

## LYNDEN INCORPORATED

### SUMMARY OF MATERIAL MODIFICATION TO THE LYNDEN INCORPORATED AND PARTICIPATING EMPLOYERS HEALTHCARE PLAN

This Summary of Material Modification (“SMM”), effective as indicated below, amends your Summary Plan Description (“SPD”) for the Lynden Incorporated and Participating Employers Healthcare Plan as follows:

**FIRST:** The section titled “Introduction” is amended by adding the following paragraph to the end thereof:

**Section 6001 of the Families First Coronavirus Response Act (“FFCRA”), as Amended and Expanded by Sections 3201, 3202 and 3203 of the Coronavirus Aid, Relief and Economic Security (“CARES”) Act - Coverage of Testing, Vaccinations and Other Preventive Services for COVID-19.** Federal law requires any group health plan and health insurance issuer offering group or individual health insurance coverage (other than plans providing excepted benefits; retiree-only plans and short-term, limited-duration insurance plans) to cover COVID-19 testing and related services and not impose any cost-sharing requirements or prior authorization or other medical management requirements consistent with the FFCRA as amended by the CARES Act. This Section, which applies to all employers regardless of size, is effective immediately and will continue throughout the public health emergency. The U.S. Department of Health and Human Services (“HHS”) will determine when the public health emergency has expired.

Section 3203 of the CARES Act adds to the testing mandate and requires group health plans (other than plans providing excepted benefits; grandfathered group health plans; retiree only plans and short-term, limited-duration insurance plans) and health insurance issuers to cover COVID-19 vaccines, as well as any qualifying coronavirus preventive services, without cost sharing. Such qualifying coronavirus preventive services are defined in Section 3203(b)(1) as “an item, service or immunization that is intended to prevent or mitigate COVID-19.”

The Department of Labor (“DOL”) and HHS issued an interim final rule to implement the requirements of the CARES Act to cover qualifying coronavirus preventive services without a cost share requirement for both in-network and out-of-network providers. The vaccine coverage mandate and no cost share requirement for qualifying coronavirus preventive services will not expire for all in-network providers. The requirement for the extension of such coverage to out-of-network providers will cease when HHS determines the public health emergency has expired.

**IRS Notice 2020-15- High Deductible Health Plans and Expenses Related to COVID-19.** Under IRS Notice 2020-15, until further guidance is issued, a health plan that otherwise satisfies the requirements to be a High Deductible Health Plan (“HDHP”) under the Internal Revenue Code will not fail to be an HDHP merely because the health plan provides health benefits associated with testing for and treatment of COVID-19 without a deductible, or with a deductible below the minimum deductible (self only or family) for an HDHP. Therefore, an individual covered by the HDHP will not be disqualified from making tax-favored contributions to a health savings account.

Note that recent legislation also permits, until January 1, 2022, a HDHP to cover all telehealth and other remote care services with no deductible. This Section is applicable only to employers who offer HDHPs. The effective period is immediate and will cease when further guidance is issued by the IRS.

**Deadline Extensions.** In response to the COVID-19 outbreak, certain departments, including the DOL, Department of the Treasury and HHS have issued extensions with respect to standard timeframes relating to HIPAA, COBRA, and the ACA. These departments may make further extensions and may do so with other similar laws generally relating to ERISA which shall be incorporated in this document as appropriate. For additional information regarding fully insured plans, please refer to your insurance carrier certificate of coverage and/or policy. For additional information regarding self-insured plans, please reach out to your Employer and/or Plan Administrator.

**SECOND:** The section titled “**Family Medical Leave Act Coverage**” is amended by adding the following paragraph to the end thereof:

All references to “FMLA” incorporate any applicable provision of the FFCRA. Although FFCRA leave benefits expired on December 31, 2020, the Consolidated Appropriations Act of 2021 (“CAA”) extended the employer payroll tax credit for paid sick and family leave through March 31, 2021, or as extended by legislative updates. It should be noted that the CAA does not change the total amount of leave available, the qualifying reasons for which employees may take leave, the caps on the amount of pay employees are entitled to receive, or the FFCRA’s documentation requirements; however, it does permit employers with fewer than 500 employees to choose whether to provide such leave to eligible employees and seek a payroll tax credit for any such leave provided.

- This Section is only applicable to employers who have fewer than 500 employees. (Certain exceptions apply.)

**THIRD:** The section titled “**COBRA Rights**” is amended by adding the following paragraph:

Note that, effective February 10, 2021, the CAA may permit additional health care FSA carryovers and/or grace periods to be temporarily extended. Provisions of such extensions, if any, must be reflected in the health care FSA documents.

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This SMM merely highlights the COVID-19 legislative changes as they have impacted your Plan.

Please keep this important Summary of Material Modification with your Summary Plan Description.