SETTLEMENT AGREEMENT AND MUTUAL RELEASE

THIS SETTLEMENT AGREEMENT AND MUTUAL RELEASE ("Settlement Agreement") is entered into this 24th day of June 2024 ("Effective Date") by and between Eye Centers of America, LLC and its owner, Patrick M. Higgins, M.D. (hereinafter collectively "Eye Centers"), represented by Jason Krisza, Esq. of Wilentz, Goldman & Spitzer, P.A., and the State of New Jersey, Office of the State Comptroller, Medicaid Fraud Division ("MFD"). Eye Centers and MFD are hereinafter collectively referred to as the "Parties" and each individually as a "Party."

WHEREAS, MFD conducted an investigation and found that between August 1, 2015 through July 31, 2020, Eye Centers was reimbursed by the Department of Human Services, Division of Medical Assistance and Health Services (DMAHS) and/or its fiscal agent and/or the Managed Care Organizations (MCO) for claims which failed to have necessary supporting documentation for Health Care Financing Administration Common Procedural Coding System (HCPCS) codes J0178, J2778 and J9035, in violation of N.J.S.A. 30:4D-12(d), N.J.A.C. 10:49-9.8, N.J.A.C. 10:49-5.5 and N.J.A.C. 10:54-9.1 ("Covered Conduct"); and

WHEREAS, MFD determined that, based on the Covered Conduct, Eye Centers received an overpayment from the Medicaid program; and

WHEREAS, MFD issued a Notice of Claim, Certificate of Debt, and Notice of Withhold in this matter and money has been withheld pursuant to the Notice of Withhold by DMAHS and/or its fiscal agent and/or one or more MCO (these funds hereinafter referred to as "Withheld Funds"); and

WHEREAS, the parties desire to amicably resolve the dispute regarding the alleged overpayment and have reached a mutually acceptable resolution of the controversies that exist between them; and

NOW THEREFORE, in consideration of the mutual promises contained herein, as well as for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree to settle their dispute on the following terms:

(1) Eye Centers agrees to pay MFD the total sum of One Hundred Eighty-Four Thousand Six Hundred and Three Dollars and Thirty Cents ($184,603.30) ("Total Payment Amount"), which shall be made according to the following:

i. At the time of execution of this Settlement Agreement, Eye Centers agrees to release $184,603.30 of Withheld Funds to MFD and MFD agrees to apply those funds to the Total Payment Amount. Eye Centers waives and relinquishes all rights or claims to $184,603.30 of the Withheld Funds;

ii. Within five (5) days of the execution of this Settlement Agreement, MFD shall notify DMAHS and each MCO immediately to take the necessary steps to terminate withholding of otherwise payable funds. The parties understand that the Withheld Funds cannot be determined until MFD has completed an accounting of such funds. MFD shall make all reasonable efforts to provide to Eye Centers an accounting of Withheld Funds no later than sixty (60) days after the Effective Date of this Settlement Agreement.

iii. In the event that the Withheld Funds are greater than the Total Payment Amount, MFD agrees to return to Eye Centers the amount of Withheld Funds that exceed the Total Payment Amount, no later than thirty (30) days after the accounting of withheld funds.

iv. In the event that the Withheld Funds are less than the Total Payment Amount, Eye Centers agrees to repay such shortage (i.e., the difference between the Total Payment Amount ($184,603.30) and the Withheld

Funds) to MFD within thirty (30) days of receipt of the accounting of Withheld Funds ("the Shortage Payment").

(2) Nothing in this Settlement Agreement precludes Eye Centers from disputing the amount of the Withheld Funds by any means permitted by law.

(3) For any payments that may be necessary under the terms of this settlement agreement, payment to MFD shall be by certified check, bank check, or attorney trust check made payable to "Treasurer, State of New Jersey," and shall be mailed or delivered as follows:

Attention: Processing Bureau
Treasurer, State of New Jersey
Division of Revenue
200 Woolverton Street, Building 20
Lockbox 656
Trenton, New Jersey 08646

"Eye Centers – [redacted]" must be included in the memo line so that payment is properly credited.

(4) As soon as practicable after receipt of the Total Payment Amount from Eye Centers, MFD shall file a Warrant to Discharge with the Clerk of the Superior Court of New Jersey indicating that the Certificate of Debt filed against Eye Centers is satisfied and should be removed from the Court's docketed list of judgments, with a copy of such filing sent to Eye Centers.

(5) In the event that Eye Centers must make a Shortage Payment, and if such payment is more than ten (10) days late, Eye Centers will be in default of this Settlement Agreement, and the total remaining unpaid balance plus interest accruing from the date of default will immediately become due ("the Default Amount"). Should Eye Centers not cure the default within five (5) business days of receiving notice of default, the Default Amount immediately will be collected through any means available to MFD as provided by law. Eye Centers agrees that a default of this settlement agreement

constitutes good cause for exclusion pursuant to N.J.A.C. 10:49-11.1(d), and MFD reserves the right to exclude Eye Centers from the New Jersey Medicaid program until the Default Amount is repaid to MFD.

(6) Eye Centers agrees to act in full compliance with all applicable state and federal laws and regulations, including but not limited to submitting only claims that accurately and completely reflect the services provided. To that end, Eye Centers agrees to only submit claims for services provided for which Eye Centers possesses sufficient documentation to support such claims and will implement policies to ensure that the underlying issues that caused or contributed to the Covered Conduct will be appropriately addressed and thereby not repeated.

(7) The parties agree that this Settlement Agreement is intended to be a final resolution of all issues arising out of the Covered Conduct, referenced above, including MFD's investigation, and is intended by each party to release the other party and its representatives from liability arising out of the Covered Conduct, including MFD's investigation, unless MFD is mandated to act by federal or State law, or mandated by order or judgment of a court or administrative agency (other than MFD).

(8) Nothing in this Settlement Agreement waives the rights of any other state or federal agency, including, among others, the New Jersey Office of Attorney General, from continuing with a pending or beginning a future civil or criminal investigation or other action for alleged conduct concerning Eye Centers or from taking any action for such conduct. Nothing in this Settlement Agreement waives the rights of MFD to conduct an audit or investigation for the improper submission of any claims or conduct not specifically covered by this Settlement Agreement, and to take any action for such conduct, subject to and as limited by applicable law.

(9) The terms of this Settlement Agreement may be modified only by a subsequent written agreement signed by all Parties.

(10) Subject to the express terms of this Settlement Agreement as provided for in paragraphs **1-9** above, by the signatures set forth below, the authorization of which is hereby affirmed, Eye Centers and MFD agree to the following Release: in consideration of the provision hereof including this release, each party agrees to release the other party and its employees, representatives, officers and directors from liability, obligations and damages arising out of the Covered Conduct and MFD's investigation.

(11) Nothing herein shall constitute an admission, concession, waiver or finding of wrongdoing or liability by any party.

(12) This Settlement Agreement shall be construed, enforced and governed by the laws of the State of New Jersey.

(13) This Settlement Agreement may be executed in Counterparts.

(14) This Settlement Agreement is effective upon the Effective Date reflected on the first page of the Settlement Agreement.

(15) This Settlement Agreement sets forth the entire agreement between and among the parties hereto with respect to the claims described herein and supersedes any other written or oral understanding. This Settlement Agreement does not reflect any other terms or conditions or agreements between or among the parties with respect to any other matter.

IN WITNESS WHEREOF, and intending to be legally bound, the parties hereto, on the following page, have executed the foregoing Settlement Agreement:

FORM AND CONTENT ACCEPTED AND AGREED TO BY:

EYE CENTERS OF AMERICA, LLC

DATE: June 20, 2024

Patrick M. Higgins, M.D.,
individually and as authorized
signatory for
Eye Centers of America, LLC

DocuSigned by:

DATE: 6/20/2024 | 4:18 PM EDT

Jason J. Krisza, Esq.

8697A4B0C8F244E...

Jason J. Krisza, Esq.
Wilentz, Attorneys at Law
Counsel for Eye Centers of America, LLC

KEVIN D. WALSH
ACTING STATE COMPTROLLER

DATE:

By: ______________________
Josh Lichtblau, Director
Medicaid Fraud Division

DATE:

By: ______________________
Justin Berardo,
Assistant Division Director,
Regulatory and Exclusion Unit
Medicaid Fraud Division

DATE:

By: ______________________
Tyler Williams, Regulatory Officer
Medicaid Fraud Division

IN WITNESS WHEREOF, and intending to be legally bound, the parties hereto, on the following page, have executed the foregoing Settlement Agreement:

FORM AND CONTENT ACCEPTED AND AGREED TO BY:

EYE CENTERS OF AMERICA, LLC

DATE: ______________________________

Patrick M. Higgins, M.D.,
individually and as authorized
signatory for
Eye Centers of America, LLC

DATE: ______________________________

Jason J. Krisza, Esq.
Wilentz, Attorneys at Law
Counsel for Eye Centers of America, LLC

KEVIN D. WALSH
ACTING STATE COMPTROLLER

DATE: June 24, 2024 By: Josh Lichtblau
Josh Lichtblau, Director
Medicaid Fraud Division

DATE: June 24, 2024 By: Justin Berardo
Justin Berardo,
Assistant Division Director,
Regulatory and Exclusion Unit
Medicaid Fraud Division

DATE: June 24, 2024 By: Tyler Williams
Tyler Williams, Regulatory Officer
Medicaid Fraud Division