

**AGREEMENT BETWEEN
BOARD OF COUNTY COMMISSIONERS FOR WOOD COUNTY
AND _____**

THIS AGREEMENT is made and entered into on this ____ day of _____, 20__ by and between Wood County Board of County Commissioners, located at Fifth Floor, County Office Building, One Courthouse Square, Bowling Green, Wood County, Ohio 43402 (hereinafter, “County”), [insert Vendor/Service Provider Legal Name], whose principal office is located at [insert Vendor/Service Provider Address] (hereinafter, “Vendor”).

WHEREAS, Ohio Revised Code § 307.86(F) authorizes the County to issue a Request for Proposals (RFP) for the purchase of a vision benefits program; and

WHEREAS, the County has satisfied the statutory requirements and the Vendor, following submission of a sealed proposal and negotiation with the County, has been selected to provide a vision benefits program on the terms set out herein.

WHEREAS, Vendor is willing to provide vision benefits under the terms and conditions provided in this Agreement and the attached RFP, incorporated herein as Exhibit A. If any provision of this Agreement irreconcilably conflicts with the provisions in Exhibit A, this Contract takes precedence; and

WHEREAS, the County has authorized that this Agreement be entered into and appropriated the money therefor.

NOW, THEREFORE, the parties hereto, each in consideration of mutual promises and obligations assumed herein by the other, agree as follows:

I. VENDOR'S RESPONSIBILITIES / SCOPE OF WORK

Vendor agrees to do or provide the following:

A. Comply with all applicable federal, state, and local rules, regulations, statutes, and ordinances.

B. _____.

II. COUNTY'S RESPONSIBILITIES

The County agrees to do the following:

A. _____.

B. _____.

III. TERM

A. This Agreement shall be thirty-six (36) months, commencing January 1, 2025 and ending on December 31, 2027. Thereafter, this Agreement may be renewed for three additional

one (1) year periods, upon mutually agreed terms. Either party desiring to renegotiate this Agreement shall notify the other party of its intent to renegotiate one hundred twenty (120) days prior to expiration of the Term. In the absence of a written agreement signed by both parties indicating otherwise, this Agreement shall automatically be renewed upon the same terms and conditions.

- B. HIPAA. County and Vendor agree to comply with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and Ohio law and to abide by the provisions of the Business Associate Agreement which is attached as Exhibit B and incorporated into this Agreement.

IV. COMPENSATION

County agrees to pay Vendor the amount of \$_____ within thirty (30) days of receipt of an approved invoice and acceptance of the goods and/or services rendered as required in Vendor's Responsibilities/Scope of Work above.

V. SALES TAX

The Contractor understands and agrees that the County is a political subdivision of the State of Ohio and is exempt from sales and use tax.

VI. TERMINATION

A. The County may terminate this Agreement with or without cause, by providing thirty (30) days prior written notice to the other party.

B. If County determines that Vendor has failed to perform satisfactorily any requirements of this Agreement or if Vendor is in violation of a specific provision of this Agreement, or upon other just cause, the County may: (1) Terminate the Agreement after providing Vendor with written notice of its failure to perform satisfactorily any requirement of the Agreement, which shall provide Vendor with a thirty (30) day period to cure any and all defaults under this Agreement; or (2) immediately terminate the Agreement.

C. Upon receipt of the notice of termination, the Vendor shall immediately cease all work pursuant to this Agreement and take all steps necessary to minimize the costs the Vendor will incur related to this Agreement. Within sixty (60) days after termination of this Agreement, the Vendor shall return any unused funds pursuant to this Agreement. Upon termination of this Agreement, Vendor shall be compensated for any invoices that have been issued in accordance with this Agreement for services satisfactorily performed in accordance with the terms and conditions of this Agreement up to the date of termination.

D. Vendor shall not be relieved of liability to County for damages sustained by County by virtue of any breach of Agreement by Vendor.

VII. INDEMNIFICATION AND LIMITATION OF LIABILITY

A. Vendor shall indemnify and hold the County and its officials, employees, and agents harmless from any and all losses, claims, damages, lawsuits, demands, actions, judgments, expenses, penalties, attorneys' fees, defense costs or any other injury, damage, or liability arising out of work performed or services provided pursuant to this Agreement from persons who are not

party thereto and who claim or allege any bodily injury, sickness or death, damage to their property, expense or other harm caused in whole or in part by the acts or omissions of the Vendor or its officers, employees, agents, subcontractors, assigns or any other person for whose acts any of them may be liable.

B. Each party shall be responsible for any liability, claim, loss, damage, or expense arising from its acts or omissions in connection with its performance of this Agreement, or its failure to comply with the terms of this Agreement, as required under the laws of the State of Ohio. County shall be entitled to all immunities and defenses accorded by state and federal law. In no event shall County be liable for any indirect or consequential damages, even if County knew or should have known the possibility of such damages. County does not agree to cap Vendor's liability.

C. Pursuant to Ohio law, including but not limited to Ohio Revised Code §5705.41, County shall not defend, indemnify, or hold harmless Vendor from any claims, liabilities, losses, expenses, attorneys' fees, and any other open-ended financial obligations or causes of action of any kind arising under this Agreement.

VIII. INDEPENDENT CONTRACTOR

A. It is hereby agreed by and between the parties that the relationship between the Vendor and the County shall be that of an independent contractor and that no employer-employee, or agent-principal relationship is created by this Agreement. The County is interested in the results achieved and the conduct and control of the work will lie solely with the Vendor.

B. The Vendor is not entitled to any of the benefits the County provides its employees. It is further understood that the County does not agree to use the Vendor exclusively. Moreover, it is understood that the Vendor is free to contract for similar services to be performed for other parties while he is under contract with the County. The Vendor shall be solely liable and responsible to pay all required taxes and other obligation, including, but not limited to, withholding and social security.

C. Vendor agrees that its employees and its independent contractors/subcontractors are not and will not become employees of Wood County when providing the goods and performing the services that are the subject of the Agreement. Vendor also agrees that it will take all steps necessary to ensure that the persons or entities providing the goods and performing the services that are the subject of this Agreement will not do so in such a way as to be regarded as "public employees" as defined and utilized in Ohio Revised Code Chapter 145 and Ohio Administrative Code 145.

IX. FORCE MAJEURE

County's obligation to make payments coincides with the obligation of Vendor to provide services. If Vendor's performance is impossible by Force Majeure, County's payment obligation will be adjusted accordingly.

X. PROOF OF INSURANCE

A. The Vendor will procure and maintain at its own cost for the duration of this

Agreement the following insurance:

1. Commercial General Liability Insurance policy in the amount of at least \$1,000,000.00 per occurrence and \$2,000,000.00 in the aggregate.
2. Employers Liability (Ohio Stop Gap) Insurance in the amount of at least \$1,000,000.00 each occurrence, \$1,000,000.00 each accident and \$1,000,000.00 each disease.
3. Business Auto Liability Insurance policy in the amount of at least \$1,000,000.00 combined single limit, on all owned, non-owned, leased and hired automobiles.
4. Professional Liability (errors and omissions) insurance of at least \$1,000,000.00 per claim and \$2,000,000.00 in the aggregate, if applicable.
5. Umbrella and excess liability insurance policy with limits of at least \$1,000,000.00 per occurrence and \$1,000,000.00 in the aggregate, above the commercial general and professional liability, employers' liability, business auto primary policies.
6. Cyber liability insurance policy with limits of at least \$1,000,000.00 per occurrence.
7. Workers' Compensation insurance covering all individuals performing work under this Agreement at the statutory limits required by the Ohio Revised Code.

B. The Vendor further agrees to name the County as an additional insured on all contracts of insurance for the duration of this Agreement except for professional liability and workers compensation insurance. The endorsement form and the certificate of insurance shall state the following: "Wood County Commissioners, and its respective officials, employees, agents, and volunteers are endorsed as additional insured as required by Agreement on the commercial general, business auto and umbrella/excess liability policies." All certificates and endorsements must be received by the County before work pursuant to this Agreement commences.

C. Vendor shall ensure that all subcontractors performing work under this Agreement shall comply with the insurance requirements contained herein.

XI. NONDISCRIMINATION CLAUSE

A. It is understood and agreed that, in compliance with the provisions of Ohio Revised Code §§125.111 and 153.59 and federal law, the Vendor shall have a written affirmative action program for the employment and effective utilization of economically disadvantaged persons and the Vendor, any subcontractor, or any person acting on their behalf shall not:

1. Discriminate by reason of race, color, religion, sex (including pregnancy, gender identity and sexual orientation), age, disability or military status as defined in Ohio Revised Code § 4112.01, national origin, or ancestry, against any citizen of the state in the employment of persons qualified and available to perform the work to which this Contract relates.
2. Discriminate in any manner against, intimidate, or retaliate against any employee hired for the performance of work under this Contract on account of race, color, religion, sex (including pregnancy, gender identity and sexual orientation), age, disability or military status as defined in Ohio Revised Code §4112.01, national

origin, or ancestry.

XII. GOOD STANDING

The Contractor certifies that all approvals, licenses, registrations, or other qualifications necessary to conduct business in Ohio have been obtained and are operative. If at any time during the term of this Agreement, the Contractor becomes disqualified from conducting business in Ohio, for whatever reason, the Contractor shall immediately notify the County of the disqualification.

XIII. ASSIGNMENT

The Vendor shall not assign any duties or compensation received under this Agreement without the express prior written consent of the County.

XIV. MODIFICATION OF AGREEMENT

Any alteration or modification of the terms or conditions of this Agreement must be in writing and signed by the parties.

XV. CHILD SUPPORT

The Contractor declares that its principal officers, directors, shareholders and/or partners are current with any court-ordered child support payments pursuant to the Board of County Commissioners' Resolution No. 92-2041.

XVI. DEBT CHECK PROVISION

Ohio Revised Code § 9.24 prohibits public agencies from awarding a contract for goods, services, or construction, paid for in whole or in part from state funds, to a person or entity against who a finding for recovery has been issued by the Ohio Auditor of State, if the finding for recovery is unresolved. By entering into this Agreement, Vendor warrants that a finding for recovery has not been issued to Vendor by the Ohio Auditor of State. Vendor further warrants that Vendor shall notify County within one (1) business day should a finding for recovery occur during the Agreement term. This Debt Check Provision applies when the ensuing contract is estimated to exceed twenty-five thousand dollars (\$25,000.00).

XVII. WAIVER

Any waiver by either party of any provision or condition of this Agreement shall not be construed or deemed to be a waiver of any other provision or condition of this Agreement, nor a waiver of a subsequent breach of the same provision or condition.

XVIII. SEVERABILITY

If any section, subsection, sentence, clause, phrase, or portion of this Agreement shall for any reason be held invalid, unenforceable, or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

XIX. ORDER OF PRECEDENCE

If there are conflicting provisions between the documents that make up the Contract, the order of precedence for the documents is as follows:

- A. County’s standard Agreement
- B. RFP and all attachments and addenda
- C. Offeror’s proposal and all attachments

XX. PUBLIC RECORDS

Vendor acknowledges that the County is subject to the Ohio Public Records Laws, Ohio Revised Code §149.43 and the Ohio Rules of Superintendence, Rules 44-47. By entering into this Contract, the Vendor understands that records maintained by the Vendor pursuant to this Contract may also be deemed public records subject to disclosure under Ohio law. Any information contained in contract documents or records related to the goods or services provided pursuant to this Contract which the Vendor deems to be a trade secret, proprietary, or confidential must be identified as such. County will provide written notice to Vendor prior to release of records to allow Vendor to timely contest disclosure.

XXI. DRUG-FREE WORKPLACE

Contractor agrees to comply with all applicable federal, state, and local laws regarding smoke-free and drug-free workplaces and shall make a good faith effort to ensure that none of its employees or permitted subcontractors who engage in the work being performed hereunder purchase, transfer, use, or possess illegal drugs or alcohol, or abuse prescription drugs in any way.

XXII. NOTICE

Any and all notices, demands, or other communications required or desired to be given hereunder by any party shall be in writing and shall be validly given or made to another party if and when personally delivered or sent, postage prepaid, by certified mail, or by facsimile or electronic mail:

VENDOR:

COUNTY:

Vendor Name
Address
City, State

Wood County Board of Commissioners
Attn: Carri Stanley, County Administrator
Office Building, 5th Floor
One Courthouse Square
Bowling Green, Ohio 43402
cstanley@woodcountyohio.gov

Any party hereto may change its address for purposes of this paragraph by written notice given in the manner provided above.

XXIII. GOVERNING LAW, JURISDICTION, VENUE

This Agreement shall be interpreted, construed and enforced in accordance with the laws of the State of Ohio. Any provision of this Agreement prohibited by the laws of Ohio shall be

deemed void and of no effect. Exclusive jurisdiction and venue for any claim or action arising out of or relating to this Agreement shall be in the state courts located in the State of Ohio.

XXIV. ENTIRE AGREEMENT

This Agreement, the schedules and all attachments designated on the face of the Agreement as included shall constitute the entire agreement of the parties and shall supersede all prior negotiations, proposals, and representations, whether written or oral.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as evidenced by their signatures below:

WITNESS:

Date: _____

Date: _____

FOR _____:

Signature of Authorized Representative

(Printed Name and Title)

FOR WOOD COUNTY BOARD OF COUNTY COMMISSIONERS:

Craig LaHote

Dr. Theodore Bowlus

Doris I. Herringshaw

APPROVED AS TO FORM:

Paul A. Dobson
Wood County Prosecuting Attorney

[INSERT before Auditor's Certification if Agreement entered into upon a per unit basis]

CERTIFICATION OF ESTIMATE OF THE TOTAL AMOUNT

Pursuant to R.C. 5705.41 (D)(3), paragraph 3, I certify that the estimated total amount to become due under this Agreement is _____ Dollars (\$____.00) at the rate of _____ Dollars (\$____.00) per hour / item _____ hours/item per week.

Date

Head of the Department/Board/Commission

CERTIFICATION OF AVAILABILITY OF FUNDS (R.C. 5704.41(D))

I, Matthew Oestreich, Auditor of Wood County, hereby certify that the money to meet this Agreement has been lawfully appropriated for the purpose of this Agreement and is in the treasury of _____ or is in the process of collection to the credit of the appropriate fund, free from prior encumbrance.

Date

Matthew Oestreich

Amount: \$_____

PO Number: _____

**EXHIBIT B
BUSINESS ASSOCIATE AGREEMENT**

This Agreement is made and entered into by and between County (“Covered Entity”) and Company (“Business Associate”).

WITNESSETH, THAT:

WHEREAS, the Covered Entity sponsors a health benefit plan; and

WHEREAS, Business Associate provides services with respect to that health benefit plan which may involve the use and disclosure of protected health information; and

WHEREAS, the parties desire to set forth their understandings as to the protection of that information as mandated by HIPAA; and

WHEREAS, the parties agree that the duties to be performed by Business Associate for Covered Entity set forth in any other agreement shall not be changed except as expressly modified herein; and

WHEREAS, the parties desire to set forth their understandings in this matter in a written agreement.

NOW, THEREFORE, in consideration of the mutual agreement and covenants set forth below, the sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1.0 DEFINITIONS.

- (a) Business Associate. “Business Associate” shall mean the Company.
- (b) Covered Entity. “Covered Entity” shall mean the County.
- (c) Individual. “Individual” shall have the same meaning as the term “individual” in 45 CFR §164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR §164.502(g).
- (d) Privacy Rule. “Privacy Rule” shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E.
- (e) Protected Health Information. “Protected Health Information” shall have the same meaning as the term “protected health information” in 45 CFR §164.501, limited to the information created or received by Business Associate from or on behalf of Covered Entity.
- (f) Required By Law. “Required By Law” shall have the same meaning as the term “required by law” in 45 CFR §164.501.

- (g) Secretary. “Secretary” shall mean the Secretary of the Department of Health and Human Services or his designee.

2.0 OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE.

- (a) Business Associate agrees not to use or disclose Protected Health Information other than as permitted or required by this Agreement or as Required by Law.
- (b) Business Associate agrees to use appropriate safeguards to prevent use or disclosure of Protected Health Information other than as provided for by this Agreement.
- (c) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement.
- (d) Business Associate agrees to report to Covered Entity any use or disclosure of Protected Health Information not provided for by this Agreement to which it becomes aware.
- (e) Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.
- (f) Business Associate agrees to provide access, at the request of Covered Entity, to Protected Health Information in a Designated Record Set, to Covered Entity, or as directed by Covered Entity, to an Individual in order to meet the requirements under 45 CFR §164.524.
- (g) Business Associate agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR §164.526 at the request of Covered Entity or an Individual.
- (h) Business Associate agrees to make internal practices, books, and records including policies and procedures and Protected Health Information relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity, available to the Secretary, for purposes of the Secretary determining Covered Entity’s compliance with the Privacy Rule.
- (i) Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR §164.528.
- (j) Business Associate agrees to provide to Covered Entity or an Individual, information collected in accordance with Section 2.0(i) of this Agreement, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR §164.528.

3.0 PERMITTED USES AND DISCLOSURES BY BUSINESS ASSOCIATE.

- (a) Except as otherwise limited in this Agreement, Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in any other agreement between Covered Entity and Business Associate, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity.
- (b) Business Associate may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with §164.502(j)(1).

4.0 OBLIGATIONS OF COVERED ENTITY.

- (a) Covered Entity shall notify Business Associate of any limitations(s) in its notice of privacy practices of Covered Entity in accordance with 45 CFR §164.520, to the extent that such limitation may affect Business Associate's use or disclosure of Protected Health Information.
- (b) Covered Entity shall notify Business Associate of any changes in, or revocations of, permission by Individual to use or disclose Protected Health Information, to the extent that such changes may affect Business Associate's use or disclosure of Protected Health Information.
- (c) Covered Entity shall notify Business Associate of any restrictions to the use or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with 45 CFR §164.522, to the extent that such restrictions may affect Business Associate's use or disclosure of Protected Health Information.

5.0 PERMISSIBLE REQUESTS BY COVERED ENTITY.

Covered Entity shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by Covered Entity.

6.0 TERM AND TERMINATION.

- (a) Term. The Term of this Agreement shall be effective as of the date first set forth, and shall terminate when all of the Protected Health Information provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this Section.
- (b) Termination for Cause. Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:
 - (1) Provide an opportunity for Business Associate to cure the breach; or (2) end the violation and terminate this Agreement if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity;

If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.

(c) Effect of Termination.

(1) Except as provided in paragraph (2) of this Section 6.0(c), upon termination of this Agreement, for any reason, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.

(2) In the event that Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon its notification that return or destruction of Protected Health Information is infeasible, Business Associate shall extend protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.