

Provider Agreement

THIS Provider Agreement ("Agreement"), by and between **Avesis Third Party Administrators, Inc.** ("Avesis") and _____, ("Participating Provider"), who hereby represent and agree as follows:

A. DEFINITIONS.

- (1) Participating Provider means the optometrist, ophthalmologist or optician who has been approved by Avesis to provide covered benefits to members and who has entered into this Agreement with Avesis.
- (2) Covered benefits are those benefits described in the Plan Sheet(s) attached hereto in Exhibit 1 and offered to enrolled members through various plan options.
- (3) Member means an individual, spouse or dependent who is eligible to receive covered benefits.
- (4) Sponsor means an insurer, employer, union trust or other entity that has entered into an agreement with Avesis to provide vision benefits.
- (5) Claim means a request for payment for covered benefits submitted by Participating Provider.
- (6) Clean claim refers to a claim that is free of errors and/or omissions.
- (7) Provider Manual refers to the written document provided to participating providers by Avesis that describes the administrative policies and procedures established by Avesis for the provision of covered benefits to members.
- (8) Plan Fee Sheets are those sheets provided to participating providers from time to time that detail the specifics regarding a Sponsor's plan design.

B. TERM.

This Agreement shall be for a period of one (1) year beginning on the effective date entered on the signature page of this Agreement. This Agreement shall automatically renew from year to year thereafter for successive one-year terms unless terminated as provided for in Section K of this Agreement.

C. RESPONSIBILITIES OF AVESIS.

- (1) Sponsor Contracts. Avesis will enter into group contracts with employers, employee groups, unions, corporations, insurance carriers and other organizations whose members may obtain professional services and related products from Avesis participating providers.
- (2) Plan Matrix. Avesis will, from time to time, distribute to Participating Provider a new and revised Plan Matrix describing covered services and materials offered by various Sponsors.
- (3) Provider Information. Avesis shall make available to members, through access to our Internet site, Customer Service Representatives, and a toll-free telephone number, the names, addresses, phone numbers and specialties of all of the providers who agree to participate under each Sponsor's program.
- (4) Eligibility Verification. Avesis provides 24 hour a-day eligibility verification via our Internet site and IVR System. Eligibility can also be verified via our Customer Service Center from 7:00 AM until 5:00 PM MST.

- (5) Manual. Avesis shall loan to the Participating Provider one copy per location of the Avesis Provider Manual ("Manual"), for use only while this Agreement is in effect and only at the Participating Provider's specified office location. Provider agrees to comply with the Manual, as it may be revised by Avesis from time to time; to keep the Manual and all information in it confidential; and not to copy or disclose such information to third parties except as required for the conduct of the Participating Provider's business.

D. RESPONSIBILITIES OF PARTICIPATING PROVIDER.

- (1) Professional Services. Participating Provider shall furnish covered benefits to members as provided for on the Avesis Plan Matrix attached hereto and any other Plan Matrix that Participating Provider agrees to service. Participating Provider agrees to provide services to Avesis members in a timely manner and members shall not be kept waiting longer than one (1) hour after the appointment time. Furthermore, Participating Provider shall administer services to members on the same basis as other patients. Participating Provider shall provide services as quickly as possible but no more than thirty (30) days after an appointment is first sought. In the case of emergencies Participating Provider shall make every effort to see the patient immediately. Participating Provider shall make every reasonable effort to satisfy the needs of members.
- (2) Payment from Members. Provider agrees to accept as payment in full the fees for services and materials provided on the Plan Fee Sheet attached hereto. Participating Provider may not collect any payment from members other than those designated on the Plan Fee Sheets as being the responsibility of members, such as deductibles, copayments, and charges for additional services and materials not specified on the Plan Fee Sheets.
- (3) Records. Participating Provider shall maintain confidential and complete member records and personal information as required by applicable State and Federal laws. Confidentiality of patient records and personal information shall be maintained in accordance with all State and Federal laws in force as of the effective date of this Agreement and those that may be enacted in the future. The types of records to be maintained shall be in accordance with industry and plan standards.
- (4) Records Access. Participating Provider agrees to provide Avesis, its agents or representatives, access to billing and medical records of members who have been serviced by Participating Provider. Notwithstanding termination of this Agreement, this right of access to member records shall continue for three (3) years after termination, to the extent permitted by law. Participating Provider further agrees to make copies of such records available to the Sponsor and/or any appropriate regulating authority in conjunction with its regulation of Sponsor.
- (5) Confidentiality of Records. Confidentiality of patient records and personal information shall be maintained in accordance with all State and Federal laws in force as of the effective date of this Agreement and those that may be enacted in the future. Participating Provider shall not use any information received in the course of providing services to Avesis' members except as necessary for the proper discharge of his/her obligations hereunder. Participating Provider agrees to comply with all of the Federal requirements for privacy and security of health information.
- (6) Compliance with Law. Participating Provider shall, at all times, conduct his professional practice and supervise all personnel in a manner that complies with all applicable laws. Participating Provider shall maintain all necessary permits, certificates and licenses current and in good standing. In the event of any complaint or disciplinary action against Participating Provider, Participating Provider shall promptly notify Avesis of the complaint or disciplinary action relating to practices at his office. Participating Provider hereby authorizes any governmental agency to release to Avesis information relating to any such complaint or disciplinary action.

- (7) Credentialing Program. Participating Provider agrees to meet and maintain NCQA and/or established industry standards for provider credentialing established by the Avesis Credentialing Program as well as any other requirements that may be imposed by the Sponsor, from time to time. These include, but are not limited to, current licensure; current certifications, as appropriate; professional liability insurance coverage; compliance with continuing education requirements; and such other requirements and qualifications as may be required by Avesis, Sponsor or any State or Federal agency.
- (8) Cooperation with Member Grievances. Participating Provider agrees to cooperate in whatever way necessary to resolve member grievances that may come about from time to time.
- (9) Personnel and Office Address. Participating Provider shall provide Avesis with a complete list of all associates bound by this Agreement with whom Participating Provider practices. Participating Provider shall notify Avesis within thirty (30) days of any relocation of his business, change in area code or telephone number or any change in the associates. All providers who are independent contractors must execute a separate Provider Agreement. Participating Provider agrees to the inclusion of the practice information in provider directories and on the Avesis website or Plan Sponsor's website. Participating Provider further agrees to permit practice information to be given to members by Avesis' or Sponsor's customer service representatives.
- (10) Quality Improvement. Participating Provider agrees to respond and / or comply with Avesis' Quality Improvement Program as it relates to quality assurance, utilization review and member grievance program as explained in the Provider Manual.
- (11) Submission of Claims. Participating Provider shall submit claims to Avesis in a timely manner. Participating Provider understands that failure to submit claims or requested documentation within the specified time period as outlined in the Provider Manual may result in loss of reimbursement for services provided.

E. RELATIONSHIP OF PARTIES.

- (1) Professional Judgment. Participating Provider shall have the sole right and responsibility for exercising his professional judgment on all matters of professional practice. Participating Provider agrees, however, to participate in Avesis' utilization review programs, and to abide by the resulting conclusions or withdraw from the Avesis system by terminating this Agreement as provided for in this Agreement.
- (2) Independent Contractor. Participating Provider is and shall be an independent contractor, and nothing herein shall be construed to create an agency, employment, partnership, joint venture or fiduciary relationship between Avesis and Participating Provider.
- (3) Non-Exclusive Relationship. Participating Provider's rights hereunder are non-exclusive. Participating Provider may provide services to non-Avesis patients, and enter into agreements with other networks and organizations for such purposes.
- (4) Rights Reserved by Avesis. Avesis retains all ownership rights in the Avesis networks and system, the sole and exclusive right to operate offices or license other providers to participate in the Avesis system, and to the names and marks AVESIS®, together with any and all other trademarks and service marks that may hereafter be adopted or used by Avesis. Participating Provider shall not advertise or use any names, symbols, trademarks or service marks of Avesis in any advertising or public communication without the prior written authorization of Avesis.

F. INDEMNIFICATION.

Neither Avesis nor any Sponsor nor their officers, shareholders, directors, employees or agents are responsible for, or guarantee the quality of any services or materials furnished by Participating Provider. Participating Provider shall indemnify Avesis and all Sponsors from all claims, liabilities and damages incurred in connection with, or arising out of Participating Provider's material breach of this Agreement or any services or materials furnished or to be furnished by Participating Provider to members. The obligations of indemnification shall survive the termination of the Agreement.

It is further understood and agreed to by Participating Provider that in no event, including but not limited to non-payment by Avesis or Sponsor, insolvency of Avesis or Sponsor or breach of this Agreement, shall Participating Provider bill, charge, collect a deposit from, seek compensation, remuneration or reimbursement from or have any recourse against a Member or a person acting on a Member's behalf for covered benefits provided pursuant to this Agreement. This provision shall not prohibit Participating Provider from collecting co-payments, deductibles and/or coinsurance made in accordance with the terms of the Plan Sheets or for collection for non-covered services either from the member or from third parties when such parties are primarily responsible for paying for these services. It is further understood that this provision shall survive the termination of this Agreement regardless of the cause giving rise to termination and shall be construed to be for the benefit of the member and that this provision supersedes any oral or written contrary agreement now existing or thereafter entered into between Avesis and Participating Provider and Member or persons on their behalf.

G. CLAIMS AND PAYMENT.

- (1) Claims Processing. If the Sponsor's program includes the payment of claims for covered benefits provided to its members, and if the Sponsor retains Avesis as its claims administrator, then Participating Provider shall submit claims to Avesis on CMS 1500 or via the Avesis Internet site in order to receive payment for covered benefits. Participating Provider shall, to the extent possible, seek and accept from members their assignments of payments for claims for covered benefits. Participating Provider shall submit claims in the manner provided in the Manual, together with all reasonably requested additional documentation, no later than ninety (90) days or as specified by state regulatory agencies after providing the covered benefits. Avesis shall provide prompt payment in accordance with the terms of the Sponsor's Plan Sheet, for properly filed claims for covered benefits provided to members by Participating Provider, but only from designated funds provided to Avesis by the Sponsor specifically for that purpose.
- (2) Limitation of Liability. Avesis shall not be obligated to make payments to Participating Provider from Avesis' own funds for services or materials furnished to members.
- (3) Program Coverage. For benefits requiring pre-authorization as required on the Plan Sheet, the Participating Provider agrees to submit the pre-authorization request prior to providing the materials. Participating Provider acknowledges that possession of an Avesis identification card or Sponsor identification card does not guarantee that an individual is still a Member on the date services are rendered, or that a Member is necessarily covered for any or all services or materials to be provided.
- (4) Non-covered Services. Participating Provider shall enter into written agreement with members to pay for non-covered goods and services if the Member knowingly elects to receive non-covered goods and services and the fees charged do not exceed the usual fees of the Participating Provider.

- (5) Coordination of Benefits. Participating Provider will notify Avesis when it is determined that a Member may be entitled to coverage under any other Sponsor Plan. If Avesis is the primary carrier, Participating Provider agrees that Avesis' obligation to Participating Provider will not exceed the compensation described in the Covered Benefits and Fee Schedule. If Avesis is the secondary carrier, Participating Provider agrees that Avesis' obligation to Participating Provider will not exceed the compensation described in the Covered Benefits and Fee Schedule and Participating Provider will refund the aggregate compensation that Participating Provider received from other Sponsor for services or goods in question.
- (6) Missed Appointments. Participating Provider shall not bill, charge, collect a deposit from, seek compensation, remuneration or reimbursement from or have recourse against any member or person acting on behalf of a member for a missed appointment.

H. REPRESENTATIONS OF PARTICIPATING PROVIDER.

- (1) Participating Provider hereby represents and warrants to Avesis that:
 - (a) Authorization. The individual executing this Agreement on behalf of Participating Provider is duly authorized to do so; and upon its execution, this Agreement shall constitute the legal, valid and binding obligation of Participating Provider.
 - (b) No Inducements. Except as otherwise specifically set forth herein, no promises of any kind have been made by Avesis or by any person representing Avesis to induce Participating Provider to execute this Agreement.
 - (c) Review. Participating Provider and any partners or shareholders, if applicable, have read the entire Agreement and represent that each of them is capable of complying and will comply with it.
 - (d) Licensure History. Participating Provider has never:
 - (i) had a professional license cancelled or suspended for reasons related to the rendering of professional services;
 - (ii) been convicted of fraud or malpractice in connection with performance of professional services; nor
 - (iii) been subject to an adverse judgment on a claim that professional services were provided negligently.

I. INSURANCE.

While this Agreement is in effect, Participating Provider shall keep in force all insurance required by federal and/or state law. If state law does not require specific limits, Participating Provider agrees to maintain professional liability insurance of One Million Dollars (\$1,000,000) per claim and Three Million Dollars annual aggregate (\$3,000,000) or such other amounts as may be recommended by the applicable State licensing Board. Participating Provider also agrees to maintain comprehensive general liability insurance and/or such other available insurance as shall be necessary to insure Participating Provider and its employees against any and from all damages arising from its duties and obligations under this Agreement. Participating Provider shall make Sponsor (notification to Sponsor or Avesis) an additional named insured on such policies and Participating Provider shall notify Sponsor (or Avesis) at least thirty (30) days prior to the termination, cancellation or lapse of any such policy. The costs of securing said insurance coverages shall be borne by the Participating Provider.

J. ASSIGNMENT.

Neither this Agreement nor any of the rights or obligations hereunder shall be assigned, transferred or delegated by Participating Provider, by operation of law or otherwise, without the prior written consent of Avesis, which shall not be unreasonably withheld. Any change of ownership interest in Participating Provider shall be deemed an assignment of the Agreement, and would require the prior written consent of Avesis. Avesis may assign its rights and obligations hereunder.

K. TERMINATION.

- (1) Without Cause. This Agreement may be terminated without cause by either party after at least ninety (90) days written notice to the other party. It is understood that during the ninety (90) day period, the Agreement and the obligations and duties hereunder shall remain in force and effect at Avesis' election.
- (2) With Cause. This Agreement shall be terminated automatically and immediately upon notification that Participating Provider's professional license or certification has been suspended, cancelled or not renewed.
- (3) Either party may terminate this Agreement for a material default by the other party if the default is not cured within thirty (30) days after the defaulting party is given written notice specifying the default. Termination of this Agreement does not nullify Participating Provider's responsibility for the adequacy of service and materials provided to members.

L. PROCEDURES AFTER TERMINATION.

Upon termination of this Agreement for any reason:

- (1) Cease Affiliation. Participating Provider shall cease to be an authorized Avesis Provider and shall:
 - (a) immediately return to Avesis the Provider Manual and any other materials or products loaned to Participating Provider by Avesis;
 - (b) immediately and forever cease and desist from using Avesis advertising and promotional materials, and all trade secrets and confidential material delivered to Participating Provider pursuant to this Agreement; and
 - (c) refrain from doing anything which would indicate that Participating Provider is an authorized Avesis provider.
- (2) Non-Solicitation. Participating Provider shall not keep any list of members and shall not, directly or indirectly, solicit them to remain patients of Participating Provider. Participating Provider hereby acknowledges that solicitation of members after the termination of this Agreement would be unfair to Avesis, its Sponsors and other providers. Participating Provider specifically acknowledges receipt of good and valuable consideration sufficient to support this provision of the Agreement.

M. SPECIAL REMEDIES.

Participating Provider acknowledges that if Participating Provider breaches any of the provisions of Sections C (5), E, I, or L, Avesis shall have incomplete and inadequate remedies at law. Therefore, Participating Provider expressly consents and agrees that Avesis may, in addition to any other available remedies, obtain an injunction and/or temporary restraining order to terminate or prevent the continuation of any such violation.

N. NOTICES.

All notices provided for in this Agreement shall be in writing and shall be deemed to have been duly given upon (a) actual delivery; (b) five days after deposit for mailing by registered or certified mail, postage prepaid, return receipt requested, addressed to the other party at the address shown at the end of this Agreement; (c) one business day after delivery to a commercial overnight delivery service addressed as provided above for delivery the next business day; or (d) facsimile transmission. Either party may change its address by notice to the other party.

O. GENERAL PROVISIONS.

- (1) Interpretation. This Agreement contains the entire understanding between the parties with respect to the subjects hereof, and supersedes all prior negotiations and agreements. Except as otherwise expressly provided herein, this Agreement may be amended only by written instrument and signed by the parties. The waiver of any breach of this Agreement shall not be deemed to amend this Agreement and shall not constitute a waiver of any other or subsequent breach. Headings are for convenience and shall not affect interpretation. Words in this Agreement shall be deemed to refer to whatever number or gender the context requires. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their permitted successors and assigns. No right or remedy shall be exclusive of any other right or remedy herein or provided by law, but such rights and remedies shall be cumulative and enforceable simultaneously or sequentially.
- (2) Severability. If any provision of this Agreement shall be declared invalid or unenforceable, that provision shall be deemed modified to the extent necessary to make it valid and enforceable. If it cannot be so modified, then that provision shall be severed and the modified or remaining provisions shall remain in full force and effect.
- (3) Choice of Law. This Agreement and all questions relating to its validity, interpretation, performance and enforcement, shall be governed by and construed, interpreted and enforced in accordance with the laws of the state wherein this Agreement is signed by the Participating Provider.
- (4) Disputes. Except as may otherwise be provided for herein, any and all disputes arising out of or relating to this Agreement and the transactions contemplated herein, shall be solely and finally settled by binding arbitration. Such arbitration shall be administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules (the “**Rules**”), by a single arbitrator selected in accordance with the Rules (the “**Arbitrator**”). The Arbitrator shall not have been employed by or affiliated with any of the parties or their affiliates. Except as set forth below, the parties hereby renounce all recourse to litigation as to matters subject to arbitration hereunder, and the parties agree that the award of the Arbitrator shall be final and subject to no judicial review, except as expressly provided by applicable law. The Arbitrator shall decide the issues submitted to him in accordance with: (a) the provisions and purposes of this Agreement; and (b) the laws of the State of Arizona (without regard to its conflicts of laws rules), and shall issue a written award setting forth the reasons for his decision. Judgment on the award of the Arbitrator may be entered in any court having jurisdiction thereof. Notwithstanding the foregoing, each party shall have the right to seek injunctive or other equitable relief in any court of competent jurisdiction to enforce the provisions of this Agreement without first seeking or obtaining any decision of the Arbitrator with respect to the subject matter of this Agreement, even if a similar or related matter has already been referred to arbitration in accordance with the terms of this paragraph.
- (5) Attorneys' Fees. Should Avesis incur attorneys' fees in order to enforce the terms and conditions of this Agreement, including post-term covenants, whether or not a legal action is instituted, Avesis shall be entitled to reimbursement of such attorneys' fees and costs, in addition to any other remedies Avesis may have at law or in equity.

- (6) Non-Discrimination. Participating Provider shall not differentiate or discriminate in the treatment of members on the basis of race, color, national origin, gender, age, religion, marital status, health status or health insurance coverage.
- (7) Program Compliance. Participating Provider agrees to comply fully with Avesis and Sponsor regarding (a) benefit exclusions; (b) administrative and utilization management requirements; (c) credential verification program; (d) quality assessment program; and (e) provider sanction policies. Avesis agrees to notify Participating Provider of any changes to the above mentioned programs and agrees to allow Participating Provider a mutually agreed upon time frame to comply with such changes.
- (8) Entire Agreement. This Agreement, together with any Exhibits and Plan Sheets referred to herein, constitute the entire Agreement between Participating Provider and Avesis. This Agreement supersedes all prior and contemporaneous agreements, understandings and conditions, express or implied, oral or written, of any nature whatsoever with respect to the subject matter hereof. This Agreement may not be modified or amended other than by an agreement in writing.
- (9) Change in Status. Participating Provider understands that any and all changes in the Participating Provider's legal and contractual relationship to and with the Participating Provider's clinical partners, who are also party to this Agreement must be communicated to Avesis in writing. Participating Provider also agrees to provide Avesis thirty (30) days notice of any closure of their practice to additional members or of a new location of their practice.
- (10) Responsibility for Actions. Each party shall be responsible for any and all claims, liabilities, damages, or judgments that may arise as a result of its own negligence or intentional wrong doing.

Agreed to by the parties hereto.

By: _____
Printed Name

By: **Avesis Third Party Administrators, Inc.**

Signature

Linda Chirichella, Vice President - Operations

Date: _____

Date: _____

Tax Identification Number: _____

NPI Number: _____

Medicaid ID: _____

AVESIS THIRD PARTY ADMINISTRATORS, INC.

ADDENDUM TO PROVIDER AGREEMENT

THIS ADDENDUM is dated this ____ day of _____, 2008, between the Participating Provider specified below and Avesis Third Party Administrators, Inc.

WHEREAS, the Avesis Participating Provider specified below previously entered into a Provider Agreement with Avesis Third Party Administrators, Inc. (Avesis); and

WHEREAS, Avesis Third Party Administrators, Inc. has entered into an Agreement with AMGP Georgia Managed Care Company, Inc. (“AMERIGROUP Georgia”) Medicaid and PeachCare for Kids, and Well Care of Georgia, Inc. (collectively hereinafter referred to as “the Plan”) to arrange for the provision of vision care services and to adjudicate, process and pay all claims related to services provided to their members;

NOW, THEREFORE, the parties agree that the clauses specified below shall become apart of said Provider Agreement:

1. The Participating Provider agrees to indemnify and hold harmless the Plan, the DCH, the State of Georgia, its departments and agencies from and against all claims, demands, liabilities, losses, costs or expenses, and attorneys’ fees, caused by, growing out of or arising from any act or omission on the part of the Plan, its agents, employees, customers, invitees, licensees or due to any breach of the Provider Agreement or due to the application or violation of any pertinent federal, State or local law, rule or regulation. This indemnification survives the termination of the Agreement between Avesis Third Party Administrators, Inc. and The Plan and the dissolution or, to the extent allowed by the law the bankruptcy of Avesis.

2. Participating Provider affirms that the provider’s office complies with all aspects of the Health Insurance Portability and Accountability Act (HIPAA) and its amendments, rules, procedures and regulations with regard to patient privacy and the security of patient information.

3. In the event that Participating Provider’s Agreement with Avesis is terminated for any reason, the Participating Provider agrees that the only applicable appeals are to Avesis. The Participating Provider agrees that there can be no appeal to DCH or The Plan of any decision for termination made by Avesis.

4. Provider agrees that in the event DCH is due funds from the Provider, Avesis shall reduce payment by one hundred percent (100%) to Provider until such time as the amount owed to DCH is recovered.

5. The Participating Provider agrees that any and all employees connected with the provision of services to The Plan members will be covered by worker’s compensation insurance in such amounts as to comply with the Georgia Worker’s Compensation Law.

6. The Participating Provider agrees that the Plan, CMS and DCH have the right to inspect, evaluate and audit any pertinent financial records, documents, papers and any records of the Participating Provider with regard to services provided to members covered under the Plan's Agreement with Avesis. Should any records be requested by the Plan or DCH, the records shall be produced immediately for onsite review or sent to the requesting party by mail within fourteen (14) calendar days. All records shall be provided at the sole cost and expense of the Participating Provider. The Plan or DCH shall have unlimited rights to use, disclose and duplicate all of the information and data in accordance with applicable State and federal laws and regulations.

7. For purposes of the provision of services as defined in the Provider Agreement, medical necessity shall be defined as those services appropriate and consistent with the diagnosis of the Participating Provider and the omission of which could adversely affect the Member's medical condition or health; compatible with the standards of acceptable medical practice in the community; are provided in a safe, appropriate and cost-effective setting given the nature of the diagnosis and the severity of the symptoms; and are not provided solely for the convenience of the Member, the Participating Provider or hospital.

8. Section E. (4) of the Provider Agreement is hereby amended to include marketing materials developed by the Participating Provider that reflect the name of the Plan. Any materials printed with the name of the Plan must first be approved by the Plan.

9. Nothing in the Provider Agreement or this Addendum shall prohibit the Participating Provider from advocating on behalf of the Member in any grievance system or utilization review process or individual authorization process in order to obtain necessary services.

AGREED TO by the parties hereto the date first above written.

PARTICIPATING PROVIDER

AVESIS THIRD PARTY
ADMINISTRATORS, INC.

Signature

Signature

Title

Title

Date

Date

Printed Name

Printed Name

GA Medicaid Number