPLIANCE

- 16.1 CONTRACTOR agrees to operate its business in a manner as necessary to permit County to comply with its obligations under the Health Insurance Portability and Accountability Act of 1996, Subtitle F, Public Law 104-191, relating to the privacy and security of confidential health information, and any final regulations or rules promulgated by the U.S. Department of Health and Human Services thereunder (collectively, the "HIPAA Standards").

17.0 NON-APPROPRIATIONS CLAUSE

17.1 Notwithstanding anything contained in this AGREEMENT to the contrary, if insufficient funds are appropriated, or funds are otherwise unavailable in the budget for County for any reason whatsoever in any fiscal year, for payments due under this AGREEMENT, County will immediately notify CONTRACTOR of such occurrence, and this AGREEMENT shall terminate after the last day during the fiscal year for which appropriations shall have been budgeted for County or are otherwise available for payments.

18.0 NOTICES

18.1 Notices required to be given to the respective parties under this AGREEMENT shall be delivered personally or by first-class, postage pre-paid mail to the County and CONTRACTOR's contract administrators at the addresses listed below:

TO COUNTY:

County of Monterey
Attn: Jose L. Tapia
168 W. Alisal Street, 3rd Floor
Salinas, CA 93901
Phone: (831) 755-5268
Email: TapiaJL@co.monterey.ca.us

TO CONTRACTOR:

Vision Service Plan Insurance Company
Attn: Denise Donovan
100 Pringle Ave., Suite 650
Walnut Creek, CA 94596
Phone: (415) 962-8358
Email: Denise.Donovan@vsp.com

19.0 LEGAL DISPUTES

19.1 CONTRACTOR agrees that this AGREEMENT and any dispute arising from the relationship between the parties to this AGREEMENT, shall be governed and interpreted by the laws of the State of California, excluding any laws that direct the application of another jurisdiction's laws.

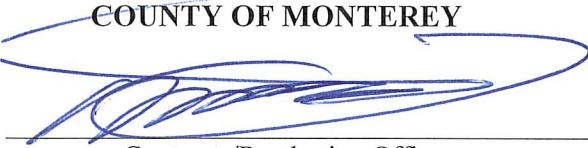
19.2 Any dispute that arises under or relates to this AGREEMENT (whether contract, tort, or both) shall be resolved in the Superior Court of California in Monterey County, California.

19.3 CONTRACTOR shall continue to perform under this AGREEMENT during any dispute.

19.4 In the event of any conflict or inconsistency between the provisions of this AGREEMENT and the provisions of any exhibit or other attachment to this AGREEMENT, the provisions of this AGREEMENT shall prevail and control.

IN WITNESS WHEREOF, County and CONTRACTOR have executed this AGREEMENT as of the day and year written below.

COUNTY OF MONTEREY

By: 
Contracts/Purchasing Officer
Date: 11/28/19

Approved as to Form:

By: Glenn Holmes
County Counsel
Date: 13 November 2019

Approved as to Fiscal Provisions:

By: 
Auditor/Controller
Date: 11/14/19

Approved as to Liability Provisions:

By: _____
Risk Management
Date: _____

County Board of Supervisor's Agreement Number: A-14566, approved on (date): 11/19/2019

CONTRACTOR

Vision Service Plan
Contractor's Business Name*

By: 
(Signature of Chair, President, or Vice-President)*

Kate Penwick-Espinosa, President
Name and Title

Date: November 6, 2019

By: 
(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)*

Monica Perez, Treasurer
Name and Title

Date: November 6, 2019

***INSTRUCTIONS:** If CONTRACTOR is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers. If CONTRACTOR is a partnership, the name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement.

EXHIBIT A – SCHEDULE OF BENEFITS

GENERAL

This schedule lists the vision care services and vision care materials to which Covered Persons of VISION SERVICE PLAN (VSP) are entitled, subject to any Copayments and other conditions, limitations and/or exclusions stated herein. If Plan Benefits are available for Non-Member Provider services, as indicated by the reimbursement provisions below, vision care services and vision care materials may be received from any licensed optometrist, ophthalmologist, or dispensing optician, whether Member Doctors or Non-Member Providers. This schedule forms a part of the Plan or Certificate to which it is attached.

When Plan Benefits are received from Member Doctors, benefits appearing in the first column below are applicable subject to any Copayments as stated below. When Plan Benefits are available and received from Non-Member Providers, the Covered Person is reimbursed for such benefits according the schedule in the second column below less any applicable Copayments.

COPAYMENT

The benefits described herein are available to each Covered Person subject only to payment of the applicable Copayment by the Covered Person. Copayments are required for the Plan Benefits received from Member Doctors and Non-Member Providers. Covered Persons must also follow the proper procedures for obtaining Benefit Authorization.

There shall be a copayment of **\$10.00** for the WellVision Exam payable by the Covered Person to the Member Doctor at the time services are rendered. If materials (lenses and frames) are provided, there shall be an additional **\$25.00 (\$30 for progressive lens coverage)** copayment payable at the time the materials are ordered. However, the copayment for materials shall not apply to elective contact lenses.

PLAN BENEFITS

Vision Care Services

| | <u>MEMBER DOCTOR BENEFIT</u> | <u>NON-MEMBER PROVIDER BENEFIT</u> |
|-----------------|---|---|
| WELLVISION EXAM | Covered in Full* | Up to \$40.00* |

Complete initial vision analysis which includes an appropriate examination of visual functions, including the prescription of corrective eyewear where indicated.

Subsequent regular eye examinations every 12 months.

*Note: Less any applicable copayment.

Vision Care Materials

| | <u>MEMBER DOCTOR BENEFIT</u> | <u>NON-MEMBER PROVIDER BENEFIT</u> |
|---------------------------------------|--|--|
| <u>FRAMES</u> | | |
| | <ul style="list-style-type: none">• \$140 allowance for a wide selection of frames• \$160 allowance for featured frames (see vsp.com for more details)• 20% off amount over allowance• \$75 Costco® frame allowance | Up to \$45.00 |
| <u>LENSES</u> | | |
| Single Vision | Covered in full* | Up to \$40.00 |
| Lined Bifocal | Covered in full* | Up to \$60.00 |
| Lined Trifocal | Covered in full* | Up to \$80.00 |
| Lenticular | Covered in full* | Up to \$125.00 |
| Polycarbonate (dependent children) | Covered in full* | N/A |
| <u>LENS ENHANCEMENTS</u> | | |
| Standard progressive | Covered in full* | Up to \$80.00 |
| Premium progressive | Covered in full* | Up to \$80.00 |
| Custom progressive | Covered in full* | Up to \$80.00 |
| Other enhancements | Average 35-40% off | N/A |

*Note: Less any applicable copayment.

Lenses and Frames include such professional services as are necessary, which shall include:

- Prescription and ordering proper lenses;
- Assisting in the selection of frames;
- Verifying the accuracy of the finished lenses;
- Proper fitting and adjusting of frames;
- Subsequent adjustments to frames to maintain comfort and efficiency;
- Progress or follow-up work as necessary.

CONTACTS (instead of glasses)

Contact lenses are available once every 12 months in lieu of all other lens and frame benefits available herein. When contact lenses are obtained, the Covered Person shall not be eligible for lenses again for 12 months and frames for 12 months.

Visually Necessary – When Visually Necessary contact lenses are obtained from a Member Doctor, they will be covered in full with prior authorization from CONTRACTOR. When Visually Necessary contact lenses are obtained from a Non-Member Provider, CONTRACTOR will provide an allowance up towards the cost as outlined below. Coverage for Visually Necessary contact lenses regardless of whether they are

obtained from a Member Doctor or Non-Member Provider are subject to review and authorization from CONTRACTOR's Optometric Consultants.

| <u>MEMBER DOCTOR BENEFIT</u> | <u>NON-MEMBER PROVIDER BENEFIT</u> |
|---|--|
| Visually Necessary Contact Lenses Professional Fees and Materials | Covered in Full* Up to \$210.00* |
| Elective Contact Lenses (Contact Lenses for other than Visually Necessary circumstances) Professional Fees and Materials | Up to \$140.00 Up to \$105.00 |

Additional 15% discount applies to Member Doctor's usual and customary professional fees for contact lens evaluation and fitting.

*Note: Less any applicable copayment.

EXTRA SAVINGS & DISCOUNTS

Each Covered Person shall be entitled to receive the following savings and discounts:

Glasses and Sunglasses

- Extra \$20 to spend on featured frame brands. Go to vsp.com/offers for details.
- 30% savings on additional glasses and sunglasses, including lens enhancements, from the same VSP provider on the same day as the WellVision Exam, or get 20% from any VSP provider within 12 months of the last WellVision Exam.

Retinal Screening

- No more than a \$39 copay on routine retinal screening as an enhancement to a WellVision Exam.

Laser Vision Correction

- Average 15% off the regular price or 5% off the promotional price; discounts only available from contracted facilities.
- After surgery, frame allowance may be used for non-prescription sunglasses from any VSP doctor.

Discounts are applied to the Member Doctor's usual and customary fees for such services and are unlimited for 12 months on or following the date of the patient's last eye exam.**

LIMITATIONS:

- Discounts do not apply to vision care benefits obtained from Non-Member Providers.
- 30% or 20% discount applies to complete pairs of glasses only.
- Discounts do not apply if prohibited by the manufacturer.
- Discounts do not apply to sundry items: e.g., contact lens solutions, cases, cleaning products or

repairs of spectacle lenses or frames.

**Note: Professional judgement will be applied when evaluating prescriptions written by another provider. Member Doctors may request a discounted additional exam.

Low Vision Benefit

The Low Vision Benefit is available to Covered Persons who have severe visual problems not correctable with regular lenses and is subject to prior approval by CONTRACTOR Consultants.

| | <u>MEMBER DOCTOR BENEFIT</u> | <u>NON-MEMBER PROVIDER BENEFIT</u> |
|------------------------|---|---|
| Supplementary Testing | Covered in Full | Up to \$125.00 |
| | Complete low vision analysis/diagnosis which includes a comprehensive examination of visual functions, including the prescription of corrective eyewear or vision aids where indicated. | |
| Supplemental Care Aids | 75% of Cost | 75% of Cost |
| | Subsequent low vision aids as Visually Necessary or Appropriate. Copayment for Supplemental Aids: 25% payable by Covered Person. | |

BENEFIT MAXIMUM

The maximum Low Vision Benefit available is \$1,000.00 (excluding copayment) every two years.

NON-MEMBER PROVIDER BENEFIT

Low Vision benefits secured from a Non-Member Provider are subject to the same time limits and copayment arrangements as described for Member Doctor. The Covered Person should pay the Non-Member Provider his full fee. The Covered Person will be reimbursed in accordance with an amount not to exceed what CONTRACTOR would pay a Member Doctor in similar circumstances. Note: There is no assurance that this amount will be within 25% copayment feature.

Exclusion and Limitation of Benefits

PATIENT OPTIONS

This Plan is designed to cover visual needs rather than cosmetic materials. When the Covered Person selects any of the following extras, the Plan will pay the basic cost of the allowed lenses, and the Covered Person will pay the additional cost for the options.

- Optional cosmetic processes;
- Anti-reflective coating;
- Color coating;
- Mirror coating;
- Scratch coating;
- Blended lenses;
- Cosmetic lenses;
- Laminated lenses;

- Oversize lenses;
- Polycarbonate lenses;
- Progressive multifocal lenses;
- Photochromic lenses; tinted lenses except Pink #1 and Pink #2;
- UV (ultraviolet) protected lenses;
- Certain limitation on low vision care;
- A frame that cost more than the Plan allowance;
- Contact lenses (except as noted elsewhere herein).

NOT COVERED

There is no benefit for professional services or materials connected with:

- Orthoptics or vision training and any associated supplemental testing; plano lenses (less than a +/- .50 diopter power); or two pair of glasses in lieu of bifocals;
- Replacement of lenses and frames furnished under this Plan which are lost or broken, except at the normal intervals when services are otherwise available;
- Medical or surgical treatment of the eyes;
- Corrective vision treatment of an Experimental Nature;
- Costs for services and/or materials above Plan Benefit allowances;
- Services and/or materials not indicated on this Schedule as covered Plan Benefits.

CONTRACTOR MAY, AT ITS DISCRETION, WAIVE ANY OF THE PLAN LIMITATIONS IF, IN THE OPINION OF CONTRACTOR'S OPTOMETRIC CONSULTANTS, IT IS NECESSARY FOR THE VISUAL WELFARE OF THE COVERED PERSON.

ADDITIONAL BENEFIT – COMPUTER VISIONCARE (CVC) PLAN

This Schedule lists the vision care services and vision care materials to which Covered Persons of CONTRACTOR are entitled, subject to any Copayments and other conditions, limitations and/or exclusions stated herein. This Schedule forms a part of the Plan or Certificate to which it is attached.

THIS IS AN EMPLOYEE-ONLY IN-NETWORK BENEFIT.

EYE EXAMINATION

A complete initial analysis which includes an appropriate examination of visual functions to determine the presence of vision problems or other abnormalities is covered through the base plan's exam benefit.

A supplemental vision analysis of the eyes and related structures will be provided to determine visual needs specific to CVC eyecare requirements.

Each eligible Covered Person shall be entitled to a supplemental eye examination based on the frequency as indicated on the attached CVC Schedule of Benefits.

MATERIALS

A. LENSES - The CONTRACTOR's Doctor will order proper lenses necessary for the CVC operator's visual welfare.

Each Covered Person is entitled to new lenses based on the frequency as indicated on the attached

CVC Schedule of Benefits.

B. FRAMES - New frames will be provided based on the frequency as indicated on the attached CVC Schedule of Benefits.

CONTRACTOR reserves the right to limit the cost of the frames provided by CONTRACTOR's Doctor under the Plan. The current allowance shall be published periodically by CONTRACTOR to its Member Doctors and will be set at a level to cover a sufficient number of frames in common use.

ASSOCIATED VISION THERAPY

This benefit is limited to Covered Persons who are eligible for CVC coverage who have one of the following diagnoses:

- Accommodative Infacility – The inability (or inefficiency) to change focus quickly when looking from one distance to another or the inability to maintain focus at one distance for a prolonged period of time (Primarily when looking at things up close).
- Convergence Insufficiency – The occasional problem with the eye muscle's ability to point the eyes straight when working up close.

The maximum annual benefit is \$200.00. A copayment is not required from the Covered Person.

COPAYMENT

The benefits described herein are available to each eligible Covered Person from any participating Member Doctor at no cost to the Covered Person, provided Covered Person follows the proper procedures by obtaining Benefit Authorization.

A COPAYMENT AMOUNT AS INDICATED ON THE ATTACHED CVC SCHEDULE OF BENEFITS SHALL BE PAYABLE BY THE COVERED PERSON TO THE MEMBER DOCTOR AT THE TIME OF SERVICE.

Exclusion and Limitation of Benefits

PATIENT OPTIONS

This CVC Program is designed to cover visual needs rather than cosmetic materials. When a Covered Person selects any of the following extras, the Plan will pay the basic cost of the allowed lenses, and the Covered Person will pay the additional costs for the options.

- Blended lenses;
- Oversize lenses;
- Cosmetic lenses;
- Optional cosmetic processes;
- Solid and gradient plastic dyes, non-pink or non-rose tints, 20% tint or less;
- Progressive multifocal lenses;
- Edge, color and anti-reflective coatings;
- UV (ultraviolet) protected lenses;
- A frame that costs more than the plan allowance.

NOT COVERED

There is no benefit for professional services or materials connected with:

- Subnormal vision aids;
- Orthoptics or vision training and any associated supplementary testing not specifically related to working with a CVC; plano lenses; or two pair of glasses in lieu of bifocals;
- Contact lenses;
- Photochromic or tints greater than 20%;
- Laminated lenses;
- Replacement of lenses and frames furnished under this Plan which are lost or broken except at the normal intervals when services are otherwise available;
- Medical or surgical treatment of the eyes.

CONTRACTOR may, at its discretion, waive any of the plan limitations if, in the opinion of our optometric consultants, this is necessary for the visual welfare of the Covered Person.

CVC Schedule of Benefits

SERVICES FROM MEMBER DOCTORS

Frames

- \$95 allowance for a wide selection of frames
- \$115 allowance for featured frames (see vsp.com for more details)
- 20% off the amount over allowance

Lenses

Single vision, lined bifocal, lined trifocal, and occupational lenses are covered in full, less applicable copayment stated below.

Frequency

Frames and lenses are covered every 12 months. The exam is included with the WellVision Exam.

Copayment

The copayment for frame and lenses combined is \$20.00.

SERVICES FROM NON-MEMBER PROVIDERS

Liability of Covered Persons Payment Reimbursement Provisions

When a Covered Person chooses to go to a Non-Member provider, services may be secured from any optometrist, ophthalmologist and/or dispensing optician. This plan then becomes an indemnity plan reimbursing according to a schedule of allowances. The Covered Person should pay the doctor his full fee. CONTRACTOR will reimburse in accordance with the following schedule. THERE IS NO ASSURANCE THAT THE SCHEDULE WILL BE SUFFICIENT TO PAY FOR THE EXAMINATION OR THE MATERIALS.

AVAILABILITY OF SERVICES UNDER THIS REIMBURSEMENT SCHEDULE IS SUBJECT TO THE SAME TIME LIMITS AND COPAYMENT AS THOSE DESCRIBED FOR MEMBER

SERVICES. SERVICES OBTAINED FROM A NON-MEMBER PROVIDER ARE IN LIEU OF OBTAINING SERVICES FROM A PANEL MEMBER OF CONTRACTOR.

CONTRACTOR IS UNABLE TO REQUIRE NON-MEMBER PROVIDERS TO UPHOLD CONTRACTOR'S QUALITY STANDARDS.

MAXIMUM REIMBURSEMENT FOR SERVICES FROM NON-MEMBER PROVIDERS

| <u>Materials</u> | <u>Allowance</u> |
|-----------------------------|------------------|
| Eye Examination, up to | \$0.00* |
| Single Vision Lenses, up to | \$18.00* |
| Bifocal Lenses, up to | \$50.00* |
| Trifocal Lenses, up to | \$100.00* |
| Lenticular Lenses, up to | \$125.00* |
| Frame, up to | \$45.00* |

*Note: Less any applicable Copayment.