

## VISION SERVICES AGREEMENT

This Vision Services Agreement (this "Agreement"), is entered into as of **May 1, 2017** (the "Effective Date"), by and between March Vision Care Group Incorporated ("Vendor") and UnitedHealthcare Community Plan of Ohio, Inc. ("United"). For services provided on or after its Effective Date, this Agreement supersedes and replaces any and all other agreements, whether written or oral, between the parties regarding the subject matter contained herein.

**WHEREAS**, United issues and/or administers Benefit Plans on behalf of itself and Payors for the benefit of Members;

**WHEREAS**, United desires to contract with Vendor for the provision of Vendor's services; and

**WHEREAS**, this Agreement describes the obligations of both of the parties related to the performance of the services.

**NOW THEREFORE**, in consideration of the terms and conditions set forth herein, the receipt and sufficiency of which are hereby acknowledged, Vendor and United hereby agree as follows:

### SECTION 1 DEFINITIONS

The following terms shall have the meanings set forth below. Additional definitions may be set forth in the Agreement or the exhibits.

1.1 "Benefit Plan" shall mean a certificate of coverage, summary plan description, benefit plan, benefit package description or other document or agreement, whether delivered in paper, electronic, or other format, under which a Payor is obligated to provide Member with coverage for Covered Services.

1.2 "CMS" shall mean The Centers for Medicare and Medicaid Services.

1.3 "Covered Services" shall mean a health care service or product for which a Member is entitled to receive coverage from a Payor, pursuant to the terms of the Member's Benefit Plan. The Covered Services to be provided by Vendor are specified in more detail in an Exhibit B.

1.4 "Member" shall mean a person eligible and enrolled with United to receive coverage from a Payor for Covered Services.

1.5 "Participating Provider" shall mean a licensed or otherwise appropriately qualified and credentialed health care professional or entity that has entered into a Provider Agreement with Vendor, directly or through another entity, to provide Covered Services to Members.

1.6 “Payor” shall mean United or such other entity obligated to provide reimbursement for Covered Services for the Member.

1.7 “Provider Agreement” shall mean an agreement between Vendor and a Participating Provider that sets forth the terms and conditions under which the Participating Provider participates in one or more of Vendor’s network(s) of providers.

1.8 “Service Area” shall mean the geographic area in which United is authorized to provide Covered Services to Members.

1.9 “Services Addendum” shall mean a description of the services to be provided by Vendor attached to this Agreement as an Exhibit B. The parties may add additional Exhibits for additional services as agreed upon by the parties from time to time. Each such Exhibit shall be numbered as a series of Exhibit B (such as B1, B2, B3 and thereafter).

## **SECTION 2 SERVICES**

2.1 Services Addendum. Vendor shall provide the services described in the Services Addendum to this Agreement.

2.2 United Control and Oversight. Vendor shall be subject to the reasonable direction of United, as it pertains to the services provided pursuant to this Agreement. United shall maintain oversight of Vendor for functions Vendor provides to, or arranges for, United, and will monitor services for quality assurance in conformity with applicable state law and other regulatory requirements as set forth in a regulatory appendix. The parties shall cooperate with and assist each other as reasonably necessary or appropriate in the performance of this Agreement.

## **SECTION 3 RESPONSIBILITIES AND RELATED PROVISIONS**

3.1 Member Eligibility Information. At least monthly, on a date mutually acceptable to United and Vendor, United shall provide Vendor with a current list of eligible Members in an electronic format mutually agreeable to both parties. The eligibility information shall be prepared and provided to Vendor at United’s expense. Vendor shall treat the information received under this Section as confidential and not distribute or furnish such information to any other person or entity, except as necessary and as permitted by law to provide or arrange for Covered Services. If United is unable to provide Vendor with a current list of eligible Members in an electronic format, the parties agree to adjust the compensation payable to Vendor pursuant to Section 11.15 should such alternative process cause Vendor to incur material additional costs. Subject to retroactive eligibility changes that may be required by a state or CMS, Vendor shall be entitled to rely on the most current eligibility information and Benefit Plan documents in its possession in providing the Covered Services, including processing claims for Covered Services, if applicable.

3.2 Retroactive Adjustments of Eligibility. Vendor acknowledges that there may be retroactive adjustments to Member eligibility. United shall use its best efforts to minimize such adjustments.

3.3 Benefit Plans. This Agreement is not intended nor shall be deemed or construed to modify the obligations of United or a Payor to Members as established under any Benefit Plan. United acknowledges that it retains the ultimate responsibility to assure delivery of all benefits required under a Benefit Plan between United and a Member.

3.4 Services Under This Agreement. The responsibilities of Vendor shall be limited as defined by the terms of this Agreement. If Vendor provides or arranges for requested additional services, United or Payor shall pay for the additional services according to Vendor's fee schedule and/or the amounts payable to Participating Providers for such services.

3.5 Responsibility for Information. United understands and agrees that Vendor is not responsible for any delay in the performance of this Agreement or for any non-performance under this Agreement if the delay or non-performance is caused or materially contributed to by United's failure to furnish any material information described in this Agreement.

3.6 New Benefit Plans and Changes to Services. United shall use commercially reasonable efforts to notify Vendor in writing at least ninety (90) days prior to any modification of an existing Benefit Plan, development of a new Benefit Plan or expansion of its Service Area. If such modification, development or expansion is a material change to Vendor's obligations under this Agreement or the pricing assumptions used in establishing rates, the parties shall negotiate to include the modification, development or expansion in this Agreement in accordance with Section 11.15.

3.7 Member Consents and/or Authorizations. United agrees to assist Vendor in obtaining any necessary Member consents or authorizations as required under state or federal law so that Vendor can receive protected health information when necessary for Vendor to perform its obligations under this Agreement.

3.8 Communication Materials and Activities. United and Vendor shall cooperate to provide and prepare Members' publications and programs regarding Covered Services available to Members, as applicable.

United shall use its best efforts to include legally required notices regarding Covered Services or other legally required communications related to Vendor in its scheduled mailings at no cost to Vendor. If United is unable to include legally required communications in its scheduled mailing, Vendor will reimburse United for actual mailing costs, not to include personnel and other internal expenses.

United shall submit communication materials to state and federal regulatory agencies for prior approval as may be required by and in accordance with applicable state and federal law and regulations.

3.9 Taxes. All fees charged by Vendor for the services provided under this Agreement are exclusive of all taxes and fees (including but not limited to, sales, use, excise, value-added, goods and services, consumption, and other similar taxes, duties or fees) now in force or enacted in the future, imposed on the transaction or performance of the services, all of which United will be responsible for and will pay in full, except for taxes based on Vendor's income (gross or net). Should any payment for Services provided by Vendor be subject to withholding tax by any state or local taxing jurisdiction, United shall reimburse Vendor for such withholding tax.

3.10 Identification Cards. United shall ensure that Members receive an identification card and that a mutually agreeable process is established for referring Members to Vendor when appropriate.

3.11 Non-Interference with Advice to Members. Nothing in this Agreement is intended to prohibit or restrict Participating Providers or other health care professionals from advising or advocating on behalf of a Member about:

- (a) the Member's health status, medical care or treatment options (including alternative treatments that may be self-administered), including providing sufficient information to the Member to provide an opportunity to decide among all relevant treatment options;
- (b) the risks, benefits and consequences of treatment or non-treatment; and
- (c) the opportunity for the Member to refuse treatment and express preferences about future treatment decisions.

#### **SECTION 4 PAYMENT; PAYMENT TERMS**

4.1 Fee. For the services, United shall pay Vendor as set forth in each Exhibit A. To the extent that any settlement terms contained in this Agreement may not be specific enough to satisfy SSAP No. 25, the parties agree settlement of each month's balances due between the parties shall occur within ninety (90) days after the end of the month in which the amount owed becomes known.

4.2 No Incentive Payments. Vendor shall be strictly prohibited from receiving any incentive payment designed to reduce amounts of necessary medical care through (a) reduction of services or the charges thereof, (b) reduction of length of stay, or (c) utilization of alternative treatment settings.

4.3 **Member Protection.** Vendor and United agree that in no event, including, but not limited to (a) non-payment for Covered Services provided to Members; (b) insolvency of Vendor, United or another Payor; or (c) breach by United or Vendor of any term or condition of this Agreement or any term or condition of a Provider Agreement, shall United or Vendor bill, charge, collect a deposit from, seek compensation, remuneration or reimbursement from, or have any recourse against any Member or persons acting on behalf of the Member for Covered Services eligible for reimbursement under the Member's Benefit Plan.

The provisions of this Section shall: (i) be construed in favor of the Member; (ii) survive the termination of this Agreement regardless of the reason for termination; and (iii) supersede any oral or written agreement, existing or subsequently entered into, between any of the parties to this Agreement or a Participating Provider and a Member or the representative of the Member if such agreement is inconsistent with this Section.

This Section shall not prohibit collection of any allowed amounts that are the Member's responsibility to pay for Covered Services to a Participating Provider in accordance with the applicable Benefit Plan. It also shall not prohibit the collection of charges for services that are not Covered Services as defined in the Benefit Plan; provided, however, that the Member has been informed of the costs for non-covered services prior to the rendering of such services and has agreed in writing to accept responsibility for payment for such services. The Member's written consent shall be in a form agreed to by the parties and in compliance with any applicable state and federal law. This provision also shall not prohibit payment for any Covered Services delivered after expiration of benefits under the relevant Benefit Plan. If requested by United, Vendor shall submit to United any Member's written acknowledgement to accept responsibility for non-Covered Services provided to him/her. Vendor shall ensure that Vendor's Provider Agreements with Participating Providers are consistent with the obligations in this Section.

This Section applies when any applicable statutes and regulations require that the Member be held harmless from any and all costs, which are the legal obligation of Vendor, United or another Payor.

## **SECTION 5 INFORMATION; AUDITS; BOOKS AND RECORDS**

5.1 **Maintaining Records.** The books, accounts and records of each party shall be so maintained as to clearly and accurately disclose the transactions contemplated by this Agreement, including such accounting information as is necessary to calculate and support the amount of the payments made by United under this Agreement. All books, accounts and records shall be maintained in compliance with the applicable laws and regulations of the state in which United is domiciled and in accordance with prudent standards of insurance record keeping. Vendor shall maintain at its principal administrative office, and shall require, as applicable, Participating Providers and any subcontractors to maintain, adequate books and records of all transactions related to the services provided pursuant to this Agreement. Vendor shall maintain such books and records for ten (10) years after the date the records were created unless a

different retention period is specified by applicable law or regulation, then such records shall be preserved for such period as required by applicable law or regulation.

5.2 **Member Access to Records.** Vendor shall, and shall require its Participating Providers to, establish and maintain procedures in accordance with applicable law and regulations to ensure, at a minimum, timely access by Members to medical records and other health information in their possession that pertains to Members.

5.3 **Examination of Books and Records.** Upon reasonable notice, during normal business hours and at a reasonable time and place, United or its designee shall have the right to examine any books or records of Vendor that relate to this Agreement during the term of this Agreement and for three (3) years thereafter unless otherwise required by law.

5.4 **Corrective Action Plans.** United shall provide Vendor with a report of any audit findings resulting from an examination within thirty (30) calendar days of the conclusion of an audit. If United notes a regulatory deficiency(ies) during the audit or otherwise notes a failure or delay in performance by Vendor, United may request Vendor to develop a corrective action plan. Upon such a request, Vendor shall prepare a corrective action plan and provide it to United for United's approval within thirty (30) calendar days of United's request. Such plan shall (a) be subject to United's approval (which shall not be unreasonably withheld); and (b) include specifics of and timelines for correcting the regulatory deficiency(ies) (which shall not exceed thirty (30) days).

United shall approve or disapprove the initial corrective action plan in a reasonable timeframe after receipt of such plan from Vendor. Vendor shall implement the approved corrective action plan within the timeframes specified therein. If the corrective action plan is not satisfactory to United or implemented to the reasonable satisfaction of United, United may terminate this Agreement pursuant to Section 7.1.

5.5 **Government and Accrediting Agency Access to Records.** Government and accrediting agencies which license the operation of United or Vendor shall have the right to inspect, evaluate and audit applicable records. United and Vendor are hereby authorized to release all information and records or copies of such within the possession of United or Vendor that are pertinent to and involve transactions related to this Agreement if such access is necessary to comply with accreditation standards, statutes or regulations applicable to United or Vendor. These audit and inspection rights shall exist for three (3) years from the termination date of this Agreement, the date of completion of any audit, or such other period as required by law or as may be set forth in an Appendix.

5.6 **Confidential Information.** The parties acknowledge that in the course of performing their obligations under this Agreement, either party may learn or receive confidential and proprietary information, including, but not limited to, trade secrets, business or organizational plans, customer lists, pricing, and underwriting information, concerning the other party or third parties to whom the other party has an obligation of confidentiality (collectively "**Confidential Information**"). Confidential Information shall not include information that:

- (a) was rightfully in the party's possession prior to receiving Confidential Information;
- (b) is currently or subsequently becomes available to the public through a source other than the receiving party;
- (c) the party develops internally, without reference to the other party's Confidential Information; or
- (d) the party receives from a third party on a non-confidential basis from a source, which to the best of such party's knowledge after due inquiry, is not prohibited from discussing such information by a legal, contractual or fiduciary obligation.

Each party shall take all necessary steps to provide the maximum protection to secure the other party's Confidential Information. Each party agrees to take at least such precautions to protect the other party's Confidential Information as it takes to protect its own Confidential Information. The parties shall not utilize any Confidential Information belonging to the other party without the other party's prior written consent for any purpose other than performance under this Agreement. The parties agree not to disclose Confidential Information to third parties without the express prior written consent of the party to whom the information belongs. The parties further agree that they will not disclose Confidential Information to anyone within their respective organizations other than those employees with a need to know and who have been informed of the party's obligations under this Agreement. The parties may disclose Confidential Information to their attorneys, accountants, or other agents ("Representatives"), but only if they need to know the Confidential Information as described above. The parties shall inform each Representative of the confidential and proprietary nature of the Confidential Information. Upon termination of this Agreement, a party in possession of any Confidential Information belonging to the other party shall either return such Confidential Information to the other party or destroy the Confidential Information, without retaining copies. If any Confidential Information is impossible or impracticable to return or destroy, the party holding such other party's Confidential Information shall remain bound by the terms of this section with regards to the applicable Confidential Information. Each party shall retain sole ownership of its own Confidential Information.

**5.7 Required Disclosures.** The confidentiality obligations described herein will not restrict any disclosure required by order of a court or any government agency. The party being ordered to disclose the information shall give prompt notice to the other party of any such order and reasonably cooperate with the other party, at the other party's request and expense, to resist such order or to obtain a protective order.

**5.8 Ownership; Communications.** Except as otherwise expressly provided for in this Agreement:

- (a) Any books and records provided by United to Vendor pursuant to this Agreement, or developed or maintained by United under or related to this Agreement, shall be owned by United and are subject to the control of United.
- (b) All funds and assets of Vendor are the property of Vendor, held for the benefit of Vendor and are subject to the control of Vendor.
- (c) All funds and assets of United are the property of United, held for the benefit of United and are subject to the control of United; provided that United agrees to grant Vendor and its affiliates access to United's assets as necessary to perform the duties under this Agreement; or as may reasonably assist Vendor and its affiliates to perform hereunder, including without limitation to assist Vendor, in concert with other affiliated health plans, to achieve cost efficiencies on United's behalf; or as otherwise permitted by United and by applicable law. Neither this Agreement nor the performance of duties pursuant to this Agreement shall grant Vendor or its affiliates any ownership interest in United's assets used by Vendor or its affiliates pursuant to this Agreement.
- (d) Each party shall retain all right, title and interest in its proprietary business information or work product that may be used in advertising or promoting Covered Services or that is related to other activities under this Agreement, including, but not limited to, trade secrets, computer software and applications, and any other proprietary business information or work product that is not available to the general public.
- (e) Upon termination of this Agreement, each party will return to the other party all intellectual property and work product belonging to the other party and shall not retain copies of such data except as shall be necessary under applicable law.

Except as authorized in this Agreement, each party further agrees to obtain the other party's permission before using any of the other party's copyrighted materials in its communications materials. If either party produces its own communications materials, it shall do so at its own cost and submit materials that use the other party's trademarks, logos, copyrighted or other branding materials to describe Covered Services to the other party for prior review and approval, which shall not be unreasonably withheld or delayed. Any promotional videos may be rebroadcast and brochures made available via the parties' intranet solely for the purpose of providing information about Covered Services to Members; provided, however, such materials contain an appropriate copyright acknowledgment. Neither party shall reproduce any marketing, advertising, or promotional materials, including but not limited to, videos, brochures, posters, newsletters and any other copyrighted materials without the other party's prior written consent, unless expressly permitted otherwise under this Agreement.

## **SECTION 6 REGULATORY COMPLIANCE**

**6.1 Compliance with Laws, Regulations; Licensure.** Vendor shall maintain and shall, as applicable, require all Participating Providers and health care professionals employed by or



under contract with Vendor, to maintain all federal, state and local licenses, certifications, permits, regulatory approvals and accreditations, without material restriction, that are required to provide the services under this Agreement. Vendor and United shall comply (and, as applicable, Vendor shall require Participating Providers and health care professionals employed by or under contract with Vendor to comply) with all laws and regulations applicable to the services provided hereunder, including without limitation the regulatory provisions set forth in individual appendices attached to this Agreement and made a part hereof (the "Appendix(ces)"), which provisions are hereby incorporated into and made a part of this Agreement. United may add, delete or replace Appendices from time to time as necessary to comply with applicable law without amending this Agreement. Services rendered under this Agreement shall be subject only to those provisions in any Appendix that by law or regulation are applicable to such category of services. Vendor shall comply with the applicable terms and conditions of such Appendices.

Vendor shall notify United if a governmental authority notifies Vendor that it must be licensed as an insurer, health service plan, health maintenance organization, prepaid limited health services organization, or other type of licensed insurer to provide services. In such event, Vendor may cease providing the services that would subject Vendor to such licensure, unless Vendor and United can agree upon an amendment to this Agreement that would make such licensure unnecessary. Any such cessation of services shall be effective the earlier of the date required by the governmental authority or after at least sixty (60) days following prior written notice to United.

6.2 Protected Data. The parties acknowledge and agree that, in the course of performing hereunder, Vendor will receive on behalf of United personal data identifying individuals covered by United, protected health information, and other data protected by law. With respect to such data, Vendor and United shall comply with the Health Insurance Portability and Accountability Act of 1996, the Gramm-Leach Bliley Act, and all other applicable confidentiality, privacy and data security laws and regulations.

6.3 Regulatory Approval and Filing. United shall be responsible for filing this Agreement with any governmental authorities as may be required by any applicable law or regulation. If the governmental authority requests changes to this Agreement, Vendor and United shall jointly discuss the response to the governmental authority. If any governmental authority requires a change to this Agreement that either Vendor or United deems to be material, either party may request re-negotiation of the affected provisions of this Agreement pursuant to Section 11.15.

6.4 Delegation of Activities; Oversight. To the extent applicable to any Covered Services, in compliance with the delegation and oversight obligations imposed on United, including by the applicable state or under its contracts with any state and/or federal regulatory agencies, United (a) shall conduct at least an annual audit of Vendor's performance of such delegated activities and (b) has the right (including if asked by a regulatory agency) to revoke any functions or activities delegated to Vendor under this Agreement, if in United's reasonable judgment, Vendor's performance under this Agreement does not comply with United's obligations. This right shall be in addition to United's termination rights under this Agreement.

6.5 Immunity. Vendor and United agree that activities delegated to Vendor by United may be considered professional and quality review procedures and that both Vendor and United may be immune pursuant to the Health Care Quality Improvement Act (42 U.S.C. 11101, et seq., as may be amended from time to time), or other state or federal law, from any civil liability arising from the delegated activities. Vendor agrees to maintain the confidentiality of any privileged information to the extent permitted by law and obtain United's prior written consent before disclosing privileged information to any third party, except as may otherwise required by law.

## **SECTION 7 TERM; TERMINATION**

7.1 Term and Termination. This Agreement shall commence on the Effective Date and shall continue until terminated as follows:

- (a) by mutual agreement of the parties;
- (b) by either party upon at least sixty (60) days prior written notice to the other party;
- (c) by either party, upon at least thirty (30) days prior written notice to the other party in the event of a material breach of this Agreement by the other party unless the material breach has been cured or a reasonable corrective action plan has been developed and approved by the other party before the end of the notice period;
- (d) by either party, immediately upon written notice to the other party, in the event of the other party's loss or suspension of material licensure, certification or other governmental authorization necessary to perform under this Agreement; or
- (e) immediately if required by a state or federal regulatory agency with jurisdiction over this Agreement.

In the event this Agreement is terminated, United shall provide notice thereof in accordance with all requirements of the insurance laws of the state in which United is domiciled.

Upon notice of termination of this Agreement given by one party to another, United shall pay all fees owed to Vendor pursuant to the payment terms under this Agreement and Vendor shall provide services until the effective date of the termination except as provided under Section 7.5 or otherwise required by law.

7.2 United Receivership. If United is placed in receivership pursuant to the relevant state receivership act:

- (a) Vendor shall have no automatic right to terminate this Agreement;

- (b) Vendor shall continue to maintain any systems, programs or other infrastructure notwithstanding such receivership and will make them available to the receiver for as long as Vendor continues to receive timely payment for services rendered;
- (c) all of the rights of United under this Agreement shall extend to the receiver; and
- (d) United's books and records shall immediately be made available to the receiver and shall be turned over to the receiver immediately upon the receiver's request.

7.3 Effect of Expiration or Termination. Upon the expiration or termination of this Agreement, Vendor will cooperate with United and/or United's designee to transition the care and management of Members undergoing treatment on the date of expiration or termination. Vendor, United and/or United's designee will work together to transition business, medical, and management records to United or United's designee in a commercially reasonable manner that reflects the rights and obligations of all parties, including Vendor's need for ongoing access to such records.

7.4 Notice to Members. Upon notice of termination of this Agreement, United and/or Payor shall have the right to notify Members, at their own expense, of such termination.

7.5 Continued Provision of Covered Services After Termination. Vendor agrees that in the event this Agreement is terminated, Vendor shall use commercially reasonable efforts to cause Participating Providers to continue to provide Covered Services to any Members undergoing treatment at the time of such termination until the earlier of:

- (a) the current episode of treatment is completed, or as to any Members confined in inpatient facilities on the date of such termination, until such Members are discharged; or
- (b) arrangements are completed for such Members to be transferred to another provider.

Participating Providers shall be reimbursed in accordance with their Provider Agreements for all such services rendered subsequent to the termination of this Agreement.

## **SECTION 8 INSURANCE**

Unless otherwise agreed to by the parties in writing, Vendor shall procure and maintain the insurance or self-insurance programs in the minimum amounts set forth below. Any such self-insurance programs will include actuarially approved funding levels. Vendor will provide United evidence of such insurance upon request.

- (a) Commercial general liability insurance coverage, including but not limited to errors and omissions, in the minimum amounts of one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate for the policy year.

(b) Professional liability insurance coverage in the minimum amounts of ten million dollars (\$10,000,000) per occurrence and ten million dollars (\$10,000,000) aggregate for the policy year.

(c) As applicable, worker's compensation insurance coverage for Vendor employees in an amount and form meeting all applicable legal requirements.

## **SECTION 9 INDEMNIFICATION**

The parties shall each indemnify and hold the other harmless from and against any and all liabilities, including but not limited to, losses, penalties, fines, costs, damages, claims, causes of action, and expenses the other incurs, including reasonable attorneys' fees, to the extent caused by the indemnifying party's (a) material breach of this Agreement; or (b) willful misconduct or reckless or grossly negligent act or omission related to or in connection with performance under this Agreement.

## **SECTION 10 DISPUTE RESOLUTION**

The parties shall attempt in good faith to resolve any disputes arising from this Agreement ("Disputes") in the normal course of business at the operational level.

Either party may elect to submit any Disputes that are not resolved by the parties to binding arbitration in accordance with the then current AAA Commercial Rules for disputes. The arbitrator(s) shall be bound by and shall follow the then current ABA/AAA Rules of Ethics for Arbitrators.

Any arbitration proceeding under this Agreement shall be conducted in the state of Minnesota. The arbitrator(s) may construe or interpret but shall not vary or ignore the terms of this Agreement and shall be bound by controlling law and applicable rules of evidence.

Unless otherwise agreed to by both parties, the parties expressly intend that any Dispute relating to the business relationship between them be resolved on an individual basis so that no other dispute with any third party(ies) may be consolidated or joined with the Dispute related to this Agreement. The parties agree that any arbitration ruling by an arbitrator allowing class action arbitration or requiring consolidated arbitration involving any third party(ies) would be contrary to their intent and would require immediate judicial review of such ruling.

The decision of the arbitrator(s) on the points in dispute will be binding, and judgment on the award may be entered in any court having jurisdiction thereof. The parties acknowledge that because this Agreement affects interstate commerce the Federal Arbitration Act applies.

If any portion of this Section or any part of this Agreement is deemed to be unlawful, invalid or unenforceable, such unlawfulness, invalidity or unenforceability shall not serve to invalidate any other part of this Section or Agreement. If any court determines that this arbitration procedure is not binding or otherwise allows litigation involving a Dispute to proceed, the parties hereby waive any and all right to trial by jury in, or with respect to, such litigation. Such litigation would instead proceed with the judge as the finder of fact.

If a party wishes to terminate this Agreement based on an assertion of uncured material breach, and the other party disputes whether grounds for such a termination exist, the matter will be resolved in accordance with this Section. If the Dispute is submitted to arbitration, the termination for breach will not take effect during the arbitration proceeding.

Neither party shall be liable to the other party for punitive, exemplary, consequential, indirect or special damages, in each case, except to the extent such damages result from an award of damages in a third party claim.

This Section is the parties' sole recourse for any dispute resolution and the parties waive the right to seek relief from a court of competent jurisdiction, unless otherwise required by law.

## **SECTION 11 MISCELLANEOUS**

11.1 Notices. All notices or other communication required under this Agreement shall be in writing (which may be electronic) and shall be deemed delivered when delivered personally or by e-mail, one day after delivery by commercial overnight delivery service, or if mailed, five days after the date of mailing.

11.2 Amendment. Except as may otherwise be set forth in this Agreement, this Agreement may be amended only by both parties agreeing to the amendment in writing and complying with any and all notice and/or approval requirements of the insurance laws of the state in which United is domiciled.

11.3 Assignment; Subcontracting; Successors and Permitted Assigns. Neither United nor Vendor may assign its rights or responsibilities under this Agreement without the prior written consent of the other party, with the exception that United may assign its rights and responsibilities under this Agreement to an affiliate. With respect to any assignment of this Agreement, the parties shall comply with any and all notice or approval requirements of the insurance laws of the state in which United is domiciled. To the extent permitted by law, Vendor shall have the right to subcontract all or a portion of its obligations to any third party or affiliate; provided, however, that (a) Vendor shall be responsible to United for those duties to the same extent that it would have been responsible without the use of an affiliate or subcontractor, and (b) Vendor will ensure that its affiliates and subcontractors comply with all the terms of this Agreement, including, without limitation, the obligation to perform the services hereunder in compliance with all applicable laws and regulations. To the extent required by any regulatory agency governing any Medicare or Medicaid or other governmental benefit plans (or as may be

set forth in an Appendix) or any accrediting agency, Vendor shall provide notice to United and/or obtain consent, prior to any subcontracting of any of its responsibilities under this Agreement. This Agreement shall be binding upon, inure to the benefit of, and be specifically enforceable by and against the parties and their respective successors and permitted assigns. Nothing expressed or referred to in this Agreement will be construed to give any person or entity other than the parties hereto any rights, remedies or claims under or with respect to this Agreement.

11.4 Governing Law. This Agreement shall be governed by and construed in accordance with the internal laws of the state in which United is domiciled without regard to the conflicts of laws provisions thereof.

11.5 Entire Agreement; Counterparts. This Agreement, which incorporates all exhibits, attachments, addenda, and appendices, constitutes the entire agreement between the parties in regard to the subject matter contained in this Agreement. This Agreement replaces any prior written or oral communications or agreements between the parties relating to the subject matter contained in this Agreement. In the event of a conflict between the provisions of the main body of this Agreement and an Appendix or an exhibit, the terms of the applicable Appendix or exhibit will control. The headings and titles within this Agreement are for convenience only and are not part of the Agreement. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of which taken together shall constitute one and the same instrument.

11.6 Marketing; Advertising; Use of Names and Trademarks. During the term of this Agreement, the parties shall have the right to designate and make public reference to the other party by name in an accurate and factual manner, as the company providing, managing and/or arranging for the provision of services. Vendor and United shall not otherwise use the other party's name, trademarks, or service marks without prior written approval. The parties mutually agree to provide, at a minimum, forty-eight (48) hours advance notice and opportunity to comment on all press releases, advertisements or other media statements and communications regarding this Agreement, the services or the business relationship between the parties. Vendor shall obtain United's consent prior to any publication or use of such materials or communications. Notwithstanding the foregoing, if Vendor wishes to make a press release, advertisement or other media statement or communication that requires prior approval of a state or federal regulator, United shall be responsible for seeking such approval in a timely manner and Vendor agrees it will not proceed with the statement or communication until the required approval is obtained. Nothing herein shall be construed to create a right or license to make copies of any copyrighted materials.

11.7 Excluded Individuals. Neither Vendor nor United shall employ or contract any individual or entity (a) excluded from participation in Medicare or a state health care program or (b) any entity that employs or contracts with such an individual or entity to provide services under this Agreement.

11.8 Non-waiver. The failure of either party to insist upon the strict observance or performance of any provision of this Agreement or to exercise any right or remedy shall not impair or waive any such right or remedy. Nothing in this Agreement shall be considered waived by either party unless the party claiming the waiver receives the waiver in writing signed by an authorized signatory. A waiver of one right, remedy or strict observation or performance of a provision does not constitute a waiver of any other.

11.9 Relationship Between Parties. The relationship between the parties to this Agreement is solely that of independent contractors. Nothing in this Agreement or otherwise shall be construed or deemed to create any other relationship, including one of employment, partnership, agency, joint venture, association or any other form of separate legal entity or organization.

11.10 Survival of Terms. Any provisions of this Agreement including any attachments hereto, that, by their nature, extend beyond the expiration or termination of this Agreement shall survive the termination of this Agreement and shall remain in effect until all such obligations are satisfied.

11.11 No Third Party Beneficiaries. This Agreement is intended solely for the benefit of the parties hereto and no third parties shall have any rights hereunder or interest herein except as explicitly provided herein.

11.12 Force Majeure. The obligations of a party under this Agreement will be suspended for the duration of any force majeure applicable to that party. The term “force majeure” means any cause not reasonably within the control of the party claiming suspension, including, without limitation, an act of God; war; riot; invasion; acts of a foreign enemy; terrorist action; weather-related disaster and governmental action. A party claiming suspension under this Section shall use its best efforts to resume performance as soon as possible.

11.13 Arm’s Length Negotiations. The parties acknowledge that the terms of this Agreement are fair and reasonable, were negotiated at arm’s length, and that the parties were given ample opportunity to review and consider this Agreement prior to execution.

11.14 Offshoring. To the extent mandated by law, contract or the applicable regulatory agency, United will notify Vendor of any requirements or restrictions for Vendor performing any of the services outside of the United States. Vendor shall comply with such requirements or restrictions.

11.15 Substantial Change. The parties may renegotiate this Agreement if either party would be materially adversely affected by continued performance as a result of a Substantial Change which presents a fundamental departure from the risk, services, administration, costs or expenses or other assumptions or intent of the parties in entering into either this Agreement, including without limitation:

- (a) a significant reduction in the number, or change in the composition of, Member enrollment;

- (b) a material change in utilization or trends;
- (c) a material modification of an existing Benefit Plan;
- (d) development of a new Benefit Plan;
- (e) expansion of a Service Area to a geographic area of the country not originally contemplated under this Agreement; or
- (f) a significant change in any law, rule, regulation or interpretation thereof that would have a material and adverse effect on the ability of a party to receive the benefits it reasonably expects to obtain under this Agreement or renders it illegal for a party to continue to perform under this Agreement in a manner consistent with the parties' intent.

The affected party must promptly notify the other party of the Substantial Change and its desire to renegotiate this Agreement. This section does not affect either party's right to terminate this Agreement in accordance with Section 7.1.

*[The rest of this page is left intentionally blank.]*



IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

**March Vision Care Group Incorporated**

By:  \_\_\_\_\_

Print Name: Glenville A. March, Jr., M.D.

Title: Secretary

**UnitedHealthcare Community Plan of Ohio, Inc.**

By:  \_\_\_\_\_

Print Name: Lisam Iversen

Title: CIS CFO

## **EXHIBIT LIST**

<u>X</u>	Exhibit A:	Compensation for Services Addendum (Plans; Service Areas)
<u>X</u>	Exhibit B:	Services Addendum
<u>X</u>	Exhibit C:	Medicare Advantage Regulatory Requirements Appendix
<u>N/A</u>	Exhibit D:	HMO or Insurance Specific Regulatory Requirements Appendix
<u>X</u>	Exhibit E:	State Regulatory Requirements Appendix
<u>X</u>	Exhibit F:	Delegated Credentialing Addendum
<u>N/A</u>	Exhibit G:	Exchange Regulatory Appendix
<u>X</u>	Exhibit H:	Third Party Administrator Appendix

Any exhibits designated as N/A represent a placeholder only.

**EXHIBIT A  
COMPENSATION FOR SERVICES ADDENDUM**

**SECTION 1  
COMPENSATION FOR VENDOR SERVICES**

Vendor shall provide the services set forth in this Agreement for the Benefit Plans issued and/or administered by United and identified by United (and agreed to by Vendor) as a Benefit Plan for which the services shall be provided. United shall pay Vendor a services fee (the “Monthly Fee”) according to the rates set forth in the table below.

Segment	Line of Business	Service	Service Type	Service Area *	Rate (\$)	Rate Type	ASO or Full Service
C&S	Medicaid	All Members	Vision	Ohio	\$0.30	PMPM	ASO
C&S	MMP	All Members	Vision	Ohio	\$0.30	PMPM	ASO

\* If the Service Area listed above is left blank, the rate applies to all locations where United is authorized to do business, unless otherwise indicated.

“ASO” shall mean any Benefit Plan for which (a) Vendor is responsible only for providing administrative services in connection with the Benefit Plan and (b) Payor is fully responsible for the cost of any services or supplies that a Member receives for Covered Services from a Participating Provider.

“Full Service” shall mean any Benefit Plan for which Vendor is responsible for providing administrative services and is financially responsible for the cost of Covered Services covered by this Agreement.

**SECTION 2  
PAYMENT TERMS**

**2.1 Standard Payment Terms**

United shall pay all Monthly Fees on or before the fifteenth (15<sup>th</sup>) business day of the month following service. United shall calculate Monthly Fees using an estimate of the number of Members based on the then current information available to United for that month. United shall adjust a subsequent Monthly Fee to reflect the difference between the estimated and actual number of Members.

**2.2 Settlement of Accounts**

Settlement of each month’s balances due between the parties shall occur within ninety (90) days after the end of the month in which the amount owed becomes known. Notwithstanding this requirement, any more specific settlement terms in this Agreement shall control, no matter if the settlement date is shorter or longer than that set forth above, as long as the due date is specified.

### **2.3 Cost Sharing Reductions**

With respect to any Service designated as a “Full Service” rate in Section 1 Compensation for Vendor Services, United shall pay to Vendor any cost sharing reduction payment that United has or shall receive pursuant to Section 1402 of the Patient Protection and Affordable Care Act of 2010 (as amended), to the extent that such cost sharing reductions are attributable to Covered Services for which the Vendor is financially responsible under this Agreement.

## **SECTION 3 COMPENSATION TO PROVIDERS**

### **3.1 Compensation to Participating Providers.**

- (a) For all ASO Benefit Plans, Vendor shall adjudicate and Payor shall pay a Participating Provider clean claim within thirty (30) days of receiving the clean claim.
- (b) For all Full Service Benefit Plans, Vendor shall adjudicate and pay a participating provider clean claim within thirty (30) days of receiving the clean claim or as may be set forth in the Provider Agreement.

In the event that United has not delegated Claims Administrative Services to Vendor for a Full Service Benefit Plan, Vendor shall adjudicate claims and be financially responsible for Covered Services; Payor shall pay a Participating Provider clean claim within thirty (30) days of receiving the claim based on adjudication by Vendor.

**EXHIBIT B  
SERVICES ADDENDUM**

**VISION SERVICES**

Vendor shall provide the services described in this Addendum.

To the extent required by a regulatory or accrediting agency,

- (a) the parties shall document to the level of specificity required by applicable government authorities and/or United's accreditation agencies the activities relating to the services that have been delegated under this Exhibit to Vendor in accordance with the timeframes required;
- (b) before activities are delegated under this Agreement, United will or has conducted a pre-assessment audit of Vendor to assess Vendor's ability to fulfill the terms of this Agreement for any delegated activities; and
- (c) upon request by United, Vendor shall cooperate and participate, either telephonically or personally, in accreditation and/or state or federal regulatory audits, including interview sessions, related to the delegated activities provided under this Agreement. This section (c) shall survive termination of this Agreement, Exhibit and the delegated activities.

**SECTION 1  
NETWORK MANAGEMENT**

1.1 Network Development. Vendor shall arrange for Participating Providers to provide Covered Services to Members. United may recommend to Vendor that certain providers become Participating Providers. In no case shall this provision be construed to obligate Vendor to contract with or make use of any particular health care facility or professional. Vendor retains full and complete rights to terminate a Participating Provider's Provider Agreement with Vendor. Vendor makes no representations or guarantees regarding the continued availability of any Participating Provider. Vendor shall provide United with electronic access in a mutually agreeable format to a listing of Participating Providers that Vendor will update monthly. In the event of termination of a Participating Provider, Vendor shall assist Members in transitioning to a new Participating Provider within a reasonable time or such timeframe as required by applicable state and/or federal law. Any material changes to the composition of the Provider network may be subject to prior written notification to the applicable state and/or federal regulatory authorities.

1.2 Participating Provider Insurance. Vendor shall require Participating Providers to procure and maintain applicable malpractice and/or professional liability insurance equal to the prevailing community standard unless (a) applicable state law or regulation requires otherwise, or (b) United provides notice in advance of implementation of other insurance requirements.

1.3 Geographic Access. Upon United's written request, Vendor shall provide United with a current listing of Participating Providers. Vendor's Participating Provider network will be sufficient to ensure that all Members within United Service Area have reasonable access to Covered Services and in accordance with applicable state and federal law or state contract availability and access requirements. If United reasonably determines that there are not sufficient Participating Providers to provide Covered Services to Members:

- United shall notify Vendor of the alleged deficiency;
- United and Vendor shall meet to discuss the alleged deficiency; and
- If appropriate, develop a mutually satisfactory plan of correction within thirty (30) days of such notice.

United shall have the ability to impose unilaterally a corrective plan of action if the parties cannot develop such a plan in a timely and mutually satisfactory manner. United shall notify Vendor in writing at least ninety (90) days prior to any modification of United's Service Area. Vendor shall use best efforts to arrange for Participating Providers in such expanded Service Area within ninety (90) days of receiving such notice, at which time the definition of Service Area in this Agreement shall include such expansion without further compliance with Section 11.2 of the Agreement.

1.4 Vendor's Provider Agreements and Manuals. Vendor's network participation requirements shall be set forth in its Provider Agreement, operations manual, and/or credentialing and recredentialing plan, all of which shall be made available to United upon written request. Vendor must have a written agreement in effect with each Participating Provider and shall ensure that its Provider Agreements and related manuals comply with all applicable laws, regulations, government programs and accrediting agency standards. Vendor understands and agrees that Vendor and Participating Providers may be subject to United's administrative guide and/or provider manual for the provision of Covered Services for certain state or federal government program Benefit Plans. The Provider Agreements will require Participating Providers to comply with all applicable obligations in this Agreement and ensure that Members have access to Participating Providers for the programs and/or products set forth in Exhibit A. Vendor and United shall work together in good faith to address any concerns United has regarding the content of such agreements and manuals.

Vendor shall cooperate with and provide to United copies of the Provider Agreements and manuals that United is required to file or submit for regulatory or accreditation purposes and agrees to work with the regulators or administrators to address any concerns regarding the content of such agreements or manuals.

If Vendor intends to make any substantial changes to its Provider Agreements or manuals that would materially affect this Agreement or require filing or submission to United's regulators or administrators, Vendor shall notify United of such proposed changes in advance of their effective dates. Vendor and United shall work together in good faith to resolve any concerns United may

have about the proposed changes and to complete any filing or submission United is required to make.

1.5 Right to Approve, Suspend, or Terminate Participating Providers. United retains the absolute right to approve, suspend or terminate a Participating Provider for participation in any or all of its Benefit Plans. United also has the right to conduct independently any additional processes or verification procedures it deems necessary or appropriate, until such provider is credentialed. United shall promptly inform Vendor and the affected Participating Provider of any denial, restriction or revocation of a Participating Provider's participation status in any or all of United's Benefit Plans. In no case shall this Section be construed to obligate Vendor to contract with or make use of any particular health care facility or professional.

1.6 Discontinuing Use of a Participating Provider. Vendor shall discontinue referrals to or otherwise using a Participating Provider for Covered Services upon the occurrence of any of the following:

- (a) immediately upon expiration of the cure period for a material breach; provided, however, that Vendor shall have sixty (60) days from the date it receives written notice from United identifying the Participating Provider's conduct that violates a material term of this Agreement or Vendor's agreement with the Participating Provider to cure such defect;
- (b) immediately upon Vendor's receipt of written notice that the Participating Provider's license or certification has been revoked, suspended or otherwise limited;
- (c) immediately upon Vendor's receipt of written notice that the Participating Provider's liability insurance has been revoked;
- (d) immediately upon Vendor's receipt of written notice that the Participating Provider has been sanctioned by a state or CMS; or
- (e) immediately upon termination of the Participating Provider's agreement with Vendor.

Vendor will notify United of Vendor's discontinued use of a Participating Provider to permit United to comply with its obligations under federal or state law or state contract to notify the applicable state and its Members of changes to provider networks. Vendor shall provide this notice at least thirty (30) days prior to its discontinuation of a Participating Provider. If thirty (30) days advance notice is not possible, the notice must be as soon as possible. The parties agree and acknowledge that under no circumstance shall services to Members be disrupted. Vendor agrees to abide by all applicable laws and regulations to provider appeals of termination.

## **SECTION 2 CREDENTIALING AND RE-CREDENTIALING**

2.1 **Participating Provider Credentialing.** Vendor shall establish and maintain a credentialing and re-credentialing process to which all professional Participating Providers shall be subject to in accordance with the Delegated of Credentialing Addendum, attached to this Agreement as **Exhibit F.** Upon United's written request, Vendor shall provide United with a copy of Vendor's credentialing process. Vendor's credentialing process shall comply with **Exhibit F** of this Agreement and the applicable requirements of the National Committee for Quality Assurance ("NCQA") or another generally recognized accrediting agency ("Accrediting Agency") and for Medicare, Medicaid, and any other government business, any additional requirements under state or federal law. The services performed by Vendor under the Delegated of Credentialing Addendum shall be pursuant to the monitoring, oversight and approval of United. With reasonable prior written notice and during normal business hours, United may conduct comprehensive onsite evaluation of Vendor's credentialing procedures. Vendor shall immediately provide documentation to United related to any issue concerning quality of care or related to any investigation or inquiries by regulatory agencies of any Participating Provider.

## **SECTION 3 UTILIZATION MANAGEMENT AND/OR COMPLEX CASE MANAGEMENT**

United is not delegating any utilization management functions to Vendor

## **SECTION 4 CLAIMS ADMINISTRATION**

4.1 **Claims Administration.** Vendor shall perform certain claims administration services for claims associated with Covered Services provided to Members as described in this Section. Vendor shall arrange for Participating Providers to submit claims for Covered Services to Vendor. Claims shall be paid in accordance with the terms and conditions of the Benefit Plans, Vendor's agreements with Participating Providers, this Addendum, this Agreement, and any applicable state or federal requirements.

4.2 **Benefit Administration.** Vendor shall make initial determinations whether services and/or supplies requested by or on behalf of a Member or for which a Member has requested reimbursement are Covered Services.

If Vendor determines that the requested services and/or supplies are not Covered Services, Vendor shall notify the Member about the lack of coverage and the Member's rights under the Benefit Plan to appeal a denial of coverage.

4.3 **Member and Provider Appeal and Grievance Process.**

(a) In the event of disputes with a Member or Provider regarding coverage of Covered Services, Vendor shall refer the Member or Provider to the appropriate appeal



and grievance processes under the Member's Benefit Plan. Vendor shall cooperate with United with respect to any such appeal or grievance processes. The result of the Member appeal and grievance process shall be binding on Vendor, unless Vendor notifies United that Vendor disagrees with such result within fifteen (15) business days after Vendor receives notice of the result. In such case, United or Payor may authorize coverage and pay for the provision of the services and/or supplies in dispute, and the parties shall proceed with the dispute resolution process described in Section 4.4 of this Addendum.

(b) In the event of a dispute with a Provider regarding payment, Providers will utilize Vendor's policies and procedures for the appropriate appeal and grievance process. Vendor shall ensure that its provider dispute process is in compliance with all applicable state and federal requirements for both participating and non-participating providers. Vendor will notify United of Provider disputes and provide all necessary data to United regarding the dispute, and will maintain such dispute records as required by law. United shall cooperate with Vendor with respect to any such appeal or grievance process and unless otherwise required by state or federal requirements be bound by Vendor's resolution of the dispute.

**4.4 Coverage Disputes between Vendor and United or a Payor Regarding Members.** In the event: (a) of a dispute between Vendor and United or a Payor regarding whether particular services and/or supplies for a Member are Covered Services for which Vendor has financial responsibility; or (b) if United or a Payor enters into a settlement agreement with a Member as a result of actual or threatened grievance, arbitration or litigation, and United or Payor and Vendor do not agree on financial liability for such services (collectively, a "Coverage Dispute"), the parties shall comply with the following Coverage Dispute resolution procedure:

(i) The Coverage Dispute shall be submitted to United's or the Payor's and Vendor's medical directors, or equivalent, for review.

(ii) The medical directors shall issue their determination within seven (7) business days after submission and receipt of appropriate and necessary information.

(iii) If there continues to be a Coverage Dispute after the medical directors' review, the parties shall submit the Coverage Dispute to the appropriate senior executive at each organization, who shall issue their determination within seven (7) business days after submission.

(iv) If there continues to be a Coverage Dispute, the affected parties may initiate dispute resolution pursuant to Section 10 of this Agreement.

**4.5 Effect of Expiration or Termination.** When this Agreement or this Addendum expires or is terminated, the parties agree as follows:

Vendor is administratively responsible (and is also financially responsible for the Full Service Benefit Plans) for any claims for Covered Services provided prior to the expiration or termination date, even if the claim for such Covered Services is not received until after the expiration or termination date. The applicable terms of this Addendum, including Sections 4.1 to 4.4, apply to such claims.

Vendor is also administratively responsible (and is also financially responsible for the Full Service Benefit Plans) for any claims for Covered Services provided after the expiration or termination date if the claim is related to completing Covered Services that started prior to the expiration or termination date. Completing such Covered Services is included in the payments Vendor received prior to the expiration or termination date. The applicable terms of this Addendum, including Sections 4.1 to 4.4, apply to such claims.

Vendor is not financially or administratively responsible for any other claims for Members that are related to Covered Services provided after the expiration or termination date. Vendor shall promptly forward any claims it receives for post-expiration or post-termination date Covered Services for Members that are not Vendor's responsibility to United or United's designee in a manner consistent with any agreement reached.

## **SECTION 5 OTHER SERVICES**

5.1 General Services. In addition to the services described herein, Vendor shall provide the following:

(a) Vendor will provide United with the reports identified below regarding Covered Services. Vendor shall provide such reports to United no later than thirty (30) business days after the end of each month or calendar quarter, as appropriate or as required by statutes, laws or regulations.

(i) Vendor shall provide United, in a format specified by United, a monthly file of those Participating Providers either terminated from or added to Vendor's network to ensure that United can update its system appropriately or as required by statutes, laws or regulations.

(ii) Vendor shall provide standard monthly and quarterly cumulative reports. Vendor agrees to cooperate with United in preparing any encounter or other reports, including but not limited, denial rate reports; aged claims reports; claims audit reports; coordination of benefits collection from third parties reports; and any other reports that may be required by any applicable state contract, state or federal regulatory agencies.

(iii) Upon agreement of the parties and for an additional fee, Vendor shall provide, within a time period mutually agreed to by the parties, specialized reporting of data regarding Covered Services provided or authorized by Vendor.

(iv) Vendor and United agree that United may receive one ad hoc report at no additional cost. Additional requests, description of work, terms, schedules and rates shall be detailed and mutually agreed to by United and Vendor prior to commencement of the work.

(b) Vendor shall make commercially reasonable efforts to provide Participating Provider contact information required for basic service calls from Members. Vendor shall provide a monthly report to United of such service calls.

(c) Vendor shall cooperate with United with respect to surveys of a sample of Members who have accessed Covered Services pursuant to this Agreement and/or Participating Providers to assess satisfaction with Vendor. If areas of dissatisfaction are identified as a result of such surveys, Vendor will develop commercially reasonable corrective strategies for mutually identified areas of concern.

**5.2 Quality Management.** United and Vendor shall establish and maintain their own quality management programs and such other assessment and improvement programs determined to be appropriate. Vendor shall cooperate with, and shall use reasonable efforts to ensure Participating Providers cooperate with, any such reasonable and similar programs established or required by United, a Payor, or any applicable state or federal regulatory agency.

**EXHIBIT C**  
**MEDICARE ADVANTAGE REGULATORY REQUIREMENTS APPENDIX**  
**MEDICAL VENDOR**

**THIS MEDICARE ADVANTAGE REGULATORY REQUIREMENTS APPENDIX** (this “Appendix”) supplements and is made part of the agreement (the “Agreement”) with March Vision Care Group Incorporated (“Subcontractor”).

**SECTION 1**  
**APPLICABILITY**

This Appendix applies to the services provided by Subcontractor pursuant to the Agreement as such services relate to the provision of Covered Services to Medicare Advantage Customers. In the event of a conflict between this Appendix and other appendices or any provision of the Agreement, the provisions of this Appendix shall control except: (1) with regard to Benefit Plans outside the scope of this Appendix; or (2) as required by applicable law.

**SECTION 2**  
**DEFINITIONS**

For purposes of this Appendix, the following terms shall have the meanings set forth below.

**2.1 Benefit Plan:** A certificate of coverage, summary plan description, or other document or agreement, whether delivered in paper, electronic, or other format, under which a Payer is obligated to provide coverage of Covered Services for a Customer.

**2.2 CMS Contract:** A contract between the Centers for Medicare & Medicaid Services (“CMS”) and a Medicare Advantage Organization for the provision of Medicare benefits pursuant to the Medicare Advantage Program under Title XVIII, Part C of the Social Security Act.

**2.3 Cost Sharing:** Those costs, if any, under a Benefit Plan that are the responsibility of the Customer, including deductibles, coinsurance, and copayments.

**2.4 Covered Service:** A health care service or product for which a Customer is entitled to receive coverage from a Payer, pursuant to the terms of the Customer’s Benefit Plan with that Payer.

**2.5 Customer:** A person eligible and enrolled to receive coverage from a Payer for Covered Services.

**2.6 Dual Eligible Customer:** A Medicare Advantage Customer who is: (a) eligible for Medicaid; and (b) for whom the state is responsible for paying Medicare Part A and B Cost Sharing.

**2.7 Medicare Advantage Benefit Plans:** Benefit Plans sponsored, issued or administered by a Medicare Advantage Organization as part of the Medicare Advantage program or as part of the Medicare Advantage program together with the Prescription Drug program under Title XVIII, Part C and Part D, respectively, of the Social Security Act (as those program names may change from time to time).

**2.8 Medicare Advantage Customer or MA Customer:** A Customer eligible for and enrolled in a Medicare Advantage Benefit Plan that is covered under the Agreement.

**2.9 Medicare Advantage Organization or MA Organization:** For purposes of this Appendix, MA Organization is: (a) UnitedHealthcare Insurance Company or one of its affiliates that has entered into a contract with CMS for the purpose of offering a Benefit Plan to MA Customers; or (b) Payer.

**2.10 Participating Provider:** A hospital, ancillary provider, physician group, individual physician, or other health care provider, duly licensed or authorized under the laws of the jurisdiction in which Covered Services are provided, who participates in MA Organization's network through a provider agreement or network participation agreement with Subcontractor.

**2.11 Payer:** An entity obligated to a Customer to provide reimbursement for Covered Services under the Customer's Benefit Plan, and authorized to access Participating Providers' services rendered pursuant to the Agreement.

### **SECTION 3 DELEGATED ACTIVITIES**

**3.1 MA Organization Accountability; Delegated Activities.** Subcontractor acknowledges and agrees that MA Organization oversees and is accountable to CMS for any functions and responsibilities described in the CMS Contract and applicable Medicare Advantage regulations, including those that MA Organization has delegated to Subcontractor under the Agreement. In addition to the other provisions of this Appendix, the following shall apply with respect to any functions and responsibilities under the CMS Contract that MA Organization has delegated to Subcontractor pursuant to the Agreement:

(a) Subcontractor shall perform or arrange for the provision of those delegated activities set forth in the Agreement.

(b) Subcontractor shall comply with any reporting responsibilities as set forth in the Agreement.

(c) If MA Organization has delegated to Subcontractor any activities related to the credentialing of health care providers, Subcontractor must comply with all applicable CMS requirements for credentialing, including but not limited to the requirement that the credentials of medical professionals must either be reviewed by MA Organization, or the

credentialing process must be reviewed, preapproved, and audited on an ongoing basis by MA Organization.

(d) If MA Organization has delegated to Subcontractor the selection of health care providers to be participating providers in MA Organization's Medicare Advantage network, or the selection of contractors or subcontractors to perform services under the CMS Contract, MA Organization retains the right to approve, suspend or terminate the participation status of such health care providers and the agreements with such contractors or subcontractors.

(e) Subcontractor acknowledges that MA Organization shall monitor Subcontractor's performance of delegated activities on an ongoing basis. Such monitoring activities may include site visits and periodic audits. If CMS or MA Organization determines that Subcontractor has not performed satisfactorily, or has failed to meet all reporting and disclosure requirements in a timely manner, MA Organization may revoke any or all of the delegated activities and reporting requirements. Subcontractor shall cooperate with MA Organization regarding the transition of any delegated activities or reporting requirements that have been revoked by MA Organization.

#### **SECTION 4 SUBCONTRACTOR AND PARTICIPATING PROVIDER REQUIREMENTS**

**4.1 Data.** Subcontractor shall and/or shall require Participating Providers to, submit to MA Organization all risk adjustment data as defined in 42 CFR 422.310(a), and other Medicare Advantage program-related information as may be requested by MA Organization, within the timeframes specified and in a form that meets Medicare Advantage program requirements. By submitting data to MA Organization, Subcontractor and Participating Providers represent to MA Organization, and upon MA Organization's request, shall certify in writing, that the data is accurate, complete, and truthful, based on Subcontractor's or Participating Providers' best knowledge, information and belief.

**4.2 Policies.** Subcontractor shall, and shall require Participating Providers to, cooperate and comply with MA Organization's policies and procedures.

**4.3 Customer Protection.** Subcontractor agrees, and shall require Participating Providers to agree, that in no event, including but not limited to, non-payment by Subcontractor, MA Organization or an intermediary, insolvency of Subcontractor, MA Organization or an intermediary, or breach of the Agreement, shall Subcontractor or Participating Providers bill, charge, collect a deposit from, seek compensation, remuneration or reimbursement from, or have any recourse against any MA Customer or person (other than MA Organization or an intermediary) acting on behalf of the MA Customer for Covered Services provided pursuant to the Agreement, or for any other fees that are the legal obligation of MA Organization under the CMS Contract. This provision does not prohibit a Participating Provider from collecting from MA Customers allowable Cost Sharing. This provision also does not prohibit a Participating

Provider and an MA Customer from agreeing to the provision of services solely at the expense of the MA Customer, as long as the Participating Provider has clearly informed the MA Customer, in accordance with applicable law, that the MA Customer's Benefit Plan may not cover or continue to cover a specific service or services.

In the event of MA Organization's or an intermediary's insolvency or other cessation of operations or termination of MA Organization's contract with CMS, Subcontractor shall require Participating Providers to continue to provide Covered Services to an MA Customer through the later of the period for which premium has been paid to MA Organization on behalf of the MA Customer, or, in the case of MA Customers who are hospitalized as of such period or date, the MA Customer's discharge.

This provision shall be construed in favor of the MA Customer, shall survive the termination of the Agreement regardless of the reason for termination, including MA Organization's insolvency, and shall supersede any contrary agreement, oral or written, between Subcontractor or Participating Providers and an MA Customer or the representative of an MA Customer if the contrary agreement is inconsistent with this provision.

For the purpose of this provision, an "intermediary" is a person or entity authorized to negotiate and execute the Agreement on behalf of Participating Providers or on behalf of a network through which Participating Providers elect to participate.

**4.4 Dual Eligible Customers.** Subcontractor agrees, and shall require Participating Providers to agree, that in no event, including but not limited to, non-payment by a state Medicaid Agency or other applicable regulatory authority, other state source, or breach of the Agreement, shall Subcontractor or Participating Providers bill, charge, collect a deposit from, seek compensation, remuneration or reimbursement from, or have any recourse against any Dual Eligible Customer, person acting on behalf of the Dual Eligible Customer, or MA Organization (unless notified otherwise) for Medicare Part A and B Cost Sharing. Instead, Subcontractor and Participating Providers will either: (a) accept payment made by or on behalf of MA Organization as payment in full; or (b) bill the appropriate state source for such Cost Sharing amount. If Subcontractor or Participating Providers impose an excess charge on a Dual Eligible Customer, Subcontractor and Participating Providers are subject to any lawful sanction that may be imposed under Medicare or Medicaid. This provision does not prohibit a Participating Provider and a Dual Eligible Customer from agreeing to the provision of services solely at the expense of the Dual Eligible Customer, as long as the Participating Provider has clearly informed the Dual Eligible Customer, in accordance with applicable law, that the Dual Eligible Customer's Benefit Plan may not cover or continue to cover a specific service or services.

**4.5 Eligibility.** Subcontractor agrees and shall require Participating Providers to agree to immediately notify MA Organization in the event Subcontractor or any Participating Provider is or becomes excluded from participation in any federal or state health care program under Section 1128 or 1128A of the Social Security Act. Subcontractor shall not, and shall require Participating Providers not to employ or contract for the provision of health care services, utilization review, medical social work or administrative services, (collectively "Eligibility

Services”), with or without compensation, with any individual or entity that is or becomes excluded from participation in any federal or state health care program under Section 1128 or 1128A of the Social Security Act. Subcontractor shall and shall require Participating Providers to review the Department of Health and Human Services Officer of Inspector General List of Excluded Individuals and Entities and the System for Award Management (SAM), a portal for the Federal Procurement System (or any successor listing of excluded individuals or entities) prior to the hiring or contracting of any new employee, temporary employee, volunteer, consultant, governing body member or subcontractor for the provision of Eligibility Services. Subcontractor must and must require Participating Providers to continue to review these lists on a monthly basis thereafter to ensure that none of these persons or entities are excluded or become excluded from participation in federal programs.

**4.6 Laws.** Subcontractor shall comply with all applicable federal and Medicare laws, regulations, and CMS instructions, including but not limited to: (a) federal laws and regulations designed to prevent or ameliorate fraud, waste, and abuse, including but not limited to, applicable provisions of federal criminal law, the False Claims Act (31 U.S.C. §3729 et seq.), and the anti-kickback statute (§1128B of the Social Security Act); and (b) HIPAA administrative simplification rules at 45 CFR Parts 160, 162, and 164. Subcontractor shall require Participating Providers to comply with all the requirements in this section.

**4.7 Federal Funds.** Subcontractor acknowledges, and agrees to inform Participating Providers, that MA Organization receives federal payments under the CMS Contract and that payments Subcontractor or Participating Providers receive from or on behalf of MA Organization are, in whole or in part, from federal funds. Subcontractor and Participating Providers are therefore subject to certain laws that are applicable to individuals and entities receiving federal funds.

**4.8 CMS Contract.** Subcontractor shall perform the services set forth in the Agreement in a manner consistent with and in compliance with MA Organization’s contractual obligations under the CMS Contract. Subcontractor shall also require that health care services rendered to MA Customers by Participating Providers pursuant to the Agreement are performed in a manner consistent with and in compliance with MA Organization’s contractual obligations under the CMS Contract.

**4.9 Records.**

(a) Maintenance; Privacy and Confidentiality; Customer Access. Subcontractor shall maintain records and information related to services provided by Subcontractor under the Agreement, including but not limited to MA Customer medical records and other health and enrollment information, in an accurate and timely manner. Subcontractor shall maintain such records for the longer of the following periods:

(i) in the case of records containing information related to the medical loss ratio information reported to CMS by the MA Organization, including, for example, information related to incurred claims and quality improvement



- activities, at least ten (10) years from the date such medical loss ratio information is reported to CMS by the MA Organization, or
- (ii) in the case of all records, at least ten (10) years from the final date of the CMS Contract period in effect at the time the records were created, or such longer period as required by law.

Subcontractor shall safeguard MA Customer privacy and confidentiality, including but not limited to the privacy and confidentiality of any information that identifies a particular MA Customer, and shall comply with all federal and state laws regarding confidentiality and disclosure of medical records or other health and enrollment information, including the requirements established by MA Organization and the Medicare Advantage program, as applicable. Subcontractor shall ensure that MA Customers have timely access to medical records and information that pertain to them, in accordance with applicable law. Subcontractor shall require Participating Providers to comply with all the requirements in this section with respect to records and information related to health care services provided by Participating Providers to MA Customers pursuant to the Agreement.

(b) Government Access to Records. Subcontractor acknowledges and agrees that the Secretary of Health and Human Services, the Comptroller General, or their designees shall have the right to audit, evaluate and inspect any pertinent books, contracts, computer or other electronic systems (including medical records), patient care documentation and other records and information belonging to Subcontractor and Participating Providers that involve transactions related to the CMS Contract. This right shall extend through the longer of the following periods:

- (i) in the case of records containing information related to the medical loss ratio information reported to CMS by the MA Organization, including, for example, information related to incurred claims and quality improvement activities, at least ten (10) years from the date such medical loss ratio information is reported to CMS by the MA Organization, or
- (ii) in the case of all records, at least ten (10) years from the later of the final date of the CMS Contract period in effect at the time the records were created or the date of completion of any audit, or longer in certain instances described in the applicable Medicare Advantage regulations.

For the purpose of conducting the above activities, Subcontractor shall, and shall require Participating Providers to, make available their premises, physical facilities and equipment, records relating to MA Customers, and any additional relevant information CMS may require.

(c) MA Organization Access to Records. Subcontractor shall, and shall require Participating Providers to, grant MA Organization or its designees such audit, evaluation, and inspection rights identified in subsection 4.9(b) as are necessary for MA

Organization to comply with its obligations under the CMS Contract. Whenever possible, MA Organization will give Subcontractor and Participating Providers reasonable notice of the need for such audit, evaluation or inspection, and will conduct such audit, evaluation or inspection at a reasonable time and place. Subcontractor shall, and shall require Participating Providers to, submit medical records of MA Customers to the MA Organization as may be requested, within the timeframes specified, for the purpose of (i) CMS audits of risk adjustment data and (ii) for other purposes medical records from providers are used by MA Organization, as specified by CMS. Provision of medical records must be in the manner consistent with HIPAA privacy statute and regulations.

**4.10 Subcontracts.** If Subcontractor has any arrangements, in accordance with the terms of the Agreement, with affiliates, subsidiaries or any other subcontractors, directly or through another person or entity, to perform any of the services Subcontractor is obligated to perform under the Agreement that are the subject of this Appendix, Subcontractor shall ensure that all such arrangements are in writing, duly executed, and include all the terms contained in this Appendix. Subcontractor shall provide proof of such to MA Organization upon request. In addition, Subcontractor agrees to oversee and monitor, on an ongoing basis, the services Subcontractor has subcontracted to another person or entity. Subcontractor further agrees to promptly amend its agreements with such subcontractors, in a manner consistent with the changes made to this Appendix by MA Organization, to meet any additional CMS requirements that may apply to the services. Subcontractor shall require Participating Providers to comply with all the requirements in this section.

**4.11 Offshoring.** Unless previously authorized by MA Organization in writing, all services provided by Subcontractor pursuant to the Agreement that are subject to this Appendix must be performed within the United States, the District of Columbia, or the United States territories. The following provisions apply to Medicare-related services that involve Medicare beneficiary protected health information (“PHI”) performed pursuant to the Agreement at locations outside of one of the fifty United States, the District of Columbia, or one of the United States Territories (American Samoa, Guam, Northern Marianas, Puerto Rico and Virgin Islands):

- (a) Subcontractor represents and warrants to MA Organization that Subcontractor has in place and will comply with policies and procedures to ensure that all PHI and other personal information remains secure. Subcontractor will provide written evidence of the policies and procedures upon MA Organization’s request.
- (b) Subcontractor will provide prior written notice to MA Organization of (a) any material change in the Medicare-related services that involve PHI that Subcontractor performs offshore, (b) any material change in Subcontractor’s policies and procedures to ensure that all PHI and other personal information remains secure, and (c) any material change in the tools and systems used by Subcontractor to ensure that all PHI and other personal information remains secure.

- (c) Subcontractor is prohibited from receiving access to any PHI or other personal information of MA Customers that is not associated with services performed and products provided by Subcontractor pursuant to the Agreement. If Subcontractor receives access to PHI or other personal information of MA Customers that is not associated with Subcontractor's services performed and products provided by Subcontractor pursuant to the Agreement, Subcontractor will immediately notify MA Organization that it has received such access, return all PHI or personal information accessed by Subcontractor, and destroy any such PHI or personal information that remains in Subcontractor's possession after doing so (i.e. copies, electronic records, back-ups or temporary files).
- (d) Subcontractor's services under the Agreement may be terminated immediately upon discovery of a significant security breach.
- (e) Subcontractor authorizes MA Organization or its designee to conduct an audit of Subcontractor at least annually.
- (f) Subcontractor acknowledges and agrees that MA Organization will use the results of its audit of Subcontractor to evaluate the continuation of MA Organization's relationship with Subcontractor.
- (g) Subcontractor authorizes MA Organization or its designee to share the results of audits of Subcontractor with CMS.

## **SECTION 5 OTHER**

**5.1 Payment.** MA Organization or its designee shall promptly process and pay or deny a Participating Provider's claim no later than sixty (60) days after MA Organization or its designee receives all appropriate information as described in MA Organization's administrative procedures. If Subcontractor or Participating Providers are responsible for making payment to subcontracted providers for services provided to MA Customers, Subcontractor shall, and shall require Participating Providers to, pay such providers no later than sixty (60) days after Subcontractor or a Participating Provider receives request for payment for those services from subcontracted providers.

**5.2 Regulatory Amendment.** MA Organization may unilaterally amend this Appendix to comply with applicable laws and regulations and the requirements of applicable regulatory authorities, including but not limited to CMS. MA Organization shall provide written notice to Subcontractor of such amendment and its effective date. Unless such laws, regulations or regulatory authority(ies) direct otherwise, the signature of Subcontractor will not be required in order for the amendment to take effect.

**EXHIBIT D**

**HMO OR INSURANCE SPECIFIC REGULATORY REQUIREMENTS APPENDIX**

**[NOT APPLICABLE]**

**EXHIBIT E**  
**STATE REGULATORY REQUIREMENTS APPENDIX**

**[SEE ATTACHED]**

## EXHIBIT F

### DELEGATED CREDENTIALING ADDENDUM

**THIS DELEGATED CREDENTIALING ADDENDUM** (this “Addendum”), supplements and is made a part of this Agreement.

#### SECTION 1 DEFINITIONS

All capitalized terms not otherwise defined herein shall have the meanings given to such terms in this Agreement.

**1.1 Complaint:** Any written or oral communication made by a Member or his or her authorized representative that expresses dissatisfaction about United, a Participating Practitioner or Component, or United’s products, benefits, coverage, services or operations.

**1.2 Component:** A hospital, skilled nursing facility, outpatient surgical center, free-standing surgical center, such as stand-alone abortion clinics and multispecialty outpatient surgical centers, or a similar facility (or as otherwise defined by the Credentialing Authorities), that is required by United and the Credentialing Authorities to be Credentialed to participate in United Network.

**1.3 Credential(ed), Credentialing or Recredentialing:** The process of assessing and validating the applicable criteria and qualifications of providers to become or continue as Participating Practitioners or Components, as set forth in the Credentialing Plan and pursuant to Credentialing Authorities.

**1.4 Credentialing Authorities:** The National Committee for Quality Assurance (“NCQA”) or other accrediting body as applicable to United, the Center for Medicare and Medicaid Services (“CMS”), as applicable, and other state and federal regulatory authorities, to the extent such authorities dictate credentialing requirements.

**1.5 Credentialing Plan:** United’s policy for Credentialing and Recredentialing of Practitioners and Components. To the extent the Credentialing Plan varies from any legal requirement, the law will control. The Credentialing Plan shall also include any state or federal regulatory requirements attached to the Credentialing Plan.

**1.6 Participating Component:** A Component that is included in United Network, directly or through another entity, pursuant to a Participation Agreement.

**1.7 Participating Practitioner:** A Practitioner that is included in United Network, directly or through another entity, pursuant to a Participation Agreement.

1.8 **Participation Agreement:** For purposes of this Addendum, an agreement that sets forth the terms and conditions under which a Practitioner or a Component, either directly or through another entity, participates in Vendor's Network.

1.9 **Practitioner:** A licensed or otherwise appropriately qualified health care professional or entity who is qualified and, when applicable, duly licensed and/or certified by the state in which he, she or it is located to furnish Covered Services when acting within the scope of his, her or its license or certification.

1.10 **Quality of Care:** The degree to which health services for Members and populations increase the likelihood of desired health outcomes and are consistent with current professional knowledge. Dimensions of performance include the following: Member perspective issues, safety of the health care environment, accessibility, appropriateness, continuity, effectiveness, efficacy and timeliness of care.

1.11 **United Network:** The network of Practitioners and/or Components established by United to provide or arrange for the provision of health care services to Members.

1.12 **Vendor Network:** The network of Practitioners and/or Components established by Vendor to provide or arrange for the provision of health care services.

## **SECTION 2 VENDOR RESPONSIBILITIES**

2.1 **Policies and Procedures.** Vendor may utilize its own policies and procedures for the performance of delegated activities set forth in this Addendum, subject to the terms and provisions hereof, and provided that such policies and procedures remain in compliance with the reasonable requirements of United, and applicable state and federal law and accreditation standards. All such policies and procedures shall be forwarded to United, on an annual basis or upon request, for ongoing review and approval.

2.2 **Compliance with Standards and Applicable Law.** Vendor shall at all times meet the applicable standards for Credentialing and Recredentialing, as required by Credentialing Authorities and as set forth in the most current Credentialing Plan. United shall provide Vendor a copy of the Credentialing Plan through regular mail or electronically. United may unilaterally change its Credentialing Plan by providing thirty (30) days prior written notice to Vendor of the changes and their effective dates; provided, however, if required by Credentialing Authorities, United may unilaterally change the Credentialing Plan immediately without prior written notice to Vendor of the changes and their effective dates. Any notice provided to Vendor under this Section may be in electronic format. Vendor shall also comply with all applicable laws related to the performance of delegated activities.

2.3 **Delegated Activities.** Vendor shall perform such delegated activities as United deems appropriate, including the Credentialing of Practitioners and Components in accordance with the Credentialing Plan, as may be amended from time to time, and the requirements set forth by the

**Credentialing Authorities.** Vendor understands and agrees that Practitioners and Components may not provide health care services to a Member unless and until such Practitioners and Components are properly Credentialed and have executed or are otherwise subject to a Participation Agreement. Vendor will not communicate anything to the contrary to a Practitioner or Component.

**2.4 Credentialing of Practitioners.** The Credentialing of Practitioners by Vendor shall include, but is not limited to:

- (a) establishing and maintaining credentialing standards, policies and procedures;
- (b) receiving the provider's application, reapplication and attestation, including documentation required under state and federal rules, regulations and any applicable contract between United and a state;
- (c) conducting office site visits as required by applicable law and/or state contract and medical record keeping assessments;
- (d) recredentialing Practitioner every thirty-six (36) months, unless otherwise required by applicable law,
- (e) confirming the Practitioner has active hospital staff privileges at a participating hospital, if applicable to Practitioner's practice;
- (f) confirming the Practitioner is Medicaid-enrolled and agrees to comply with all pertinent Medicaid regulations as applicable for participation in Medicaid programs
- (g) making decisions on Credentialing;
- (h) the ongoing monitoring and evaluation of Complaints, sanctions on licenses, Medicare/Medicaid Complaints, and Quality of Care issues.
- (i) primary source verification, where applicable, of the Practitioner's education, including successful completion of a residency program, board certifications, current licensure or certification and any sanctions or limitations thereon;
- (j) registration with the Drug Enforcement Agency as applicable;
- (k) possession of a State Controlled Dangerous Substance Certificate, as applicable;
- (l) current, active malpractice insurance or state-approved alternative;
- (m) malpractice history;
- (n) work history; and



- (o) verification that the Practitioner has not opted out of participation with Medicare, is not ineligible, excluded or debarred and does not have any restrictions, sanctions, censures or other disciplinary action (other than action regarding incomplete medical records) against him/her by any state or county medical association, medical staff, hospital, state or federal programs, including but not limited to, Medicare or Medicaid.

**2.5 Credentialing of Components.** If the Vendor Network includes Components, Vendor shall Credential the Components on behalf of United. The Credentialing of Components shall include, but is not limited to:

- (a) establishing and maintaining Credentialing standards, policies and procedures;
- (b) verification of current licensure or certification and any sanctions or limitations thereon;
- (c) verification that the Component is not ineligible, excluded or debarred and does not have any restrictions, sanctions or other disciplinary action against it by any state or federal programs;
- (d) verification of current, active malpractice insurance or state-approved alternative;
- (e) appropriate accreditation, certification or satisfactory alternative or a passing score on Component site visits; and
- (f) making decisions on Credentialing

**2.6 Right of Appeal.** If Vendor makes a decision to suspend or terminate a Participating Practitioner or Participating Component from Vendor's network, Vendor shall, in accordance with Vendor's and United's credentialing policies and procedures, offer such Participating Practitioner or Component the right to appeal or request a fair hearing. Vendor shall conduct the appeals process and report the action, as required by the Credentialing Authorities.

**2.7 Audit Participation.** Vendor shall fully cooperate and participate, either telephonically or personally, in audits conducted by Credentialing Authorities, including interview sessions, upon fourteen (14) calendar days notice from United, unless the Credentialing Authorities require a shorter timeframe. This Section shall survive any termination of this Agreement or the revocation of delegated activities pursuant to Section 3.3 of this Addendum.

**2.8 Records.** Unless applicable statutes or regulations require a longer time period, Vendor shall retain all information and records related to this Addendum according to United's record retention policies, or for at least ten (10) years, or as otherwise required by law. United, Credentialing Authorities and any federal, state or local governmental official or their authorized representatives who audit United shall have access to all records or copies which are pertinent to and involve transactions related to this Addendum if such access is necessary to comply with United's policies, applicable accreditation standards, statutes, or regulations. Photocopying and

mailing of records pursuant to this section shall be at no charge to United. United and Vendor shall maintain the privacy of all information regarding Members, Covered Services Participating Practitioners and Participating Components in accordance with applicable statutes and regulations. This Section shall survive any termination of this Agreement or the revocation of delegated activities pursuant to Section 3.3 of this Addendum.

**2.9 Improvement Action Plan.** In the event that, during an audit or any other time during the term of this Addendum, United discovers any deficiency(ies) in Vendor's delegated activities, Vendor shall develop an Improvement Action Plan for the specific activity that United determines to be deficient. The Improvement Action Plan shall include specifics of and timelines for correcting any deficiencies or issues contained in the audit report to Vendor. Vendor shall implement the Improvement Action Plan within the specified timeframes. In the event the Improvement Action Plan is not developed and/or implemented within such timeframes, United may revoke all or certain delegated activities pursuant to Section 3.3 of this Addendum. If deficiencies are identified, United retains the right to increase its monitoring, evaluations, and audits of Vendor until the deficiencies are corrected.

**2.10 Documentation and Information.** Vendor shall provide to United the following documentation and information according to the time periods listed below:

(a) **Inquiries and Investigations.** Within ten (10) business days of Vendor's knowledge of actions taken as a result of any inquires or investigation by regulatory agencies, or Quality of Care issues investigated by Vendor, that result in the limitation, restriction, suspension or termination of a Participating Practitioner's or Component's ability to provide services to Members, Vendor shall provide United with documentation related to such inquires or investigations. Vendor is not required to provide United with information that is peer review protected or documents and deliberation considered confidential or privileged by HCQIA (Health Care Quality Improvement Act-1986) or according to state peer review laws.

(b) **Improvement Action Plan Items.** Every six (6) months after the Effective Date of this Agreement, Vendor shall provide United with any outstanding Improvement Action Plan items.

(c) **List of Participating Practitioners and Components.** Upon United's request, which will be at least semi-annually and annually, Vendor shall provide United with a complete list of Participating Practitioners and Components currently active in United Network and Credentialed by Vendor.

### **SECTION 3 COMPANY'S RESPONSIBILITIES**

**3.1 Pre-Delegation Assessment.** The parties acknowledge that United has completed a pre-assessment audit of Vendor to assess its ability to fulfill the terms of this Addendum.

**3.2 United Delegation, Oversight, Monitoring and Audit.** United shall perform oversight and monitoring of Vendor's performance under this Addendum, including but not limited to, review of the documentation and information related to delegated activities, as set forth in Section 2.10 of this Addendum. At any time, but at least annually, United will audit records and documents related to the activities performed under this Addendum, including but not limited to Vendor's Credentialing and Recredentialing files. United, in its sole discretion, will conduct desk-top review of Vendor's written policies and procedures and will perform file review audits at the site of Vendor. United will provide written notice of annual audits at least thirty (30) calendar days prior to the audit. United shall provide a report of its audit findings to Vendor within thirty (30) calendar days of the audit's conclusion. For all additional audits, United shall provide at least fourteen (14) calendar days prior written notice, unless state or federal regulators or other Credentialing Authorities require a shorter timeframe. The audit notes shall include a list of the records to be reviewed.

**3.3 Revocation of Delegation.** United may revoke the delegation of some or all of the activities which Vendor is obligated to perform under this Addendum in the event Vendor fails to meet the requirements of United, applicable law, regulations, or accreditation standards in the performance of the delegated activity(ies).

**3.4 Right to Approve, Suspend, or Terminate Practitioners.** United retains the absolute right to approve or reject a Practitioner or Component for participation in United Network or in any or all of its Benefit Plans. United also has the right to conduct independently any additional processes or verification procedures it deems necessary or appropriate, until such Practitioner or Component is Credentialed. United shall promptly inform Vendor and the affected Practitioner or Component of any denial, restriction or revocation of the provider's participation status in United Network or a Benefit Plan, as determined by United. United also retains the absolute right to terminate or suspend any Participating Practitioners or Components from participation in United Network or in any or all of its Benefit Plans. In no case shall this Section be construed to obligate Vendor to contract with or make use of any particular health care facility or professional.

## **SECTION 4 TERM**

**4.1 Term.** This Addendum shall run co-terminously with this Agreement, except that United may revoke any or all delegated activities at any time pursuant to Section 3.3.

**4.2 Records Upon Termination.** Upon the effective date of termination of this Agreement or revocation of all Delegated Activities pursuant to Section 3.3, Vendor shall provide United with a list of all Participating Practitioners and Participating Components that Vendor has Credentialed on United's behalf. Also, upon request by United, and if agreed to by Vendor, Vendor shall provide United with copies of Vendor's Credentialing and Recredentialing files that pertain to this Addendum. Such files shall be provided to United no more than thirty (30) days after the effective date of termination of this Agreement or revocation of all Delegated Activities pursuant to Section 3.3 of this Addendum.

## **SECTION 5 SUB-DELEGATION**

Under certain circumstances, United may allow Vendor to sub-delegate all or a part of its delegated activities under this Addendum to another entity. Prior to any such sub-delegation arrangement, Vendor must:

- (a) warrant that the sub-delegation agreement between Vendor and the sub-delegated organization meets the requirements of Credentialing Authorities and all terms and provisions of this Addendum;
- (b) agree to oversee and perform audits of those activities it has sub-delegated to another entity in accordance with the requirements of Credentialing Authorities and this Addendum;
- (c) provide all reports to United that are required under this Addendum; and
- (d) not enter into the sub-delegation agreement until Vendor provides notification no less than thirty (30) days prior.

**EXHIBIT G**  
**EXCHANGE REGULATORY APPENDIX**

**[NOT APPLICABLE]**

**EXHIBIT H**

**THIRD PARTY ADMINISTRATOR APPENDIX**

**[SEE ATTACHED]**

### **THIRD PARTY ADMINISTRATOR AND OTHER SERVICES PROVISIONS**

With respect to any third party administrator (“TPA”) and other services described below provided by Vendor pursuant to this Agreement, the parties shall comply with the following provisions to the extent that such provisions are applicable to the type of services being provided and in the capacity of any licenses which Vendor is required to hold. If any provision of this Addendum is deemed to be in conflict with any other provision of this Agreement, this Addendum shall control.

1. Advertising. Vendor may use only such advertising pertaining to United’s business as has been approved by United in writing in advance of its use.
2. Underwriting Standards. With respect to all business underwritten by the United, Vendor shall use the underwriting and other standards, including, without limitation, criteria and procedures applicable to insurance coverage and reinsurance, if any, all as approved by United and as provided by United to Vendor from time to time.
3. Premium Collection and Payment of Claims.
  - a. Any insurance charges or premiums collected by Vendor on behalf of or for United, and any return premiums received by Vendor from United, shall be held by Vendor in a fiduciary capacity.
  - b. If funds deposited in a fiduciary account maintained or controlled by Vendor have been collected on behalf of or for more than one insurer, or for the payment of claims associated with more than one policy, Vendor shall keep records clearly recording the deposits in and withdrawals from such account on behalf of or for each insurer and relating to each policyholder. Vendor shall, upon request of United, furnish United with copies of such records pertaining to deposits and withdrawals of or for United, and make available to United a monthly accounting detailing all deposits into and withdrawals from the fiduciary account performed by Vendor pertaining to the business underwritten by United with any required settlement.
  - c. Vendor shall not pay any claim by withdrawals from a fiduciary account in which premiums or charges are deposited. Withdrawals from a fiduciary account shall be permitted only for any of the following: (i) remittance to United as United becomes entitled to such remittance, (ii) deposit in an account maintained in the name of United, (iii) transfer to and deposit in a claims-paying account, with claims to be paid in accordance with paragraph 3(d) below, (iv) payment to a group policyholder for remittance to United, (v) payment to Vendor of its compensation, fees or charges, (vi) remittance of return premium to the person or persons entitled to such return premium, and (vii) as

permitted by United.

- d. All claims paid by Vendor from funds collected on behalf of United shall be paid only as authorized by United and in compliance with any unfair claims practices or other relevant statutes or regulations. Vendor shall make available to United a report of claims within 30 days. United may terminate Vendor's settlement authority for cause upon thirty (30) days prior written notice and may suspend settlement authority during any time necessary to settle any dispute over cause of termination.
  - e. All claims paid by Vendor from funds collected on behalf of United shall be paid only on drafts, checks or electronic transfers of and as authorized by United.
4. Delivery of Policies and Notices. Any policies, certificates, booklets, termination notices or other written communications delivered by United to Vendor for delivery to United's customers shall be delivered by Vendor promptly after receipt of instructions from United to do so.
  5. Communications with Claimants. Communications between Vendor and claimants shall avoid deceptive statements with regard to the responsibilities of Vendor (as the TPA) and United with regard to claims or premiums.
  6. Compensation for Adjusting or Settling Claims or Providing Utilization Review ("UR") Services. Compensation to Vendor for any policies where Vendor adjusts or settles claims and/or provides UR services shall in no way be contingent on claims experience or loss ratios in those instances where such contingency fees or other fee arrangements are prohibited by law. Compensation for UR services shall not be based on factors, including but not limited to, number or frequency or type of certification denials, reduction of services, reduction of charges, reduction of length of treatment, or utilization of alternative treatment settings to reduce amounts of necessary or appropriate medical care. Provided, however, this shall not prevent the compensation of Vendor from being based on premiums or charges collected or number of claims paid or processed. Vendor shall only be entitled to compensation for its services as expressly set forth in this Agreement.
  7. Bond Required. Vendor shall maintain any and all deposits and bonds in favor of state insurance regulatory authorities that are required to be held by applicable law.
  8. Payments Handled by Vendor. Whenever United utilizes such services of Vendor, any payment to Vendor of any premium or charges for insurance by or on behalf of the insured shall be deemed to have been received by United, and the payment of return premiums or claims by United to Vendor shall not be deemed payment to the insured or claimant until the payments are received by the insured or claimant. Nothing in this section shall limit any right of United against Vendor resulting from its failure to make payments to the insurer, insureds or claimants.



9. **Record Keeping.** In addition to other record-keeping provisions in this Agreement, Vendor shall maintain, at its principal administrative office, in accordance with prudent standards of insurance record keeping and applicable Laws and Regulations, accurate, complete and timely books and records (collectively, "Records"), of all transactions occurring as part of Administrator's furnishing of TPA Services. Any trade secrets contained in the Records, including, but not limited to, the identity and addresses of policyholders and certificate holders, shall be confidential, except that insurance regulators may use the information in any proceedings maintained against Vendor. United retains the right to continuing access to the Records of Vendor sufficient to permit United to fulfill all of its contractual obligations to insured persons, subject to any restrictions in the written agreement between United and Vendor concerning the proprietary rights of the parties in the Records.
  
10. **Notice of Vendor's Capacity.** Vendor shall provide a written notice approved by United to Members advising them of the identity of, and relationship among Vendor, the Member, and United.
  
11. **UR Standards.** The UR services performed by Vendor shall be performed in accordance with nationally recognized accreditation organization's published national standards that United is required to meet ("Utilization Review Standards") and includes, but are not limited to, the intake of information and reviewing the adequacy and appropriateness of health care services on a prospective, concurrent and retrospective basis. Vendor shall perform the UR functions in accordance with the United's requirements, policies and/or procedures, and the Utilization Review Standards.