

April 9, 2020

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval for Agreement #9683 to a Provider Participation Agreement  
with CareOregon for Behavioral Healthcare Services.

<b>Purpose/Outcomes</b>	Provides Clackamas Health Centers (CHC) participation into a network of providers for Behavioral Healthcare services to patients.
<b>Dollar Amount and Fiscal Impact</b>	This is a no maximum agreement. No County General Funds are involved. No matching funds required. Fees for services.
<b>Funding Source</b>	CareOregon – Coordinated Care Organization (CCO) through the Oreogn Health Plan (OHP)
<b>Duration</b>	Effective January 1, 2020 and is a no expiration agreement.
<b>Previous Board Action</b>	None
<b>Strategic Plan Alignment</b>	1. Individuals and families in need are healthy and safe 2. Ensure Safe, healthy and secure communities
<b>Counsel Review</b>	County Counsel has reviewed and approved this document. It was approved on March 9, 2020.
<b>Contact Person</b>	Deborah Cockrell 503-742-5495
<b>Contract No.</b>	9683

**BACKGROUND:**

Clackamas Health Centers (CHC) of the Health, Housing and Human Services Department requests the approval of Agreement #9683 to a Provider Participation Agreement with CareOregon for the purpose of providing Behavioral Healthcare services.


CareOreogn is a Coordinated Care Organization (CCO) who is coordinating a network of providers in the area that provides healthcare services. CareOregon and CHC desire to enter into this Provider Participation Agreement under which CHC will provide Behavioral Healthcare services to Oregon Health Plan (OHP) patients enrolled in Health Benefits Plans. OHP patients will be treated by a CHC Provider for healthcare services for reimbursement by OHP.!

This is a retroactive agreement due to ongoing negotiations between County Counsel and CareOreron. A clean copy of the contract was received on March 9, 2020. The Agreement is effective January 1, 2020 and will continue with no expiration.

**RECOMMENDATION:**

Staff recommends the Board approval of this contract and authorizes Richard Swift, H3S Director to sign on behalf of Clackamas County.

Respectfully submitted,

 , H3S Deputy / FOR

Richard Swift, Director  
Health, Housing, and Human Services

## CAREOREGON

### PROVIDER PARTICIPATION AGREEMENT

This Organizational Provider Participation Agreement (“Agreement”) is made and entered into as of January 1, 2020 (“Effective Date”), by and between CareOregon, an Oregon nonprofit corporation (“CareOregon”), and Clackamas County, by and through its Health Centers Division (“Provider”).

#### RECITALS

A. CareOregon is a nonprofit organization that operates as a coordinated care organization as such term is defined under Oregon law (“CCO”), and as such, CareOregon coordinates health care coverage for enrollees of the Oregon Health Plan (“OHP”) or otherwise;

B. As a CCO, CareOregon desires to provide Members with a broad network of high quality, efficient and convenient health care facilities, professionals, and other provider types from which Members may receive covered services;

C. Provider desires to provide covered services to CareOregon Members; and

D. CareOregon desires, in support of developing a network, to contract with Provider to become a participating provider in CareOregon’s network; and Provider wishes to so participate in CareOregon’s network and to fully cooperate with CareOregon and other CareOregon providers in supporting CareOregon’s goals, all in accordance with the terms and conditions set forth in this Agreement.

#### AGREEMENT

NOW, THEREFORE, in consideration of the above Recitals and the mutual covenants and promises contained herein, CareOregon and Provider agree as follows:

#### ARTICLE I DEFINITIONS

“**Contracted Services**” has the meaning given to that term in Section 2.1.

“**Covered Service**” means health care services and supplies that are Medically Necessary and for which benefits are available under a Member’s Plan.

“**Medically Necessary**” means services and medical supplies required for prevention, diagnosis or treatment of a health condition that encompasses physical or mental conditions, or injuries and are (a) consistent with the symptoms of a health condition or treatment of a health condition; (b) appropriate with regard to standards of good medical practice and generally recognized by the relevant scientific community and professional standards of care as effective; (c) not solely for the convenience of a Member or a provider of the service or medical supplies, and; (d) the most cost effective of the alternative levels of medical services or medical supplies that can be safely provided to a Member.



**“Member”** means a person who is enrolled in a Plan with CareOregon, generally identifiable through a CareOregon identification card issued to the person, and who is eligible to receive Covered Services.

**“PHI”** has the meaning given to that term in Section 2.1.

**“Plan”** means the contract or arrangement that has been established with CareOregon, including contracts or arrangements established by federal and state governmental programs, that entitles Members to receive specific Covered Services through CareOregon.

**“Provider Manual”** means a separate reference source developed by CareOregon that contains written policies and procedures and other information that Provider will need to know to perform its obligations under this Agreement. The manual may include, but is not limited to, information pertaining to payment, reimbursement, credentialing, medical policy, utilization management, quality improvement, fraud and abuse, health benefit plan standards, service authorization requests, member rights, third-party recovery, evidence-based clinical practice guidelines, privacy, security, care integration and coordination activities, audit rights of CareOregon and Plan Partners, overpayment recoveries, and such other matters determined from time to time by CareOregon and Plan Partners.

**“Practitioners”** has the meaning given to that term in Section 2.3.

**“Provider Qualifications”** has the meaning given to that term in Section 2.9.

**“Records”** has the meaning given to that term in Section 2.13.

**“Plan Partner”** means the individual entities that have entered into an Agreement with CareOregon in exchange for a per member per-month payment described in the same agreement. The entities defined as Plan Partners, which may change from time-to-time, are listed in Exhibit A. CareOregonMembers will be assigned to a particular Plan Partner.

## **ARTICLE II OBLIGATIONS AND REPRESENTATIONS OF PROVIDER**

**2.1 Administration of Agreement.** County agrees to perform its duties and obligations under this Agreement in coordination and collaboration with CareOregon and CareOregon Partners, and in accordance with the terms and conditions of this Agreement, and CareOregon policies and procedures as referenced in the Provider Manual and set forth in Exhibit G to this Agreement, as the same may be updated, amended, modified or supplemented from time to time, and provided further that: (i) if there are any conflicts between this Agreement and the policies and procedures, this Agreement shall control; and (ii) the policies and procedures are applicable only to the extent applicable to the Services provided by County hereunder. An amendment to the Agreement to this Agreement shall be required before CareOregon call obligate County to the terms and conditions of any policies and procedures not then-listed in Exhibit G.

**2.2 Covered Services.** Provider will accept Members as patients and provide to Members the Covered Services listed in the attached and incorporated herein Covered Services and Compensation Addendum(s) of this Agreement that are Medically Necessary (the “Contracted

Services”). Provider will provide those Contracted Services to Members in an amount, duration and scope that is not less than the amount, duration and scope for the same services provided by Provider to other individuals who receive services equivalent to those Contracted Services at locations approved by CareOregon. Provider will ensure that Contracted Services rendered by Provider: (i) are within the scope of, and in accord with, the Provider’s and Practitioner’s license and certifications, (ii) are within the scope of privileges granted by CareOregon or the applicable Plan Partner, and (iii) meet the community professional standards relevant to the services provided. Provider acknowledges that the rights of Members to receive particular services is governed by the terms of the relevant Plan covering the Members.

**2.3 Plan Partner Access to Provider Services.** Provider acknowledges and agrees that under the requirements of this Agreement, Provider will provide Contracted Services on behalf of either CareOregon or the applicable Plan Partner to which a Member is assigned. Provider will cooperate in good faith with CareOregon and each Plan Partner in providing the Contracted Services to Members under this Agreement.

**2.4 Practitioners.** Provider will ensure that all of Provider’s employed and contracted professionals who provide Contracted Services to Members (the “Practitioners”): (i) comply with all of the terms and conditions of this Agreement (unless the context requires otherwise), (ii) are credentialed by Provider prior to providing services to Members and meet CareOregon’s credentialing and recredentialing requirements, and (iii) comply with all requests for information from CareOregon related to Practitioners’ qualifications. Provider will not bill for or be entitled to receive any compensation for providing any services that are inconsistent with the privileges granted to a particular Practitioner. Provider will be solely responsible for payment of all wages, salary, compensation, payroll and withholding taxes, unemployment insurance, workers’ compensation coverage and all other compensation, insurance and benefits with respect to Practitioners.

**2.5 Hours of Operation.** Provider will arrange for provision of Contracted Services during normal office hours that are not less than the hours of operation offered to Provider’s other patients.

**2.6 Care Integration and Coordination.** Provider will support CareOregon and Plan Partner in the implementation of care integration and coordination activities to develop, support and promote CareOregon’s and Plan Partner’s efforts to integrate and coordinate care among providers to create a continuum of care that integrates mental health, addiction treatment, dental health, physical health and community-based interventions seamlessly and holistically. Provider will also participate with CareOregon and Plan Partner in the implementation of evidence based clinical practice guidelines. Provider will consult with and comply with the Provider Manual related to the referral of Members to other providers for services as outlined in the Access, Transfers and Care Integration and Coordination Sections of the Provider Manual.

**2.7 Equipment and Supplies.** At Provider’s own cost and expense, Provider will supply the required personnel, equipment, instruments and supplies required to perform the Covered Services. Provider will ensure that all medical equipment used by Provider in rendering Covered Services: (i) meets the community standards as the appropriate equipment to be used for the services provided, (ii) is in good working order, (iii) is maintained in accord with the equipment manufacturer’s schedule for service and maintenance, and (iv) is utilized or operated only by individuals or technicians with appropriate training and qualifications to operate such equipment. Provider will not bill for or be

entitled to receive any compensation for providing any services if the Provider's use of the equipment does not meet the requirements of this Section 2.7.

**2.8 Reporting Responsibilities.** Provider agrees to promptly provide any reports, information, or documents reasonably requested by CareOregon or Plan Partner in the form and format requested by CareOregon or Plan Partner. Such reports may include without limitation, reports regarding access, capacity to serve Members, utilization, performance measures, quality metrics, Member satisfaction, coordination, expenses and savings. Provider represents and warrants that any reports and data provided pursuant to this Section 2.8 shall be accurate and complete.

**2.9 Qualifications.** At all times during the term of this Agreement, Provider shall meet each of the following qualifications ("**Provider Qualifications**") and ensure that all Practitioners meet those qualifications:

**2.9.1** Has and maintains in good standing all required or appropriate state and federal licenses, permits, registrations, certifications, approvals and authorizations to provide Covered Services under this Agreement consistent with state licensure requirements, Medicaid certification and other professional qualifications. Provider shall furnish evidence of the same to CareOregon on request;

**2.9.2** Has never been (unless appropriately reinstated), and is not currently, suspended, debarred, or excluded from any federal or state funded health care program or from participating in any government procurement or non-procurement contract;

**2.9.3** Provider shall comply with CareOregon's credentialing or recredentialing criteria then in effect. Provider shall promptly provide information required by CareOregon to conduct credentialing or recredentialing.

**2.9.4** Provider will, if applicable, ensure that each Practitioner: (i) meets all requirements for, obtain, and maintain a medical staff appointment and appropriate clinical privileges at a hospital affiliated with CareOregon in accordance with such hospital's medical staff bylaws, if applicable; and (ii) complies with such hospital's credentialing policies and procedures and provides all credentials and other necessary information and documents required thereunder to CareOregon or its designated agent upon request.

**2.9.5** If compliance with any provision of this Agreement would result in the Provider's or Practitioner's loss of license, Provider agrees to notify CareOregon within thirty (30) days of discovery of such conflict. Provider shall promptly notify CareOregon of any action against Provider's or any Practitioner's professional license to practice, including but not limited to suspension, revocation or probation. Provider shall also promptly notify CareOregon if he or she is convicted of a felony or expelled or suspended from the Medicaid program.

**2.10 Representations and Warranties.** Provider represents and warrants to CareOregon the following, which warranties are in addition to, and not in lieu of, any other warranties provided herein:

**2.10.1** Provider has the power and authority to enter into and perform the obligations described in this Agreement;

**2.10.2** This Agreement, when executed and delivered, shall be a valid and binding obligation of Provider enforceable in accordance with its terms;

**2.10.3** Provider has the skill and knowledge possessed by well-informed members of its industry, trade or profession and Provider will apply that skill and knowledge with care and diligence to perform the Work in a professional manner and in accordance with standards prevalent in Provider's industry, trade or profession; and

**2.10.4** Provider shall, at all times during the term of this Agreement, be qualified, professionally competent, and duly licensed to perform the Covered Services.

**2.11 External Quality Review; Access to Records and Facilities.** Provider shall cooperate by providing access to records and facilities for the purpose of an annual external, independent professional review of the quality outcomes and timeliness of, and access to, Covered Services provided under this Agreement. If copies of such records are required, Provider shall provide those copies at no charge. Provider shall provide timely access to records and facilities and cooperate with CareOregon in the collection of information through consumer surveys, on-site reviews, medical chart reviews, financial reporting and financial record reviews, interviews with staff, and other information for the purposes of monitoring compliance with this Agreement, including but not limited to verification of services actually provided, and for developing and monitoring performance and outcomes. Provider and CareOregon agree to cooperate to ensure that the confidentiality restrictions in 42 C.F.R. Part 2-Confidentiality of Alcohol and Drug Abuse Patient Records, as may be amended from time to time ("42 C.F.R. Part 2"), are complied with prior to any review. The requirements described in this Section 2.11 shall survive termination of the Agreement.

**2.12 Medical Records.** Provider shall develop and maintain a medical record keeping system that:

**2.12.1** Includes sufficient detail and clarity to permit internal and external review to validate encounter submissions and to assure Medically Necessary services are provided consistent with the documented needs of the Member;

**2.12.2** Conforms to accepted professional practice; and

**2.12.3** Allows CareOregon and Plan Partners to ensure that data received from Provider is accurate and complete by: (i) verifying the accuracy and timeliness of reported data; (ii) screening the data for completeness, logic, and consistency; and (iii) collecting service information in standardized formats to the extent feasible and appropriate.

**2.13 Record Retention.**

**2.13.1** Provider shall retain, and shall cause its personnel to retain, clinical records for ten (10) years after the date of service for which claims are made. If an audit, litigation, research and evaluation, or other action involving the records is started before the end of the ten-year period, Provider shall retain, and shall cause its personnel to retain, the clinical records until all issues arising out of the action are resolved.



**2.13.2** Provider shall maintain all financial records related to this Contract in accordance with generally accepted accounting principles. In addition, Provider shall maintain any other records, books, documents, papers, plans, records of shipment and payments and writings of Provider, whether in paper, electronic or other form, that are pertinent to this Contract in such a manner to clearly document Provider's performance. All financial records, other records, books, documents, papers, plans, records of shipments and payments and writings of Provider whether in paper, electronic or other form, that are pertinent to this Contract, are collectively referred to as "**Records.**" Provider acknowledges and agrees that OHA, the Secretary of State's Office, CMS, the Comptroller General of the United States, the Oregon Department of Justice Medicaid Fraud Control Unit and their duly authorized representatives shall have access to all Records to perform examinations and audits and make excerpts and transcripts. Provider shall retain and keep accessible all Records for the longer of: (i) ten (10) years following final payment and termination of this Agreement; (ii) the retention period specified in this Agreement for certain kinds of records; (iii) the period as may be required by applicable law, including the records retention schedules set forth in OAR Chapters 410 and 166; or (iv) until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement.

**2.14 Business Associate Agreement; Consent to Disclose, Redisclose.** Provider acknowledges and agrees that protected health information ("PHI") disclosed by Provider to CareOregon may be used by or disclosed to Plan Partner pursuant to a business associate agreement or a Qualified Service Organization Agreement between those parties when permissible by law or pursuant to a written consent in compliance with 42 C.F.R. Part 2, as may be amended from time to time. Notwithstanding the foregoing, CareOregon and Provider agree to comply with any and all applicable privacy laws including without limitation, 42 C.F.R. Part 2.

**2.14.1** Provider will obtain Member's written consent, as required by 42 C.F.R. Part 2 and as may be specified by CareOregon, to allow Member's patient identifying information to be disclosed by Provider to the Plan Partners and redisclosed by the Plan Partners to CareOregon and the State of Oregon, only as such disclosure and redisclosure is required by this Agreement, Oregon law, and at CareOregon's reasonable request.

**2.15 Subrogation.** County agrees to subrogate to CareOregon any and all claims related to County's provision of Services hereunder that County has or may have against any third parties related to the Contracted Services provided to Members, but only to the extent CareOregon has incurred damages. If the County also incurs damages, then this provision shall not prevent the County from pursuing its own claims.

**2.16 Compliance with Applicable Law.** Provider shall comply and cause all its personnel to comply with all applicable Federal, State and local laws, regulations, executive orders and ordinances.

**2.17 Informed Consent; Dignity and Respect.** Provider shall inform Members about available treatment options and alternatives in a manner appropriate to the Member's condition and ability to understand. Provider shall ensure that its personnel treat Members with respect and with due consideration for their dignity and privacy to the same extent as all of Provider's other patients who receive services equivalent to Covered Services.

**2.18 Prior Authorization.** Provider acknowledges that in order for coverage to be in effect and to qualify for payment under the applicable Plan, some Contracted Services may be subject to prior authorization. Provider will comply with policies and procedures in Exhibit G related to prior authorization included in the Provider Manual and will not be entitled to receive any compensation if the Provider fails to comply with those policies and procedures.

**2.19 Non-Covered Services.** Provider will advise Member of any service, treatment, or test that that is recommended as medically appropriate for the Members in accord with the community standards of the medical profession, even if the service, treatment, or test is not covered under the Plan. This Agreement, and the fact of whether the Plan happens to provide coverage of any particular service, treatment or test, does not alter a Provider's duty to exercise professional skill and judgment in accord with the prevailing community standards applicable to Provider in advising and treating Members relative to that service, treatment, or test. Provider acknowledges that this Agreement may not be interpreted to require Provider to deny care to a Member for services that are not covered under the Plan. Provider will not bill Member for any service, treatment, or test not covered by the Plan unless all of the following conditions have been met per OAR 410-120-1280: (i) Provider has provided a clear written disclosure in advance to the Member indicating that the service, treatment or test is not covered by the Plan; (ii) Provider has obtained a written consent from the Member consent containing all of the information and elements of an Authorization to Pay (OHP Form 3165), acknowledging that the service, treatment or test is not covered and consenting to the service; (iii) such billing is permitted under the Plan; and (iv) such billing is not prohibited by law.

**2.20 Nondiscrimination.** Provider will not discriminate in the provision of services to Members on the basis of enrollment in the Plan, race, color, national origin, ethnicity, ancestry, religion, sex, marital status, sexual orientation, mental or physical disability, medical condition or history, age or any other category protected under state or federal law.

**2.21 Compliance with Health Care Programs.** Provider and Provider's Practitioners agree to cooperate with the Medical Directors of CareOregon and the Plan Partners in the Medical Directors' review of, and in the establishment of programs, policies and procedures to, improve the quality of care delivered to Members.

**2.22 Provider Directories of CareOregon and Plan Partners.** Provider agrees that CareOregon and Plan Partners may use information about Provider and Provider's Practitioners in written or web site-accessible directories of participating providers. Such information includes the names, addresses, phone numbers, web sites, credentials, and other related information about Provider and Provider's Practitioners.

**2.23 Oregon Health Plan Addendum.** The terms and conditions set forth in the attached Oregon Health Plan Addendum, Exhibit B are incorporated and made a part of this Agreement.

**2.24 Regulatory Updates.** All terms and conditions of this Agreement are subject to changes in the federal and state law. Any term, condition or provision now or hereafter required to be included in this Agreement t by Laws shall supersede previous terms and conditions and be deemed incorporated herein and binding upon and enforceable against the Parties, regardless of whether or not the term, condition or provision is expressly stated in this Agreement.

## ARTICLE III COMPENSATION AND BILLING

**3.1 Compensation.** CareOregon shall develop and maintain a schedule of payment methodologies and compensation for the Covered Services that Provider provides under this Agreement, which is set forth in the Covered Services and Compensation Addendum(s) attached to and incorporated to this Agreement. Provider shall be entitled to the amounts and types of compensation described in that Addendum for furnishing Covered Services to Members in accordance with the terms and conditions of this Agreement. Provider agrees to accept as payment in full for Covered Services furnished to Members the compensation described in this Agreement.

**3.2 Billing.** Provider will be solely responsible to bill and collect for the provision of Covered Services under this Agreement. The primary payer for any compensation owed to Provider is the Plan Partner to which the Member who received the Covered Services is assigned. Provider shall bill and collect for Covered Services in accordance with the following:

**3.2.1** Provider shall comply with all relevant policies and procedures regarding billing, coding, claim submission, clean claims, overpayment recovery, audits, documentation, and any other matter related to claims for compensation in Exhibit G.

**3.2.2** Provider shall submit claims for Covered Services including all the fields and information needed to allow the claim to be processed without further information from Provider, and within time frames that assure all corrections have been made within one hundred twenty (120) days of the date of service.

**3.2.3** Except as specifically permitted by this Agreement, including Third Party Resource recovery, Provider and its personnel may not be compensated for Covered Services performed under this Agreement from any other department of the State, nor from any other source including the federal government.

**3.2.4** Provider and Provider's Practitioners will seek only to obtain compensation for Covered Services from the Members' applicable Plan Partner, and at no time will seek compensation from Members other than for those items set forth in the Plan, such as applicable copayments, coinsurance and deductible amounts. In the event of non-payment by CareOregon or the applicable Plan Partner for any reason, Provider and Provider's Practitioners will not bill or otherwise attempt to collect any amounts owed, except as provided for in Section 2.21 for non-covered services.

**3.2.5** Provider will bill and make reasonable efforts to collect any copayments, coinsurance and deductibles, if applicable, from Members in accord with the terms of the Plan.

**3.3 Coordination of Benefits.** Provider agrees to abide by policies and procedures for coordination of benefits, duplicate coverage and third-party liability policies as described in Exhibit C: Oregon Health Plan Addendum, attached hereto and in Exhibit G. If any services to which Members are entitled are also covered under any other group or non-group health plan, prepaid medical plan, insurance policy or Workers' Compensation, Provider and the applicable Plan Partner shall cooperate in the investigation of all such benefits so that CareOregon or Plan Partner shall bear no more of the total cost than is required by this Agreement or by the law of the state in which Provider practices. Except as otherwise set forth herein, Provider agrees to accept the negotiated amount as payment in

full, whether that amount is paid in whole or in part by the Member, Plan Partner or CareOregon, or by any combination of payers, including other payers which may pay before CareOregon or Plan Partner in the order of benefit determination.

#### **ARTICLE IV RELATIONSHIP OF THE PARTIES**

**4.1 Independent Parties.** The parties to this Agreement are independent parties, and nothing in this Agreement shall be construed or be deemed to create between them any relationship of principal and agent, partnership, joint venture, or any relationship other than that of independent parties. No party hereto, nor the respective agents or employees of either party, shall be required to assume or bear any responsibility for the acts or omissions, or any consequences thereof of the other party under this Agreement. No party hereto, nor the respective agents or employees of either party, shall be liable to other persons for any act or omission of the other party in performance of their respective responsibilities under this Agreement.

**4.2 Tax Obligations.** Provider shall be responsible for appropriate management of all federal and state obligations applicable to compensation or payments paid to Provider under this Agreement.

#### **ARTICLE V TERM AND TERMINATION**

**5.1 Term of Agreement.** When executed by both parties, this Agreement shall become effective as of the Effective Date and shall continue in effect until terminated pursuant to this Agreement

**5.2 Termination on Default.** In the event CareOregon or Provider should materially default in the performance of any obligation imposed on it by this Agreement, the non-defaulting party shall elect to provide the defaulting party with written notice describing the facts and circumstances of the default. After providing such notice, the non-defaulting party may elect, by written notice to the defaulting party, to terminate this Agreement if the defaulting party has not cured any default within thirty (30) days following the defaulting party's receipt of the applicable default notice; provided, however that with respect to any default covered by this subsection which reasonably requires additional time to cure, such failure shall not result in a termination of the Agreement so long as the defaulting party has commenced performance of a cure within the stated cure period and diligently pursues such cure to completion.

**5.3 Immediate Termination by CareOregon.** Notwithstanding any other term herein to the contrary, CareOregon may immediately terminate this Agreement or the participation of any individual health care provider providing services for Provider pursuant to this Agreement on delivery of written notice to Provider if any of the following occurs:

**5.3.1** Provider does not fully meet all Provider Qualifications set forth in Section 2.9 of this Agreement;

**5.3.2** Any of Provider's contracted, employed, leased, owned or controlled personnel providing or assisting in the provision of Covered Services is excluded, debarred,



suspended or declared ineligible to participate in any federal health care program, or in any federal procurement or non-procurement program;

**5.3.3** Provider receives a criminal conviction of any kind.

**5.3.4** The dissolution, reorganization or sale of or change in control of Provider.

**5.3.5** If Provider: (i) voluntarily files a petition in or for bankruptcy or reorganization; (ii) makes a general assignment or another arrangement for the benefit of creditors; (iii) is adjudged bankrupt; (iv) has a trustee, receiver or other custodian appointed on its behalf; or (v) has any other case or proceeding under any bankruptcy or insolvency law, or any dissolution or liquidation proceeding commenced against it.

**5.3.6** Provider fails or refuses to provide or arrange for the provision of Covered Services to Members in a professionally acceptable manner, provided however that CareOregon shall not have the right to immediately terminate the Agreement under this section if the section is implicated only because a malpractice or negligence claim has been filed against Practitioner and/or Practitioner has been found liable for malpractice or negligence.

**5.3.7** Professional liability insurance covering Provider, as required by this Agreement, is terminated without replacement coverage being obtained in amounts required by this Agreement.

**5.3.8** Provider's knowing or deliberate submission of false or misleading billing information to CareOregon or any Plan Partner.

**5.3.9** CareOregon determines that Provider is in violation of or has failed to comply with any of the requirements of this Agreement and Provider is unable to cure such violation or noncompliance through a Corrective Action Plan.

**5.4 Termination without Cause.** The parties agree that they are contracting at will. Either CareOregon or Provider may terminate this Agreement without cause upon ninety (90) days' advance written notice to the other party. However, such termination shall not relieve either party of any contractual obligation(s) incurred prior to the Effective Date of the termination.

**5.5 Change in Law.** In the event state or federal laws are enacted, or state or federal regulations are promulgated which, in the opinion of CareOregon, make this Agreement illegal under such laws or regulations, or this Agreement is otherwise deemed by appropriate state or federal governmental authorities to violate such laws or regulations, this Agreement shall be immediately amended to comply with such laws or regulations or be terminated. While CareOregon will strive to give advance notice of such amendment(s), advance notice may not be possible if CareOregon is required to immediately amend this Agreement to comply with changes in applicable laws.

**5.6 Continuity of Care.** In the event of termination of this Agreement, the following provisions shall apply to ensure continuity of the Covered Services to Members. Provider shall ensure:

**5.6.1** Continuation of Covered Services to Member for the period during which Plan Partner has paid Compensation to Provider, including inpatient admissions up until discharge;

**5.6.2** Notification to Members of the effective date of the termination and orderly and reasonable transfer of Member care in progress, whether or not those Members are hospitalized;

**5.6.3** Timely submission of information, reports and records, including encounter data, required to be provided to CareOregon and Plan Partners during the term of this Agreement;

**5.6.4** Timely payment of valid claims for services to Members for dates of service included within the term of the Agreement; and

**5.6.5** If Provider continues to provide services to a Member after the date of termination of this Agreement, CareOregon shall have no responsibility to: (i) pay for such services unless otherwise agreed to by CareOregon to allow for an orderly and reasonable transfer of Member care in process; and(ii) notify Members of the termination of this Agreement; or (iii) direct Members to other participating providers.

## **ARTICLE VI INDEMNIFICATION**

**6.1 Indemnification by CareOregon.** CareOregon hereby covenants and agrees to indemnify, protect, defend and hold Provider and its Commissioners, officers, directors, affiliates employees and agents (collectively, "Provider Parties") harmless from and against all direct and indirect losses, damages, claims, costs, settlements, expenses, attorneys' fees, fines, judgments, liens and other sums incurred by Provider Parties resulting from, arising out of, or relating to the acts or omissions of CareOregon or its officers, employees, subcontractors, agents, insurers and attorneys in CareOregon's performance pursuant to this Agreement.

**6.2 Indemnification by County.** To the extent permitted by Article XI, Section 7 of the Oregon Constitution and by Oregon Tort Claims Act, County shall defined, indemnify and hold harmless CareOregon and its directors, officers, employees, affiliates and agents from and against all claims, suits, actions, losses, damages, liabilities, settlements, cost and expenses of any nature whatsoever (including expenses at trial, at mediation, on appeal, and in connections with any petition for review) resulting from, arising out of, or relating to the activities of County or its officers, employees, subcontractors, agents, insurer, and attorneys (or any combination of them) under this Agreement.

## **ARTICLE VII INSURANCE**

**7.1 Insurance.** Pursuant to CareOregon policies and procedures in Exhibit G, Provider shall maintain, at Provider's sole expense, and keep in force, insurance policies, providing comprehensive general liability and professional liability or any other insurance as may be necessary to insure Provider and its Commissioners, officers, directors, agents and employees against any claim or claims for damages arising out of the providing of, or failure to provide, Covered Services pursuant to this Agreement. Evidence of insurance coverage required under this Section will be made available to CareOregon on request. Provider will provide CareOregon at least fifteen (15) days' advance written

notice of revocation, suspension, reduction, limitation, probationary or other disciplinary action taken on any of Provider's required insurance coverage. Proof of self-insurance for the required types and amounts of coverage satisfies this section.

**7.2 Claims, Incidents, Suits and Disciplinary Actions.** Provider agrees to promptly report to CareOregon any claim made, suit filed or disciplinary action commenced against Provider or its personnel relating to the provision of Covered Services under this Agreement.

**7.3 Workers' Compensation.** If Provider employs subject workers, as defined in ORS § 656.027, Provider shall comply with ORS § 656.017, and shall provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS § 656.126(2).

## **ARTICLE VIII DISPUTES AND COMPLAINTS**

**8.1 Arbitration.** Except as otherwise provided in Section 8.2, any dispute, controversy, or claim arising out of the subject matter of this Agreement will be settled by arbitration before a single arbitrator in Portland, Oregon. If the parties agree on an arbitrator, the arbitration will be held before the arbitrator selected by the parties. If the parties do not agree on an arbitrator, each party will designate an arbitrator and the arbitration will be held before a third arbitrator selected by the designated arbitrators. Each arbitrator will be an attorney knowledgeable in the area of business and healthcare law. The arbitration will be initiated by filing a claim with Arbitration Service of Portland and will be conducted in accordance with the then-current rules of Arbitration Service of Portland. The resolution of any dispute, controversy, or claim as determined by the arbitrator will be binding on the parties. Judgment on the award of the arbitrator may be entered by any party in any court having jurisdiction.

**8.2 Compelling Arbitration.** A party may seek from a court an order to compel arbitration, or any other interim relief or provisional remedies pending an arbitrator's resolution of any dispute, controversy, or claim. Any such action, suit, or proceeding will be litigated in courts located in Multnomah County, Oregon. For the purposes of the preceding sentence, each party consents and submits to the jurisdiction of any local, state, or federal court located in Multnomah County, Oregon. If a claim must be brought in a federal forum, then it shall be conducted solely and exclusively within the United States District Court for the District of Oregon.

**8.3 Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law.

## **ARTICLE IX GENERAL PROVISIONS**

### **9.1 Amendments.**

**9.1.1 Mutual Amendment.** The terms of this Agreement may be amended from time to time in a writing signed by CareOregon and Provider.

**9.1.2 Notice Amendments.** CareOregon may amend this Agreement by providing sixty (60) calendar days written notice to Provider of the amendment to the Agreement (“Notice Amendment”). Provider may reject Notice Amendments by terminating this Agreement in accordance with terms for termination described above. If no notice of termination is received by CareOregon, Notice Amendments shall be binding upon Provider at the end of the sixty (60) calendar-day period, and this Agreement shall be deemed amended as of that date, even if not signed by Provider. Provider will have input in the development of and amendments to policies and procedures that could affect Provider’s provision of services under this Agreement.

**9.1.3 Amendments Required by Law.** CareOregon may modify this Agreement immediately to comply with changes in state or federal laws or regulations, as described in Section 5.5 of this Agreement. Such amendments do not require consent of Provider and will be effective immediately on notice to Provider of the effective date thereof. CareOregon will provide notice to Provider of such amendments as soon as reasonably possible.

## **9.2 Notices and Communications between the Parties.**

**9.2.1 Certain Notices Required Under This Agreement.** The following notices must be sent via overnight delivery with delivery confirmation or certified mail, return receipt requested:

- (a) All notices for termination of this Agreement; and
- (b) All requests for mediation and/or arbitration.

**9.2.2 All Other Notices and Communications.** All other notices and communications between the parties which are necessary for the proper administration of this Agreement (including notices required within this Agreement which are not included in Section 9.2.1 above) may be communicated via regular U.S. mail, confirmed facsimile or electronic mail.

**9.2.3 Confidential and Protected Health Information.** If a notice or communication includes information which is confidential or proprietary to either or both parties and/or which includes PHI as defined under HIPAA, then the following restrictions must be observed when communicating such information:

- (a) U.S. Mail/Certified Mail/Overnight Delivery: no additional requirements.
- (b) Facsimile Transmission: The information must be prefaced by a formal cover sheet noting the confidentiality of such information.
- (c) Web Site: Not a permitted method of notice or communication for confidential information and PHI, unless the Web Site is secure or the information appropriately encrypted.
- (d) Electronic Mail: Not a permitted method of notice or communication for confidential information and PHI, unless the electronic mail is secure or the information is appropriately encrypted.



**9.2.4 Address for Notices.** Notices to Provider shall be sent to: (i) the facsimile or postal address of Providers billing service location or any other revised postal address or facsimile provided by Provider to CareOregon in writing; or (ii) the electronic mail address designated by Provider for electronic notices. Notices to CareOregon shall be sent to:

CareOregon  
315 SW 5<sup>th</sup> Ave  
Portland, Oregon 97204  
Attention: Contract Department

Or any revised address provided to Provider in writing. The facsimile, postal address or electronic mail address for notice may be changes on prior written notice to the other party.

**9.2.5 When Made.** For notices described under Section 9.2.1 above, the notice will be deemed to have been made on the date it was delivered. For notices and communications described under Section 9.2.2, the notice or communication will be deemed to have been made on the date the receiving party confirmed receipt of the notice or communication.

**9.3 Assignment of Contract, Successors in Interest.**

**9.3.1** CareOregon may assign or transfer its interest in this Agreement without prior consent of Provider.

**9.3.2** Provider shall not assign or transfer its interest in this Agreement, voluntarily or involuntarily, whether by merger, consolidation, dissolution, operation of law, or in any other manner, without prior written consent of CareOregon. Any such assignment or transfer, if approved, is subject to such conditions and provisions as CareOregon may deem necessary. No approval by CareOregon of any assignment or transfer of interest shall be deemed to create any obligation of CareOregon in addition to those set forth in this Agreement. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties, their respective successors and permitted assigns.

**9.4 Severability.** If any term or provision of this Agreement 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 this Agreement did not contain the particular term or provision held to be invalid.

**9.5 Entire Agreement; Amendments.** This Agreement and Exhibits constitute the full and complete expression of the rights and obligations of the parties with respect to the subject matter and supersedes all prior understandings and agreements, whether oral or written. This Agreement may only be amended pursuant to the provisions described in Section 9.1.

**9.6 Confidential Business Information.** Except as otherwise required by Applicable Laws, Provider agrees not to disclose to any third party any confidential business information or trade secrets that are disclosed to it as a result of its participation in this Agreement. "Confidential Information" shall mean all information provided by one party to this Agreement to another in connection with this Agreement, which is designated as "Confidential." Confidential Information will mean all information provided by one party to this Agreement to another in connection with this Agreement, which is designated "confidential" and/or considered a trade secret

under Applicable Laws. Each party agrees that it will not make use of, disseminate, disclose or in any way circulate any Confidential Information supplied to or obtained by it in writing, orally or by observation, except as expressly permitted by this Agreement or as required by law or order of a court or administrative agency having jurisdiction. Confidential Information may be used as necessary to perform the services required under this Agreement and may be disclosed by a party to this Agreement to its own employees that require access to such Confidential Information for the purposes of this Agreement. This paragraph does not prevent disclosure in connection with an audit or survey in the normal course of business by regulatory authorities, certified public accountants, accrediting institutions and the like; provided the recipient is under a duty to protect the confidentiality of the information disclosed.

**9.7 Waiver.** The waiver of any provision of this Agreement shall only be effective if set forth in writing and signed by the waiving party. Any such or other waiver shall not operate as, or be deemed to be, a continuing waiver of the same or of any other provision of this Agreement.

**9.8 Third-Party Rights.** The parties do not intend the benefits of this Agreement to inure to any third person not a signatory to this Agreement. The Agreement shall not be construed as creating any right, claim, or cause of action against any party by any person or entity not a party to this Agreement except as otherwise described in this Agreement.

**9.9 Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all counterparts together shall constitute one and the same instrument. A signed copy of this Agreement delivered by facsimile, e-mail, or other means of electronic transmission will be deemed to have the same legal effect as delivery of an original signed copy of the Agreement.

*[Signature Page Follows]*

The foregoing terms are agreed to by the parties.

**CareOregon, Inc.**

By: \_\_\_\_\_

Name: Eric C. Hunter \_\_\_\_\_

Title: Chief Executive Officer \_\_\_\_\_

Date Signed: \_\_\_\_\_

**Clackamas County, by through its Health Centers Division**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date Signed: \_\_\_\_\_

TIN: \_\_\_\_\_

Approve to Form

By:  \_\_\_\_\_  
County Counsel

Date: 3/25/2020

## **EXHIBIT A**

### **CareOregon Plan Partners**

As of the Effective Date of this Agreement, listed below are the Plan Partners which have access to the services provided by Provider, as referenced in Section 2.1, to the extent Provider provides the type of Covered Services required by Plan Partners assigned CareOregon Members. CareOregon shall notify Provider if this list changes.

Kaiser Foundation Health Plan

Legacy Health PacificSource

OHSU Health

Providence Health & Services - Oregon



## EXHIBIT B

### GENERAL REQUIREMENTS FOR CAREOREGON SUBCONTRACTORS PERFORMING HEALTH PLAN SERVICES UNDER THE CCO CONTRACT

CareOregon serves Oregon's Coordinated Care Organizations ("CCO" also referred to herein as "Contractor") by providing certain health plan services under contracts with CCOs. All CCOs are a party to a standard agreement with the Oregon Health Authority ("OHA") titled, "Oregon Health Plan, Health Plan Services Contract" and "Cover All Kids Health Plan Services Contract" intentionally referred to in the singular in this Exhibit as the "CCO Contract". The CCO Contract applies to CareOregon as the primary subcontractor of a CCO. As a downstream subcontractor of CareOregon, Provider ("Subcontractor") also agrees to provide its services pursuant to the CCO Contract.

Subcontractor shall comply with the provisions in this Exhibit to the extent that they are applicable to the goods or services provided by Subcontractor under this Exhibit for Delegated CCO Health Plan Services ("Exhibit"); provided, however, that this Exhibit shall not terminate or limit Contractor's legal responsibilities to OHA for the timely and effective performance of Contractor's duties and responsibilities under the CCO Contract. Capitalized terms used in this Exhibit, but not otherwise defined in the Exhibit, shall have the same meaning as those terms in the CCO Contract, including definitions incorporated therein by reference. In the event of a conflict or inconsistency with any term or condition in the CareOregon Provider Agreement ("Agreement"), this Exhibit shall control.

1. **Service Area and Enrollment Limits.** For the purposes of this Exhibit, Subcontractors Service Area is all zip codes contained in the service areas of:

#### Health Share

Subcontractor agrees to provide services to all Members without an Enrollment Limit.

2. **Interpretation and Administration of Exhibit.** The parties acknowledge and agree that this Exhibit is subject to the terms and conditions of the Health Plan Services Contract and Cover All Kids Health Plan Services Contract (intentionally referred to in the singular as the "CCO Contract") which is the standard agreement(s) used by the Oregon Health Authority ("OHA") with all CCOs. As CareOregon contracts with multiple CCOs, the specific contract applicable to this Exhibit may be the CCO Contract between OHA and Health Share, and/or Columbia Pacific CCO, and/or Jackson County CCO, or another CCO if CareOregon enters into a subcontract with another CCO after the execution of this Exhibit. The parties shall interpret and administer this Exhibit in accordance with the CCO Contract, Section VI titled "Interpretation and Administration of Contract" which shall be incorporated herein by reference.

The parties further acknowledge and agree that in the event that any provision, clause or application of this Exhibit is ambiguous with respect to the delegation of CCO Contract provisions due to drafting, technical or similar issues, the parties shall interpret this Exhibit in a manner consistent with the original intention of the parties, to allow CareOregon to delegate duties and obligations to Subcontractor related to providing services that are Covered Services,

as outlined in the attached scopes of work, to Members under the CCO Contract as CareOregon deems reasonably possible and appropriate in light of Subcontractor's mission and objectives.

**3. Performance of Exhibit.** Subcontractor agrees to perform its duties and obligations under this Exhibit in accordance with the CCO Contract, applicable federal, state, and local laws, the terms and conditions of this Exhibit, and all applicable policies and procedures attached to the Agreement as Exhibit G. CareOregon will make best efforts to provide Subcontractor with copies of all such policies and procedures. If Subcontractor fails to comply with any provisions of this Exhibit or with the applicable CareOregon policies and procedures, CareOregon may terminate this Agreement or Exhibit as outlined in the Termination provisions in Article VII of the Agreement.

**4. Definitions**

Capitalized terms used in this Exhibit, but not otherwise defined in the Exhibit, shall have the same meaning as those terms in the CCO Contract, Exhibit A.

**5. Statements of Work.** Specific service level statements of work for Covered Services associated with these general requirements for delegated services under the CCO contract will be attached to this Exhibit.

**6. Payment Contingent on CCO Receiving Payment.** Under Exhibit B, Part 4, Section 12(d) of the CCO Contract, Subcontractor understands and agrees that if CareOregon is not paid or not eligible for payment by OHA for services provided because the applicable CCO is not paid, Subcontractor will not be paid or be eligible for payment by OHA.

**7. Key Deliverables**

**a. Reporting Requirements.** Subcontractor will assist in all applicable reporting requirements in the CCO Contract associated with the scope of the delegated health plan services being performed as outlined in the statement(s) of work. CareOregon will share these CCO Contract reporting requirements with Subcontractor as soon as reasonably possible so Subcontractor can adequately prepare to produce such reports. Additionally, Subcontractor will produce any additional reports as reasonably requested by CareOregon in order for it to carry out its oversight and monitoring duties.

**b. Financial Reporting Requirements.**

To the extent applicable to the scope(s) of work:

- i. Subcontractor shall follow and use Statutory Accounting Principles in the preparation of all financial statements and reports filed with CareOregon, unless CareOregon policies and procedures or written reporting instructions allow otherwise.
- ii. Subcontractor shall maintain sound financial management procedures and demonstrate to CareOregon through proof of financial responsibility that it is able

to perform the work required under this Contract efficiently, effectively and economically and is able to comply with the requirements of this Contract.

- iii. Subcontractor shall cooperate with CareOregon to submit any information required for CareOregon to complete the reporting required under Exhibit L of the CCO Contract including but not limited to annual, quarterly, and audited financial statements as needed.

**c. BAA required for Delegated Health Plan Services.** The services provided under this Exhibit are being delivered on behalf of CareOregon because Subcontractor is performing on contractual obligations for health plan services. This is distinct from the actual delivery of health care services as outlined in other parts of this agreement. As a result, under this Exhibit Subcontractor is acting as the Business Associate of CareOregon and a Business Associate Agreement is required to be executed between the parties.

**d. Additional Actions Required Following Notice of Termination.** After providing notice of termination to CareOregon under Article VII of the CareOregon Provider Agreement, and to the extent applicable to the scope(s) of work, Subcontractor shall:

- i. Submit to CareOregon a Transition Plan detailing how Subcontractor will fulfill its continuing obligations under this Exhibit and identifying an individual (with contact information) as Subcontractor's transition coordinator. The Transition Plan is subject to approval by CareOregon. Subcontractor shall make revisions to the plan as requested by CareOregon. Failure to submit a Transition Plan and obtain written approval of the Transition Plan by CareOregon may result in CareOregon extending the termination date by the amount of time necessary in order for CareOregon to provide a Transition Plan or approve the Transition Plan submitted by Subcontractor. The Transition Plan shall include the prioritization of high-needs Members for care coordination and other Members requiring high level coordination.
- ii. Submit reports to CareOregon every thirty (30) calendar days, or as otherwise agreed upon in the Transition plan, detailing Subcontractor's progress in carrying out the Transition Plan. Subcontractor shall submit a final report to CareOregon describing how Subcontractor has fulfilled all its obligations under the Transition Plan including resolution of any outstanding responsibilities.
- iii. Maintain adequate staffing to perform all functions specified in this Exhibit unless Subcontractor's funding does not allow such performance.
- iv. Cooperate with CareOregon to arrange for orderly and timely transfer of Members from coverage under this Exhibit to coverage under new arrangements authorized by CareOregon. Such actions of cooperation shall include but are not limited to Subcontractor continuing to provide care coordination until appropriate transfer of care can be arranged for those Members in a course of treatment for which change of Subcontractors could be harmful.

**e. Continuity of Care.** The parties shall cooperate in ensuring the transition of the Members' care, and wrap-up of all duties and responsibilities, upon the termination or expiration of this Exhibit. Subcontractor shall ensure:

- i. Continuation of services to members for any period and Covered Service for which CareOregon has actually paid Compensation to Subcontractor;
  - ii. Orderly and reasonable transfer of member care in progress at the end of the Term, whether or not those members are hospitalized;
  - iii. Timely submission of information, reports and records, including encounter data, required to be provided to CareOregon and OHA relating to services provided.
  - iv. If Subcontractor continues to provide services to a member after the Term, CareOregon shall have no responsibility to pay for such services pursuant to this Exhibit unless otherwise agreed to by CareOregon to allow for an orderly and reasonable transfer of Member care.
- f. External Quality Review.** Subcontractor shall to cooperate with CareOregon, the applicable CCO, and OHA by providing access to records and facilities for the purpose of an annual external, independent professional review of the quality outcomes and timeliness of, and access to Covered Services furnished under this Exhibit, pursuant to CCO Contract Exhibit B, Part 10, Section 8.
- g. Monitoring and Delegation Oversight.** As a subcontractor of a health plan function, Subcontractor agrees is considered a Subcontractor under the CCO Contract and agrees to participate in CareOregon’s required monitoring and delegation oversight activities as listed in Exhibit B, Part 4, Section 12 of the CCO Contract, including but not limited to:
- i. Ongoing oversight and monitoring of Subcontractor’s compliance with the terms of this Exhibit.
  - ii. At least once per year, cooperating with CareOregon to produce a formal review of Subcontractor’s performance under this Exhibit, referred to as the “Annual Subcontractor Performance Report” in the CCO Contract.
  - iii. The Annual Subcontractor Performance Report will include at minimum the following elements:
    - 1. An assessment of the quality of Subcontractor’s performance of contracted Work;
    - 2. Any complaints or Grievances filed in relation to Subcontractor’s Work;
    - 3. Any late submission of reporting deliverables or incomplete data;
    - 4. Whether employees of the Subcontractor are screened and Monitored for federal exclusion from participation in Medicaid;
    - 5. The adequacy of Subcontractor’s compliance functions including all Fraud, Waste, and Abuse policies and procedures required in Exhibit B, Part 9, Sections 11-18; and
    - 6. Any deficiencies that have been identified by OHA related to work performed by Subcontractor.
  - iv. In the event CareOregon identifies any deficiencies or areas for improvement, CareOregon will require Subcontractor to implement a Corrective Action Plan to remedy such deficiencies.

**h. Program Integrity.**

- i. **Overview of OHA Monitoring and Compliance Review.** OHA is responsible for monitoring CCO compliance with the terms and conditions of the CCO Contract and all applicable laws. If after conducting an audit or other compliance review of the CCO and CareOregon, Subcontractor's compliance cannot be determined, or if OHA determines that the CCO, CareOregon, and/or Subcontractor has breached the terms or conditions of the CCO Contract, OHA may impose Sanctions on the CCO which will be applied to CareOregon and Subcontractor in so far as the Sanctions relate to their work performed under this Exhibit, to the extent permitted by Article XI, Section 7 of the Oregon Constitution and by the Oregon Tort Claims Act. A larger explanation of OHA's authority and potential sanctions are contained in Exhibit B, Part 9. Under no circumstances shall Subcontractor be required to pay CCO or CareOregon for any share of sanctions assessed against them that are not reasonably attributable to the actions or inactions of Subcontractor.
- ii. Exhibit B, Part 9, Sections 10-18 of the CCO Contract is delegated to Subcontractor. These sections require Subcontractor to develop and implement Fraud, Waste, and Abuse prevention policies and procedures that ensure compliance with 42 CFR Part 455, 42 CFR Part 438, Subpart H, and OAR 410-120-1510; and (ii) annually creating a plan for implementing its policies and procedures. It is a requirement of the CCO and CareOregon to ensure that Subcontractor, as a subcontractor, complies with the terms and conditions set forth in Exhibit B, Part 9, Sections 11-18. Oversight and monitoring of these requirements may be performed at regular intervals including but not limited to at minimum an annual Delegation Oversight review.

i. **Privacy, Security and Retention of Records.** Exhibit B, Part 8, Section 2 of the CCO Contract is delegated to Subcontractor.

j. **Participation in Health Equity Plan.** Pursuant to 2018 HB 4018B, CareOregon must work with the CCO(s) to develop and implement a Health Equity Plan designed to address the cultural, socioeconomic, racial, and regional disparities in health care that exist among OHP members and the communities within the CCO(s) Service Area. In so far as the Health Equity Plan includes functions that Subcontractor is performing on behalf of CareOregon, Subcontractor will participate and contribute to the development and execution of the Health Equity Plan.

**8. CCO Subcontractor Requirements.** As a Subcontractor of CareOregon, under the CCO Contract, Subcontractor is required to comply with Exhibit B, Part 4, Section 12; Exhibit B, Part 9, Sections 11-18; Exhibit E, Required Federal Terms and Conditions in its entirety; Exhibit D, Section 20 which requires subcontracts to include Exhibit D, Sections 1, 2, 3, 4, 15, 16, 19, 20, 25, 31, 32, and 33.

**a. Subcontractor Requirements**

Subcontractor agrees to comply with the general Subcontractor Requirements listed in Exhibit B, Part 4, Section 12 of the CCO Contract which is summarized above in this Exhibit under Section 7(g), to the extent they apply to Subcontractor's scope of work under this Exhibit.

**b. Program Integrity Requirements**

Subcontractor agrees to comply with the Program Integrity requirements listed Exhibit B, Part 9, Sections 11-18 which is summarized above in this Exhibit under Section 7(h), to the extent they apply to Subcontractor's scope of work under this Exhibit.

**c. Required Federal Terms and Conditions**

Subcontractor agrees to comply with the federal requirements listed in the CCO Contract, Exhibit E to the extent they apply to Subcontractor's scope of work under this Exhibit.

**d. Governing Law, Consent to Jurisdiction (CCO Contract, Exhibit D, Section 1)**

This Exhibit 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, the "Claim") between OHA or any other agency or department of the State of Oregon, or both, and the CCO that implicates CareOregon and its downstream Subcontractors that arises from or relates to this Exhibit shall be brought and conducted solely and exclusively within the Circuit Court of Marion County or of Multnomah County for the State of Oregon; provided, however, (a) if federal jurisdiction exists then a party may remove the Claim to federal court, and (b) if a Claim must be brought in or is removed to a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. Subcontractor agrees that a suit brought by the State of Oregon can be in the jurisdiction of any court and it is entitled to 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. SUBCONTRACTOR, BY EXECUTION OF THIS CONTRACT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

**e. Compliance with Applicable Law (CCO Contract, Exhibit D, Section 2)**

- i. Subcontractor shall comply and cause all its Subcontractors to comply with all State and local laws, regulations, executive orders and ordinances applicable to the CCO Contract or to the performance of Work as they may be adopted, amended or repealed from time to time, including but not limited to the following: (i) ORS 659A.142; (ii) OHA rules pertaining to the provision of integrated and coordinated care and services, OAR Chapter 410, Division 141; (iii) all other OHA Rules in OAR Chapter 410; (iv) rules in OAR Chapter 309, Divisions 012, 014, 015, 018, 019, 022, 032 and 040, pertaining to the provisions of Behavioral Health services; (v) rules in OAR Chapter 415 pertaining to the provision of Substance Use Disorders services; (vi) state law establishing requirements for Declaration for Mental Health Treatment in ORS 127.700 through 127.737; and (vii) all other applicable requirements of State civil rights and rehabilitation statutes, rules and regulations. These laws, regulations, executive orders and ordinances are incorporated by reference herein to the extent that they are applicable to the CCO Contract and required by law to be so incorporated. OHA's



performance under the CCO Contract is conditioned upon Subcontractor's compliance with the provisions of ORS 279B.220, ORS 279B.225, 279B.230, 279B.235 and 279B.270, which are incorporated by reference herein. Subcontractor shall, to the maximum extent economically feasible in the performance of this Contract, use recycled paper (as defined in ORS 279A.010(1)(gg)), recycled PETE products (as defined in ORS 279A.010(1)(hh)), and other recycled products (as "recycled product" is defined in ORS 279A.010(1)(ii)).

- ii. In compliance with the Americans with Disabilities Act, any written material that is generated and provided by Contractor under this Contract to Clients or Members, including Medicaid-Eligible Individuals, shall, at the request of such Clients or Members, be reproduced in alternate formats of communication, to include Braille, large print, audiotape, oral presentation, and electronic format. Subcontractor shall not be reimbursed for costs incurred in complying with this provision. Subcontractor shall cause all Subcontractors under this Contract to comply with the requirements of this provision.
- iii. Subcontractor shall comply with the federal laws as set forth or incorporated, or both, in the CCO Contract and all other federal laws applicable to Subcontractor's performance under this Exhibit as they may be adopted, amended or repealed from time to time.

**f. Independent Contractor (CCO Contract, Exhibit D, Section 3)**

- i. Subcontractor is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265 or otherwise.
- ii. If Subcontractor is currently performing work for the State of Oregon or the federal government, Contractor by signature to this Contract, represents and warrants that Subcontractor'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 Subcontractor currently performs work would prohibit Subcontractor's Work under this Contract. If compensation under this Exhibit is to be charged against federal funds, Subcontractor certifies that it is not currently employed by the federal government.
- iii. Subcontractor is responsible for all federal and State taxes applicable to compensation paid to Contractor under this Exhibit and, unless Subcontractor is subject to backup withholding, CareOregon will not withhold from such compensation any amounts to cover Subcontractor's federal or State tax obligations. Subcontractor is not eligible for any social security, unemployment insurance or workers' compensation benefits from compensation paid to Subcontractor under this Exhibit, except as a self-employed individual.
- iv. Subcontractor shall perform all Work as an Independent Contractor. CareOregon 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, CareOregon may not and will not control the means or manner of Subcontractor's performance.

Subcontractor is responsible for determining the appropriate means and manner of performing the Work.

**g. Representations and Warranties (CCO Contract, Exhibit D, Section 4)**

i. Subcontractor's Representations and Warranties. Subcontractor represents and warrants to CareOregon that:

1. Subcontractor has the power and authority to enter into and perform this Exhibit;
2. This Exhibit, when executed and delivered, shall be a valid and binding obligation of Subcontractor enforceable in accordance with its terms;
3. Subcontractor has the skill and knowledge possessed by well-informed members of its industry, trade or profession and Subcontractor will apply that skill and knowledge with care and diligence to perform the Work in a professional manner and in accordance with standards prevalent in Subcontractor's industry, trade or profession;
4. Subcontractor shall, at all times during the Term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work; and
5. Subcontractor prepared its Application related to this Exhibit, if any, independently from all other Subcontractors, and without collusion, Fraud, or other dishonesty.

ii. Warranties Cumulative. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

**h. Access to Records and Facilities; Records Retention; Information Sharing (CCO Contract, Exhibit D, Section 15)**

i. Subcontractor shall maintain, and require its Subcontractors and Participating Providers to maintain, all financial records relating to this Contract in accordance with best practices or National Association of Insurance Commissioners accounting standards. In addition, Subcontractor shall maintain any other records, books, documents, papers, plans, records of shipments and payments and writings of Subcontractor, whether in paper, electronic or other form, that are pertinent to this Exhibit, in such a manner as to clearly document Subcontractor's performance. All Clinical Records, financial records, other records, books, documents, papers, plans, records of shipments and payments and writings of Subcontractor whether in paper, electronic or any other form, that are pertinent to this Contract, are collectively referred to as "Records." Subcontractor acknowledges and agrees that CareOregon, OHA, CMS, the Oregon Secretary of State, DHHS, the Office of the Inspector General, the Comptroller General of the United States, the Oregon Department of Justice Medicaid Fraud Control Unit and their duly authorized representatives shall have access to all Subcontractor, Participating Provider, and Subcontractor Records for the purpose of performing examinations and audits and make excerpts and transcripts, evaluating compliance with this Exhibit, and to evaluate the quality, appropriateness and timeliness of services. Subcontractor further acknowledges and agrees that the foregoing entities may, at any time, inspect the premises, physical facilities,

computer systems, and any other equipment and facilities where Medicaid-related activities or Work is conducted or equipment is used (or both conducted and used).

1. The right to audit under this section exists for 10 years from, as applicable, the Expiration Date or the date of termination, or from the date of completion of any audit, whichever is later.
  2. Subcontractor shall, upon request and without charge, provide a suitable work area and copying capabilities to facilitate such a review or audit. This right also includes timely and reasonable access to Subcontractor's personnel and the personnel of any downstream Subcontractors for the purpose of interview and discussion related to such documents. The rights of access in this section are not limited to the required retention period but shall last as long as the records are retained.
- ii. Subcontractor shall retain and keep accessible all Records for the longer of ten years or:
    1. The retention period specified in the CCO Contract for certain kinds of records;
    2. The period as may be required by Applicable Law, including the records retention schedules set forth in OAR Chapters 410 and 166; or
    3. Until the conclusion of any audit, controversy or litigation arising out of or related to this Exhibit.
  - iii. In accordance with Oregon Enrolled Senate Bill 1041 (2019), Section 54c, OHA has the right to provide the Oregon Department of Consumer and Business Affairs with information reported to OHA by CareOregon and its Subcontractors provided that OHA and DCBS have entered into information sharing agreements that govern the disclosure of such information
- i. Information Privacy/Security/Access (CCO Contract, Exhibit D, Section 16)**  
If the Work performed under this Contract requires Subcontractor or, when allowed, its downstream Subcontractor(s), to have access to or use of any OHA's computer system or other OHA Information Asset for which OHA imposes security requirements, and CareOregon grants Subcontractor access to such CareOregon assigned OHA Information Assets or Network and Information Systems, Subcontractor shall comply and require any downstream Subcontractor(s) to which such access has been granted to comply with OAR 943-014-0300 through 943-014-0320, 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 943-014-0305, as such rule may be revised from time to time.
- j. Assignment of Contract, Successors in Interest (CCO Contract, Exhibit D, Section 19)**
  - i. Subcontractor shall not assign or transfer its interest in this Exhibit, voluntarily or involuntarily, whether by merger, consolidation, dissolution, operation of law, or in any other manner, without prior written consent of CareOregon. Any such assignment or transfer, if approved, is subject to such conditions and provisions as OHA or CareOregon may deem necessary, including but not limited to Exhibit B, Part 8, Section 14. No approval by CareOregon of any assignment or transfer

of interest shall be deemed to create any obligation of CareOregon in addition to those set forth in the Contract.

- ii. The provisions of this Exhibit shall be binding upon and inure to the benefit of the parties, their respective successors and permitted assigns.

**k. Subcontracts (CCO Contract, Exhibit D, Section 20)**

In addition to all of the other provisions OHA requires under the CCO Contract, including, without limitation, information required to be reported under Ex. B, Part 4 of this Contract, and any other information OHA or CareOregon may request from time to time, Subcontractor shall include in any permitted downstream Subcontract under this Exhibit provisions to ensure that OHA will receive the benefit of Subcontractor performance as if the Subcontractor were the CCO with respect to Sections 1, 2, 3, 4, 15, 16, 19, 20, 25, and 31-33 of this Exhibit D. OHA and/or CareOregon's consent to any downstream Subcontract shall not relieve Subcontractor of any of its duties or obligations under this Exhibit.

**l. Survival (CCO Contract, Exhibit D, Section 25)**

All rights and obligations cease upon termination or expiration of this Exhibit, except for the rights and obligations, and declarations which expressly or by their nature survive termination of this Exhibit, including without limitation the following Sections or provisions set for the below in this section. Without limiting the forgoing or anything else in this Exhibit, in no event shall the CCO Contract expiration or termination extinguish or prejudice OHA and/or CareOregon's right to enforce the CCO Contract and/or this Exhibit with respect to any default by Subcontractor that has not been cured.

- i. CCO Contract Exhibit A, Definitions
- ii. CCO Contract General Provisions: Sections V and VI
- iii. CCO Contract Exhibit B, Part 10: Section 3
- iv. CCO Contract Exhibit D: Sections 1, 4 through 13, 15 through 17, 19 through 30, 32.
- v. CCO Contract Exhibit. E: Section 6, HIPAA Compliance (but excluding paragraph d) shall survive termination for as long as Subcontractor holds, stores, or otherwise preserves Individually Identifiable Health Information of Members or for a longer period if required under the CCO Contract Section 12 of this Exhibit D.
- vi. Special Terms and Conditions:

In addition to any other provisions of this Exhibit that by their context are meant to survive expiration or termination, the following special terms and conditions survive expiration or termination, for a period of two (2) years unless a longer period is set forth in this Exhibit, and as long as the scopes of work include functions or operations that implicate the below items:

- 1. Claims Data
  - a. The submission of all Encounter Data for services rendered to Subcontractor's Members during contracted period;
  - b. Certification that Subcontractor attests that the submitted encounter claims are complete, truthful and accurate to the best

- knowledge and belief of the Subcontractor's authorized representative, subject to False Claims Act liability;
- c. Adjustments to encounter claims in the event Subcontractor receives payment from a Member's Third-Party Liability or Third-Party recovery; and
  - d. Adjustments to encounter claims in the event Subcontractor recovers any Provider Overpayment from a Provider.
2. Financial Reporting
    - a. Quarterly financial statements as defined in Exhibit L;
    - b. Audited annual financial statements as defined in Exhibit L;
    - c. Submission of details related to ongoing Third-Party Liability and Third-Party recovery activities by Subcontractors or its downstream Subcontractors;
    - d. Submission of any and all financial information related to the calculation of Subcontractor's MMLR; and
    - e. Data related to the calculation of quality and performance metrics.
  3. Operations
    - a. Point of contact for operations while transitioning;
    - b. Claims processing;
    - c. Provider and Member Grievances and Appeals; and
    - d. Implementation of and any necessary modifications to the Transition Plan.
  4. Corporate Governance
    - a. Oversight by Governing Board and Community Advisory Council;
    - b. Not initiating voluntary bankruptcy, liquidation, or dissolution;
    - c. Maintenance of all licenses, certifications, and registrations necessary to do business as a Subcontractor of a CCO in Oregon; and
    - d. Responding to subpoenas, investigations, and governmental inquiries.
  5. Financial Obligations

The following requirements survive Exhibit expiration or termination indefinitely:

    - a. Reconciliation of Risk Corridor Payments;
    - b. Reconciliation and right of setoffs;
    - c. Recoupment of MMLR Rebates;
    - d. Reconciliation of prescription drug rebates;
    - e. Recoupment of capitation paid for Members deemed ineligible or who were enrolled into an incorrect benefit category; and
    - f. Recoupment (by means of setoff or otherwise) of any identified Overpayment.
  6. Sanctions and Liquidated Damages
    - a. Exhibit expiration or termination does not limit OHA's ability to impose Sanction or Liquidated Damages for the failures or acts (or

both) of the CCO and its downstream Subcontractors as set out in Exhibit B, Part 9 of the CCO Contract.

- b. The decision to impose a Sanction or Liquidated Damages does not prevent OHA from imposing additional Sanctions against CCO and its downstream Subcontractors at a later date.

Sanctions imposed on the CCO and its downstream Subcontractors after Contract expiration or termination will be reported to CMS according to the requirements set out in the CCO Contract, Exhibit B, Part 9.

**m. Equal Access (CCO Contract, Exhibit D, Section 31)**

Subcontractor shall provide equal access to Covered Services for both male and female Members under 18 years of age, including access to appropriate facilities, services and treatment, to achieve the policy in ORS 417.270.

**n. Media Disclosure (CCO Contract, Exhibit D, Section 32)**

Subcontractor shall not provide information to the media regarding a recipient of services under this Exhibit without first consulting with and receiving approval from CareOregon, who must seek approval from the CCO and OHA. Subcontractor shall make immediate contact with CareOregon when media contact occurs. CareOregon will coordinate the appropriate follow-ups to the CCO and OHA and a response for the media.

**o. Mandatory Reporting of Abuse (CCO Contract, Exhibit D, Section 33)**

- i. Subcontractor shall, as soon as reasonably possible, report any evidence of Child Abuse, neglect or threat of harm to DHS Child Protective Services or law enforcement officials in full accordance with the mandatory Child Abuse Reporting law (ORS 419B.005 to 419B.045). If law enforcement is notified, the Subcontractor shall notify the referring caseworker within 24 hours. Subcontractor shall contact the local DHS Child Protective Services office if questions arise whether an incident meets the definition of Child Abuse or neglect.
- ii. Subcontractor shall comply, and shall require its employees and subcontractors to comply, with all protective services, investigation and reporting requirements described in any of the following laws:
  - 1. OAR 407-045-0000 through 407-045-0370 (abuse investigations by the Office of Investigations and Training);
  - 2. ORS 430.735 through 430.765 (persons with mental illness or developmental disabilities);
  - 3. ORS 124.005 to 124.040 (elderly persons and persons with disabilities abuse); and
  - 4. ORS 441.650 to 441.680 (residents of long-term care facilities).



## EXHIBIT B-1

### DELEGATION OF CREDENTIALING

#### A. SERVICES

1. Provider shall be responsible for the credentialing of employed and/or contracted staff that provide any and all services to CareOregon as outlined in the CCO Contract, Exhibit B, Part 4, Section 6, as follows:
  - a. Provider shall have written policies and procedures for collecting evidence of credentials, screening the credentials, reporting credential information and recredentialing of their staff including (if applicable to the type of practice/facility): Acute, primary, dental, behavioral, Substance Use Disorder Providers and facilities, consistent with PPACA Section 6402, 42 CFR§ 438.214, 42 CFR §455.400-455.470 (excluding §455.460), OAR 410-141-3510. These procedures shall also include collecting proof of professional Liability Insurance, whether by insurance or a program of self-insurance.
  - b. Contractors shall ensure Telemedicine credentialing requirements are consistent with OAR 410-130-0610(3).
  - c. If the staff of Provider (whether employees or subcontractors) are not required to be licensed or certified by a State of Oregon board or licensing agency, Provider shall document, certify and report to CareOregon, the date such staff's education, experience, competence, and supervision are adequate to permit performance of their specific assigned duties.

If staff are not required to be licensed or certified by a State of Oregon board or licensing agency, then such Provider must ensure that the staff-person either:

    - i. Meets the definitions for Qualified Mental Health Associate (QMHA) or Qualified Mental Health Professional (QMHP) and is not be permitted to provide services without the supervision of a Licensed Medical Practitioner; or
    - ii. If not meeting either the definitions of a QMHP or QMHA have the education, experience, competence necessary to perform the specified assigned duties and Provider must document and report to CareOregon: (i) the education, experience and competence of such staff-person, and (ii) that they will not be permitted to permitted to perform the specific assigned duties without the supervision of a Licensed Medical Practitioner.
  - d. Provider shall maintain records documenting academic credentials, training received, licenses or certifications of staff and facilities used, and reports from the National Practitioner Data Bank and must provide accurate and timely information about license or certification expiration and renewal dates to CareOregon in order for CareOregon to fulfill its provider network reporting requirements to the OHA. Provider may not refer OHP members to use staff who do not have a valid license or certification required by

applicable law. If Provider knows or has reason to know that a staff person’s license or certification is expired, has not been renewed, or is subject to sanction or administrative action, Provider must notify CareOregon with notice of such circumstances as soon as reasonably possible.

- e. Provider shall not refer Members to or use Providers who have been terminated from OHA or excluded as Medicare, CHIP, or Medicaid Providers by CMS or who are subject to exclusion for any lawful conviction by a court for which a provider could be excluded under 42 CFR §1001.101 and 42 CFR §455.3(b). Provider shall not employ or contract with persons excluded from participation in Federal health care programs under 42 CFR §438.214(d). CareOregon will not accept billings for services provided to Members after the date of the provider’s exclusion, conviction, or termination. If Provider knows or has reason to know that a staff person has been convicted of a felony or misdemeanor related to a crime, or violation of federal or State laws under Medicare, Medicaid, or Title XIX (including a plea of “nolo contendere”), Provider must immediately provide such information to OHA via Administrative Notice.
- f. Provider shall require each Physician and every other qualifying provider to have a unique provider identification number that complies with 42 USC 1320d-2(b).

**B. RECORD KEEPING AND REPORTING REQUIREMENTS**

At minimum, Provider shall maintain credentialing documentation to demonstrate compliance with the regulations listed above in a secure manner in either paper or digital form.

- 1. Provider must follow the reporting requirements referenced in the Provider Data Management section of the CareOregon Provider Manual, attached as Exhibit G.
- 2. Provider must, as soon as is reasonably possible, report any change of status of credentialing documentation (example expiration without renewal, restrictions, or other changes) to CareOregon at [credentialing@careoregon.org](mailto:credentialing@careoregon.org).
- 3. Initial Credentialing & Billing Set Up Overview (Licensed and unlicensed)

<b>Credentialing &amp; Billing Set Up Steps</b>	<b>Licensed Practitioner Credentialing</b>	<b>Unlicensed Practitioner Verification</b>
1) Register for NPI	X	X
2) Register for Medicaid Enrollment (DMAP) ID*	X	X
3) OPCA Application	X	
4) Medicaid Exclusion Checks (OIG and SAM)	X	X
5) Licensure and Board Certification Verification	X	
6) DEA Verification (if applicable)	X	
7) NPDB Report	X	
8) Job Description		X

9) Submit the “Add a Practitioner Form” X X

4. Re-Credentialing Overview for Licensed Practitioners (to be completed every 3 years)

Credentialing Steps	Licensed Practitioners
1) OPRA* Application	X
2) Medicaid Exclusion Checks	X
3) Licensure and Board Certification Verification	X
4) DEA Verification	X
5) NPDB Report	X

5. Ongoing Monitoring (Licensed and Unlicensed)

Monthly Monitoring	Licensed Practitioners	Unlicensed Practitioners
Medicaid Exclusion Checks (OIG/SAM)	X	X
Licensure Check	X	
Job Description Updates		X

a. Provider shall perform monthly exclusion list checks of all employees, contractors, volunteers, interns, and persons with 5% or more ownership and any other persons providing, arranging, or paying for behavioral health services paid in whole or in part with Medicaid dollars, against the Office of Inspectors (OIG) General Exclusions Database and the System for Award Management (SAM) Exclusions Database. Provider will maintain monthly verification of this check in either .pdf or excel form.

b. Provider shall ensure that providers maintain active licenses via a monitoring process with the licensing boards.

**EXHIBIT C  
PROGRAM ATTACHMENT**

**MEDICATION MANAGEMENT,  
OUTPATIENT MENTAL HEALTH SERVICES**

**A. SERVICE DESCRIPTION**

1. Outpatient mental health services means a publicly or privately-operated program as defined in OAR 309-019-0105 (68) that include a combination of time-limited assessment; individual, family and group therapy; medication management; case management; skills training and/or service coordination for Members with social, emotional, and/or mental health conditions that impair daily functioning. The specific focus of this statement of work is intended to cover psychiatric evaluation and medication management services.
2. Psychiatric evaluation and medication management services are part of the broader array of outpatient mental health services, which are designed to quickly promote or restore an individual's previous level of high function/stability or maintain social/emotional functioning. Outpatient mental health services are intended to be focused and time-limited and a Member is transitioned once the Member is able to function and maintain their social, emotional and/or mental health without ongoing recovery support services. Psychiatric evaluation and medication management services provided to the Member may include services that are delivered in the community or in-home as mutually agreed on by the Provider, Member, and CareOregon.
3. A psychiatric evaluation may include: a clinical interview to establish whether a Member's mental disorder or other condition requiring the attention of a psychiatrist (or Psychiatric Nurse Practitioner) is present; the collection of data sufficient to support differential diagnosis and a comprehensive clinical formulation; collaboration with the Member to develop an initial service plan that gives particular consideration for any immediate interventions that may be needed to address the safety of the Member and others; and the identification of longer-term issues that need to be considered in follow-up care.
4. Medication management may include: an evaluation of symptoms to determine whether or not medication is a recommended treatment intervention providing education and information on the actions, uses, and side effects of recommended treatment options; and monitoring the effectiveness of medication over course(s) of time to determine if the treatment effectively addresses symptomology.
5. Provider agrees to deliver specific psychiatric evaluation and medication management services in consultation with CareOregon and as determined by the needs of the Member.
6. Provider shall comply with OAR 309-019-0100 through 309-019-0220 regarding minimum standards for services and supports provided by substance use disorder and mental health providers, as applicable.
7. Provider shall deliver 24-hour, seven day a week telephonic or face-to-face crisis support coverage directly or by linkage as outlined in OAR 309-019-0150, as applicable.

8. Provider must deliver services in a trauma informed and culturally appropriate manner.
9. Provider agrees to deliver services in accordance with the Prioritized List of Health Services current at the time services are rendered.
10. Provider must comply with OAR 410-141-0180, Oregon Health Plan Prepaid Health Plan Record Keeping.
11. Provider shall comply with ORS 182.515 and 182.525, Evidence-Based Programs.
12. Provider shall comply with all credentialing requirements described in this Agreement, CareOregon's policies, and any other applicable regulatory requirements, in effect at the time services are rendered.
13. Provider agrees to deliver services in accordance with CareOregon's policies, including Provider Manual, in effect at the time services are rendered.
14. Provider shall deliver services under this Exhibit to Members as indicated below and defined by applicable regulations.

<b>Members Eligible for Services</b>
<input checked="" type="checkbox"/> Adults
<input checked="" type="checkbox"/> Youth

**EXHIBIT C-1**  
**SCHEDULE OF PAYMENT FOR OHP/MEDICAID**  
**MEDICATION MANAGEMENT,**  
**OUTPATIENT MENTAL HEALTH SERVICES**

This schedule establishes payment for Medication Management, Outpatient Mental Health Services rendered to OHP/Medicaid Recipients assigned to Health Share of Oregon CCO, LLC (Health Share) under this Agreement. CareOregon will use the formulas and other methodologies set forth in this Exhibit, as amended from time to time as stated herein. Except as stated below with respect to Non-Material Changes, CareOregon may make changes to this Exhibit as stated in Section 9.1.2 and 9.1.3 of the Agreement. "Non-Material Changes" shall mean routine updates to CPT or other nationally recognized codes (for example, codes are replaced, retired, or split into two codes).

**A. PAYMENT TERMS**

Effective January 1, 2020, CareOregon shall reimburse Provider as described in the CareOregon Fee Schedule and CareOregon Authorization Rules. CareOregon and Provider agree that CareOregon's Fee Schedule and the CareOregon Authorization Rules shall be incorporated by reference into this Exhibit and that any changes to CareOregon's Fee Schedule shall be mutually agreed upon by both parties in writing and that such writing shall be acceptable in electronic format.

**B. OTHER PAYMENT SPECIFICATIONS**

Claims may be submitted in either paper or electronic format. Provider understands and agrees that all billing for services provided by Provider pertaining to this Agreement shall be billed to CareOregon's Third Party Administrator, consistent with CareOregon's policies and in accordance with OAR 410-141-3420.

**C. DEFAULT REIMBURSEMENT FOR OHP PLANS**

For Covered Services that meet CareOregon's prior authorization requirements that are neither covered under this Exhibit nor indicated otherwise in a legal agreement with CareOregon, CareOregon will reimburse Provider for services at 100% of applicable DMAP/OHP Fee Schedule in effect on dates of services. For Covered Services that have no DMAP/OHP Fee Schedule value in effect on dates of service, CareOregon will apply the CareOregon payment policy in effect on dates of service. CareOregon will not reimburse for services that are neither Covered Services nor specified in a legal agreement with CareOregon.

**D. DISCRETIONARY COMPENSATION**

CareOregon within its sole discretion may, from time-to-time, establish a program or programs to encourage the improvement of the delivery of health care to its Members. Any such program(s) together with the criteria for participation by Providers in the program(s) will be governed and administered by written policies and program descriptions developed by CareOregon, and the Provider Agreement will be amended accordingly.



**E. CONFIDENTIALITY**

This Exhibit and documents referenced in this Exhibit contain confidential and proprietary information and they are considered a trade secret of CareOregon. To the extent authorized by Oregon law, neither party will disclose this or any other proprietary information or trade secret without the express written approval of the other party.

**F. OTHER**

Any copays, coinsurance, deductibles or any other cost sharing, if any, shall be offset against the allowed amount for Covered Services, without regard to whether Provider has collected such amounts. Provider's payment may be reduced by the amount of any applicable cost sharing, depending on the form of Member's benefit plan.

**EXHIBIT D  
PROGRAM ATTACHMENT**

**OUTPATIENT MENTAL HEALTH SERVICES**

**B. SERVICE DESCRIPTION**

1. Outpatient mental health services is defined as a publicly or privately-operated program as defined in OAR 309-019-0105 (76) that include a combination of time-limited assessment; individual, family and group therapy; medication management; case management; skills training and/or service coordination for Members with social, emotional, and/or mental health conditions that impair daily functioning.
2. Outpatient mental health services is intended to quickly promote or restore an individual's previous level of high function/stability or maintain social/emotional functioning. Outpatient mental health services are intended to be focused and time-limited, and a Member is transitioned once the Member is able to function and maintain their social, emotional and/or mental health without ongoing recovery support services. Services provided to the Member may include services that are delivered in the community or in-home as mutually agreed on by the Provider and Member.
3. Provider agrees to deliver specific outpatient mental health services in consultation with the CareOregon and as determined by the needs of the Member. Specific outpatient mental health services can include, but are not limited to, cultural or linguistic capacity; clinical complexity; or specialized practices.
4. Provider shall maintain required access for routine, urgent and emergent appointments within timelines per the access requirements outlined in CareOregon's Provider Manual.
5. Provider shall deliver 24-hour, seven day a week telephonic or face-to-face crisis support coverage as outlined in OAR 309-019-0150, as applicable.
6. Provider shall ensure follow-up care for Members after discharge from a hospital for mental illness within seven (7) calendar days of hospital discharge or within three (3) days for members in intensive care coordination.
7. Provider shall improve outcomes through the application of Outcomes Based Care approach(es) as described within the CareOregon Provider Manual.
8. Provider shall comply with OAR 309-019-0100 through 309-019-0220 regarding minimum standards for services and supports provided by substance use disorder and mental health providers, as applicable.
9. Provider must deliver services in a trauma informed and culturally appropriate manner.
10. Provider agrees to deliver services in accordance with the Prioritized List of Health Services current at the time services are rendered.

11. Provider must comply with OAR 410-141-0180, Oregon Health Plan Prepaid Health Plan Record Keeping.
12. Provider shall comply with ORS 182.515 and 182.525, Evidence Based Programs.
13. Provider shall comply with all credentialing requirements described in this Agreement, CareOregon's policies, and any other applicable regulatory requirements, in effect at the time services are rendered.
14. Provider agrees to deliver services in accordance with CareOregon's policies, including Provider Manual in Exhibit G, in effect at the time services are rendered.
15. Provider shall deliver services under this Exhibit to Members as indicated below and defined by applicable regulations.

<b>Case Rate, Levels of Care</b>	
<b>Adult</b>	<b>Youth</b>
<input checked="" type="checkbox"/> Level A	<input checked="" type="checkbox"/> Level A
<input checked="" type="checkbox"/> Level A MRDD	<input type="checkbox"/> Level A MRDD
<input checked="" type="checkbox"/> Level B	<input checked="" type="checkbox"/> Level B
<input checked="" type="checkbox"/> Level B SPMI	<input type="checkbox"/> Level B SPMI
<input checked="" type="checkbox"/> Level C	<input checked="" type="checkbox"/> Level C
<input checked="" type="checkbox"/> Level C SPMI	<input type="checkbox"/> Level C SPMI
<input type="checkbox"/> Level D TAY	<input type="checkbox"/> Level D TAY
<input type="checkbox"/> Level D ICM	<input type="checkbox"/> Level D ICM

**EXHIBIT D-1**  
**SCHEDULE OF PAYMENT FOR OHP/MEDICAID**  
**OUTPATIENT MENTAL HEALTH SERVICES**

This schedule establishes payment for Outpatient Mental Health Services rendered to OHP/Medicaid Recipients assigned to Health Share of Oregon CCO, LLC (Health Share) under this Agreement. CareOregon will use the formulas and other methodologies set forth in this Exhibit, as amended from time to time as stated herein. Except as stated below with respect to Non-Material Changes, CareOregon may make changes to this Exhibit as stated in Section 9.1.2 and 9.1.3 of the Agreement. "Non-Material Changes" shall mean routine updates to CPT or other nationally recognized codes (for example, codes are replaced, retired, or split into two codes).

**A. PAYMENT TERMS**

1. Effective January 1, 2020, CareOregon shall reimburse Provider as described in the CareOregon Mental Health Case Rate Table and the CareOregon Authorization Rules. CareOregon and Provider agree that CareOregon Mental Health Case Rate Table and the CareOregon Authorization Rules shall be incorporated by reference into this Exhibit and that any changes to CareOregon Mental Health Case Rate Table shall be mutually agreed upon by both parties in writing and that such writing shall be acceptable in electronic format.
2. Case rates will be paid in full at point of first valid encounter only. Any changes to the case rates must be negotiated with CareOregon.
3. A risk corridor will be calculated to evaluate case rate payments in relation to the fee-for-service equivalent value of the encounterable services. There will be one regional risk corridor effective each Fiscal Year (July 1 through June 30) with an 80% floor and a 125% ceiling. The regional risk corridor will be calculated annually, approximately 180 days following the end of each Fiscal Year, to reflect the activity within that Fiscal Year. Fee-for-Service equivalent values are assigned to approved encounters using the lesser of the Provider's billed rate, or the rate published in the CareOregon fee schedule in effect on the date of service of the encounter. Please note that if a Provider's usual and customary billed rate is lower than CareOregon's Fee-For-Service equivalent, then the Provider's usual and customary billed rate will be used to calculate the risk corridor.

**C. OTHER PAYMENT SPECIFICATIONS**

Claims may be submitted in either paper or electronic format. Provider understands and agrees that all billing for services provided by Provider pertaining to this Agreement shall be billed to CareOregon's Third Party Administrator, consistent with CareOregon's policies and in accordance with OAR 410-141-3420.

#### **D. DEFAULT REIMBURSEMENT OHP PLANS**

For Covered Services that meet CareOregon's prior authorization requirements that are neither covered under this Exhibit nor indicated otherwise in a legal agreement with CareOregon, CareOregon will reimburse Provider for services at 100% of applicable DMAP/OHP Fee Schedule in effect on dates of services. For Covered Services that have no DMAP/OHP Fee Schedule value in effect on dates of service, CareOregon will apply the CareOregon payment policy in effect on dates of service. CareOregon will not reimburse for services that are neither Covered Services nor specified in a legal agreement with CareOregon.

#### **E. DISCRETIONARY COMPENSATION**

CareOregon within its sole discretion may, from time-to-time, establish a program or programs to encourage the improvement of the delivery of health care to its Members. Any such program(s) together with the criteria for participation by Providers in the program(s) will be governed and administered by written policies and program descriptions developed by CareOregon, and the Provider Agreement will be amended accordingly.

#### **F. CONFIDENTIALITY**

This Exhibit and documents referenced in this Exhibit contain confidential and proprietary information and they are considered a trade secret of CareOregon. To the extent authorized by Oregon law, neither party will disclose this or any other proprietary information or trade secret without the express written approval of the other party.

#### **G. OTHER**

Any copays, coinsurance, deductibles or any other cost sharing, if any, shall be offset against the allowed amount for Covered Services, without regard to whether Provider has collected such amounts. Provider's payment may be reduced by the amount of any applicable cost sharing, depending on the form of Member's benefit plan.

**EXHIBIT E**  
**PROGRAM ATTACHMENT**

**SUBSTANCE USE DISORDER, OUTPATIENT SERVICES**

**H. SERVICE DESCRIPTION**

1. Substance Use Disorder (SUD) Outpatient Services is a publicly or privately-operated program as defined in ORS 430.010 and OAR 309-019-0105(75) and generally provide professionally-directed screening, evaluation, treatment, and ongoing recovery and disease management services for Members with substance use disorders. These services are consistent with American Society of Addiction Medicine (ASAM) Levels 1.0 and 2.1.
2. SUD Outpatient Services therapy involves skilled treatment services, which may include individual and group counseling, motivational enhancement, family therapy, educational groups, occupational and recreational therapy, psychotherapy, addiction pharmacotherapy, or other therapies.
3. Provider shall deliver Substance Use Disorder Outpatient Services to adult Members 18 years and older and emancipated minors, pursuant to OAR 309-019-0105(6), ASAM Levels 1.0 and 2.1.
4. Provider shall deliver Substance Use Disorder Outpatient Services to youth Members under the age of 18 years, or an eligible individual who is determined to be developmentally appropriate for youth services until the age of 21 years, pursuant to OAR 309-019-0105(5, 19) and OAR 309-019-0185, ASAM Levels 1.0 and 2.1.
5. Provider shall comply with OAR 309-019-0100 through 309-019-0220 regarding minimum standards for services and supports provided by substance use disorder and mental health providers, as applicable.
6. Provider must deliver services in a trauma informed and culturally appropriate manner.
7. Provider agrees to deliver services in accordance with the Prioritized List of Health Services current at the time services are rendered.
8. Provider must comply with OAR 410-141-0180, Oregon Health Plan Prepaid Health Plan Record Keeping.
9. Provider shall comply with ORS 182.515 and 182.525, Evidence-Based Programs.
10. Provider shall comply with all credentialing requirements described in this Agreement, CareOregon's policies, and any other applicable regulatory requirements, in effect at the time services are rendered.



11. Provider agrees to deliver services in accordance with CareOregon's policies, including Provider Manual as set out in Exhibit G, in effect at the time services are rendered.
12. Provider shall deliver services under this Exhibit to Members as indicated below and defined by applicable regulations.

Members Eligible for Services
<input checked="" type="checkbox"/> Adults
<input checked="" type="checkbox"/> Youth

**EXHIBIT E-1**  
**SCHEDULE OF PAYMENT FOR OHP/MEDICAID**

**SUBSTANCE USE DISORDER, OUTPATIENT SERVICES**

This schedule establishes payment for Substance Use Disorder, Outpatient Services rendered to OHP/Medicaid Recipients assigned to Health Share of Oregon CCO, LLC (Health Share) under this Agreement. CareOregon will use the formulas and other methodologies set forth in this Exhibit, as amended from time to time as stated herein. Except as stated below with respect to Non-Material Changes, CareOregon may make changes to this Exhibit as stated in Section 9.1.2 and 9.1.3 of the Agreement. "Non-Material Changes" shall mean routine updates to CPT or other nationally recognized codes (for example, codes are replaced, retired, or split into two codes).

**G. PAYMENT TERMS**

Effective January 1, 2020, CareOregon shall reimburse Provider as described in the CareOregon Fee Schedule and CareOregon Authorization Rules. CareOregon and Provider agree that CareOregon's Fee Schedule and the CareOregon Authorization Rules shall be incorporated by reference into this Exhibit and that any changes to CareOregon's Fee Schedule shall be mutually agreed upon by both parties in writing and that such writing shall be acceptable in electronic format.

**H. OTHER PAYMENT SPECIFICATIONS**

Claims may be submitted in either paper or electronic format. Provider understands and agrees that all billing for services provided by Provider pertaining to this Agreement shall be billed to CareOregon's Third Party Administrator, consistent with CareOregon's policies and in accordance with OAR 410-141-3420.

**I. DEFAULT REIMBURSEMENT FOR OHP PLANS**

For Covered Services that meet CareOregon's prior authorization requirements that are neither covered under this Exhibit nor indicated otherwise in a legal agreement with CareOregon, CareOregon will reimburse Provider for services at 100% of applicable DMAP/OHP Fee Schedule in effect at date of services. For Covered Services that have no DMAP/OHP Fee Schedule value in effect on the date of service, CareOregon will apply the CareOregon payment policy in effect at the date of service. CareOregon will not reimburse for services that are neither Covered Services nor specified in a legal agreement with CareOregon.

**J. DISCRETIONARY COMPENSATION**

CareOregon within its sole discretion may, from time-to-time, establish a program or programs to encourage the improvement of the delivery of health care to its Members. Any such program(s) together with the criteria for participation by Providers in the program(s) will be governed and administered by written policies and program descriptions developed by CareOregon, and the Provider Agreement will be amended accordingly.

**K. CONFIDENTIALITY**

This Exhibit and documents referenced in this Exhibit contain confidential and proprietary information and they are considered a trade secret of CareOregon. To the extent authorized by Oregon law, neither party will disclose this or any other proprietary information or trade secret without the express written approval of the other party.

**L. OTHER**

Any copays, coinsurance, deductibles or any other cost sharing, if any, shall be offset against the allowed amount for Covered Services, without regard to whether Provider has collected such amounts. Provider's payment may be reduced by the amount of any applicable cost sharing, depending on the form of Member's benefit plan.

**EXHIBIT F**  
**PROGRAM ATTACHMENT**  
**SUPPORTIVE EMPLOYMENT SERVICES**

**I. SERVICE DESCRIPTION**

Provider shall provide supportive employment services with evidence-based, culturally, and linguistically appropriate clinical services and strategies which support mental health recovery for CareOregon Members enrolled with Health Share/Clackamas County. If additional capacity is available, services may be allocated to other CareOregon Members enrolled with Health Share.

1. Supportive Employment Services

- a. Supported Employment (SE) is an evidence-based practice with services intended to promote rehabilitation and return to productive employment. Programs use a team approach to engage and retain clients in treatment and provide the supports necessary to ensure success in the workplace. Program components include:
  - i. A focus on competitive employment
  - ii. Rapid job searches soon after the client expresses interest
  - iii. Jobs tailored to individuals
  - iv. Time-unlimited follow-along supports
  - v. On-the-job support to client and employer
  - vi. Integration of supported employment and mental health services
  - vii. Zero exclusion criteria (that is, no one is screened out because they are not ready)
  - viii. Service coordination/case management
- b. SE services should be integrated with other treatment provided within the agency. Supports for Members involved in this program should be individualized to maintain employment and should continue as long as Members want the assistance. Choices and decisions about work and support are individualized based on Members' preferences, strengths, and experiences. Provider agrees to use clinical judgment to determine which services are appropriate, and what frequency of care is medically necessary.
- c. The principles of Supported Education include:
  - i. Eligibility is based on client choice
  - ii. Services are community-based
  - iii. Supported Education is integrated with mental health treatment
  - iv. Supported Education starts soon after a person expresses interest
  - v. Individualized follow-along supports are ongoing
  - vi. Individual preferences guide services
  - vii. Supported Education is strengths focused and promotes hope, and recovery
- d. Provider shall provide SE services in accordance with the Supported Employment Fidelity Scale.

- e. Provider shall assist Members in gaining employment in jobs while housed in natural settings within their communities. Provider shall deliver SE services which have a Member focused rapid job search and placement in competitive permanent, career-oriented jobs in diverse integrated settings in the community. Provider shall not require prevocational training for Members interested in pursuing employment. Provider shall not exclude Members from employment services based on job readiness, substance abuse, noncompliance with medications, level of intellectual functioning, or presence of symptoms.
  - f. Provider will maintain fidelity with a score of 100 or higher and continually strive toward high fidelity as determined by the Oregon Supported Employment Center for Excellence (OSECE) Provider will submit fidelity review written report to CareOregon within 60 days of receiving it from OSECE.
  - g. Provider will place a percentage of enrolled Members served in competitive employment that is within 10% of the statewide average.
2. For all programs under this Exhibit, Provider shall comply with ORS 182.515 and 182.525 Evidence-Based Programs.

## **J. STAFFING**

1. Supportive Employment Services
  - a. Employment Specialists shall generally carry a caseload with approximately twenty (20) clients and will not have mixed caseloads with clients from other non-Supported Employment services.
  - b. Services should be integrated with other treatment provided within the agency. Supports for clients involved in this program should be individualized to maintain employment and should continue as long as Members want the assistance. Choices and decisions about work and support are individualized based on the person's preferences, strengths, and experiences. Provider agrees to use clinical judgment to determine which services are appropriate, and what frequency of care is medically necessary.
  - c. Provider shall maintain capacity to meet service needs aligned with the number of slots that are funded by this Agreement, to meet the needs of Members requesting access or being referred by CareOregon.

## **K. CRISIS RESPONSE**

Provider shall maintain an after-hours crisis response phone number and provide that response number to each County's Call Center Manager in every County they operate each year on July 1. Provider will notify Call Center management staff immediately if the after- hours crisis response phone number changes during the course of the year.

## **L. ELIGIBILITY AND AUTHORIZATION**

1. Provider shall self-authorize SE Services using the SE authorization type in Ph-Tech's CIM system.
2. Members involved in this program must be enrolled with the provider agency as a Level A-D SPMI client. Eligibility for this program includes expressed desire by the client to work. No other criteria may be established to determine eligibility (i.e. limits on substance use, completing a period of volunteer work, etc.).

## **M. PROGRAM PERFORMANCE MEASURES**

1. Provider shall send deliverables to CareOregon's designee as indicated on deliverables in this Exhibit.
2. Providers shall employ a system of internal review to evaluate the care being provided within the agency, to modify treatment plans, adjust level of care being provided and consider duration of treatment. Provider will have a system of internal utilization management to assure that services are medically necessary.
3. Provider shall develop, maintain and monitor a quality improvement plan consistent with Oregon Administrative Rule requirements including written policies, standards, and procedures. Provider will participate in the Regional Quality Management Committee. Consistent with the Quality Assurance and Performance Improvement Plan (QAPI), Provider will participate in quality improvement activities and follow established procedures for collection and distribution of all required quality improvement indicators.
4. Services will be reviewed critically to determine if medically necessary and modified to reflect the Member's need rather than to simply maintain the status quo. Any service not determined to be medically necessary will be eliminated or transitioned to other community providers such as support groups, religious organizations, Member-run programs, etc.
5. Notwithstanding any other payment provision of this Agreement, failure of Provider to submit required reports when due, may result in the withholding or reduction of payments under this Agreement. Such withholding of payment for cause may continue until Provider submits required reports, or establishes, to CareOregon's satisfaction that such failure arose out of causes beyond the control and without the fault or negligence of Provider.

## **N. OTHER**

1. In the event of a discrepancy between this Exhibit and the Agreement or any other documents incorporated into the Agreement by reference, the Exhibit shall prevail.
2. All regulations not referenced in this Agreement but applicable to the services under this Exhibit provided by the Provider are incorporated into this Agreement.
3. For all programs under this Exhibit, Provider shall comply with ORS 182.515 and 182.525

**Evidence-Based Programs.**

4. **Provider is to meet all credentialing requirements stated in this Agreement and all documents incorporated by reference in this Agreement, including but not limited to the Provider Manual and Credentialing Delegation Exhibit.**



## EXHIBIT F-1

### SCHEDULE OF PAYMENT FOR OHP/MEDICAID SUPPORTIVE EMPLOYMENT SERVICES

This schedule establishes payment for supportive employment rendered to OHP/Medicaid Recipients assigned to Health Share of Oregon CCO under this Agreement. CareOregon will use the formulas and other methodologies set forth in this Exhibit and the Fee Schedule, as amended from time to time as stated herein. Except as stated below with respect to Non-Material Changes, CareOregon may make changes to this Exhibit and the Fee Schedule as stated in Section 9.1.3 of the Agreement. "Non-Material Changes" shall mean routine updates to CPT or other nationally recognized codes (for example, codes are replaced, retired, or split into two codes).

#### A. PAYMENT TERMS

1. Effective January 1, 2020 to December 31, 2020, CareOregon shall compensate Provider on an annual cost reimbursement model for Members receiving services described in this Exhibit. The monthly payment amount shall not exceed **\$5,000.00**. per month for all Members receiving services under this Exhibit based on the Annual Budget Report as reviewed and approved by CareOregon. Prior to CareOregon's approval of the Annual Budget Report, the total annual reimbursement amount for this Exhibit is estimated by CareOregon to be **\$60,000.00**. Monthly settlement will be based on actual verifiable costs of the program minus revenues collected.
2. In addition to terms defined elsewhere in this Agreement, the following capitalized terms when used this Exhibit shall have the meanings set forth below.  
  
**"Verifiable Cost"** means cost of services associated with the program that are verifiable with supporting payrolls, time records, invoices, contracts, vouchers, orders, and any other accounting documents pertaining in whole or in part to this Agreement.  
  
**"Revenue"** means payments collected from claims submission, APM's or other sources including Open Card and/or private insurance.
3. Provider shall submit an Annual Budget Report within five (5) business days of this Agreement's effective date that will be reviewed and upon approval, added as Attachment A, Exhibit F, Annual Budget for 2020. A revised annual budget(s) is due within thirty (30) calendar days of an amendment to this Agreement if cumulative year-to-date dollar change exceeds 25%. Provider shall submit an Annual Budget Report only for services that are paid on a cost reimbursement basis.
4. Payment shall be made to Provider within thirty (30) calendar days of CareOregon receiving an invoice that meets requirements specified in Section B, Payment Reporting and Monitoring of this Exhibit.
5. Funding under this Exhibit may be adjusted by CareOregon through an amendment as indicated in Section 9.1.3 of this Agreement. If funding is changed by an amendment to this Agreement, the amendment must be effective prior to Provider performing work subject to the amendment.

In addition, provider shall not transfer funds from one service to another service under this Agreement without mutual consent by both parties in writing and an amendment that specifies the changes.

## **B.PAYMENT REPORTING AND MONITORING**

1. Provider shall submit monthly invoices to CareOregon's designee by the 20<sup>th</sup> day of the month following the month that services provider under this Exhibit. Invoices shall include the following information:
  - a. Email subject line: Provider Name, Monthly Invoice, Exhibit Name
  - b. Document title: Provider Name, Monthly Invoice, Exhibit Name
  - c. Dates of service
  - d. Number of Members served
  - e. Revenue collected from claims submission, APM's and/or other sources
  - f. Total cost of services under this Exhibit less revenue collected, including Open Card and/or private insurance.
2. Monthly invoices submitted by Provider to CareOregon under this Exhibit shall:
  - a. Be verifiable with supporting payrolls, time records, invoices, contracts, vouchers, orders, and any other accounting documents pertaining in whole or in part to this Agreement.
  - b. Include the total amount billed to date by Provider prior to the current invoice.
  - c. Be segregated by service items within the agency accounting system and reported on the required fiscal reports.
  - d. Abide by Generally Accepted Accounting Principles (GAAP), Oregon Administrative Rules, and applicable federal requirements, Section 2.13 of this Agreement, and CareOregon's policies.
3. CareOregon will review the monthly invoices and Payment shall be made to Provider within thirty (30) calendar days of CareOregon receiving an invoice that meets requirements specified in this Section.
4. Payment to Provider for services is contingent upon Provider meeting CareOregon's authorization requirements, including as applicable, CareOregon's Authorization Rules, as referenced in Exhibit G.
5. Encounter claims submission for all services provided under this Exhibit are required and shall continue to the terms and requirements of this Agreement. Provider shall submit encounter claims for 100% of all billable services provided under this Exhibit. This includes services identified by CPT and HCPCS codes paired with covered diagnoses on the Oregon Health Plan Prioritized List of Health Services and non-billable codes. Provider shall ensure its full cost of each service is submitted as billed charges on the claims. These claims will be used to properly represent care provided to members in the encounter data submitted to the State and CMS.

## **C.DISCRETIONARY COMPENSATION**

CareOregon within its sole discretion may, from time-to-time, establish a program or programs to

encourage the improvement of the delivery of health care to its Members. Any such program(s) together with the criteria for participation by Providers in the program(s) will be governed and administered by written policies and program descriptions developed by CareOregon, and the Provider Agreement will be amended accordingly.

#### **D.CONFIDENTIALITY**

This Exhibit and the Fee Schedule contains confidential and proprietary information and they are considered a trade secret of CareOregon. To the extent authorized by Oregon law, neither party will disclose this or any other proprietary information or trade secret without the express written approval of the other party.

#### **E.TERM AND TERMINATION**

This Exhibit shall be applicable for the time period January 1, 2020 through December 31, 2020. This Exhibit is renewable upon termination at the discretion of CareOregon. Either party may terminate this Exhibit with a written, 30-day notice.

#### **F.OTHER**

Any copays, coinsurance, deductibles or any other cost sharing, if any, shall be offset against the allowed amount for Covered Services, without regard to whether Provider has collected such amounts. Provider's payment may be reduced by the amount of any applicable cost sharing, depending on the form of Member's benefit plan.

## EXHIBIT G

### CAREOREGON POLICIES AND PROCEDURES

County is obligated to the terms and conditions of all of the following CareOregon policies and procedures as referenced in the Provider Manual:

<b>Policy and Procedure</b>	<b>Provider Manual Section and Page(s)</b>
Delegated Functions and Oversight	Requirements for Delegated Organizationally Contracted Providers Pages 22-23
Delegated Entity Correction Action and Sanctions	Provider Audits Page 26
Fraud, Waste and Abuse Prevention and Detection	Fraud, Waste and Abuse Page 26
Management and Retention of Records	Privacy and Confidentiality of Member Information and Records Page 14
Recovery of Overpayments from Providers	Overpayment Recoveries Page 26
Reporting of Overpayments Due to FWA	Overpayment Recoveries Page 26
Provider Selection and Credentialing	Credentialing and Re-Credentialing Requirements Page 23-25
Grievance System Overview	Members Complaints Page 12-13
Members Rights Non-Discrimination Member Grievances	Members Rights Page 9-10
Advance Directives and Declaration for Mental Health Treatment	Declaration for Mental Health Treatment Page 10
Transformation, Quality and Performance Improvement	Provider Audits Page 26
Access to Care	Access Page 8-9
Transitions of Care	Transfers Page 11
Prior Authorizations	Utilization Management Criteria for Behavioral Health Page 7

April 9, 2020

Board of County Commissioners  
Clackamas County

Members of the Board:

Approval for Agreement #9528 to a Personal Services Agreement  
with Northwest Family Services (NWFS),  
for Patient Referrals for Behavioral Healthcare Services.

<b>Purpose/Outcomes</b>	Provides Clackamas Health Centers (CHC) patient referrals for Psychiatric Medication Management services.
<b>Dollar Amount and Fiscal Impact</b>	This is a no maximum agreement. No County General Funds are involved. No matching funds required.
<b>Funding Source</b>	Oregon Health Plan (OHP).
<b>Duration</b>	Effective upon signature and terminates December 31, 2021.
<b>Previous Board Action</b>	None
<b>Strategic Plan Alignment</b>	1. Individuals and families in need are healthy and safe 2. Ensure Safe, healthy and secure communities
<b>Counsel Review</b>	County Counsel has reviewed and approved this document. It was approved on January 27, 2020.
<b>Contact Person</b>	Deborah Cockrell 503-742-5495
<b>Contract No.</b>	9528

**BACKGROUND:**

Clackamas Health Centers (CHC) of the Health, Housing and Human Services Department requests the approval of Agreement #9538 to a Personal Services agreement with Northwest Family Services (NWFS) for the purpose of providing Behavioral Health services.

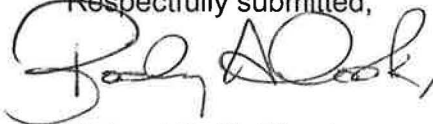
NWFS and CHC desire to enter into this Personal Services Agreement under which CHC will provide Psychiatric Medication Management services. NWFS clients will be referred to a CHC Provider to complete their treatment services for Psychiatric Medication Management.

The Agreement is effective upon signature and will continue until December 31, 2020.

**RECOMMENDATION:**

Staff recommends the Board approval of this contract and authorizes Richard Swift, H3S Director to sign on behalf of Clackamas County.

Respectfully submitted,

 H3S Deputy / FOR

Richard Swift, Director  
Health, Housing, and Human Services



**CLACKAMAS COUNTY  
PERSONAL SERVICES CONTRACT  
Contract #9528**

This Professional Services Contract (this "Contract") is entered into between Northwest Family Services ("Contractor"), and Clackamas County, a political subdivision of the State of Oregon ("County") on behalf of Health, Housing, and Human Services, by and through its Health Centers Division.

**ARTICLE I.**

- 1. Effective Date and Duration.** This Contract shall become **effective upon signature of both parties**. Unless earlier it is terminated or extended, this Contract **shall expire on December 31, 2021**.
- 2. Scope of Work.** Contractor shall provide the following personal services: Patient Referrals for Psychiatric Medication Management ("Work"), further described in **Exhibit A**.
- 3. Consideration.** The Contractor agrees to pay County, any funding owed as outlined in Exhibit A, for accomplishing the Work required by this Contract.
- 4. Invoices and Payments.** Specified in Exhibit A.
- 5. Travel and Other Expense.** Authorized:  Yes (Mileage only)       No  
If travel expense reimbursement is authorized in this Contract, such expense shall only be reimbursed at the rates in the County Contractor Travel Reimbursement Policy, hereby incorporated by reference and found at: <http://www.clackamas.us/bids/terms.html>. Travel expense reimbursement is not in excess of the not to exceed consideration.
- 6. Contract Documents.** This Contract consists of the following documents, which are listed in descending order of precedence and are attached and incorporated by reference, this Contract, Exhibit A and Exhibit B.

**7. Contractor and County Contacts.**

Contractor	County
Administrator: Rose Fuller Phone: 503-546-6377 Email: rfuller@nwfs.org	Administrator: Deborah Cockrell Phone: 503-742-5495 Email: dcockrell@clackamas.us

**ARTICLE II.**

- 1. ACCESS TO RECORDS.** County shall maintain books, records, documents, and other evidence, in accordance with generally accepted accounting procedures and practices, sufficient to reflect properly all costs.
- 2. AVAILABILITY OF FUTURE FUNDS.** Any continuation or extension of this Contract after the end of the fiscal period in which it is written is contingent on a new appropriation for each succeeding fiscal period sufficient to continue to make payments under this Contract, as determined by the County in its sole administrative discretion.



3. **CAPTIONS.** The captions or headings in this Contract are for convenience only and in no way define, limit, or describe the scope or intent of any provisions of this Contract.
4. **COMPLIANCE WITH APPLICABLE LAW.** Contractor shall comply with all applicable federal, state and local laws, regulations, executive orders, and ordinances, as such may be amended from time to time.
5. **COUNTERPARTS.** This Contract may be executed in several counterparts (electronic or otherwise), each of which shall be an original, all of which shall constitute the same instrument.
6. **GOVERNING LAW.** This Contract, and all rights, obligations, and disputes arising out of it, shall be governed and construed in accordance with the laws of the State of Oregon and the ordinances of Clackamas County without regard to principles of conflicts of law. Any claim, action, or suit between County and Contractor that arises out of or relates to the performance of this Contract shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, 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 County of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court. Contractor, by execution of this Contract, hereby consents to the personal jurisdiction of the courts referenced in this section.
7. **RESPONSIBILITY FOR DAMAGES; INDEMNITY.** Contractor shall be responsible for all damage to property, injury to persons, and loss, expense, inconvenience, and delay which may be caused by, or result from, the conduct of Work, or from any act, omission, or neglect of Contractor, its subcontractors, agents, or employees. The Contractor agrees to indemnify, hold harmless and defend the County, and its officers, elected officials, agents and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the errors, omissions, fault or negligence of the Contractor or the Contractor's employees, subcontractors, or agents. However, neither Contractor nor any attorney engaged by Contractor shall defend the claim in the name of County or any department of County, nor purport to act as legal representative of County or any of its departments, without first receiving from the Clackamas County Counsel's Office authority to act as legal counsel for County, nor shall Contractor settle any claim on behalf of County without the approval of the Clackamas County Counsel's Office. County may, at its election and expense, assume its own defense and settlement.
8. **INDEPENDENT CONTRACTOR STATUS.** The service(s) to be rendered under this Contract are those of an independent contractor. Although the County reserves the right to determine (and modify) the delivery schedule for the Work to be performed and to evaluate the quality of the completed performance, County cannot 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. Contractor is not to be considered an agent or employee of County for any purpose, including, but not limited to: (A) The Contractor will be solely responsible for payment of any Federal or State taxes required as a result of this Contract; and (B) This Contract is not intended to entitle the Contractor to any benefits generally granted to County employees, including, but not limited to, vacation, holiday and sick leave, other leaves with pay, tenure, medical and dental coverage, life and



disability insurance, overtime, Social Security, Workers' Compensation, unemployment compensation, or retirement benefits.

- 9. INSURANCE.** Contractor shall secure at its own expense and keep in effect during the term of the performance under this Contract the insurance required and minimum coverage indicated below. Contractor shall provide proof of said insurance and name the County as an additional insured on all required liability policies. Proof of insurance and notice of any material change should be submitted to the following address: Clackamas County Procurement Division, 2051 Kaen Road, Suite 367, Oregon City, OR 97045 or [healthcenterap@clackamas.us](mailto:healthcenterap@clackamas.us).

Required - Workers Compensation: Contractor shall comply with the workers' compensation requirements in ORS 656.017, unless exempt under ORS 656.126.
<input checked="" type="checkbox"/> Required – Commercial General Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence, with an annual aggregate limit of \$2,000,000 for Bodily Injury and Property Damage.
<input checked="" type="checkbox"/> Required – Professional Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence, with an annual aggregate limit of \$2,000,000 for damages caused by error, omission or negligent acts.
<input type="checkbox"/> Required – Automobile Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence for Bodily Injury and Property Damage.

This policy(s) shall be primary insurance as respects to the County. Any insurance or self-insurance maintained by the County shall be excess and shall not contribute to it. Any obligation that County agree to a waiver of subrogation is hereby stricken.

- 10. LIMITATION OF LIABILITIES.** This Contract is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent. Except for liability arising under or related to Article II, Section 13 or Section 21 neither party shall be liable for (i) any indirect, incidental, consequential or special damages under this Contract or (ii) any damages of any sort arising solely from the termination of this Contract in accordance with its terms.
- 11. NOTICES.** Except as otherwise provided in this Contract, any required notices between the parties shall be given in writing by personal delivery, email, or mailing the same, to the Contract Administrators identified in Article 1, Section 6. If notice is sent to County, a copy shall also be sent to: Clackamas County Procurement, 2051 Kaen Road, Suite 367, Oregon City, OR 97045, or [healthcenterap@clackamas.us](mailto:healthcenterap@clackamas.us). Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing, and immediately upon personal delivery, or within 2 hours after the email is sent during County's normal business hours (Monday – Thursday, 7:00 a.m. to 6:00 p.m.) (as recorded on the device from which the sender sent the email), unless the sender receives an automated message or other indication that the email has not been delivered.
- 12. OWNERSHIP OF WORK PRODUCT.** All work product of Contractor that results from this Contract (the "Work Product") is the exclusive property of County. County and Contractor intend that such Work Product be deemed "work made for hire" of which County shall be deemed the author. If for any reason the Work Product is not deemed "work made for hire," Contractor hereby irrevocably assigns to County all of its right, title, and interest in and to any and all of the Work Product, whether arising from copyright, patent, trademark or trade secret, or any other state or federal intellectual property law or doctrine. Contractor shall

execute such further documents and instruments as County may reasonably request in order to fully vest such rights in County. Contractor forever waives any and all rights relating to the Work Product, including without limitation, any and all rights arising under 17 USC § 106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications. Notwithstanding the above, County shall have no rights in any pre-existing Contractor intellectual property provided to County by Contractor in the performance of this Contract except to copy, use and re-use any such Contractor intellectual property for County use only. If this Contract is terminated prior to completion, and the County is not in default, County, in addition to any other rights provided by this Contract, may require the Contractor to transfer and deliver all partially completed Work Product, reports or documentation that the Contractor has specifically developed or specifically acquired for the performance of this Contract.

- 13. REPRESENTATIONS AND WARRANTIES.** Contractor represents and warrants to County that (A) Contractor has the power and authority to enter into and perform this Contract; (B) this Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms; (C) Contractor shall at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work; (D) Contractor is an independent contractor as defined in ORS 670.600; and (E) the Work under this Contract shall be performed in a good and workmanlike manner and in accordance with the highest professional standards. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.
- 14. SURVIVAL.** All rights and obligations shall cease upon termination or expiration of this Contract, except for the rights and obligations set forth in Article II, Sections 1, 6, 7, 11, 13, 14, 16 and 21, and all other rights and obligations which by their context are intended to survive. However, such expiration shall not extinguish or prejudice the County's right to enforce this Contract with respect to: (a) any breach of a Contractor warranty; or (b) any default or defect in Contractor performance that has not been cured.
- 15. SEVERABILITY.** 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.
- 16. SUBCONTRACTS AND ASSIGNMENTS.** Contractor shall not enter into any subcontracts for any of the Work required by this Contract, or assign or transfer any of its interest in this Contract by operation of law or otherwise, without obtaining prior written approval from the County, which shall be granted or denied in the County's sole discretion. In addition to any provisions the County may require, Contractor shall include in any permitted subcontract under this Contract a requirement that the subcontractor be bound by this Article II, Sections 1, 7, 8, 13, 16 and 27 as if the subcontractor were the Contractor. County's consent to any subcontract shall not relieve Contractor of any of its duties or obligations under this Contract.
- 17. SUCCESSORS IN INTEREST.** The provisions of this Contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.
- 18. TAX COMPLIANCE CERTIFICATION.** The Contractor shall comply with all federal, state and local laws, regulation, executive orders and ordinances applicable to this Contract.

Contractor represents and warrants that it has complied, and will continue to comply throughout the duration of this Contract and any extensions, with all tax laws of this state or any political subdivision of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318. Any violation of this section shall constitute a material breach of this Contract and shall entitle County to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract or applicable law.

- 19. TERMINATIONS.** A) This Contract may be terminated by mutual agreement of the parties or by the County for one of the following reasons: (i) for convenience upon sixty (60) days written notice to Contractor; or (ii) at any time the County fails to receive funding, appropriations, or other expenditure authority as solely determined by the County. Upon receipt of written notice of termination from the County, Contractor shall immediately stop performance of the Work. (B) if Contractor breaches any Contract provision or is declared insolvent, County may terminate after thirty (30) days written notice with an opportunity to cure. Upon termination of this Contract, Contractor shall deliver to County all documents, information, works-in-progress and other property that are or would be deliverables had the Contract Work been completed. Upon County's request, Contractor shall surrender to anyone County designates, all documents, research, objects or other tangible things needed to complete the Work.
- 20. REMEDIES.** If terminated by the County due to a breach by the Contractor, then the County shall have any remedy available to it in law or equity. If this Contract is terminated for any other reason, Contractor's sole remedy is payment for the goods and services delivered and accepted by the County, less any setoff to which the County is entitled.
- 21. NO THIRD PARTY BENEFICIARIES.** County 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 unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.
- 22. TIME IS OF THE ESSENCE.** Contractor agrees that time is of the essence in the performance this Contract.
- 23. FOREIGN CONTRACTOR.** If the 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 Secretary of State, Corporate Division, all information required by those agencies relative to this Contract. The Contractor shall demonstrate its legal capacity to perform these services in the State of Oregon prior to entering into this Contract.
- 24. FORCE MAJEURE.** Neither County nor Contractor shall be held responsible for delay or default caused by events outside the County or Contractor's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, Contractor shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall upon the cessation of the cause, diligently pursue performance of its obligations under this Contract.
- 25. WAIVER.** The failure of County to enforce any provision of this Contract shall not constitute a waiver by County of that or any other provision.

**26. PUBLIC CONTRACTING REQUIREMENTS.** Pursuant to the public contracting requirements contained in Oregon Revised Statutes ("ORS") Chapter 279B.220 through 279B.235, Contractor shall:

- a. Make payments promptly, as due, to all persons supplying to Contractor labor or materials for the prosecution of the work provided for in the Contract.
- b. Pay all contributions or amounts due the Industrial Accident Fund from such Contractor or subcontractor incurred in the performance of the Contract.
- c. Not permit any lien or claim to be filed or prosecuted against County on account of any labor or material furnished.
- d. Pay the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
- e. If Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to Contractor or a subcontractor by any person in connection with the Contract as such claim becomes due, the proper officer representing Clackamas County may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due Contractor by reason of the Contract.
- f. As applicable, the Contractor shall pay employees for work in accordance with ORS 279B.235, which is incorporated herein by this reference. The Contractor shall comply with the prohibitions set forth in ORS 652.220, compliance of which is a material element of this Contract, and failure to comply is a breach entitling County to terminate this Contract for cause.
- g. If the Work involves lawn and landscape maintenance, Contractor shall salvage, recycle, compost, or mulch yard waste material at an approved site, if feasible and cost effective.

**27. CONFIDENTIALITY.** Contractor acknowledges that it and its employees and agents may, in the course of performing their obligations under this Contract, be exposed to or acquire information that the County desires or is required to maintain as confidential. Any and all information of any form obtained by Contractor or its employees or agents in the performance of this Contract, including but not limited to Personal Information (as "Personal Information" is defined in ORS 646A.602(11), shall be deemed to be confidential information of the County ("Confidential Information"). Any reports or other documents or items (including software) which result from the use of the Confidential Information by Contractor shall be treated with respect to confidentiality in the same manner as the Confidential Information.

Contractor agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Contractor uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever (other than in the performance of this Contract), and to advise each of its employees and agents of their obligations to keep Confidential Information confidential.

Contractor agrees that, except as directed by the County, Contractor will not at any time during or after the term of this Contract, disclose, directly or indirectly, any Confidential Information to any person, and that upon termination or expiration of this Contract or the County's request, Contractor will turn over to the County all documents, papers, records and other materials in Contractor's possession which embody Confidential Information. Contractor acknowledges that breach of this Contract, including disclosure of any Confidential Information, or disclosure of other information that, at law or in good conscience



or equity, ought to remain confidential, will give rise to irreparable injury to the County that cannot adequately be compensated in damages. Accordingly, the County may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of the County and are reasonable in scope and content.

Contractor agrees to comply with all reasonable requests by the County to ensure the confidentiality and nondisclosure of the Confidential Information, including if requested and without limitation: (a) obtaining nondisclosure agreements, in a form approved by the County, from each of Contractor's employees and agents who are performing services, and providing copies of such agreements to the County; and (b) performing criminal background checks on each of Contractor's employees and agents who are performing services, and providing a copy of the results to the County.

Contractor shall report, either orally or in writing, to the County any use or disclosure of Confidential Information not authorized by this Contract or in writing by the County, including any reasonable belief that an unauthorized individual has accessed Confidential Information. Contractor shall make the report to the County immediately upon discovery of the unauthorized disclosure, but in no event more than two (2) business days after Contractor reasonably believes there has been such unauthorized use or disclosure. Contractor's report shall identify: (i) the nature of the unauthorized use or disclosure, (ii) the Confidential Information used or disclosed, (iii) who made the unauthorized use or received the unauthorized disclosure, (iv) what Contractor has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure, and (v) what corrective action Contractor has taken or shall take to prevent future similar unauthorized use or disclosure. Contractor shall provide such other information, including a written report, as reasonably requested by the County.

Notwithstanding any other provision in this Contract, Contractor will be responsible for all damages, fines and corrective action (including credit monitoring services) arising from disclosure of such Confidential Information caused by its breach of its data security or confidentiality provisions hereunder.

The provisions in this Section shall operate in addition to, and not as limitation of, the confidentiality and similar requirements set forth in the rest of the Contract, as it may otherwise be amended. Contractor's obligations under this Contract shall survive the expiration or termination of the Contract, as amended, and shall be perpetual.

**28. MERGER.** THIS CONTRACT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES WITH RESPECT TO THE SUBJECT MATTER REFERENCED THEREIN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS CONTRACT. NO AMENDMENT, CONSENT, OR WAIVER OF TERMS OF THIS CONTRACT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY ALL PARTIES. ANY SUCH AMENDMENT, CONSENT, OR WAIVER SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. CONTRACTOR, BY THE SIGNATURE HERETO OF ITS AUTHORIZED REPRESENTATIVE, IS AN INDEPENDENT CONTRACTOR, ACKNOWLEDGES HAVING READ AND UNDERSTOOD THIS CONTRACT, AND CONTRACTOR AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

#9528 Northwest Family Services  
Personal Services Contract

By their signatures below, the parties to this Contract agree to the terms, conditions, and content expressed herein.

Northwest Family Services

Clackamas County, signing on behalf of the  
Board of County Commissioners by:

Rose Fuller 1.23.20  
Authorized Signature Date

\_\_\_\_\_  
Richard Swift Date

\_\_\_\_\_  
Rose Fuller / Title (Printed)

Approved as to Form:

\_\_\_\_\_  
170100-18  
Oregon Business Registry #

\_\_\_\_\_  
N/A  
County Counsel Date

\_\_\_\_\_  
Domestic Nonprofit Corporation  
Entity Type / State of Formation

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**EXHIBIT A  
PERSONAL SERVICES CONTRACT  
SCOPE OF WORK**

Scope of Work:

- Provider employed by County will serve as a Psychiatric Nurse Practitioner and will work exclusively with Contractor's Behavioral Health clients in the capacity of a prescriber/reviewer of medication necessity (Medication Management).
- Provider will perform services on-site and have access to EPIC on a County issued laptop in a dedicated office space to be arranged with Contractor. Provider will serve clients on-site in conjunction to other services.
- The intent of Provider's services is to reduce barriers to patients seeking Behavioral Healthcare services.
- Provider's hours of work will be determined between Contractor and County as the service is implemented.
- Provider will be credentialed and insured through County.

Compensation:

- Every six months a financial review will be conducted to determine if the personnel costs of the Provider exceed the revenue generated by visits. If personnel costs exceed services rendered, then Contractor will reimburse County for the difference.
- Payment arrangements will be agreed to by County and Contractor should a reimbursement by Contractor be warranted. The total amount of the agreement is unknown because the number of patients cannot be projected with certainty.



## EXHIBIT B

### QUALIFIED SERVICE ORGANIZATION BUSINESS ASSOCIATE AGREEMENT

This Qualified Service Organization Business Associate Agreement ("Agreement") is entered into as of upon signature ("Effective Date") by and between **Clackamas County Health, Housing and Human Services, Health Centers Division** ("Covered Entity"), Health Centers Division Alcohol and Drug Treatment Program ("Program") and **Northwest Family Services** ("Business Associate") in conformance with the Health Insurance Portability and Accountability Act of 1996 and its regulations ("HIPAA"), and Confidentiality of Substance Use Disorder Patient Records, 42 CFR Part 2 ("Confidentiality Rule").

#### RECITALS

**Whereas**, the Covered Entity has engaged the services of the Business Associate as defined under 45 CFR §160.103 for or on behalf of the Covered Entity;  
**Whereas**, the Covered Entity may wish to disclose Individually Identifiable Health Information to the Business Associate in the performance of services for or on behalf of the Covered Entity as described in a Services Agreement ("Services Agreement");  
**Whereas**, such information may be Protected Health Information ("PHI") as defined by the HIPAA Rules promulgated in accordance with the Administrative Simplification provisions of HIPAA;  
**Whereas**, the Parties agree to establish safeguards for the protection of such information;  
**Whereas**, the Covered Entity and Business Associate desire to enter into this Agreement to address certain requirements under the HIPAA Rules and the Confidentiality Rule;  
**Now, Therefore**, the parties hereby agree as follows:

#### SECTION I – DEFINITIONS

- 1.1 "Breach" is any unauthorized acquisition, access, use or disclosure of Unsecured PHI, unless the Covered Entity demonstrates that there is a low probability that the PHI has been compromised. The definition of Breach excludes the following uses and disclosures:
  - 1.1.1 Unintentional access by a Covered Entity or Business Associate in good faith and within a Workforce member's course and scope of employment or placement;
  - 1.1.2 Inadvertent one time disclosure between Covered Entity or Business Associate Workforce members; and
  - 1.1.3 The Covered Entity or Business Associate has a good faith belief that an unauthorized person to whom the disclosure was made would not reasonably have been able to retain the information.
- 1.2 "Covered Entity" shall have the meaning given to such term under the HIPAA Rules, including, but not limited to, 45 CFR §160.103.
- 1.3 "Designated Record Set" shall have the meaning given to such term under the HIPAA Rules, including, but not limited to 45 CFR §164.501.
- 1.4 "Disclose" or "disclosure" shall have the meaning given to such terms under the Confidentiality Rule, 42 CFR §2.11.

- 1.5 "Effective Date" shall be the Effective Date of this Agreement.
- 1.6 "Electronic Protected Health Information" or "Electronic PHI" shall have the meaning given to such term at 45 CFR §160.103, limited to information of the Covered Entity that the Business Associate creates, receives, accesses, maintains or transmits in electronic media on behalf of the Covered Entity under the terms and conditions of this Agreement.
- 1.7 "Health Care Operations" shall have the meaning given to such term under the HIPAA Rules, including, but not limited to, 45 CFR §164.501.
- 1.8 "HIPAA Rules" shall mean the Privacy, Security, Breach Notification, and Enforcement Rules codified at 45 CFR Part 160 and Part 164.
- 1.9 "Individual" shall have the meaning given to such term in 45 CFR §160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR §164.502(g).
- 1.10 "Individually Identifiable Health Information" shall have the meaning given to such term under the HIPAA Rules, including, but not limited to 45 CFR §160.103.
- 1.11 "Program" shall have the meaning given to such term under the Confidentiality Rule, 42 CFR §2.11.
- 1.12 "Protected Health Information" or "PHI" means any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an Individual; the provision of health care to an Individual; or the past, present or future payment for the provision of health care to an Individual; and (ii) that identifies the Individual or with respect to which there is a reasonable basis to believe the information can be used to identify the Individual, and shall have the meaning given to such term under the HIPAA Rules, 45 CFR §160.103 and §164.501.
- 1.13 "Protected Information" shall mean PHI provided by the Covered Entity to Business Associate or created, maintained, transmitted or received by Business Associate on Covered Entity's behalf.
- 1.14 "Qualified Service Organization" shall have the meaning defined under the Confidentiality Rule, 42 CFR §2.11.
- 1.15 "Required by Law" shall have the meaning given to such phrase in 45 CFR §164.103.
- 1.16 "Secretary" shall mean the Secretary of the Department of Health and Human Services or his or her designee.
- 1.17 "Security Incident" shall have the meaning given to such phrase in 45 CFR §164.304.
- 1.18 "Unsecured Protected Health Information" shall mean protected health information that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary in accordance with 45 CFR §164.402.
- 1.19 Workforce means employees, volunteers, trainees, and other persons whose conduct, in the performance of work for a Covered Entity or Business Associate, is under the direct control of such Covered Entity or Business Associate, whether or not they are paid by the Covered Entity or Business Associate.

## **SECTION II – OBLIGATIONS AND ACTIVITIES OF THE BUSINESS ASSOCIATE**

The Business Associate agrees to the following:

- 2.1 Not to use or further disclose PHI other than as permitted or required by this Agreement or as Required by Law;
- 2.2 To use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to Electronic PHI, to prevent use or disclosure of PHI other than as provided for by this Agreement;
- 2.3 To mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of PHI by the Business Associate in violation of the requirements of this Agreement;
- 2.4 To immediately report to the Covered Entity any use or disclosure of PHI not provided for by this Agreement of which it becomes aware, including any Security Incident of which it becomes aware;
- 2.5 In accordance with 45 CFR §§164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any agent, including a subcontractor, that creates, receives, maintains, or transmits PHI on behalf of the Business Associate agrees in writing to the same restrictions, conditions and requirements that apply to the Business Associate with respect to such PHI. Notwithstanding the preceding language of this subsection, Business Associate acknowledges that PHI obtained by the Business Associate relating to individuals who may have been diagnosed as needing, or who have received, substance use disorder treatment services, diagnosis or referral for treatment shall be maintained and used only for the purposes intended under this Agreement and in conformity with all applicable provisions of the Confidentiality Rule. This information received from the Covered Entity, is protected by the Confidentiality Rule and therefore the Business Associate is specifically prohibited from re-disclosing such information to agents or subcontractors without specific written consent of the subject Individual;
- 2.6 To provide access, at the request of the Covered Entity, and in the time and manner designated by the Covered Entity, to PHI in a Designated Record Set, to the Covered Entity or, as directed by the Covered Entity, to the Individual or the Individual's designee as necessary to meet the Covered Entity's obligations under 45 CFR §164.524; provided, however, that this Section is applicable only to the extent the Designated Record Set is maintained by the Business Associate for the Covered Entity;
- 2.7 To make any amendment(s) to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR §164.526 at the request of the Covered Entity or an Individual, and in the time and manner designated by the Covered Entity; provided, however, that this Section is applicable only to the extent the Designated Record Set is maintained by the Business Associate for the Covered Entity;
- 2.8 To make internal practices, books and records, including policies and procedures on PHI, relating to the use and disclosure of PHI received from, or created or received by the Business Associate on behalf of, the Covered Entity available to the Covered Entity, or at the request of the Covered Entity to the Secretary, in a time and manner designated by the Covered Entity or the Secretary, for purposes of the Secretary's determining the Covered Entity's and the Business Associate's compliance with the HIPAA Rules;
- 2.9 To document such disclosures of PHI and information related to such disclosures as would be required for the Covered Entity to respond to a request by an

- Individual for an accounting of disclosures of PHI in accordance with 45 CFR §164.528;
- 2.10 To comply with the confidentiality, disclosure and re-disclosure requirements of the Confidentiality Rule as applicable;
  - 2.11 To resist any efforts in judicial proceedings any efforts to obtain access to the PHI protected by the Confidentiality Rule except as expressly provided for in the Confidentiality Rule;
  - 2.12 To provide to the Covered Entity or an Individual, in a time and manner designated by the Covered Entity, information collected in accordance with Section 2.9 of this Agreement, to permit the Covered Entity to respond to a request by an accounting of disclosures of PHI in accordance with 45 CFR §164.528;
  - 2.13 That if it creates, receives, maintains, or transmits any Electronic PHI on behalf of the Covered Entity, it will implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the Electronic PHI, and it will ensure that any agents (including subcontractors) to whom it provides such electronic PHI agrees to implement reasonable and appropriate security measures to protect the PHI. The Business Associate will report to the Covered Entity any Security Incident of which it becomes aware;
  - 2.14 To retain records related to the PHI hereunder for a period of six (6) years unless this Agreement is terminated prior thereto. In the event of termination of this Agreement, the provisions of Section V of this Agreement shall govern record retention, return or destruction;
  - 2.15 To promptly notify the Covered Entity of a Breach of Unsecured PHI as soon as practicable, but in no case later than 10 calendar days, after the discovery of such Breach. A Breach shall be treated as discovered as of the first day on which such Breach is known, or by exercising reasonable diligence would have been known, to any person, other than the person committing the Breach, who is an employee, officer, or agent of Business Associate. The notification shall include, to the extent possible, the identification of each Individual whose Unsecured PHI has been, or is reasonably believed by Business Associate to have been, accessed, acquired, used, or disclosed during the Breach in addition to the information required in Section V. In addition, Business Associate shall provide the Covered Entity with any other available information that the Covered Entity is required to include in the notification to the individual under 45 CFR §164.404(c); and
  - 2.16 To the extent Business Associate is to carry out one or more of the Covered Entity's obligations under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligations.

**SECTION III – THE PARTIES AGREE TO THE FOLLOWING PERMITTED USES AND DISCLOSURES BY THE BUSINESS ASSOCIATE:**

- 3.1 The Covered Entity and the Business Associate agree that this Agreement constitutes a Qualified Service Organization Agreement as required by the Confidentiality Rule. Accordingly, information obtained by the Business Associate relating to Individuals who may have been diagnosed as needing, or



- who have received, substance use disorder treatment services, diagnosis or referral for treatment shall be maintained and used only for the purposes intended under this Agreement and in conformity with all applicable provisions of the Confidentiality Rule.
- 3.2 Business Associate agrees to make uses and disclosures and requests for PHI consistent with the Covered Entity's minimum necessary policies and procedures.
- 3.3 Except as otherwise limited in this Agreement, the Business Associate may use or disclose PHI to perform functions, activities or services for, or on behalf of, the Covered Entity as specified in the Services Agreement, provided that such use or disclosure would not violate the Confidentiality or HIPAA Rules if done by the Covered Entity; and,
- 3.4 Except as otherwise limited in this Agreement, the Business Associate may:
- a. **Use for management and administration.** Use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate so long as such use is also permitted by the Confidentiality Rule; and,
  - b. **Disclose for management and administration.** Disclose PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate, provided that disclosures are Required by Law, or the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and will be used or further disclosed only as Required by Law or for the purposes for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached. PHI that is also subject to the Confidentiality Rule cannot be disclosed to a third party except as permitted under the Confidentiality Rule.

#### **SECTION IV – NOTICE OF PRIVACY PRACTICES**

- 4.1 If requested, the Covered Entity shall provide the Business Associate with the notice of privacy practices that the Covered Entity produces in accordance with 45 CFR §164.520, as well as any changes to such notice. The Covered Entity shall (a) provide the Business Associate with any changes in, or revocation of, permission by an Individual to use or disclose PHI, if such changes affect the Business Associate's permitted or required uses and disclosures; (b) notify the Business Associate of any restriction to the use or disclosure of PHI that the Covered Entity has agreed to in accordance with 45 CFR §164.522, to the extent that such restrictions may affect the Business Associate's use or disclosure of PHI; and (c) not request the Business Associate to use or disclose PHI in any manner that would not be permissible under the HIPAA Rules if done by the Covered Entity, except as set forth in Section 3.3 above.

#### **SECTION V – BREACH NOTIFICATION REQUIREMENTS**

- 5.1 With respect to any Breach, the Covered Entity shall notify each individual whose Unsecured PHI has been, or is reasonably believed by the Covered Entity to have been, accessed, acquired, used, or disclosed as a result of such Breach,

except when law enforcement requires a delay pursuant to 45 CFR §164.412.  
This notice shall be:

- a. Without unreasonable delay and in no case later than 60 calendar days after discovery of a Breach.
- b. By notice in plain language including and to the extent possible:
  - 1) A brief description of what happened, including the date of the Breach and the date of the discovery of the Breach, if known;
  - 2) A description of the types of Unsecured PHI that were involved in the Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);
  - 3) Any steps Individuals should take to protect themselves from potential harm resulting from the Breach;
  - 4) A brief description of what the Covered Entity and/or Business Associate involved is doing to investigate the Breach, to mitigate harm to Individuals, and to protect against any further Breaches; and,
  - 5) Contact procedures for Individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, web site, or postal address.
- c. By a method of notification that meets the requirements of 45 CFR §164.404(d).
- d. Provided notice to the media when required under 45 CFR §164.406 and to the Secretary pursuant to 45 CFR §164.408.

5.2. Business Associate shall promptly provide any information requested by Covered Entity to provide the information described in Section 5.1.

## SECTION VI – TERM AND TERMINATION

- 6.1 **Term.** The term of this Agreement shall be effective as of the date set forth above in the first paragraph and shall terminate when all of the PHI provided by the Covered Entity to the Business Associate, or created, maintained, transmitted or received by the Business Associate on behalf of the Covered Entity, is destroyed or returned to the Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.
- 6.2 **Termination for Cause.** Upon the Covered Entity's knowledge of a material breach of this Agreement by the Business Associate, the Covered Entity shall provide an opportunity for the Business Associate to cure the breach or end the violation. The Covered Entity shall terminate this Agreement and the Services Agreement if the Business Associate does not cure the breach or end the violation within the time specified by the Covered Entity, or immediately terminate this Agreement if cure is not reasonably possible. If the Business Associate fails to cure a breach for which cure is reasonably possible, the Covered Entity may take action to cure the breach, including but not limited to obtaining an injunction that will prevent further improper use or disclosure of PHI. Should such action be taken, the Business Associate agrees to indemnify the Covered Entity for any costs, including court costs and attorneys' fees, associated with curing the breach.

Upon the Business Associate's knowledge of a material breach of this Agreement by the Covered Entity, the Business Associate shall provide an opportunity for the Covered Entity to cure the breach or end the violation. The Business Associate shall terminate this Agreement and Services Agreement if the Covered Entity does not cure the breach or end the violation within the time specified by the Business Associate, or immediately terminate this Agreement if the Covered Entity has breached a material term of this Agreement if cure is not reasonably possible.

**6.3 Effect of Termination.**

- a. **Return or Destruction of PHI.** Except as provided in Section 6.3(b), upon termination of this Agreement, for any reason, the Business Associate shall return, or if agreed to by the Covered Entity, destroy all PHI received from the Covered Entity, or created, maintained or received by the Business Associate on behalf of the Covered Entity and retain no copies. This provision shall apply to PHI that is in the possession of subcontractors or agents of the Business Associate.
- b. **Return or Destruction of PHI Infeasible.** In the event that the Business Associate determines that returning or destroying PHI is infeasible, the Business Associate shall provide to the Covered Entity notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the parties that return or destruction of the PHI is infeasible, the Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as the Business Associate maintains such PHI. In addition, the Business Associate shall continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to Electronic PHI to prevent use or disclosure of the PHI, for as long as the Business Associate retains the PHI.

**SECTION VII – GENERAL PROVISIONS**

- 7.1 **Regulatory references.** A reference in this Agreement to the Confidentiality Rule, HIPAA Rules or a section in the HIPAA Rules means that Rule or Section as in effect or as amended from time to time.
- 7.2 **Compliance with law.** In connection with its performance under this Agreement, Business Associate shall comply with all applicable laws, including but not limited to laws protecting the privacy of personal information about Individuals.
- 7.3 **Amendment.** The Parties agree to take such action as is necessary to amend this Agreement from time to time. All amendments must be in writing and signed by both Parties.
- 7.4 **Indemnification by Business Associate.** Business Associate agrees to indemnify, defend and hold harmless the Covered Entity and its commissioners, employees, directors, officers, subcontractors, agents or other members of its workforce, each of the foregoing hereinafter referred to as "Indemnified Party," against all actual and direct losses suffered by the Indemnified Party and all liability to third parties arising from or in connection with Business Associate's breach of Section II and III of this Agreement. Accordingly, on demand, Business Associate shall reimburse any Indemnified Party for any and all actual and direct



losses, liabilities, fines, penalties, costs or expenses (including reasonable attorneys' fees) which may for any reason be imposed upon any Indemnified Party by reason of any suit, claim, action, proceeding or demand by any third party which results for Business Associate's breach hereunder. The obligation to indemnify any Indemnified Party shall survive the expiration or termination of this Agreement for any reason.


7.5 **Survival.** The respective rights and obligations of Business Associate under Section II of this Agreement shall survive the termination of the Services Agreement and this Agreement.

7.6 **Interpretation.** Any ambiguity in this Agreement shall be resolved to permit Covered Entity to first comply with the Confidentiality Rule and second to comply with the HIPAA Rules.

The Parties hereto have duly executed this Agreement as of the Effective Date as defined here above.

**Business Associate**  
**Northwest Family Services**

**Covered Entity**  
**Clackamas County**

By:   
Rose Fuller

By: \_\_\_\_\_  
Richard Swift

Title: Executive Director

Title: Director, H3S

Date: 1.23.20

Date: \_\_\_\_\_