

ATTACHMENT I SAMPLE CONTRACT



OREGON DEPARTMENT OF
Human Services

Contract Number **000000**

OregonBuys Number PO-10000-**00000000**

STATE OF OREGON PERSONAL/PROFESSIONAL SERVICES CONTRACT

You can get this document in other languages, large print, braille, or a format you prefer free of charge. Contact the Contract Administrator at the contact information found below. We accept all relay calls.

This Contract is between the State of Oregon, acting by and through its Oregon Department of Human Services, hereinafter referred to as “**ODHS,**” and

Contractor
d.b.a. Facility or Assumed Name

Address

Address

Attention: (required)

Telephone: (required)

Fax: (optional)

Email address: (required)

hereinafter referred to as “**Contractor.**”

Work to be performed under this Contract relates principally to ODHS’

(Fill in with name of Office, Program, etc.)

(Insert address)

(Insert city, state, zip)

Contract Administrator: (Insert Name) or delegate

Telephone: (Required)

Email address: (Required)

1. **Effective Date and Duration.** This Contract shall become effective on the later of: (I) the last date all required signatures in Section 6., below have been obtained, or (II) **[insert start date]** provided it is (i) signed by all parties on or before such date, and (ii) when required, approved in writing by the Oregon Department of Justice on or before such date, and (iii) when required, approved in writing by the Oregon Department of Administrative Services. Unless extended or terminated earlier in accordance with its terms, this Contract shall expire on **[insert end date]**. Contract termination shall not extinguish or prejudice ODHS' right to enforce this Contract with respect to any default by Contractor that has not been cured.
2. **Contract Documents.**
 - a. This Contract consists of this document and includes the following listed exhibits which are incorporated into this Contract:
 - (1) Exhibit A, Part 1: Statement of Work
 - (2) Exhibit A, Part 2: Payment and Financial Reporting
 - (3) Exhibit A, Part 3: Special Provisions
 - (4) Exhibit B: Standard Terms and Conditions
 - (5) Exhibit C: Insurance Requirements
 - (6) Exhibit D: Federal Terms and Conditions
 - (7) Exhibit E: Privacy and Security AgreementThere are no other Contract documents unless specifically referenced and incorporated into this Contract.
 - b. This Contract and the documents listed in Section 2., "Contract Documents", Subsection a. above, shall be in the following descending order of precedence: this Contract less all exhibits, Exhibits D, E, B, A, and C.
3. **Consideration.**
 - a. The maximum, not-to-exceed compensation payable to Contractor under this Contract, which includes any allowable expenses, is **[\$insert amount]**. ODHS will not pay Contractor any amount in excess of the not-to-exceed compensation of this Contract for completing the Work and will not pay for Work performed before the date this Contract becomes effective or after the termination or expiration of this Contract. If the maximum compensation is increased by amendment of this Contract, the amendment must be fully effective before Contractor performs Work subject to the amendment.

- b. Payments to Contractor shall be subject to ORS 293.462 and shall be made in accordance with the payment schedule and requirements in Exhibit A, Part 2., "Payment and Financial Reporting."
- c. ODHS will only pay for completed Work under this Contract. For purposes of this Contract, "Work" means the tasks or services and deliverables accepted by ODHS as described in Exhibit A, Part 1, "Statement of Work."

4. **Contractor Determination.** In accordance with the State Controller's Oregon Accounting Manual, policy 30.40.00.104, ODHS' determination is that:

☐ Not applicable ☒ Contractor is a contractor

Assistance Listings number(s) of federal funds to be paid through this Contract: 93.556

5. Contractor Information and Certification.

- a. Contractor Information.** Contractor shall provide the following information upon submission of the signed Contract.

(1) **Is Contractor a nonresident alien**, as defined in 26 U.S.C. § 7701(b)(1), a foreign person, or a foreign entity? (Check one box): ☐ YES ☐ NO

(2) **Business Designation.** (Check one box):

- | | |
|--|--|
| <input type="checkbox"/> Professional Corporation | <input type="checkbox"/> Nonprofit Corporation |
| <input type="checkbox"/> Limited Liability Company | <input type="checkbox"/> Partnership |
| <input type="checkbox"/> Limited Partnership | <input type="checkbox"/> Limited Liability Partnership |
| <input type="checkbox"/> Sole Proprietorship | <input type="checkbox"/> Corporation |

(3) **Contractor Proof of Insurance.** All insurance listed herein and required by Exhibit C must be in effect prior to Contract execution.

PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION:

Professional Liability Insurance Company: **SAMPLE CONTRACT ONLY**

Policy #: _____ Expiration Date: _____

Commercial General Liability Insurance Company: _____

Policy #: _____ Expiration Date: _____

Automobile Liability Insurance Company: _____

Policy #: _____ Expiration Date: _____

Network Security and Privacy Liability: _____

Policy #: _____ Expiration Date: _____

Directors and Officers Coverage: _____

Policy #: _____ Expiration Date: _____

Workers' Compensation. Does Contractor have any subject workers, as defined in ORS 656.027? (Check one box): ☐ YES ☐ NO If YES, provide the following information:

Workers' Compensation Insurance Company: _____

Policy #: _____ Expiration Date: _____

- b. Certification.** Without limiting the generality of the foregoing, by signature on this Contract, the undersigned hereby certifies under penalty of perjury that:

- (1) Contractor is in compliance with all insurance requirements in Exhibit C of this Contract, and notwithstanding any provision to the contrary, Contractor shall deliver to the ODHS Contract Administrator (see page one of this Contract) the required Certificate(s) of Insurance within 30 days of execution of this Contract. By certifying compliance with all insurance as required by this Contract, Contractor acknowledges it may be found in breach of the Contract for failure to obtain required insurance. Contractor may also be in breach of the Contract for failure to provide Certificate(s) of Insurance as required and to maintain required coverage for the duration of the Contract;
- (2) Contractor acknowledges that the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any "claim" (as defined by ORS 180.750) that is made by (or caused by) the Contractor and that pertains to this Contract or to the project for which the Contract work is being performed. Contractor certifies that no claim described in the previous sentence is or will be a "false claim" (as defined by ORS 180.750) or an act prohibited by ORS 180.755. The Oregon Attorney General may enforce the liabilities and penalties provided by the Oregon False Claims Act against the Contractor, in addition to any remedies that may be available to ODHS under this Contract;
- (3) The undersigned is authorized to act on behalf of Contractor and represents and warrants that Contractor has complied with the tax laws of the State of Oregon and the applicable tax laws of any political subdivision of Oregon. Contractor shall, throughout the duration of this Contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of Oregon. For the purposes of this Section, "tax laws" includes: (i) All tax laws of Oregon, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318; (ii) Any tax provisions imposed by a political subdivision of Oregon that applied to Contractor, to Contractor's property, operations, receipts, or income, or to Contractor's performance of or compensation for any work performed by Contractor; (iii) Any tax provisions imposed by a political subdivision of Oregon that applied to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor; and (iv) Any rules, regulations, charter provisions, or ordinances that

implemented or enforced any of the foregoing tax laws or provisions.

Contractor acknowledges that the Oregon Department of Administrative Services will report this Contract to the Oregon Department of Revenue (DOR). The DOR may take any and all actions permitted by law relative to the collection of taxes due to the State of Oregon or a political subdivision, including: (i) garnishing the Contractor's compensation under this Contract; or (ii) exercising a right of setoff against Contractor's compensation under this Contract for any amounts that may be due and unpaid to the State of Oregon or its political subdivisions for which the DOR collects debts;

- (4) The information shown in Section 5.a. above is Contractor's true, accurate and correct information;
- (5) To the best of the undersigned's knowledge, Contractor has not discriminated against and will not discriminate against minority, women or emerging small business enterprises certified under ORS 200.055 in obtaining any required subcontracts;
- (6) Contractor and Contractor's employees and agents are not included on the list titled "Specially Designated Nationals" maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at: <https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>;
- (7) Contractor is not listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal procurement or Non-procurement Programs" currently found at: <https://www.sam.gov/SAM>;
- (8) Contractor is not subject to backup withholding because:
 - (a) Contractor is exempt from backup withholding;
 - (b) Contractor has not been notified by the IRS that Contractor is subject to backup withholding as a result of a failure to report all interest or dividends; or
 - (c) The IRS has notified Contractor that Contractor is no longer subject to backup withholding; and

- (9) Contractor's Federal Employer Identification Number (FEIN) or Social Security Number (SSN) provided to ODHS is true and accurate. If this information changes, Contractor shall provide ODHS with the new FEIN or SSN within 10 days.

CONTRACTOR, BY EXECUTION OF THIS CONTRACT, HEREBY ACKNOWLEDGES THAT CONTRACTOR HAS READ THIS CONTRACT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

CONTRACTOR: YOU WILL NOT BE PAID FOR SERVICES RENDERED BEFORE THE EFFECTIVE DATE OF THIS CONTRACT.

6. **Signatures.** This Contract and any subsequent amendments may be executed in several counterparts, all of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of the Contract and any amendments so executed shall constitute an original.

Contractor Name

By:

SAMPLE CONTRACT ONLY

Authorized Signature

Printed Name

Title

Date

State of Oregon, acting by and through its Oregon Department of Human Services
By:

Authorized Signature

Printed Name

Title

Date

Approved by the Oregon Department of Administrative Services:

Exempt per OAR 125-246-0170(2)

Authorized Signature

Title

Date

Approved for Legal Sufficiency:

Approved via e-mail by

Oregon Department of Justice

Date

EXHIBIT A

Part 1 Statement of Work

To be negotiated

1. **Purpose.**
2. **Services to be Provided.** *Contractor shall*
 - a. *Description of outcomes.*
 - b. *Deliverables/Quantities.*
 - c. *Delivery Schedule.*
3. **Reporting Requirements.**
4. **Specifications or Performance Standards.** ODHS requires that Contractor meets the highest standards prevalent in the industry or business most closely involved in providing the appropriate goods or services.

EXHIBIT A**Part 2****Payment and Financial Reporting****1. Payment Provisions.**

- a. As consideration for the services provided by Contractor during the period specified in **Section 1., "Effective Date and Duration"**, of this Contract, ODHS will pay to Contractor, a maximum not-to-exceed amount as specified in **Section 3., "Consideration"** of this Contract, to be paid as follows:

(1) To be negotiated

b. Contractor Invoice.

- (1) Contractor shall send all invoices to ODHS' Contract Administrator at the address specified on page 1, or to any other address as ODHS may indicate in writing to Contractor. Contractor's claims to ODHS for overdue payments on invoices are subject to ORS 293.462.
- (2) Invoices must include the following information:
- (a) Contractor name;
 - (b) Invoice number;
 - (c) Date of invoice;
 - (d) This Contract number;
 - (e) A detailed description of services performed, including the name or names of the individuals who performed the services and prepared the deliverables to which the invoice applies, the dates the services were performed, all deliverables delivered during the period of the invoice, quantity of service provided if billing by unit rate, the rate or rates for the services performed, and the total cost of each service being invoiced;
 - (f) Itemization and explanation of all expenses for which Contractor claims reimbursement authorized under this Contract; and
 - (g) The total amount due.

- 2. Travel and Other Expenses.** ODHS will not reimburse Contractor for any travel or other expenses under this Contract.

EXHIBIT A**Part 3
Special Provisions****1. Confidentiality of Information.****a. Client Information.**

- (1) All information as to personal facts and circumstances obtained by the Contractor on the client ("Client Information") shall be treated as privileged communications, shall be held confidential, and shall not be divulged without the written consent of the client, his or her guardian, or the responsible parent when the client is a minor child, or except as required by other terms of this Contract. Nothing prohibits the disclosure of information in summaries, statistical, or other forms which does not identify particular individuals.
- (2) The use or disclosure of Client Information shall be limited to persons directly connected with the administration of this Contract. Confidentiality policies shall be applied to all requests from outside sources.
- (3) If Contractor, or any of its officers, directors, employees, agents, or subcontractors receives or has access to confidential Social Security Administration (SSA), or Federal Tax Information (FTI) records in the performance of Work under this Contract, Contractor shall comply, and ensure that all of Contractor's officers, directors, employees, agents and subcontractors comply, with the following provisions:
 - (a) With respect to SSA records:
 - i. Provide a current list of employees and employees of any agent or subcontractor with access to SSA records;
 - ii. Adhere to the same security requirements as employees of ODHS;
 - iii. Abide by all relevant Federal laws, restrictions on access, use, disclosure, and the security requirements contained within ODHS' agreement with SSA;

- iv. Provide its employees and agents the same security awareness training as ODHS employees; and
 - v. Include the provisions of this Section 1.a.(3)(a) in any subcontract.
- (b) With respect to Federal Tax Information (FTI), as defined in IRS Publication 1075:
- i. Contractor and its officers, directors and employees with access to, or who use FTI provided by ODHS must meet the background check requirements defined in IRS Publication 1075;
 - ii. Any FTI made available to Contractor shall be used only for the purpose of carrying out the provisions of this Contract. Contractor shall treat all information contained in FTI as confidential and that information shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this Contract. Inspection by or disclosure to anyone other than an officer or employee of the Contractor is prohibited;
 - iii. Contractor shall account for all FTI upon receipt and shall properly store all FTI before, during, and after processing. In addition, all FTI related output and products will be given the same level of protection as required for the source material;
 - iv. No work involving FTI furnished under this Contract will be subcontracted without prior written approval of the IRS;
 - v. Maintain a list of employees who are authorized access to FTI. Such list will be provided to ODHS and, upon request, to the IRS reviewing office; and
 - vi. Include the provisions of this Section 1.a.(3)(b) in any subcontract.
- (c) Failure to abide by any of the requirements in this subsection could result in criminal or civil penalties and result in termination of this Contract.

- (d) Contractor may be subjected to periodic and ongoing security reviews to ensure compliance with the requirements of Section 1.a.(3).
- (4) Except as prohibited by Section 1.a.(3) above, ODHS, Contractor and any subcontractor will share information as necessary to effectively serve ODHS clients.

b. Non-Client Information.

- (1) Each Party acknowledges that it and any of its officers, directors, employees and agents may, in the course of performing its responsibilities under this Contract, be exposed to or acquire information that is confidential to the other Party. To the extent permitted by law, any and all information of any form provided to a Party or its officers, directors, employees and agents in the performance of the Contract that reasonably could at the time of its disclosure be understood to be confidential shall be deemed to be confidential information of the originating Party ("Confidential Non-Client Information").
- (2) Confidential Non-Client Information shall be deemed not to include information that:
 - (a) Is or becomes (other than by disclosure by the Party acquiring such information) publicly known or is contained in a publicly available document except to the extent applicable law still restricts disclosure;
 - (b) Is furnished by the originating Party to others without restrictions similar to those imposed on the receiving Party under this Contract;
 - (c) Is rightfully in the receiving Party's possession without the obligation of nondisclosure prior to the time of its disclosure by the originating Party under this Contract;
 - (d) Is obtained from a source other than the originating Party without the obligation of confidentiality;
 - (e) Is disclosed with the written consent of the originating Party; or
 - (f) Is independently developed by the receiving Party's officers, directors, employees and agents who can be shown to have had no access to the Confidential Non-Client Information.

(3) Nondisclosure. The receiving Party shall hold all Confidential Non-Client Information in strict confidence, using at least the same degree of care that it uses in maintaining the confidentiality of its own confidential information; and shall not sell, assign, license, market, transfer or otherwise dispose of, give or disclose Confidential Non-Client Information to third parties; shall not use Confidential Non-Client Information for any purposes whatsoever other than as contemplated by this Contract or reasonably related thereto, and shall advise any of its officers, directors, employees and agents that receive or have access to the Confidential Non-Client Information of their obligations to keep Confidential Non-Client Information confidential. These confidentiality obligations do not restrict disclosure of information otherwise qualifying as Confidential Non-Client Information if the receiving Party can show that either of the following conditions exists: (i) the information was disclosed in response to a subpoena or court order duly issued in a judicial or legislative process, in which case the receiving Party shall notify the originating Party of the subpoena five days prior to the disclosure, unless such notice could not reasonably be given; or (ii) the disclosure was required to respond to a request for the information made under the Oregon Public Records Law, ORS 192.311 to 192.478. The receiving Party shall notify the originating Party of a public records request five days prior to the disclosure.

c. Upon request and pursuant to the instructions of ODHS, Contractor shall return or destroy all copies of Confidential Information, and Contractor shall certify in writing the return or destruction of all Confidential Information.

d. "Client" means any individual, family or provider:

- (1) For whom ODHS must provide Services and incidental or specialized Goods, in any combination thereof ("Services and Incidental Supplies"), according to state, federal law, rule, and policy. Those Services and Incidental Supplies include but are not limited to treatment, care, protection, and support without regard to the proximity of the services being provided;
- (2) Who in fact receives and utilizes services provided by ODHS primarily for that individual's or family's benefit;
- (3) Who is under the custody, care, or both of ODHS; or

- (4) Who provides direct care or Services and is a proxy or representative of the non-provider Client.

2. Amendments.

- a. Subject to Section 2.c. below, ODHS reserves the right to amend or extend this Contract under the following general circumstances:
 - (1) ODHS may extend the Contract for additional periods of time up to a total Contract period of 5 years, and for additional money associated with the extended period(s) of time. The determination for any extension for time may be based on ODHS' satisfaction with performance of the work or services provided by the Contractor under this Contract.
 - (2) ODHS may periodically amend any payment rates throughout the life of the Contract proportionate to increases of the U.S. Bureau of Labor Statistics' Consumer Price Index for the Western Region; and to provide Cost Of Living Adjustments (COLA) if ODHS so chooses. Any negotiation of increases in rates to implement a COLA will be as directed by the Oregon State Legislature. In addition, ODHS may periodically amend any payment rates throughout the life of the Contract to meet current market conditions.
- b. ODHS further reserves the right to amend the Statement of Work based on the original scope of work of RFP #S-10000-00016969 for the following:
 - (1) Programmatic changes, additions or modifications deemed necessary to accurately reflect the original scope of work that may not have been expressed in the original Contract or previous amendments to the Contract;
 - (2) Implement additional phases of the Work; or
 - (3) As necessitated by changes in Code of Federal Regulations, Oregon Revised Statutes, or Oregon Administrative Rules, which, in part or in combination, govern the provision of services provided under this Contract.
- c. Upon identification, by any party to this Contract, of any circumstance which may require an amendment to this Contract, the parties may enter into negotiations regarding the proposed modifications. Any resulting amendment must be in writing and be signed by all parties to the Contract before the modified or additional provisions are binding on either party. All amendments must comply with Exhibit B,

“Standard Terms and Conditions”, Section 24., “Amendments; Waiver; Consent.” of this Contract.

3. Contractor Requirements to Report Abuse of Certain Classes of Persons.

- a. Contractor shall comply with, and cause its employees, agents and subcontractors to comply with, the applicable laws for mandatory reporting of abuse, including but not limited to abuse of the following classes of persons in Oregon:
- (1) Children pursuant to ORS 419B.005 through 419B.015;
 - (2) Elderly Persons and Adults with Physical Disabilities pursuant to ORS 124.050 through 124.095 and ORS 410.020;
 - (3) Residents of Nursing Facilities pursuant to ORS 441.630 through 441.645; and
 - (4) Adults with Mental Illness or Developmental Disabilities pursuant to ORS 430.735 through 430.743.
- b. Contractor shall immediately make reports of suspected abuse of persons who are members of the classes established in Section 3.a. above to Oregon’s Statewide Abuse Reporting Hotline: 1-855-503-SAFE (7233) or local law enforcement, as a requirement of this Contract. Contractor does not need to prove abuse occurred, just reasonably suspect abuse occurred, to be required to report.

4. Background Checks. As a condition of this Contract, Contractor shall verify that each of Contractor’s employees, volunteers, subcontractors, owners, managers, and board members providing services under this Contract or who have access to Agency clients, client information, or client funds, has not been convicted of any of the following crimes: child or elder abuse, offenses against persons, sexual offenses, child neglect, or any other offense bearing a substantial relation to the qualifications, functions or duties of each such person. For purposes of this paragraph, “substantial relation” means the crime for which the person has been convicted of involves conduct by the person that relates to functions the person may perform for Contractor or places the person in a position to gain access to a client, a client’s personal information, or client funds so as to place the person in a position to cause harm to a client. For example, a person who is convicted of fraud may not be permitted to work in a position that directs, controls, or disburses moneys for this Contract or has access to client finances or financial information.

- a. Contractor shall establish verification by:

- (1) Having Contractor's employee, volunteer, subcontractor, owner, manager, or board member who will be providing services under this Contract or who will have access to Agency-referred clients, client information, or client funds, apply for and receive a fingerprint-based national criminal records check from a local Oregon State Police (OSP) office, which will be shared with Contractor; OR
 - (2) Utilizing a fingerprint-based background check approval, provided within the last two years, by a federal or State of Oregon agency to demonstrate the Contractor's employee, volunteer, subcontractor, owner, manager, or board member's fitness to provide services under this Contract; OR
 - (3) Utilizing a third-party vendor. The third-party vendor must provide a national criminal records check that includes review of criminal history from Oregon and each state the individual has lived, studied, or worked in and the National Sex Offender Public Website (NSOPW).
- a. The following requirements apply to all background checks performed regardless of method (Section a.(1)-(3) above) used:
- (1) Background checks must be completed prior to performing services under this Contract or having access to Agency-referred clients, client information, or client funds; when Contractor's employee, volunteer, subcontractor, owner, manager, or board member changes positions with the Contractor and will be performing services under this Contract or will have access to Agency-referred clients, client information, or client funds; or if there is a reasonable basis to believe a new background check may be needed, to include, but are not limited to, the following:
 - (a) Any indication of possible criminal or abusive behavior by an employee, volunteer, subcontractor, owner, manager, or board member;
 - (b) A lapse in working or volunteering in a position under the direction and control of Contractor, but the individual is still considered in the position. For example, an extended period of leave by the individual due to sabbatical or military deployment;

Commented [BAD1]: For out of state: Replace "Oregon State (OSP) office" with "Law Enforcement Agency".

- (c) Discovery of incorrect processes or insufficient documentation for a previously conducted background check;
 - (d) Federal or state regulations require a new background check; or
 - (e) Contractor determines the need for a background check.
- (2) Background checks must be completed whenever there is a break in employment, volunteering, subcontracting, ownership, management, or board membership greater than 30 days. For example, an individual is laid off or quits due to the school year starting but returns to working or volunteering for the Contractor providing services under this Contract or having access to Agency-referred clients, client information, or client funds the following semester or summer.
- (3) Existing employees, volunteers, subcontractors, owners, managers, and board members who perform services under this Contract or have access to Agency-referred clients, client information, or client funds are not required to have a new background check conducted at the time of Contract extension by amendment, unless required by Section b.(1) above.
- (4) Contractor shall require each of its employees, volunteers, subcontractors, owners, managers, and board members receiving background checks to report to Contractor any and all new arrests, convictions, or investigations for any child protective service or adult protective service case within five business days after the new arrest, conviction or investigation took place.
 - (a) Within five days of such notification, Contractor is required to report to the Agency Contract Administrator or delegate the employee, volunteer, subcontractor, owner, manager, or board member's new history.
 - (b) Agency may require a new background check to reevaluate the ongoing fitness of the employee, volunteer, subcontractor, owner, manager, or board member.
- (5) Contractor shall ensure all background checks and documentation are placed in the employee, volunteer,

subcontractor, owner, manager, or board member's personnel file.

- b. If the position of the Contractor's employee or subcontractor is paid in part or in whole by funds from the Centers for Medicare and Medicaid Services (CMS), the background check must also include review of the General Service Administration's Excluded Parties List System (EPLS), the National Plan and Provider Enumeration System (NPPES), the Office of Inspector General (OIG) List of Excluded Individuals/Entities (LEIE), and the Social Security Administration (SSA) Death Masterfile. Any employee, volunteer, subcontractor, owner, manager, or board member of Contractor found excluded in the EPLS, NPPES, LEIE or the SSA Death Masterfile shall not be permitted to provide services under this Contract or have access to Agency-referred clients, client information, or client funds.
- c. Contractor shall determine after receiving the criminal records and NSOPW check, whether its employee, volunteer, subcontractor, owner, manager, or board member has any of the convictions listed above or sex offender status, and whether these potentially disqualifying conditions pose a risk to providing services under this Contract or working safely with Agency-referred clients or having access to client information or client funds. If Contractor notes a conviction from any of the above listed crimes on the employee, volunteer, subcontractor, owner, manager, or board member's record, and Contractor chooses to hire the employee or allow the volunteer, subcontractor, owner, manager, or board member to perform services under this Contract or have access to Agency-referred clients, client information or client funds, Contractor shall confirm with Agency in writing, the reasons for allowing the individual to perform services under this Contract or have access to Agency-referred clients, client information, or client funds. These reasons shall address how the employee, volunteer, subcontractor, owner, manager, or board member is presently suitable or able to provide services under this Contract, or have access to Agency-referred clients, client information, or client funds in a safe and trustworthy manner. Contractor shall ensure this information, along with the employee, volunteer, subcontractor, owner, manager, or board member's background check, is in the individual's personnel file.
- Upon receiving such written notification from Contractor, Agency reserves the right to the final denial or approval of any Contractor employee, volunteer, subcontractor, owner, manager, or board

member to provide services under this Contract or have access to Agency-referred clients, client information, or client funds. Unless Agency rejects the employee, volunteer, subcontractor, owner, manager, or board member to provide services under this Contract or to have access to Agency-referred clients, client information, or client funds under this Contract within seven business days from receiving such written notification from Contractor, the Contractor's employee, volunteer, subcontractor, owner, manager, or board member will be deemed approved by Agency.

- d. Regardless of whether or not any employee, subcontractor, owner, manager, or board member of Contractor has access to Agency-referred clients, client information, or client funds, if Contractor discovers the individual is included on the list titled "Specially Designated Nationals" maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at: <https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>, or is listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal procurement or Non-procurement Programs" currently found at: <https://www.sam.gov/SAM> Contractor shall notify the Agency Contract Administrator via e-mail within one business day of such discovery.
- e. Contractor shall establish a personal personnel file and place each criminal records check in named file for possibility of future Agency review and shall be maintained pursuant to Exhibit B, "Standard Terms and Conditions", Section 14, "Records, Maintenance, Access."
- f. Changes to federal or state legislation and rule may impose additional requirements for background checks. These changes will be implemented by an amendment to this Contract.
- g. If Agency determines there is a need for a new criminal records check, Contractor shall provide the results of a new criminal records check to Agency for review no more than 14 business days after Agency's request.

5. **Equal Access to Services.** Contractor shall provide equal access to covered services for both males and females under 18 years of age, including access to appropriate facilities, services, and treatment, to achieve the policy in ORS 417.270.

Commented [BAD2]: If last sentence of Section X. above is kept, **Delete** this Section d.

If last sentence of Section X. above is deleted, **Keep** this Section d.

6. **Media Disclosure.** The Contractor will not provide information to the media regarding a recipient of services purchased under this Contract without first consulting the ODHS office that referred the child or family. The Contractor will make immediate contact with the ODHS office when media contact occurs. The ODHS office will assist the Contractor with an appropriate follow-up response for the media.
7. **Nondiscrimination.**
- a. The Contractor must provide services to ODHS clients without regard to race, religion, national origin, sex, age, marital status, sexual orientation or disability (as defined under the Americans with Disabilities Act). Contracted services must reasonably accommodate the cultural, language, and other special needs of clients.
 - b. Contractor certifies that Contractor has a written policy and practice that meets the requirements described in ORS 279A.112 for preventing sexual harassment, sexual assault, and discrimination against employees who are members of a protected class. Contractor agrees, as a material term of this Contract, to maintain such policy and practice in force during the entire Contract term.
 - c. As required by ORS 279B.235, Contractor must comply with ORS 652.220 and shall not unlawfully discriminate against any of Contractor's employees in the payment of wages or other compensation for work of comparable character on the basis of an employee's membership in a protected class. "Protected class" means a group of persons distinguished by race, color, religion, sex, sexual orientation, national origin, marital status, veteran status, disability, or age. Contractor's compliance with this Section constitutes a material element of this Contract and a failure to comply constitutes a breach that entitles ODHS to terminate this Contract for cause.
 - d. Contractor may not prohibit any of Contractor's employees from discussing the employee's rate of wage, salary, benefits, or other compensation with another employee or another person. Contractor may not retaliate against an employee who discusses the employee's rate of wage, salary, benefits, or other compensation with another employee or another person.

EXHIBIT B**Standard Terms and Conditions**

1. **Governing Law, Consent to Jurisdiction.** This Contract shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between ODHS or any other agency or department of the State of Oregon, or both, and Contractor that arises from or relates to this Contract shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this Section be construed as a waiver by the State of Oregon of the jurisdiction of any court or of any form of defense to or immunity from any Claim, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise. Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum. This Section shall survive expiration or termination of this Contract.
2. **Compliance with Law.** Contractor shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to Contractor and the Contract. ODHS' performance under the Contract is conditioned upon Contractor's compliance with the obligations of contractors under ORS 279B.220, 279B.230 and 279B.235, which are incorporated by reference herein. This Section shall survive expiration or termination of this Contract.
3. **Independent Contractor.**
 - a. Contractor is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265 or otherwise.
 - b. If Contractor is currently performing work for the State of Oregon or the federal government, Contractor by signature to this Contract, represents and warrants that Contractor's Work to be performed under this Contract creates no potential or actual conflict of interest as defined by ORS Chapter 244 and that no statutes, rules or regulations of the State of Oregon or federal agency for which Contractor currently performs work would prohibit Contractor's Work under this Contract. If compensation under this Contract is to be

charged against federal funds, Contractor certifies that it is not currently employed by the federal government.

- c. Contractor is responsible for all federal and state taxes applicable to compensation paid to Contractor under this Contract and, unless Contractor is subject to backup withholding, ODHS will not withhold from such compensation any amounts to cover Contractor's federal or state tax obligations. Contractor is not eligible for any social security, unemployment insurance or workers' compensation benefits from compensation paid to Contractor under this Contract, except as a self-employed individual.
- d. Contractor shall perform all Work as an Independent Contractor, as defined in ORS 670.600. ODHS reserves the right (i) to determine and modify the delivery schedule for the Work, and (ii) to evaluate the quality of the Work Product, however, ODHS may not and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing the Work.

4. Representations and Warranties.

- a. **Contractor's Representations and Warranties.** Contractor represents and warrants to ODHS that:

- (1) Contractor has the power and authority to enter into and perform this Contract;
- (2) The obligations set forth in this Contract, when executed and delivered, shall be valid and binding obligations of the Contractor enforceable in accordance with its terms;
- (3) Contractor has the skill and knowledge possessed by well-informed members of its industry, trade or profession and Contractor will apply that skill and knowledge with care and diligence to perform the Work in a professional manner and in accordance with the highest standards prevalent in Contractor's industry, trade or profession;
- (4) Contractor shall, at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work; and
- (5) Contractor prepared its proposal related to this Contract, if any, independently from all other proposers, and without collusion, fraud, or other dishonesty.

- b. Warranties Cumulative.** The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.
- 5. Time is of the Essence.** Contractor agrees that time is of the essence under this Contract.
- 6. Funds Available and Authorized; Payments.**
- a.** Contractor shall not be compensated for Work performed under this Contract by any other agency or department of the State of Oregon or the federal government. ODHS certifies that it has sufficient funds currently authorized for expenditure to finance the costs of this Contract within ODHS' current biennial appropriation or limitation. Contractor understands and agrees that ODHS' payment for Work performed is contingent on ODHS receiving appropriations, limitations, allotments or other expenditure authority sufficient to allow ODHS, in the exercise of its reasonable administrative discretion, to continue to make payments under this Contract.
- b. Payment Method.** Payments under this Contract will be made by Electronic Funds Transfer (EFT). Upon request, Contractor shall provide its taxpayer identification number (TIN) and other necessary banking information to receive EFT payment. Contractor shall maintain at its own expense a single financial institution or authorized payment agent capable of receiving and processing EFT using the Automated Clearing House (ACH) transfer method. The most current designation and EFT information will be used for all payments under this Contract. Contractor shall provide this designation and information on a form provided by ODHS. In the event that EFT information changes or the Contractor elects to designate a different financial institution for the receipt of any payment made using EFT procedures, the Contractor shall provide the changed information or designation to ODHS on an ODHS-approved form. ODHS is not required to make any payment under this Contract until receipt of the correct EFT designation and payment information from the Contractor.
- 7. Recovery of Overpayments.** IF BILLINGS UNDER THIS CONTRACT, OR UNDER ANY OTHER CONTRACT BETWEEN CONTRACTOR AND ODHS, RESULT IN PAYMENTS TO CONTRACTOR TO WHICH CONTRACTOR IS NOT ENTITLED, ODHS, AFTER GIVING WRITTEN NOTIFICATION TO CONTRACTOR, MAY WITHHOLD FROM PAYMENTS DUE TO CONTRACTOR SUCH AMOUNTS, OVER SUCH PERIODS OF TIME, AS ARE NECESSARY TO RECOVER THE AMOUNT OF THE OVERPAYMENT, UNLESS CONTRACTOR PROVIDES A WRITTEN

OBJECTION WITHIN 14 CALENDAR DAYS FROM THE DATE OF THE NOTICE. ABSENT TIMELY WRITTEN OBJECTION, CONTRACTOR HEREBY REASSIGNS TO ODHS ANY RIGHT CONTRACTOR MAY HAVE TO RECEIVE SUCH PAYMENTS. IF CONTRACTOR PROVIDES A TIMELY WRITTEN OBJECTION TO ODHS' WITHHOLDING OF SUCH PAYMENTS, THE PARTIES AGREE TO CONFER IN GOOD FAITH REGARDING THE NATURE AND AMOUNT OF THE OVERPAYMENT IN DISPUTE AND THE MANNER IN WHICH THE OVERPAYMENT IS TO BE REPAYED. ODHS RESERVES ITS RIGHT TO PURSUE ANY OR ALL OF THE REMEDIES AVAILABLE TO IT UNDER THIS CONTRACT AND AT LAW OR IN EQUITY INCLUDING ODHS' RIGHT TO SETOFF.

8. Ownership of Work Product.

a. Definitions. As used in this Section, and elsewhere in this Contract, the following terms have the meanings set forth below:

- (1) "Contractor Intellectual Property" means any intellectual property owned by Contractor and developed independently from the Work.
- (2) "Third Party Intellectual Property" means any intellectual property owned by parties other than ODHS or Contractor.
- (3) "Work Product" means every invention, discovery, work of authorship, trade secret or other tangible or intangible item and all intellectual property rights therein that Contractor is required to deliver to ODHS pursuant to the Work.

b. Original Works. All Work Product created by Contractor pursuant to the Work, including derivative works and compilations, and whether or not such Work Product is considered a "work made for hire," shall be the exclusive property of ODHS. ODHS and Contractor agree that all Work Product is "work made for hire" of which ODHS is the author within the meaning of the United States Copyright Act. If for any reason the original Work Product created pursuant to the Work is not "work made for hire," Contractor hereby irrevocably assigns to ODHS any and all of its rights, title, and interest in all original Work Product created pursuant to the Work, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. Upon ODHS' reasonable request, Contractor shall execute such further documents and instruments necessary to fully vest such rights in ODHS. Contractor forever waives any and all rights relating to original Work Product created pursuant to the Work, including without limitation, any and all rights arising under 17 U.S.C.

§106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.

- c. In the event that Work Product is Contractor Intellectual Property, a derivative work based on Contractor Intellectual Property or a compilation that includes Contractor Intellectual Property, Contractor hereby grants to ODHS an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display Contractor Intellectual Property and the pre-existing elements of the Contractor Intellectual Property employed in the Work Product, and to authorize others to do the same on ODHS' behalf.
- d. In the event that Work Product is Third Party Intellectual Property, a derivative work based on Third Party Intellectual Property or a compilation that includes Third Party Intellectual Property, Contractor shall secure on ODHS' behalf and in the name of ODHS an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the Third Party Intellectual Property and the pre-existing elements of the Third Party Intellectual Property employed in the Work Product, and to authorize others to do the same on ODHS' behalf.

9. Indemnity.

- a. CONTRACTOR SHALL DEFEND (SUBJECT TO ORS CHAPTER 180), SAVE, HOLD HARMLESS, AND INDEMNIFY THE STATE OF OREGON AND ODHS AND THEIR OFFICERS, EMPLOYEES AND AGENTS FROM AND AGAINST ALL CLAIMS, SUITS, ACTIONS, LOSSES, DAMAGES, LIABILITIES, COSTS AND EXPENSES OF ANY NATURE WHATSOEVER, INCLUDING ATTORNEYS FEES, RESULTING FROM, ARISING OUT OF, OR RELATING TO THE ACTIVITIES OF CONTRACTOR OR ITS OFFICERS, EMPLOYEES, SUBCONTRACTORS, OR AGENTS UNDER THIS CONTRACT.
- b. **INDEMNITY FOR INFRINGEMENT CLAIMS.** WITHOUT LIMITING THE GENERALITY OF SECTION 9.a. ABOVE, CONTRACTOR EXPRESSLY AGREES TO DEFEND, INDEMNIFY, AND HOLD ODHS, THE STATE OF OREGON AND THEIR AGENCIES, SUBDIVISIONS, OFFICERS, DIRECTORS, AGENTS, AND EMPLOYEES HARMLESS FROM ANY AND ALL CLAIMS, SUITS, ACTIONS, LOSSES, LIABILITIES, COSTS, EXPENSES, INCLUDING ATTORNEYS FEES, AND DAMAGES ARISING OUT OF OR RELATED TO ANY CLAIMS THAT THE WORK, THE WORK PRODUCT OR ANY OTHER TANGIBLE OR INTANGIBLE ITEMS DELIVERED TO ODHS

BY CONTRACTOR THAT MAY BE THE SUBJECT OF PROTECTION UNDER ANY STATE OR FEDERAL INTELLECTUAL PROPERTY LAW OR DOCTRINE, OR ODHS' USE THEREOF, INFRINGES ANY PATENT, COPYRIGHT, TRADE SECRET, TRADEMARK, TRADE DRESS, MASK WORK, UTILITY DESIGN, OR OTHER PROPRIETARY RIGHT OF ANY THIRD PARTY; PROVIDED, THAT THE STATE OF OREGON SHALL PROVIDE CONTRACTOR WITH PROMPT WRITTEN NOTICE OF ANY INFRINGEMENT CLAIM.

THIS SECTION SHALL SURVIVE EXPIRATION OR TERMINATION OF THIS CONTRACT.

10. Default; Remedies; Termination.

a. Default by Contractor. Contractor shall be in default under this Contract if:

- (1) Contractor institutes or has instituted against it insolvency, receivership or bankruptcy proceedings, makes an assignment for the benefit of creditors, or ceases doing business on a regular basis; or
- (2) Contractor no longer holds a license or certificate that is required for Contractor to perform its obligations under the Contract and Contractor has not obtained such license or certificate within 14 calendar days after ODHS' notice or such longer period as ODHS may specify in such notice; or
- (3) Contractor commits any material breach or default of any covenant, warranty, obligation or agreement under this Contract, fails to perform the Work under this Contract within the time specified herein or any extension thereof, or so fails to pursue the Work as to endanger Contractor's performance under this Contract in accordance with its terms, and such breach, default or failure is not cured within 14 calendar days after ODHS' notice, or such longer period as ODHS may specify in such notice; or
- (4) Contractor failed to comply with the tax laws of this state or a political subdivision of this state before the Contractor executed this Contract or fails to comply with the tax laws of this state or a political subdivision of this state during the term of this Contract.

- b. ODHS' Remedies for Contractor's Default.** In the event Contractor is in default under Section 10.a. above, ODHS may, at its option, pursue any or all of the remedies available to it under this Contract and at law or in equity, including, but not limited to:

- (1) termination of this Contract under Section 10.e.(2) below;
- (2) withholding all monies due for Work and Work Products that Contractor has failed to deliver within any scheduled completion dates or has performed inadequately or defectively;
- (3) initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief; or
- (4) exercise of its right of recovery of overpayments under Section 7., "Recovery of Overpayment", of this Exhibit B.

These remedies are cumulative to the extent the remedies are not inconsistent, and ODHS may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever. If a court determines that Contractor was not in default under Section 10.a. above, then Contractor shall be entitled to the same remedies as if this Contract was terminated pursuant to Section 10.e.(1) below.

- c. Default by ODHS.** ODHS shall be in default under this Contract if ODHS commits any material breach or default of any covenant, warranty, or obligation under this Contract, and such breach or default is not cured within 30 calendar days after Contractor's notice or such longer period as Contractor may specify in such notice.

- d. Contractor's Remedies for ODHS' Default.** In the event ODHS terminates the Contract under Section 10.e.(1) below, or in the event ODHS is in default under Section 10.c. above, and whether or not Contractor elects to exercise its right to terminate the Contract under Section 10.e.(3) below, Contractor's sole monetary remedy shall be: (i) with respect to Work compensable at a stated rate, a claim for unpaid invoices, time worked within any limits set forth in this Contract but not yet invoiced, authorized expenses incurred and interest within the limits permitted under ORS 293.462, and (ii) with respect to deliverable-based Work, a claim for the sum designated for completing the deliverable multiplied by the percentage of Work completed and accepted by ODHS, less previous amounts paid and any claim(s) that ODHS has against Contractor. In no event shall ODHS be liable to Contractor for any expenses related to termination of this Contract or for anticipated profits. If previous amounts paid to

Contractor exceed the amount due to Contractor under this Section 10.d., Contractor shall immediately pay any excess to ODHS upon written demand. If Contractor does not immediately pay the excess, ODHS may recover the overpayments in accordance with Section 7., “Recovery of Overpayments”, and may pursue any other remedy that may be available to it.

e. Termination.

- (1) ODHS’ Right to Terminate at its Discretion. At its sole discretion, ODHS may terminate this Contract:
 - (a) For its convenience upon 30 days’ prior written notice by ODHS to Contractor;
 - (b) Immediately upon written notice if ODHS fails to receive funding, appropriations, limitations, allotments or other expenditure authority at levels sufficient to pay for the Work or Work Products;
 - (c) Immediately upon written notice if federal or state laws, regulations, or guidelines are modified or interpreted in such a way that ODHS’ purchase of the Work or Work Products under this Contract is prohibited, or ODHS is prohibited from paying for such Work or Work Products from the planned funding source; or
 - (d) Immediately upon written notice to Contractor if there is a threat to the health, safety, or welfare of any ODHS client or recipient of services under this Contract, including any Medicaid Eligible Individual, under its care.
- (2) ODHS’ Right to Terminate for Cause. In addition to any other rights and remedies ODHS may have under this Contract, ODHS may terminate this Contract immediately upon written notice to Contractor, or at such later date as ODHS may establish in such notice, if Contractor is in default under Section 10.a. above.
- (3) Contractor’s Right to Terminate for Cause. Contractor may terminate this Contract upon 30 days written notice to ODHS, or at such later date as Contractor may establish in such notice, if ODHS is in default under Section 10.c. above, and ODHS fails to cure such default within 30 calendar days after ODHS receives Contractor’s notice or such longer period as Contractor may specify in such notice.

- (4) Mutual Termination. The Contract may be terminated immediately upon mutual written consent of the parties or at such other time as the parties may agree in the written consent.
- (5) Return of Property. Upon termination of this Contract for any reason whatsoever, Contractor shall immediately deliver to ODHS all of ODHS' property that is in the possession or under the control of Contractor at that time. This Section 10.e.(5) survives the expiration or termination of this Contract.
- (6) Effect of Termination: Upon receiving a notice of termination of this Contract, or upon issuing a notice of termination to ODHS, Contractor shall immediately cease all activities under this Contract, unless in a notice issued by ODHS, ODHS expressly directs otherwise.

11. Stop-Work Order. ODHS may, at any time, by written notice to the Contractor, require the Contractor to stop all, or any part of the Work required by this Contract for a period of up to 90 days after the date of the notice, or for any further period to which the parties may agree through a duly executed amendment. Upon receipt of the notice, Contractor shall immediately comply with the Stop-Work Order terms and take all necessary steps to minimize the incurrence of costs allocable to the Work affected by the stop work order notice. Within a period of 90 days after issuance of the written notice, or within any extension of that period to which the parties have agreed, ODHS shall either:

- a. Cancel or modify the stop work order by a supplementary written notice; or
- b. Terminate the work as permitted by either the Default or the Convenience provisions of Section 10., "Default; Remedies; Termination."

If the Stop Work Order is canceled, ODHS may, after receiving and evaluating a request by the Contractor, make an adjustment in the time required to complete this Contract and the Contract price by a duly executed amendment.

12. Limitation of Liabilities. EXCEPT FOR LIABILITY ARISING UNDER OR RELATED TO SECTION 9., "INDEMNITY", NEITHER PARTY SHALL BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS CONTRACT.

- 13. Insurance.** Contractor shall maintain insurance as set forth in Exhibit C, attached hereto.
- 14. Records Maintenance, Access.** Contractor shall maintain all financial records relating to this Contract in accordance with generally accepted accounting principles. In addition, Contractor shall maintain any other records, books, documents, papers, plans, records of shipments and payments, and writings of Contractor, whether in paper, electronic or other form, that are pertinent to this Contract, in such a manner as to clearly document Contractor's performance. All financial records, other records, books, documents, papers, plans, records of shipments and payments, and writings of Contractor, whether in paper, electronic or other form, that are pertinent to this Contract, are collectively referred to as "Records." Contractor acknowledges and agrees that ODHS, the Oregon Secretary of State's Office, and the federal government, and their duly authorized representatives shall have access to all Records to perform examinations and audits, and to make excerpts and transcripts. Contractor shall retain and keep accessible all Records for the longest of:
- a. Six years following final payment and termination of this Contract;
 - b. The period as may be required by applicable law, including the records retention schedules set forth in OAR Chapter 166; or
 - c. Until the conclusion of any audit, controversy or litigation arising out of or related to this Contract.
- 15. Information Privacy/Security/Access.** If the Work performed under this Contract requires Contractor or, when allowed, its subcontractor(s), to access or otherwise use any ODHS Information Asset or Network and Information System in which security or privacy requirements apply, and ODHS grants Contractor, its subcontractor(s), or both access to such ODHS Information Assets or Network and Information Systems, Contractor shall comply and require its subcontractor(s) to which such access has been granted to comply with the terms and conditions applicable to such access or use, including OAR 407-014-0300 through 407-014-0320, as such rules may be revised from time to time. For purposes of this Section, "Information Asset" and "Network and Information System" have the meaning set forth in OAR 407-014-0305, as such rule may be revised from time to time.
- 16. Force Majeure.** No party is responsible for delay or default caused by an event beyond its reasonable control. ODHS may terminate this Contract, without liability to Contractor, upon written notice after reasonably determining the delay or default reasonably prevents performance of this Contract.

17. **Foreign Contractor.** If Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue and the Oregon Secretary of State Corporation Division all information required by those agencies relative to this Contract.
18. **Subcontracts; Assignment; Successors.** Contractor shall not assign, transfer, or subcontract rights or responsibilities under this Contract, in whole or in part, without the prior written approval of ODHS. This Contract's provisions are binding upon and inure to the benefit of the parties to this Contract and their respective successors and assigns.
19. **No Third Party Beneficiaries.** ODHS and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons any greater than the rights and benefits enjoyed by the general public unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract. This Section shall survive expiration or termination of this Contract.
20. **Severability.** The parties agree that if any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid. This Section shall survive expiration or termination of this Contract.
21. **Notice.** Except as otherwise expressly provided in this Contract, any communications between the parties hereto or notices to be given hereunder shall be given in writing by email, personal delivery, fax, or mailing the same, postage prepaid to Contractor or ODHS at the email address, postal address, or number set forth in this Contract, or to such other addresses or numbers as either party may indicate pursuant to this Section. Any communication or notice so addressed and mailed is effective five business days after mailing. Any communication or notice delivered by fax is effective on the day the transmitting machine generates a receipt of the successful transmission, if transmission was during normal business hours, or on the next business day if transmission was outside normal business hours of the recipient. To be effective against ODHS, any notice transmitted by fax must be confirmed by telephone notice to ODHS. Any

communication or notice given by personal delivery is effective when actually delivered. Any notice given by email is effective when the sender receives confirmation of delivery, either by return email, or by demonstrating through other technological means that the email has been delivered to the intended email address.

ODHS: Office of Contracts & Procurement
500 Summer Street NE. E-03
Salem, OR 97301
Telephone: 503-945-5818
Fax: 503-378-4324

This Section shall survive expiration or termination of this Contract.

- 22. Headings.** The headings and captions to sections of this Contract have been inserted for identification and reference purposes only and shall not be used to construe the meaning or to interpret this Contract.
- 23. Merger Clause.** This Contract constitutes the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, regarding this Contract not specified herein.
- 24. Amendments; Waiver; Consent.** ODHS may amend this Contract to the extent provided herein, the solicitation document, if any from which this Contract arose, and to the extent permitted by applicable statutes and administrative rules. No amendment, waiver, or other consent under this Contract shall bind either party unless it is in writing and signed by both parties and when required, approved by the Oregon Department of Justice. Such amendment, waiver, or consent shall be effective only in the specific instance and for the specific purpose given. The failure of either party to enforce any provision of this Contract shall not constitute a waiver by that party of that or any other provision. This Section shall survive the expiration or termination of this Contract.
- 25. Contractor's Failure to Perform.** Contractor's failure to perform the statement of work specified in this Contract, or to meet the performance standards established in this Contract, may result in consequences that include, but are not limited to:
- a.** Reducing or withholding payment under this Contract;
 - b.** Requiring Contractor to perform at Contractor's expense additional work necessary to perform the statement of work or meet performance standards; or

- c. Declaring a default of this Contract and pursuing any available remedies for default, including termination of the Contract as permitted in Section 10., “Default; Remedies; Termination”, of this Contract.

SAMPLE

EXHIBIT C**Insurance Requirements**

Contractor shall obtain at Contractor's expense the insurance specified in this Exhibit prior to performing under this Contract. Contractor shall maintain such insurance in full force and at its own expense throughout the duration of this Contract, as required by any extended reporting period or continuous claims made coverage requirements, and all warranty periods that apply. Contractor shall obtain the following insurance from insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to ODHS. All coverage shall be primary and non-contributory with any other insurance and self-insurance, with the exception of Professional Liability and Workers' Compensation. Contractor shall pay for all deductibles, self-insured retention, and self-insurance, if any.

If Contractor maintains broader coverage and/or higher limits than the minimums shown in this Exhibit, ODHS requires and shall be entitled to the broader coverage and/or higher limits maintained by Contractor.

1. WORKERS' COMPENSATION & EMPLOYERS' LIABILITY:

All employers, including Contractor, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017, and provide Workers' Compensation Insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Contractor shall require and ensure that each of its subcontractors complies with these requirements. If Contractor is a subject employer, as defined in ORS 656.023, Contractor shall also obtain Employers' Liability Insurance coverage with limits not less than \$500,000 each accident.

If Contractor is an employer subject to any other state's Workers' Compensation law, Contractor shall provide Workers' Compensation Insurance coverage for its employees as required by applicable Workers' Compensation laws including Employers' Liability Insurance coverage with limits not less than \$500,000 and shall require and ensure that each of its out-of-state subcontractors complies with these requirements.

As applicable, Contractor shall obtain coverage to discharge all responsibilities and liabilities that arise out of or relate to the Jones Act with limits of no less than \$5,000,000 and/or the Longshoremen's and Harbor Workers' Compensation Act.

2. Required:**a. COMMERCIAL GENERAL LIABILITY:**

Contractor shall provide Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverage that are satisfactory to the State of Oregon. This insurance must include personal and advertising injury liability, products and completed operations, contractual liability coverage for the indemnity provided under this Contract, and have no limitation of coverage to designated premises, project, or operation. Coverage must be written on an occurrence basis in an amount of not less than \$1,000,000 per occurrence and not less than \$2,000,000 annual aggregate limit.

b. AUTOMOBILE LIABILITY INSURANCE:

Contractor shall provide Automobile Liability Insurance covering Contractor's business use including coverage for all owned, non-owned, or hired vehicles with a combined single limit of not less than \$1,000,000 for bodily injury and property damage. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for Commercial General Liability and Automobile Liability). Use of personal automobile liability insurance coverage may be acceptable if evidence that the policy includes a business use endorsement is provided.

c. PROFESSIONAL LIABILITY:

Contractor shall provide Professional Liability Insurance covering any damages caused by an error, omission or any negligent acts related to the services to be provided under this Contract by the Contractor and Contractor's subcontractors, agents, officers or employees in an amount not less than \$1,000,000 per claim and not less than \$2,000,000 annual aggregate limit.

If coverage is provided on a claims made basis, then either an extended reporting period of not less than 24 months shall be included in the Professional Liability insurance coverage, or the Contractor shall provide Continuous Claims Made coverage as stated below.

d. NETWORK SECURITY AND PRIVACY LIABILITY:

Contractor shall provide Network Security and Privacy Liability Insurance for the duration of this Contract and for the period of time in which Contractor (or its business associates or subcontractor(s)) maintains, possesses, stores, or has access to ODHS or client data, whichever is longer, with a combined single limit of not less than

\$1,000,000 per claim or incident. This insurance must include coverage for third party claims and for losses, thefts, unauthorized disclosures, access or use of ODHS or client data (which may include, but is not limited to, Personally Identifiable Information (“PII”), Payment Card Data and Protected Health Information (“PHI”)) in any format, including coverage for accidental loss, theft, unauthorized disclosure access or use of ODHS data.

e. DIRECTORS, OFFICERS AND ORGANIZATION LIABILITY:

Contractor shall provide Directors, Officers and Organization Liability Insurance covering the Contractor’s Organization, Directors, Officers, and Trustees actual or alleged errors, omissions, negligent, or wrongful acts, including improper governance, employment practices and financial oversight - including improper oversight and/or use of grant funds and donor contributions which includes state or federal funds - with a combined single limit of not less than \$1,000,000 per claim.

3. EXCESS/UMBRELLA INSURANCE:

A combination of primary and Excess/Umbrella Insurance may be used to meet the required limits of insurance. When used, all of the primary and umbrella or excess policies must provide all of the insurance coverages required herein, including, but not limited to, primary and non-contributory, additional insured, Self-Insured Retentions (SIRs), indemnity, and defense requirements. The umbrella or excess policies must be provided on a true “following form” or broader coverage basis, with coverage at least as broad as provided on the underlying insurance. No insurance policies maintained by the Additional Insureds, whether primary or excess, and which also apply to a loss covered hereunder, must be called upon to contribute to a loss until the Contractor’s primary and excess liability policies are exhausted.

If Excess/Umbrella Insurance is used to meet the minimum insurance requirement, the Certificate of Insurance must include a list of all policies that fall under the Excess/Umbrella Insurance.

4. ADDITIONAL INSURED:

All liability insurance, except for Workers’ Compensation, Professional Liability, Directors and Officers Liability and Network Security and Privacy Liability (if applicable), required under this Contract must include an Additional Insured endorsement specifying the State of Oregon, its officers, employees, and agents as Additional Insureds, but only with respect to Contractor’s goods to be delivered and Services to be performed under this

Contract. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

Regarding Additional Insured status under the General Liability policy, ODHS requires Additional Insured status with respect to liability arising out of ongoing operations and completed operations, but only with respect to Contractor's goods to be delivered and Services to be performed under this Contract. The Additional Insured endorsement with respect to liability arising out of Contractor's ongoing operations must be on, or at least as broad as, ISO Form CG 20 10 and the Additional Insured endorsement with respect to completed operations must be on, or at least as broad as, ISO form CG 20 37.

5. WAIVER OF SUBROGATION:

Contractor shall waive rights of subrogation which Contractor or any insurer of Contractor may acquire against the ODHS or State of Oregon by virtue of the payment of any loss. Contractor shall obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not ODHS has received a Waiver of Subrogation endorsement from the Contractor or the Contractor's insurer(s).

6. CONTINUOUS CLAIMS MADE COVERAGE:

If any of the required liability insurance other than Physical Abuse and Molestation Insurance is on a claims made basis and does not include an extended reporting period of at least 24 months, then Contractor shall maintain continuous claims made liability coverage, provided the effective date of the continuous claims made coverage is on or before the effective date of this Contract, for a minimum of 24 months following the later of:

- a. Contractor's completion and ODHS's acceptance of all goods and Services required under this Contract, or
- b. ODHS's or Contractor's termination of this Contract, or
- c. The expiration of all warranty periods provided under this Contract.

If PHYSICAL ABUSE AND MOLESTATION INSURANCE is required, then refer to that coverage requirement for separate Continuous Claims Made Coverage that applies.

7. CERTIFICATE(S) AND PROOF OF INSURANCE:

Contractor shall provide to ODHS Certificate(s) of Insurance for all required insurance before delivering any goods and performing any Services required under this Contract. The Certificate(s) of Insurance must list the State of Oregon, its officers, employees, and agents as a Certificate holder and as an

endorsed Additional Insured. The Certificate(s) of Insurance must also include all required endorsements or copies of the applicable policy language effecting coverage required by this Contract. If excess/umbrella Insurance is used to meet the minimum insurance requirement, the Certificate(s) of Insurance must include a list of all policies that fall under the Excess/Umbrella Insurance. As proof of insurance, ODHS has the right to request copies of insurance policies and endorsements relating to the insurance requirements under this Exhibit.

8. NOTICE OF CHANGE OR CANCELLATION:

Contractor or its insurer shall provide at least 30 calendar days' written notice to ODHS before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

9. INSURANCE REQUIREMENT REVIEW:

Contractor agrees to periodic review of insurance requirements by ODHS under this Contract and to provide updated requirements as mutually agreed upon by Contractor and ODHS.

10. STATE ACCEPTANCE:

All insurance providers are subject to ODHS acceptance. If requested by ODHS, Contractor shall provide complete copies of insurance policies, endorsements, self-insurance documents and related insurance documents to ODHS's representatives responsible for verification of the insurance coverages required under this Exhibit.

EXHIBIT D**Federal Terms and Conditions**

General Applicability and Compliance. Unless exempt under 45 CFR Part 87 for Faith-Based Organizations (Federal Register, July 16, 2004, Volume 69, #136), or other federal provisions, Contractor shall comply and, as indicated, cause all subcontractors to comply with the following federal requirements to the extent that they are applicable to this Contract, to Contractor, or to the Work, or to any combination of the foregoing. For purposes of this Contract, all references to federal and state laws are references to federal and state laws as they may be amended from time to time.

1. **Miscellaneous Federal Provisions.** Contractor shall comply and require all subcontractors to comply with all federal laws, regulations, and executive orders applicable to the Contract or to the delivery of Work. Without limiting the generality of the foregoing, Contractor expressly agrees to comply and require all subcontractors to comply with the following laws, regulations and executive orders to the extent they are applicable to the Contract: (a) Title VI and VII of the Civil Rights Act of 1964, as amended, (b) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, (c) the Americans with Disabilities Act of 1990, as amended, (d) the Health Insurance Portability and Accountability Act of 1996, as amended, (e) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended, (f) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, (g) all regulations and administrative rules established pursuant to the foregoing laws, (h) all other applicable requirements of federal civil rights and rehabilitation statutes, rules and regulations, and (i) all federal laws requiring reporting of client abuse. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Contract and required by law to be so incorporated. No federal funds may be used to provide Work in violation of 42 U.S.C. 14402.
2. **Clean Air, Clean Water, EPA Regulations.** If this Contract, including amendments, exceeds \$100,000 then Contractor shall comply and require all subcontractors to comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 7606), the Federal Water Pollution Control Act as amended (commonly known as the Clean Water Act) (33 U.S.C. 1251 to 1387), specifically including, but not limited to Section 508 (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (2 CFR Part 1532), which prohibit the use under non-exempt Federal contracts, grants or loans of

facilities included on the EPA List of Violating Facilities. Violations shall be reported to ODHS, United States Department of Health and Human Services and the appropriate Regional Office of the Environmental Protection Agency. Contractor shall include and require all subcontractors to include in all contracts with subcontractors receiving more than \$100,000, language requiring the subcontractor to comply with the federal laws identified in this Section.

3. **Energy Efficiency.** Contractor shall comply and require all subcontractors to comply with applicable mandatory standards and policies relating to energy efficiency that are contained in the Oregon energy conservation plan issued in compliance with the Energy Policy and Conservation Act 42 U.S.C. 6201 et. seq. (Pub. L. 94-163).
4. **Truth in Lobbying.** By signing this Contract, the Contractor certifies, to the best of the Contractor's knowledge and belief that:
 - a. No federal appropriated funds have been paid or will be paid, by or on behalf of Contractor, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.
 - b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan or cooperative agreement, the Contractor shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.
 - c. The Contractor shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients and subcontractors shall certify and disclose accordingly.

- d. This certification is a material representation of fact upon which reliance was placed when this Contract was made or entered into. Submission of this certification is a prerequisite for making or entering into this Contract imposed by Section 1352, Title 31 of the U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- e. No part of any federal funds paid to Contractor under this Contract shall be used, other than for normal and recognized executive legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, electronic communication, radio, television, or video presentation designed to support or defeat the enactment of legislation before the United States Congress or any State or local legislature itself, or designed to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any State or local government itself.
- f. No part of any federal funds paid to Contractor under this Contract shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive order proposed or pending before the United States Congress or any State government, State legislature or local legislature or legislative body, other than for normal and recognized executive-legislative relationships or participation by an agency or officer of a State, local or tribal government in policymaking and administrative processes within the executive branch of that government.
- g. The prohibitions in subsections (e) and (f) of this Section shall include any activity to advocate or promote any proposed, pending or future Federal, State or local tax increase, or any proposed, pending, or future requirement or restriction on any legal consumer product, including its sale or marketing, including but not limited to the advocacy or promotion of gun control.
- h. No part of any federal funds paid to Contractor under this Contract may be used for any activity that promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established under Section 202 of the Controlled Substances Act except for normal and recognized executive congressional communications. This limitation shall not apply when

there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance of that federally sponsored clinical trials are being conducted to determine therapeutic advantage.

5. **Resource Conservation and Recovery.** Contractor shall comply and require all subcontractors to comply with all mandatory standards and policies that relate to resource conservation and recovery pursuant to the Resource Conservation and Recovery Act (codified at 42 U.S.C. 6901 et. seq.). Section 6002 of that Act (codified at 42 U.S.C. 6962) requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by the Environmental Protection Agency. Current guidelines are set forth in 40 CFR Part 247.
6. **Audits.**
 - a. Contractor shall comply, and require all subcontractors to comply, with applicable audit requirements and responsibilities set forth in this Contract and applicable state or federal law.
 - b. If Contractor expends \$1,000,000 or more in federal funds (from all sources) in a federal fiscal year, Contractor shall have a single organization-wide audit conducted in accordance with the provisions of 2 CFR Subtitle B with guidance at 2 CFR Part 200. Copies of all audits must be submitted to ODHS within 30 days of completion. If Contractor expends less than \$1,000,000 in a fiscal year, Contractor is exempt from Federal audit requirements for that year. Records must be available as provided in Exhibit B, "Records Maintenance, Access".
7. **Debarment and Suspension.** Contractor shall not permit any person or entity to be a subcontractor if the person or entity is listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal Procurement or Non-procurement Programs" in accordance with Executive Orders No. 12549 and No. 12689, "Debarment and Suspension". (See 2 CFR Part 180.) This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory authority other than Executive Order No. 12549. Subcontractors with awards that exceed the simplified acquisition threshold shall provide the required certification regarding their exclusion status and that of their principals prior to award.
8. **Pro-Children Act.** Contractor shall comply and require all subcontractors to comply with the Pro-Children Act of 1994 (codified at 20 U.S.C. Section 6081 et. seq.).

9. **Medicaid Services.** Contractor shall comply with all applicable federal and state laws and regulation pertaining to the provision of Medicaid Services under the Medicaid Act, Title XIX, 42 U.S.C. Section 1396 et. seq., including without limitation:
- a. Keep such records as are necessary to fully disclose the extent of the services provided to individuals receiving Medicaid assistance and shall furnish such information to any state or federal agency responsible for administering the Medicaid program regarding any payments claimed by such person or institution for providing Medicaid Services as the state or federal agency may from time to time request. 42 U.S.C. Section 1396a (a)(27); 42 CFR Part 431.107(b)(1) & (2).
 - b. Comply with all disclosure requirements of 42 CFR Part 1002.3(a) and 42 CFR Part 455 Subpart (B).
 - c. Maintain written notices and procedures respecting advance directives in compliance with 42 U.S.C. Section 1396(a)(57) and (w), 42 CFR Part 431.107(b)(4), and 42 CFR Part 489 Subpart I.
 - d. Certify when submitting any claim for the provision of Medicaid Services that the information submitted is true, accurate and complete. Contractor shall acknowledge Contractor's understanding that payment of the claim will be from federal and state funds and that any falsification or concealment of a material fact may be prosecuted under federal and state laws.
 - e. Entities receiving \$5 million or more annually (under this Contract and any other Medicaid contract) for furnishing Medicaid health care items or services shall, as a condition of receiving such payments, adopt written fraud, waste and abuse policies and procedures and inform employees, contractors and agents about the policies and procedures in compliance with Section 6032 of the Deficit Reduction Act of 2005, 42 U.S.C. Section 1396a(a)(68).
 - f. **Disclosures.**
 - (1) 42 CFR Part 455.104 requires the State Medicaid agency to obtain the following information from any provider of Medicaid or CHIP services, including fiscal agents of providers and managed care entities: (1) the name and address (including the primary business address, every business location and P.O. Box address) of any person (individual or corporation) with an ownership or control interest in the provider, fiscal agent or

managed care entity; (2) in the case of an individual, the date of birth and Social Security Number, or, in the case of a corporation, the tax identification number of the entity, with an ownership interest in the provider, fiscal agent or managed care entity or of any subcontractor in which the provider, fiscal agent or managed care entity has a 5% or more interest; (3) whether the person (individual or corporation) with an ownership or control interest in the provider, fiscal agent or managed care entity is related to another person with ownership or control interest in the provider, fiscal agent or managed care entity as a spouse, parent, child or sibling, or whether the person (individual or corporation) with an ownership or control interest in any subcontractor in which the provider, fiscal agent or managed care entity has a 5% or more interest is related to another person with ownership or control interest in the provider, fiscal agent or managed care entity as a spouse, parent, child or sibling; (4) the name of any other provider, fiscal agent or managed care entity in which an owner of the provider, fiscal agent or managed care entity has an ownership or control interest; and, (5) the name, address, date of birth and Social Security Number of any managing employee of the provider, fiscal agent or managed care entity.

- (2) Contractor shall furnish to the State Medicaid agency or to the Health and Human Services (HHS) Secretary, within 35 days of the date of the request, full and complete information about the ownership of any subcontractor with whom the Contractor has had business transactions totaling more than \$25,000 during the previous 12 month period ending on the date of the request, and any significant business transactions between the Contractor, and any wholly owned supplier or between the Contractor and any subcontractor, during the five year period ending on the date of the request. See, 42 CFR 455.105.
- (3) 42 CFR Part 455.434 requires as a condition of enrollment as a Medicaid or CHIP provider, to consent to criminal background checks, including fingerprinting when required to do so under state law, or by the category of the provider based on risk of fraud, waste and abuse under federal law.
- (4) As such, Contractor must disclose any person with a 5% or greater direct or indirect ownership interest in the Contractor whom has been convicted of a criminal offense related to that

person's involvement with the Medicare, Medicaid, or Title XXI program in the last 10 years.

- (5) Contractor shall make the disclosures required by this Section 9. to ODHS. ODHS reserves the right to take such action required by law, or where ODHS has discretion, as it deems appropriate, based on the information received (or the failure to receive information) from the provider, fiscal agent or managed care entity.

10. **Agency-based Voter Registration.** If applicable, Contractor shall comply with the Agency-based Voter Registration sections of the National Voter Registration Act of 1993 that require voter registration opportunities be offered where an individual may apply for or receive an application for public assistance.
11. **Federal Intellectual Property Rights Notice.** The federal funding agency, as the awarding agency of the funds used, at least in part, for the Work under this Contract, may have certain rights as set forth in the federal requirements pertinent to these funds. For purposes of this subsection, the terms "grant" and "award" refer to funding issued by the federal funding agency to the State of Oregon. The Contractor agrees that it has been provided the following notice:
 - a. The federal funding agency reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the Work, and to authorize others to do so, for Federal Government purposes with respect to:
 - (1) The copyright in any Work developed under a grant, subgrant or contract under a grant or subgrant; and
 - (2) Any rights of copyright to which a grantee, subgrantee or a contractor purchases ownership with grant support.
 - b. The parties are subject to applicable federal regulations governing patents and inventions, including government-wide regulations issued by the Department of Commerce at 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements."
 - c. The parties are subject to applicable requirements and regulations of the federal funding agency regarding rights in data first produced under a grant, subgrant or contract under a grant or subgrant.

12. **Super Circular Requirements.** 2 CFR Part 200, or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B, including but not limited to the following:
- a. **Property Standards.** 2 CFR 200.313, or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B, which generally describes the required maintenance, documentation, and allowed disposition of equipment purchased with federal funds.
 - b. **Procurement Standards.** When procuring goods or services (including professional consulting services), applicable state procurement regulations found in the Oregon Public Contracting Code, ORS chapters 279A, 279B and 279C or 2 CFR § 200.318 through 200.326, or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B, as applicable.
 - c. **Contract Provisions.** The contract provisions listed in 2 CFR Part 200, Appendix II, or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B, that are hereby incorporated into this Exhibit, are, to the extent applicable, obligations of Contractor, and Contractor shall also include these contract provisions in its contracts with non-Federal entities.
13. **Federal Whistleblower Protection.** Contractor shall comply, and ensure the compliance by subcontractors or subgrantees, with 41 U.S.C. 4712, Enhancement of contractor protection from reprisal for disclosure of certain information.

EXHIBIT F

Privacy and Security Agreement

SAMPLE