

CONTINGENT WORKER INVENTIONS ASSIGNMENT AND CONFIDENTIALITY AGREEMENT

This Contingent Worker Inventions and Confidentiality Agreement (the "Agreement"), dated as of (the "Effective Date"), by and between Vision Service Plan, a California not-for-profit corporation ("VSP"), its parent, affiliates and subsidiaries (the "**Company**"), and _____ ("I", "me" or "my").

1. Purpose of Agreement. I understand that the Company is engaged in a continuous program of research, development, production and marketing in connection with its business and that it is critical for the Company to preserve and protect its Proprietary Information (as defined in Section 7 of this Agreement), its rights in Inventions (as defined in Section 2 of this Agreement) and in all related intellectual property rights. Accordingly, I am entering into this Agreement as a condition of my engagement with the Company and as a condition of being granted access to Proprietary Information, whether or not I am expected to create inventions of value for the Company.

2. Disclosure of Inventions. I will promptly disclose in confidence to the Company all inventions, improvements, designs, logos, symbols, original works of authorship, formulas, processes, compositions of matter, computer software programs, databases, mask works, ideas, discoveries, developments, know-how, or other inventions ("**Inventions**") that I make, conceive, reduce to practice or create, either alone or jointly with others, during the period of my engagement with Company, whether or not in the course or scope of my engagement, and whether or not such Inventions are patentable, copyrightable, protectable as trade secrets, or otherwise subject to intellectual property protection.

3. Company Ownership of Work Product.

a. Work for Hire. I acknowledge and agree that any works prepared by me relating to my engagement with the Company, including without limitation any and all Inventions I conceive or contribute towards, will be considered "Work Product" and will be Company's sole property if it fits any of the following three criteria: (i) it is developed using equipment, supplies, facilities or trade secrets of the Company; (ii) it results from my work for the Company whether or not conceived during regular working hours; or (iii) it relates to the Company's business or its actual or anticipated research and development. To the extent permissible under applicable law, Work Product will be considered "work made for hire" pursuant to the U.S. Copyright Act, 17 U.S.C. §101 *et seq.*, and any foreign equivalent thereof.

b. Assignment of Other Rights. To the extent, if any, that Work Product may not be considered work made for hire, I hereby assign to Company all of my ownership, right, title, and interest in and to all Work Product, including, without limitation: (i) all copyrights, patents, rights in mask works, trademarks, trade secrets, and other intellectual property rights and all other rights that may hereafter be vested relating to the Work Product, arising under U.S. or any other law, together with all national, foreign, state, provincial, and common law registrations, applications for registration, and renewals and extensions thereof; (ii) all goodwill associated with Work Product; and (iii) all benefits, privileges, causes of action, and remedies relating to any of the foregoing, whether before or hereafter accrued (including without limitation the exclusive rights to apply for such registrations, renewals, and/or extensions, to sue for all past infringements or violations of any the foregoing, and to settle and retain proceeds from any such actions).

c. Moral Rights. In addition to the foregoing transfers and allocations of

rights, I hereby irrevocably transfer and assign to Company any and all Moral Rights (as defined below) I may have in or with respect to the Work Product. "Moral Rights" include any rights to claim authorship of or credit on Work Product, to object to or prevent the modification or destruction of Work Product, or to withdraw from circulation or control the publication or distribution of Work Product, and any similar right, existing under judicial or statutory law of any country or subdivision of a country, or under any treaty, regardless of whether or not such right is described as a "moral right."

d. Prior Inventions. I represent and warrant that attached **Exhibit A** is a list of all of my Inventions prior to the Effective Date which I have not separately assigned to Company (collectively "Prior Inventions"), and that if **Exhibit A** is blank or not included, there are no Prior Inventions. I will not use any Prior Invention in my work related to my engagement with the Company without Company's prior written consent. To the extent that I do use or incorporate a Prior Invention in a product, service, or process created for Company, with or without Company's consent, I hereby grant to Company a nonexclusive, perpetual, irrevocable, fully-paid, royalty-free, worldwide right to use in its business, reproduce, create derivative works from, distribute, publicly display, publicly perform, make, have made, offer for sale, sell or otherwise dispose of, import, and use such Prior Invention, solely in conjunction with the product, service, or process in question, with the right to sublicense each and every such right.

e. Covenant Not to Assert Superior Rights. I also hereby forever waive and agree that I will never, even after termination of my engagement with Company, assert or assist any others in asserting against Company or its customers, licensees, sublicensees or assigns, any rights under any Work Product, Inventions, Moral Rights, discoveries, concepts or ideas, or improvements thereof, or know-how related thereto, or any Inventions as having been made or acquired by me prior to my engagement by the Company, except as disclosed in **Exhibit A** to this Agreement at the time it is executed.

4. Backup License. To the extent, if any, that Section 3 does not provide Company with full ownership, right, title, and interest in and to the Work Product or any other work made for hire that is not Work Product as defined herein, I hereby grant Company a nonexclusive, perpetual, irrevocable, fully-paid, royalty-free, worldwide right to use in its business, reproduce, create derivative works from, distribute, publicly display, publicly perform, make, have made, offer for sale, sell or otherwise dispose of, import, and use the Work Product, with the right to sublicense each and every such right.

5. Labor Code 2870 Notice. I have been notified and understand that the provisions of Sections 3 and 4 of this Agreement do not apply to any Invention that qualifies fully under the provisions of Section 2870 of the California Labor Code, which states as follows:

ANY PROVISION IN AN EMPLOYMENT AGREEMENT WHICH PROVIDES THAT AN EMPLOYEE SHALL ASSIGN, OR OFFER TO ASSIGN, ANY OF HIS OR HER RIGHTS IN AN INVENTION TO HIS OR HER EMPLOYER SHALL NOT APPLY TO AN INVENTION THAT THE EMPLOYEE DEVELOPED ENTIRELY ON HIS OR HER OWN TIME WITHOUT USING THE EMPLOYER'S EQUIPMENT, SUPPLIES, FACILITIES, OR TRADE SECRET INFORMATION EXCEPT FOR THOSE INVENTIONS THAT EITHER: (1) RELATE AT

THE TIME OF CONCEPTION OR REDUCTION TO PRACTICE OF THE INVENTION TO THE EMPLOYER'S BUSINESS, OR ACTUALLY OR DEMONSTRABLY ANTICIPATED RESEARCH OR DEVELOPMENT OF THE EMPLOYER, OR (2) RESULT FROM ANY WORK PERFORMED BY THE EMPLOYEE FOR THE EMPLOYER. TO THE EXTENT A PROVISION IN AN EMPLOYMENT AGREEMENT PURPORTS TO REQUIRE AN EMPLOYEE TO ASSIGN AN INVENTION OTHERWISE EXCLUDED FROM BEING REQUIRED TO BE ASSIGNED UNDER CALIFORNIA LABOR CODE SECTION 2870(a), THE PROVISION IS AGAINST THE PUBLIC POLICY OF THIS STATE AND IS UNENFORCEABLE.

6. Assistance. I agree for myself and my heirs, personal representatives, successors, and assigns (collectively "Assignors"), upon request of the Company, at all times to do such acts, such as giving testimony in support of the my inventorship, and to execute and deliver promptly to the Company such papers, instruments, and documents, without expense to Assignors, as from time to time may be necessary or useful in the Company's opinion, to apply for, secure, maintain, reissue, extend, or defend the Company's worldwide rights in the Work Product or in any or all U.S. letters patent and in any and all letters patent in any country foreign to the United States, so as to secure to the Company the full benefits of the Work Product or discoveries and otherwise to carry into full force and effect the text and the intent of the assignment set out in Section 3 above. The obligations under this section will continue beyond the termination of my engagement with the Company, provided that the Company will compensate Assignors at a reasonable rate after such termination for time or expenses actually spent by Assignors at the Company's request on such assistance. I hereby appoint the Secretary of VSP as my attorney-in- fact to execute documents on behalf of Assignors for this purpose.

7. Proprietary Information.

a. Definition. I understand that my engagement by the Company creates a relationship of confidence and trust with respect to any information of a confidential or secret nature that may be disclosed to me by the Company that relates to the business of the Company or to the business of any parent, subsidiary, affiliate, customer or supplier of the Company or any other party with whom the Company agrees to hold information of such party in confidence (collectively, "**Proprietary Information**"). I hereby acknowledge that Proprietary Information includes, but is not limited to, Inventions, marketing plans, product plans, business strategies, financial information, forecasts, Protected Health Information (PHI), personnel information, customer lists and domain names. I further acknowledge that Proprietary Information includes any document marked "Confidential"; any information designated as "Confidential" at the time of disclosure, and any information that, given the nature of the information disclosed and the circumstances surrounding its disclosure, reasonably ought to be treated as Proprietary Information by me.

b. Confidentiality. At all times, both during my engagement and after termination, I will keep and hold all Proprietary Information in strict confidence and trust. I will not use (directly or indirectly) for my own benefit or the benefit of others, disseminate, reproduce, transmit, disclose or make available any Proprietary Information without the prior written consent of the Company, save and except as may be necessary to perform my duties to the Company for

the benefit of the Company and then only to those on a “need to know” basis to enable them to evaluate such Proprietary Information in connection with the business of the Company; provided that such persons have been informed of, and agree to be bound by obligations which are at least as restrictive as my obligations hereunder. Upon termination of my engagement with the Company, I will promptly deliver to the Company all documents and materials of any nature pertaining to my work with the Company. I will not take with me any documents or materials or copies thereof containing or embodying any Proprietary Information. Notwithstanding my obligations of confidentiality under this Agreement, I may disclose Proprietary Information if and to the extent required by a judicial or governmental request, requirement or order; provided that I take reasonable steps to give VSP sufficient prior notice of such request, requirement or order for VSP to contest, limit and/or protect such disclosure.

c. **Retention of Rights.** This Section 7 does not transfer ownership of Proprietary Information or grant a license thereto. Company will, as between Company and me, retain all right, title, and interest in and to all Proprietary Information.

8. **No Breach of Prior Agreement.** I represent and warrant that my performance of all the terms of this Agreement and my duties during my engagement with the Company and obligations hereunder will not breach any invention assignment, proprietary information, confidentiality or similar agreement with any third party. I further represent and warrant that I have not already assigned Work Product to any third party. I will not bring to the Company or use in the performance of my duties for the Company any documents or materials or intangibles of a former employer or third party that are not generally available to the public or have not been legally transferred to the Company.

9. **Efforts: Conflict of Interest.** I understand that my engagement with the Company requires my undivided attention and effort during normal business hours. During my engagement with the Company, I will disclose to my immediate supervisor any other employment arrangement I may have.

10. **Notification.** I hereby authorize the Company to notify my current or future employers, or any others to whom Company has a reasonable basis to disclose, of the terms of this Agreement and my responsibilities hereunder.

11. **Non-Solicitation of Employees/Consultants.** During my engagement with the Company, and for a period of one (1) year thereafter, I will not directly or indirectly solicit away employees or consultants of the Company for my own benefit or for the benefit of any other person or entity.

12. **Non-Solicitation of Suppliers/Customers.** During my engagement with the Company and after termination of my engagement, I will not directly or indirectly solicit or take away suppliers or customers of the Company if the identity of the supplier or customer or information about the supplier or customer relationship is a trade secret or is otherwise deemed Proprietary Information or deemed confidential information within the meaning of California law.

13. **Injunctive Relief.** I agree that breach of this Agreement would cause Company irreparable injury, for which monetary damages would not provide adequate compensation, and

that in addition to any other remedy, Company is entitled to injunctive relief against such breach or threatened breach, without proving actual damage or posting a bond or other security.

14. Binding Effects. This Agreement will be binding on and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors, and assigns.

15. Governing Law; Severability. This Agreement will be governed by and interpreted in accordance with the internal laws of the State of California, without regard to or application of choice-of-law rules or principles. In the event that any provision of this Agreement is found by a court, arbitrator or other tribunal to be illegal, invalid or unenforceable, then such provision shall not be voided, but shall be enforced to the maximum extent permissible under applicable law, and the remainder of this Agreement shall remain in full force and effect. The prevailing party in any action to enforce this Agreement shall be entitled to recover its attorneys' fees and costs.

16. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

17. Entire Agreement. This Agreement constitutes the entire agreement and understanding of the parties with respect to the subject matter of this Agreement, and supersedes all prior and contemporaneous understandings and agreements, whether oral or written, between the parties hereto with respect to the specific subject matter hereof.

18. At Will Engagement. I understand that this Agreement does not constitute a contract of employment or obligate the Company to engage me for any stated period of time. I understand that my engagement with the Company is "at will" and that my engagement can be terminated at any time, with or without notice or with or without cause, by either the Company or me.

COMPANY:

CONTINGENT WORKER:

By: _____
(Signature)

(Signature)

Name: _____
(Printed)

(Printed)

Title: _____

Exhibit A: Prior Inventions

No.	Title of Invention	Name of Inventor(s) [Name, Address, Phone Number]	Circumstances and Date of Conception	Description of Invention [Purpose; Drawings; Description of the Parts; Use; Novel Features; Advantages]
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