

January 4, 2024

BCC Agenda Date/Item: \_\_\_\_\_

Board of County Commissioners  
 Clackamas County

**Approval of a Behavioral Health Services Delegation Agreement with CareOregon, Inc. for Behavioral Health Services. Agreement value of \$1,251,648 for six months. Funding through the Oregon Health Plan. No County General Funds are involved.**

<b>Previous Board Action/Review</b>	Issues January 3, 2024		
<b>Performance Clackamas</b>	Ensuring safe, healthy and secure communities through the provision of mental health and substance use services.		
<b>Counsel Review</b>	Yes	<b>Procurement Review</b>	No
<b>Contact Person</b>	Mary Rumbaugh	<b>Contact Phone</b>	503-742-5305

**EXECUTIVE SUMMARY:** The Behavioral Health Division of the Health, Housing and Human Services Department requests the approval of a revenue agreement with CareOregon, Inc. for the funding of certain behavioral health services. This agreement provides the funds for intensive care coordination for adults and children accessing higher levels of care, substance use disorder care coordination, and choice services for adults with severe and persistent mental illness in higher levels of care such as the Oregon State Hospital and residential treatment, and administrative support to ensure compliance with the agreement.

In 2023, behavioral health has served a total of 432 clients utilizing funding provided through this agreement. The Choice Services team has served 139 clients, and the Intensive Care Coordination team has served 293 clients.

This Agreement is effective January 1, 2024 and continues through December 31, 2024. Funding of \$1,251,648.00 for January through June is included, with funds for the remaining six months to be added via an amendment at a future date.

**RECOMMENDATION:** Staff recommend that the Board approve this agreement and authorize Tootie Smith, Chair, to sign it on behalf of Clackamas County.

Respectfully submitted,

*Rodney A. Cook*

Rodney A. Cook, Director  
 Health, Housing and Human Services

For Filing Use Only

**CAREOREGON  
CLACKAMAS COUNTY  
BEHAVIORAL HEALTH SERVICES DELEGATION AGREEMENT**

This Behavioral Health Services Delegation Agreement (“Agreement”) is by and between CareOregon, an Oregon nonprofit corporation (“CareOregon”), and Clackamas County (“County”). The Agreement between the Parties effective January 1, 2021 is hereby amended and reinstated in its entirety effective as of January 1, 2024 (“2024 A&R Effective Date”), regardless of the date of signature. The amendment and reinstatement of this Agreement does not affect its terms and conditions for Contracted Services prior to the 2024 A&R Effective Date.

**RECITALS**

A. CareOregon is a nonprofit organization that provides management services for and 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. CCO, as a Subcontractor of Health Share of Oregon, provides health plan functions for Health Share of Oregon, including care coordination and the management of the behavioral health benefit, as contracted for in the CCO Contract for Health Share members enrolled in OHP;

C. County has the capacity and competency to perform certain delegated functions in furtherance of CCO’s obligations to provide care coordination and behavioral health-related services under the CCO Contract; and

D. The parties desire to contract with one another such that County performs certain care coordination and behavioral health-related services 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 County 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/Health Share of Oregon, 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 2.12.

“**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.

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

“**Provider Qualifications**” has the meaning given to that term in Section 2.8.

“**Records**” means all clinical records, financial records, other records, books, documents, papers, plans, records of shipments and payments, contracts, and writings of County whether in paper, electronic or any other written form, that are pertinent to this Agreement.

“**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. CareOregon Members will be assigned to a particular Plan Partner.

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

**2.1 Covered Services.** County will accept Members as patients and provide to Members the Covered Services listed in the attached and incorporated herein Exhibits of this Agreement that are Medically Necessary (the “Contracted Services”). County 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 County to other individuals who receive services equivalent to those Contracted Services at locations approved by CareOregon. County will ensure that Contracted Services rendered by County: (i) are within the scope of, and in accord with, the County’s and Practitioners’ 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. County acknowledges that the rights of Members to receive particular services is governed by the terms of the relevant Plan covering the Members.

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

**2.3 Practitioners.** County will ensure that all of County’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 County prior to providing services to Members and meet CareOregon's credentialing and recredentialing requirements as applicable, and (iii) comply with all requests for information from CareOregon related to Practitioners' qualifications. County 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. County 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 its employees.

**2.4 Hours of Operation.** County will arrange for provision of Contracted Services during normal office hours that are not less than the hours of operation offered to County's other clients.

**2.5 Care Integration and Coordination.** County 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. County will also participate with CareOregon and Plan Partner in the implementation of evidence based clinical practice guidelines. County will consult with and comply with the Provider Manual related to the referral of Members to other providers for services.

**2.6 Compliance with CareOregon Policies.** County agrees to comply with the policies and procedures listed in Exhibit E in order to meet the obligations under this Agreement. Such compliance obligations will become effective upon CareOregon providing these policies to County. In the event that CareOregon materially changes these policies during the term of this Agreement, CareOregon will provide notice to County before requiring compliance with these material changes.

**2.7 Reporting Responsibilities.** County agrees to provide any reports, information, or documents reasonably requested by CareOregon or Plan Partner in the form and format requested by CareOregon or Plan Partner within a reasonable period of time. Such reports may include without limitation, reports regarding access, capacity to serve Members, utilization, performance measures, quality metrics, Member satisfaction, coordination, expenses and savings. To the extent that County collects Member Demographic Data as defined in OAR Chapter 950, Division 30, and submits that Demographic Data to CareOregon, County shall collect and submit that Demographic Data in accordance with the REALD standards set forth in OAR Chapter 950, Division 30. County represents and warrants that any reports and data provided pursuant to this Section 2.7 shall be accurate.

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

**2.8.1** Its Practitioners (i) have and maintain 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; (ii) have undergone a criminal background check if they will be performing Contracted Services under this Agreement. County shall furnish evidence of the same to CareOregon on request;

**2.8.2** 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;

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

**2.9 External Quality Review; Access to Records and Facilities.** County 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, County shall provide those copies at no charge. County 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. County 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 2.9 shall survive termination of the Agreement.

**2.10 Record Keeping.** County shall ensure record keeping policies and procedures are in accordance with 42 CFR § 438.3(u). Notwithstanding any shorter retention period that may be required under 42 CFR §§ 438.5(c), 438.604, 438.606, and 438.608, County shall maintain all Records and documents specified in Sec. 15 of Ex. D to the CCO Contract, which requires that Records be retained and kept accessible for at least ten (10) years.

**2.11 Medical Records.** County shall develop and maintain a medical record keeping system that:

**2.11.1** 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;

**2.11.2** Conforms to accepted professional practice and any and all applicable laws

**2.11.3** Is supported by written policies and procedures; and

**2.11.4** Allows CareOregon and Plan Partners to ensure that data received from County 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.

**2.12 Business Associate Agreement; Consent to Disclose, Redisclose.** County acknowledges and agrees that protected health information ("PHI") disclosed by County to

CareOregon may be used by or disclosed to Plan Partner pursuant to a business associate 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 County agree to comply with any and all applicable privacy laws including without limitation, 42 C.F.R. Part 2.

**2.12.1** County 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 County to the Plan Partners and to CareOregon and the Oregon Health Authority, only as such disclosure is allowed by Federal law.

**2.13 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.

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

**2.15 Informed Consent; Dignity and Respect.** County shall inform Members about available treatment options and alternatives. County 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 County's other patients who receive services equivalent to Covered Services.

**2.16 Nondiscrimination.** County 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.

**2.17 Compliance with Health Care Programs.** County and County'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.

**2.18 Regulatory Updates.** All terms and conditions of this Agreement are subject to federal and state Laws regulating Medicaid and Medicare. Any term, condition or provision now or hereafter required to be included in this Agreement 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.** In consideration of all the work to be performed under this Agreement, CareOregon shall pay County per the schedule outlined in Exhibit D. County shall be

entitled to the amounts and types of compensation described in that Exhibit for furnishing Covered Services to Members in accordance with the terms and conditions of this Agreement. County agrees to accept as payment in full for Covered Services furnished to Members the compensation described in this Agreement.

**3.2 Billing.** County 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 County is CareOregon. County shall bill and collect for Covered Services in accordance with the following:

**3.2.1** Except as specifically permitted by this Agreement, including Third Party Resource recovery, County 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.

**3.2.2** County will not bill or hold any Member responsible for payment for Covered Services. County shall ensure that it or its Subcontractors or Providers do not bill Members for services that are not covered under the CCO Contract unless there is a full written disclosure or waiver (also referred to as agreement to pay) on file signed by the Member, in advance of the service being provided, in accordance with the applicable State rules and regulations.

**3.3 Coordination of Benefits.** Where applicable and if required by CCO Contract Exhibit B, Part 4, Section 11(b)(1)(n)-(o), County will report to CareOregon any other primary, third-party insurance to which a Member may be entitled. County will provide, as requested by CareOregon in accordance with a request made by OHA, or as may be directly requested by OHA, all third-party liability eligibility information and any other information requested by OHA or CareOregon, as applicable, to assist in the pursuit of financial recovery.

## **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.** County shall be responsible for appropriate management of all federal and state obligations applicable to compensation or payments paid to County 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 December 31, 2024 unless

otherwise terminated pursuant to this Agreement

**52 Termination on Default.** In the event CareOregon or County 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.

**53 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 County pursuant to this Agreement on delivery of written notice to County if any of the following occurs:

**5.3.1** County Practitioner does not fully meet all County Qualifications set forth in Section 2.8 of this Agreement at the time the relevant services are provided under this Agreement.

**532** Any of County's contracted or employed 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 and is not removed by County from providing Covered Services under this Agreement.

**533** If County: (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.

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

**535** County's knowing or deliberate submission of false billing information to CareOregon or any Plan Partner.

**536** County is found to be in violation of or has failed to comply with any of the requirements of this Agreement that are not curable by County due to their nature.

**5.4 Termination without Cause.** The parties agree that they are contracting at will. Either CareOregon or County 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 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.

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. County shall ensure:

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

5.6.2 Notification to Members of the effective date of the termination and ensure 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 County continues to provide services to a Member after the date of termination of this Agreement and continuity of care is no longer required as determined by CareOregon, CareOregon shall have no responsibility to pay for such services unless (i) otherwise agreed to by CareOregon to allow for an orderly and reasonable transfer of Member care in process; (ii) to notify Members of the termination of this Agreement; and (iii) to 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 County, County Commissioners, and County officers, employees, affiliates and agents (collectively, "Provider Parties") harmless from and against all claims, suits, actions, losses, liabilities, settlements, damages, costs, and expenses of any nature whatsoever resulting from, arising out of, or relating to the activities of CareOregon or its officers, employees, subcontractors, agents, and insurers under this Agreement.

6.2 **Indemnification by County.** To the extent permitted by Article XI, Section 7 of the Oregon Constitution and by the Oregon Tort Claims Act, County shall defend, indemnify and hold harmless CareOregon and its directors, officers, employees, affiliates and agents from and against all claims, suits, actions, losses, damages, liabilities, settlements, costs and expenses of any nature whatsoever resulting from, arising out of, or relating to the activities of County or its officers, employees, subcontractors, agents, and insurers (or any combination of them) under this Agreement.

## **ARTICLE VII INSURANCE**

**7.1 Insurance.** County shall maintain, at County's sole expense, and keep in force, insurance policies, providing comprehensive general liability, professional liability, network security and privacy liability, or any other insurance as may be necessary to insure County and its 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. County 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 County's required insurance coverage. A fully funded program of self-insurance shall address the above insurance requirements. Proof of insurance and any notifications related to insurance shall be emailed to CareOregon Procurement at vendorservices@careoregon.org.

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

**7.3 Workers' Compensation.** All employers, including County, who work under this Agreement in the State of Oregon shall comply with ORS § 656.017 and provide Workers' Compensation coverage, unless such employers are exempt under ORS § 656.126.

## **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.

**84 Dispute Resolution.** Before a Party initiates arbitration regarding a claim or dispute under this Agreement (a “**Dispute**”), the Parties shall meet and confer in good faith to seek resolution of the Dispute. If a Party desires to initiate the procedures under this paragraph, the Party shall give notice (a “Dispute Initiation Notice”) to the other Party providing a brief description of the nature of the Dispute, explaining the initiating Party’s claim or position in connection with the Dispute, including relevant documentation, and naming an individual with authority to settle the Dispute on such Party’s behalf. Within 20 days after receipt of a Dispute Initiation Notice, the receiving Party shall give a written reply (a “Dispute Reply”) to the initiating Party providing a brief description of the receiving Party’s position in connection with the Dispute, including relevant documentation, and naming an individual with the authority to settle the Dispute on behalf of the receiving Party. The Parties shall promptly make an investigation of the Dispute, and commence discussions concerning resolution of the Dispute within 20 days after the date of the Dispute Reply. If a Dispute has not been resolved within 30 days after the Parties have commenced discussions regarding the Dispute, either Party may submit the dispute to arbitration subject to the terms and conditions herein. Failure to comply with this paragraph shall not bar a party from submitting the Dispute to arbitration; however, a Party’s failure to take advantage of this informal process may be considered by the arbitrator in making any award of attorneys’ fees hereunder.

## **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 County.

**9.1.2 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. While CareOregon will strive to give advance notice of such Amendments to County, advance notice may not be possible if CareOregon is required to immediately amend this Agreement to comply with changes in Applicable Laws.

### **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 confirmed 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 secured 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 secured or the information is appropriately encrypted.

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

CareOregon, Inc.  
315 SW 5<sup>th</sup> Avenue  
Portland, Oregon 97204  
Attention: Legal Affairs

Or any revised address provided to County 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 when the facsimile or email is confirmed.

**9.3 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.

**9.4 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.

**9.5 Trade Secrets.** Except as otherwise required by law, County agrees not to disclose to any third party any trade secrets that are disclosed to it as a result of its participation in this Agreement. "Trade Secrets" shall mean information that is defined as a trade secret under ORS

192.345(2). CareOregon considers the Rate and Payment Terms in Exhibit D to be a trade secret. County agrees that it will not make use of, disseminate, disclose or in any way circulate any trade secrets. Trade secrets 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 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.

**9.6 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.

**9.7 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.

**9.8 Force Majeure.** Neither CareOregon nor County shall be held responsible for delay or default caused by events outside CareOregon or County's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, the parties 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 their obligations under this Agreement.

**9.9 Data Security Requirements.** The work contemplated under this Agreement includes County having access to CareOregon data systems. CareOregon requires that Contractor maintain commercially reasonable and prudent infrastructure and controls to protect CareOregon data. County shall be required to comply with the terms of the CareOregon Data Security Requirements in Exhibit G, attached and hereby incorporated by reference. In the event of any conflict between the CareOregon Data Security Requirements and the CareOregon Business Associate Agreement, the CareOregon Business Associate Agreement shall take precedence.

**9.10 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: \_\_\_\_\_

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

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

**Clackamas County**

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

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

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

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

## **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 County, as referenced in Section 2.2, to the extent County provides the type of Covered Services required by Plan Partners' assigned Health Share of Oregon Members. CareOregon shall notify County if this list changes.

KaiserFoundation Health Plan

Legacy Health PacificSource

OHSU Health

Providence Health & Services – Oregon

## EXHIBIT A-1

### 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 "Non-Medicaid 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, County ("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"). 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.

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

Health Share of Oregon

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 CCO Contract, which is the standard agreement(s) used by OHA with all CCOs. The parties shall interpret and administer this Exhibit in accordance with the CCO Contract, Section 4.3 titled "Interpretation 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 provisions listed in Exhibit F, applicable federal, state, and local laws, the terms and conditions of this Exhibit A-1, and the applicable policies and procedures adopted by CareOregon as set forth in Exhibit F and provided to County. If Subcontractor fails to comply with any provisions of this Exhibit A-1 or with CareOregon policies and procedures listed in Exhibit E, CareOregon may terminate this Agreement or Exhibit as outlined in the Termination provisions in Article V 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.

a. **Payment Contingent on CCO Receiving Payment.** Under Exhibit B, Part 4, Section 11(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.

## 6. 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. Subcontractor shall forward any complaint or Grievance regarding services provided under this Agreement immediately to [grievanceteam@careoregon.org](mailto:grievanceteam@careoregon.org) for processing. Subcontractor shall track and maintain a record of any complaints or Grievances regarding services provided under the Agreement. For purposes of clarity, this provision is not intended to prevent Subcontractor's care coordinators and Members from engaging in informal efforts to resolve problems and concerns, so long as Members are aware of their right to file a Grievance. Subcontractor shall provide a quarterly report of any such complaints or Grievances, even if such report is to confirm that no complaints or Grievances were received. Subcontractor is not responsible for resolving complaints or Grievances regarding covered benefits and shall forward such complaints or Grievances to CareOregon. CareOregon agrees to coordinate with County to identify the appropriate Party to resolve complaints and Grievances. 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.

- 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 V, 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 any other Members requiring high level coordination.
  - ii. Submit reports to CareOregon every thirty (30) calendar days five (5) days prior to the OHA reporting deadline, 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 during any transition of care.
  - 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, so long as CareOregon agrees to compensate Subcontractor for such services for up to thirty (30) days after contract termination.
- 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 agreed upon Term, CareOregon shall have no responsibility to pay for such services pursuant to this Exhibit.
- f. External Quality Review.** Subcontractor shall 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 it 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 11 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. Whether employees of the Subcontractor who will perform work under this Agreement undergo a criminal background check prior to starting any work identified in the Agreement;
    6. 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
    7. Any deficiencies that have been identified by OHA related to work performed by Subcontractor.
  - iv. Subcontractor will allow CCO to perform monitoring, audit, and other review processes for the purpose of determining and reporting compliance with the terms and conditions of this Agreement, including, without limitation, compliance with records security and retention policies and procedures.
  - v. 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. The timeline for remedying deficiencies will comply with timeframes prescribed by OHA, if any.

#### **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 that entity's work performed under this Exhibit. A larger explanation of OHA's authority and potential sanctions are contained in Exhibit B, Part 9.
- ii. Exhibit B, Part 9, Sections 10-18 of the CCO Contract is delegated to Subcontractor. These sections require Subcontractor to (i) develop and implement a Fraud, Waste, and Abuse prevention and detection program and policies and procedures that ensure compliance with 42 CFR Part 455, 42 CFR Part 438, Subpart H, OAR 410-120-1510, OAR 410-141-3520, and OAR 410-141-3625; and (ii) annually create a plan for implementing its policies and procedures. It is a requirement of CareOregon to ensure that Subcontractor complies with the terms and conditions set forth in Exhibit B, Part 9, Sections 11-18 of the CCO Contract. Oversight and monitoring of these requirements may be performed at regular intervals including but not limited to at minimum an annual Delegation Oversight review.
- iii. CCO must comply with Exhibit B, Part 9, Section 15 of the CCO Contract if there is an overpayment, as defined in 42 CFR 438.2, made to Subcontractor. Subcontractor agrees that it will comply with the procedures in Exhibit B, Part 9, Section 15 of the CCO Contract if it has been overpaid.

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.** 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.

7. **CCO Subcontractor Requirements.** As a Subcontractor of CareOregon, under the CCO Contract, Subcontractor is required to comply with Exhibit B, Part 4, Section 11; Exhibit B, Part 9, Sections 11-18; Exhibit E, Required Federal Terms and Conditions in its entirety; Exhibit D, Section 19 which requires subcontracts to include Exhibit D, Sections 1, 2, 3, 4, 15, 16, 18, 19, 24, and 30-32.

##### **a. Subcontractor Requirements**

Subcontractor agrees to comply with the general Subcontractor Requirements listed in Exhibit B, Part 4, Section 11 of the CCO Contract, to the extent they apply to

Subcontractor's scope of work under this Exhibit. These Subcontractor Requirements include, but are not limited to:

- i. Where applicable, Subcontractor will comply with the payment, withholding, incentive and other requirements set forth in 42 CFR § 438.6.
- ii. Where applicable, Subcontractor will submit valid claims for services including all the fields and information needed to allow the claim to be processed within timeframes for valid, accurate, Encounter Data submission as required under Ex. B, Part 8 of the CCO Contract.
- iii. Subcontractor will comply with all applicable laws, including, without limitation, all Medicaid and Medicare laws, rules, regulations, as well as all applicable sub-regulatory guidance and contract provisions.
- iv. Subcontractor agrees that OHA, the Oregon Secretary of State, CMS, HHS, the Office of the Inspector General, the Comptroller General of the United States, or their duly authorized representatives and designees, or all of them or any combination of them, have the right to audit, evaluate, and inspect any books, Records, contracts, computers or other electronic systems of the Subcontractor, or of the Subcontractor's contractor, that pertain to any aspect of services and activities performed, or determination of amounts payable under the Agreement.
- v. Subcontractor will make available, for purposes of audit, evaluation, or inspection its premises, physical facilities, equipment, books, Records, contracts, computer, or other electronic systems relating to Medicaid Members.
- vi. Pursuant to 42 CFR § 438.608, adopt and comply with Fraud, Waste, and Abuse policies, procedures, reporting obligations, and annual Fraud, Waste, and Abuse Prevention Plan and otherwise comply with and perform all of the same obligations, terms and conditions of CCO as set forth in Ex. B, Part 9 of the CCO Contract, to the extent they apply to Subcontractor's scope of work under this Exhibit.
- vii. Subcontractor will report any provider or Member fraud, waste, or abuse to CareOregon within three business days of identification, which CareOregon will in turn report to OHA or the applicable agency, division, or entity.
- viii. Where applicable, Subcontractor will require any contracted providers to meet the standards for timely access to care and services as set forth in the CCO Contract and OAR 410-141-3515, which includes, without limitation, providing services within a timeframe that takes into account the urgency of the need for services.
- ix. Subcontractor will report to CareOregon any other primary, third-party insurance to which a Member may be entitled.
- x. Subcontractor will provide, in a timely manner upon request, as requested by CareOregon in accordance with the request made by OHA, or as may be requested directly by OHA, with all third party liability eligibility information and any other information requested by OHA or CareOregon, as applicable, in order to assist in the pursuit of financial recovery.
- xi. In the event Health Share of Oregon or CareOregon receives a written request from OHA to provide copies of Subcontracts entered into by Subcontractor that relate to services provided under this Agreement, Subcontractor shall in turn provide copies of these Subcontracts to CareOregon within one business day.

**b. Program Integrity Requirements**

Subcontractor agrees to comply with the Program Integrity requirements listed Exhibit B, Part 9, Sections 11-18, 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 Multnomah County for the State of Oregon; provided, however, (a) if federal jurisdiction exists then OHA 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; (vii) all Medicaid laws, rules, regulations, as well as all applicable sub-regulatory guidance and contract provisions, including the requirements set forth in 42 CFR 438.6; and (viii) 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, Subcontractor 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 Subcontractor 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; and
  4. Subcontractor shall, at all times during the Term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work.
- 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; CCO Contract, Exhibit B, Part 4, Section 11)**
- 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. 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 ten (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.
    3. Subcontractor must respond and comply in a timely manner to any and all requests from CareOregon, OHA, or their designees for information or documentation pertaining to Work under this Agreement.



4. If OHA, CMS, or the DHHS Inspector General determine that there is a reasonable possibility of Fraud or similar risk, OHA, CMS, or the DHHS Inspector General may inspect, evaluate, and audit the Subcontractor at any time.
- ii. Subcontractor shall retain and keep accessible all Records for the longer of ten (10) 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 OAR 410-141-5080, OHA has the right to provide the Oregon Department of Consumer and Business Services 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 N)  
Subcontractor will comply with the requirements listed in the CCO Contract, Exhibit N, to the extent Delegate has Access to OHA or State Data, Network, and Information Systems, and Information Assets as defined in the CCO Contract.
  - j. **Assignment of Contract, Successors in Interest** (CCO Contract, Exhibit D, Section 18)
    - 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 21 of the CCO Contract. 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 19)  
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 the CCO 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, 18, 19, 24, and 30-32 of Exhibit D of the CCO Contract. 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 24)  
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 forth 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 4 and 5
- iii. CCO Contract Exhibit B, Part 10: Section 3
- iv. CCO Contract Exhibit D: Sections 1, 4 through 13, 15, 16, 18 through 29, 31.
- 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 Exhibit D.
- vi. CCO Contract Exhibit N, Privacy and Security shall survive termination for the period of time that Delegate retains any Access (as such term is defined in Section 2.1 of CCO Contract Exhibit N) to OHA or State Data, Network and Information Systems, and Information Assets.
- vii. 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 30)

Subcontractor shall provide equal access to Covered Services for Members under 18 years of age regardless of sex or gender identity, including access to appropriate facilities, services and treatment, to achieve the policy in ORS 417.270.

**n. Media Disclosure** (CCO Contract, Exhibit D, Section 31)

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 32)

- i. Subcontractor shall immediately 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 immediately 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 Chapter 407, Divisions 45 to 47 (abuse investigations by the Office of Training, Investigations and Safety [OTIS]);
  2. ORS 430.735 through 430.765 (abuse reporting for adults with mental illness or developmental disabilities, including adults receiving services for a substance use disorder or a mental illness in a residential facility or a state hospital);
  3. ORS 124.005 to 124.040 (elderly persons and persons with disabilities abuse);
  4. ORS 441.650 to 441.680 (residents of long term care facilities); and
  5. ORS 418.257 to 418.259 (child in care of a Child-Caring Agency, residential facilities for children with intellectual/developmental disabilities and child foster homes).
- iii. Subcontractor shall report suspected Adult Abuse, neglect or financial exploitation as follows:
  1. Adults with developmental disabilities to the local county developmental disability program;
  2. Adults with mental illness to the local county mental health program;
  3. Patients of the Oregon State Hospital or residents of Substance Use Disorder treatment facilities to DHS OTIS;
  4. Elder Abuse to the local DHS Aging & People with Disabilities office or Area Agency for Aging;
  5. Nursing facility residents to the DHS Nursing Facility Complaint Unit; or
  6. Or by calling 1-855-503-SAFE (7233). This toll-free number allows a report of abuse or neglect of any child or adult to be reported to DHS.

## **EXHIBIT B**

### **DELEGATION OF CARE COORDINATION AND INTENSIVE CARE COORDINATION (ICC) FOR SPECIFIC POPULATIONS**

#### **A. Statement of Work**

##### **1. Services.**

- a. The parties acknowledge that the Statement of Work set forth in this Exhibit B is subject to change due to OHA's pending revisions to the care coordination rules and may be superseded by OHA's proposed revisions to OAR 410-141-3500, OAR 410-141-3860, OAR 410-141-3865, and OAR 410-141-3870.
- b. Care Coordination services will be provided as outlined in Exhibit M, Section 11 of the CCO Contract, as amended by the OHA from time to time, and OAR 410-141-3860, OAR 410-141-3870, and OAR 410-141-3865.
- c. Intensive Care Coordination (ICC) services will be provided in compliance with OAR 410-141-3500, OAR 410-141-3860, OAR 410-141-3865, and OAR 410-141-3870, the applicable sections of Exhibit B, Parts 2 and 4, and Exhibit M, Section 6, 13, and 21 of the CCO Contract, as amended by the OHA from time to time.

##### **2. Scope.**

- a. Intensive Care Coordination services for members with behavioral health and substance use disorder (SUD) diagnoses, including screening members for such services, will primarily be provided by County. Lack of a behavioral health diagnosis or lack of engagement with a behavioral health provider is not a basis for denial of eligibility for ICC services. The parties recognize that participation in ICC services is voluntary. However, to ensure that Members' care coordination needs are identified and assessed, County will assess the Member's need for ICC services even if the Member indicates that they do not wish to participate in ICC at that time. Routine (non-intensive) care coordination services for all other populations will be provided by CareOregon. Individuals may transfer between routine and intensive care coordination depending on level of care needed. The parties understand that ICC services are provided by both County and CareOregon. However, CareOregon primarily provides ICC services to members with complex physical health diagnoses. Additional roles and responsibilities are outlined in the shared operational procedures between County and CareOregon.
- b. CareOregon may define other prioritized populations for County to manage and engage in ICC including but not limited to members who admit to a psychiatric unit, repeatedly use emergency departments for mental health and/or substance use needs, and who access other high levels of care including Psychiatric Residential Treatment Services (PRTS), Psychiatric Day Treatment Services (PDTS), and Subacute Services.
- c. On a daily basis, County will (i) use PointClickCare to generate a report of Members admitted to psychiatric units to screen for ICC needs and for daily coordination of care; and (ii) use the daily authorization report to identify Members authorized for Psychiatric Residential Treatment Services, Psychiatric Day Treatment Services (PDTS), and Subacute Services to screen for ICC needs.

- d. County will screen Members for ICC needs within three (3) business days of receiving referrals. County will notify CareOregon within five (5) business days if County has a waitlist of Members that County intends to enroll in ICC services but cannot do so immediately. If County screens out Members from ICC services and the Member is referred back to CareOregon, upon CareOregon's request County agrees to (i) provide the criteria that were used to determine that the Member should be referred back to CareOregon for care coordination services, and (ii) reconsider its determination to screen out the Member from ICC services. County will notify CareOregon if the determination to screen out the Member from ICC services was based on lack of capacity.
- e. County shall continue ICC engagement and discharge planning when a Member has been approved for long-term care services.
- f. County shall continue ICC engagement when a Member relocates to another county within Health Share of Oregon's service area and County's continued ICC engagement with the Member would be in the Member's best interest.
- g. County shall continue ICC engagement while a member is in temporary placement for behavioral health treatment services outside of Health Share of Oregon's service area.
- h. County shall continue ICC engagement when an individual's OHP benefits are suspended, there is a reasonable expectation that the individual will return to being a CareOregon Member assigned to Health Share within the next 30 days, and the individual either: (1) was a CareOregon Member assigned to Health Share of Oregon immediately prior to suspension of OHP benefits; or (2) has a history of being a CareOregon Member assigned to Health Share of Oregon within 365 days prior to suspension of OHP benefits.
- i. Members receiving services under an aid and assist order are considered a population that ICC teams can serve. A Member referral to ICC should not be declined based solely upon the existence of an aid and assist order.
- j. **Non-Covered Services with Care Coordination.** County will coordinate services for Members who require health services not covered by the Oregon Health Plan as outlined in Exhibit B, Part 2, Section 9 of the CCO Contract.
- k. **Non-Covered Services without Care Coordination.** County is not required to provide care coordination for services that are not covered by the Oregon Health Plan, (Non-Covered Services), as outlined in Exhibit B, Part 2, Section 10 of the CCO Contract.
- l. County shall, for each Contract Year, assist CareOregon with its obligations under the CCO Contract and OAR 410-141-3860(19) to submit care coordination reports to OHA. County shall collect and submit to CareOregon the information needed for the care coordination reports in advance of OHA's reporting deadlines. CareOregon shall give County reasonable notice of the specific information that will be needed from County for the reports in advance of the OHA reporting deadlines. In order to identify the information required for the reports, County shall consult OAR 410-141-3860(19) and the Care Coordination Report template posted on the Oregon Health Authority CCO Contract Forms website, <https://www.oregon.gov/oha/HSD/OHP/Pages/CCO-Contract-Forms.aspx>
- m. County shall securely forward any complaints or Grievances regarding services provided under this Agreement immediately to [grievanceteam@careoregon.org](mailto:grievanceteam@careoregon.org).

County shall track and maintain a record of any complaints or Grievances regarding services provided under this Agreement. For purposes of clarity, this provision is not intended to prevent County care coordinators and Members from engaging in informal efforts to resolve problems and concerns, so long as Members are aware of their right to file a Grievance. County will provide a quarterly report of any complaints or Grievances to CareOregon, even if such report is to confirm that no complaints or Grievances were received. County is not responsible for resolving complaints or Grievances regarding covered benefits and shall forward such complaints or Grievances to CareOregon. CareOregon agrees to coordinate with County to identify the appropriate Party to resolve complaints and Grievances.

- n. Upon reasonable advance notice, County agrees to participate in ICC meetings and workgroups with CareOregon and to cooperate with CareOregon in responding to reporting requests from regulatory agencies.
- o. To the extent permitted by federal and state privacy laws, County agrees to participate in Member care coordination conferences for purposes of coordinating care and maintaining continuity of care for Members in the ICC program.
- p. To the extent permitted by federal and state privacy laws, County intensive care coordinators agree to communicate with civil commitment staff for purposes of coordinating care and maintaining continuity of care for Members in the ICC program.

## **B. Miscellaneous Terms**

1. **Caseload Ratio.** Target caseloads for County’s workforce will average between 1:17 to 1:22 staff-to-member ratio on a quarterly basis. County will report its caseload ratio to CareOregon upon request from CareOregon. Caseload reports shall indicate the number of Members who are engaged, and the number of Members who are monitored only. If the caseload of County’s workforce exceeds this target range, or if potential noncompliance with the care coordination provisions of the CCO Contract or Oregon Administrative Rules is identified, CareOregon or County may initiate a meeting to discuss the continued feasibility of the agreement contained within this Exhibit and to ensure that funding paid under this Exhibit adequately reflects services provided. This could potentially lead to a decision to add more capacity, review staffing models, or a revision of priority populations, length of services, etc.
2. **Authorized User of Care Coordination Platform.** County will become an authorized user of CareOregon’s care coordination platform, Healthy Planet Link (“HPL”), via a contract held by CareOregon, Inc. and Epic Systems Corporation. HPL is a population health management platform used to provide care management tools to approved contractors outside of CareOregon. CareOregon will, upon request, provide reasonable and appropriate training on HPL to County at no cost. Additionally, CareOregon will provide County with access to CareOregon’s external member profile dashboard for purposes of viewing member information related to eligibility, integrated delivery system (IDS) assignment, authorizations, and claims. Access to HPL or any other care coordination platform used by CareOregon will be provided at no cost to County.

- a. **Privacy Compliance.** County will submit evidence of regular HIPAA training of all staff who deliver services under this agreement and/or are users of CareOregon's care coordination platform to CareOregon. County will also submit copies of their privacy compliance policies to CareOregon annually. If any breach of CareOregon or County's privacy policies occur as it relates to the use of CareOregon's care coordination platform, the parties will coordinate an appropriate response in compliance with applicable laws.
- b. **Documentation within Care Coordination Platform.** County agrees to complete an enrollment assessment which consists of program enrollment, program status, status dates, and care team assignment into the care coordination platform. County agrees to enter additional information into the care coordination platform as specified by CareOregon and upon reasonable notice. CareOregon will ensure that any information requested from County for entry into the care coordination platform will be the minimum necessary to perform care coordination activities under this Agreement. CareOregon will ensure that user access to information entered by County within the care coordination platform complies with all applicable privacy laws, including HIPAA and 42 C.F.R. Part 2.



## EXHIBIT C

### DELEGATION OF CCO RESPONSIBILITIES UNDER THE CHOICE PROGRAM

#### A. Statement of Work

1. **Services.** County will satisfy CCO responsibilities as it relates to the Choice Program outlined in Exhibit M, Section 13(c)-(e) of the CCO Contract which is titled, “Oregon State Hospital” as follows:
  - a. County shall, in accordance with OAR 309-091-0000 through 309-091-0050:
    - (1) Coordinate with applicable parties as needed regarding discharges for all adult Members with SPMI;
    - (2) Coordinate care for Members during discharge planning for the return to Home CCO or to the Receiving CCO if Member will be discharged into a different Service Area when Member has been deemed ready to transition;
    - (3) Arrange for physical, dental, and Behavioral Health care Services Care Coordination;
    - (4) Provide access to Case Management Services, Care Coordination and discharge planning for timely follow up to ensure Continuity of Care;
    - (5) Coordinate with OHA regarding Members who are presumptively or will be retroactively enrolled in Oregon Health Plan upon discharge;
    - (6) Arrange for all services to be provided post-discharge in a timely manner; and
    - (7) Facilitating access to Evidence-Based intensive services for adult Members with SPMI discharged from OSH who refuse ACT services.
  - b. Discharges from OSH shall not be to a secure residential treatment facility unless Medically Appropriate. No Member shall be discharged to a secure residential treatment facility without the expressed prior written approval of the Director of OHA or the Director’s designee.
  - c. County shall ensure a Member discharged from OSH who is determined not to meet the level of care for ACT shall be discharged with services appropriate to meet Member’s needs.
2. **Authorized User of Care Coordination Platform.** County will become an authorized user of CareOregon’s care coordination platform, Healthy Planet Link (“HPL”), via a contract held by CareOregon, Inc. and Epic Systems Corporation. HPL is a population health management platform used to provide care management tools to approved contractors outside of CareOregon. CareOregon will, upon request, provide reasonable and appropriate training on HPL to County at no cost. Additionally, CareOregon will provide County with access to CareOregon’s external member profile dashboard for purposes of viewing member information related to eligibility, integrated delivery system (IDS) assignment, authorizations, and claims. Access to HPL or any other care coordination platform used by CareOregon will be provided at no cost to County.
  - a. **Privacy Compliance.** County will submit evidence of regular HIPAA training of all staff who deliver services under this agreement and/or are users of CareOregon’s care

coordination platform to CareOregon. County will also submit copies of their privacy compliance policies to CareOregon annually. If any breach of CareOregon or County's privacy policies occur as it relates to the use of CareOregon's care coordination platform, the parties will coordinate an appropriate response in compliance with applicable laws.

- b. **Documentation within Care Coordination Platform.** County agrees to complete an enrollment assessment which consists of program enrollment, program status, status dates, and care team assignment into the care coordination platform. County agrees to enter additional information into the care coordination platform as specified by CareOregon and upon reasonable notice. CareOregon will ensure that any information requested from Provider for entry into the care coordination platform will be the minimum necessary to perform care coordination activities under this Agreement. CareOregon will ensure that user access to information entered by County within the care coordination platform complies with all applicable privacy laws, including HIPAA and 42 C.F.R. Part 2.

## EXHIBIT D

### DELEGATED SERVICES RATE EXHIBIT

#### A. Rate and Payment Terms

1. Not-to-Exceed Amounts. Payment for delegated services under this Agreement shall not exceed the amount set forth in this Exhibit D.
  - a. The maximum, not-to-exceed compensation payable to County under this Agreement for the time period of January 1, 2024 to June 30, 2024, which includes any allowable expenses, is \$1,251,648.00..
  - b. The maximum, not-to-exceed compensation payable to County under this Agreement for the time period of July 1, 2024 to December 31, 2024, will be detailed in an amendment of this Agreement to be mutually agreed upon by the parties.
2. CareOregon will pay County based on actual costs not to exceed the agreed upon amounts by the 20th day of the first month following the end of a quarter for the delegated services of:
  - a. Care Coordination (“CC”) and Intensive Care Coordination (“ICC”)
  - b. CCO Responsibilities Under the Choice Program
3. County shall submit invoices to CareOregon at [covendorinvoices@careoregon.org](mailto:covendorinvoices@careoregon.org) on a quarterly basis. Invoices submitted by County to CareOregon under this Exhibit shall:
  - a. Specify actual costs and the dates for which service was provided.
  - b. 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.
  - c. Include the total amount billed to date by County prior to the current invoice.
  - d. Be segregated by service items.
  - e. Abide by Generally Accepted Accounting Principles (GAAP).
4. This Exhibit 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.

## **EXHIBIT E**

### **APPLICABLE POLICIES AND CCO CONTRACT PROVISIONS**

**A. Applicable CareOregon Policies.** County agrees to comply with the following CareOregon policies:

1. Encounter Documentation
2. Intensive Care Coordination
3. Interpreter Services
4. Members' Rights
5. Model of Care
6. Oregon Health Plan (OHP) Member Grievance
7. Regional Care Team (RCT) Care Coordination
8. Fraud, Waste, and Abuse

**B. Policy Adoption by Provider.** County shall develop and maintain written policies and procedures that comply with the terms of this Agreement, the CCO Contract provisions listed in this Exhibit, and applicable federal, state, and local laws. These policies shall include the following:

1. Declaration for Mental Health Treatment
2. Informed Consent and Treatment Options
3. Mandatory Reporting of Abuse of Adults with Developmental Disabilities or Mental Illness
4. Mandatory Reporting of Child Abuse
5. Mandatory Reporting of Elder Abuse and Abuse of Persons with Disabilities
6. Nondiscrimination
7. Staff Training in Recovery Principles, Motivational Interviewing, Integration, and Foundations of Trauma
8. Information Privacy, Security, and Retention of Records
9. Screening for Exclusion from Participation in Federal Programs and Criminal Background

**C. Applicable CCO Contract Provisions.** As described in Exhibits A-1, B, C, and D of this Agreement, County agrees to perform its duties and obligations under this Agreement in accordance with the following CCO Contract provisions:

1. Exhibit B, Part 2, Sections 8, 9 and 10, Covered and Non-Covered Services
2. Exhibit B, Part 4, Section 11, Subcontract Requirements
3. Exhibit B, Part 8, Section 1, Record Keeping Requirements
4. Exhibit B, Part 8, Section 2, Privacy, Security, and Retention of Records; Breach Notification
5. Exhibit B, Part 9, Sections 10-18, Program Integrity
6. Exhibit D, Sections 1, 2, 3, 4, 15, 16, 18, 19, 24, and 30-32, Standard Terms and Conditions
7. Exhibit E, Required Federal Terms and Conditions
8. Exhibit M, Behavioral Health
9. Exhibit N, Privacy and Security

**EXHIBIT F**  
**BUSINESS ASSOCIATE AGREEMENT**

**CareOregon, Inc.**  
**315 SW Fifth Avenue**  
**Portland, Oregon 97204**

**THE COMPANY**

**Clackamas County**  
**2051 Kaen Road**  
**Oregon City, OR 97045**

**BUSINESS ASSOCIATE**

This Business Associate Agreement (“BAA”) is between the Company and Business Associate.

Business Associate and the Company have entered into a Behavioral Health Services Delegation Agreement (“Agreement”) effective January 1, 2024. The parties’ activities pursuant to the Agreement sometimes may involve (i) the disclosure of PHI by the Company (or another business associate of the Company) to Business Associate, (ii) the use or disclosure by Business Associate of PHI received from the Company and (iii) the transmission by Electronic Media or the maintenance in Electronic Media of Individually Identifiable Health Information by Business Associate. Accordingly, the relationship between the Company and Business Associate is subject to provisions of the HIPAA Rules. The Company and Business Associate intend to protect the privacy of PHI and the security of electronic PHI held by Business Associate in connection with the Agreement in compliance with this BAA, the HIPAA Rules and other applicable laws.

**1. Definitions**

Capitalized terms used, but not otherwise defined, in this BAA shall have the same meaning as those terms in the HIPAA Rules.

- (a) “Agent” means an agent as used and defined under the HIPAA Rules and federal common law.
- (b) “Breach” has the same meaning as in 45.C.F.R. § 164.402.
- (c) “Designated Record Set” has the same meaning as in 45 C.F.R. 164.501.
- (d) “Discovery” means the first day on which a Breach is known, or reasonably should have been known, to Business Associate (including any person, other than the individual committing the Breach, who is an employee or officer of Business Associate) or any Agent or Subcontractor of Business Associate.
- (e) “Effective Date” means the date first written above.

- (f) “Electronic Media” means the same as in 45 C.F.R. § 160.103.
- (g) “Electronic Protected Health Information” or “EPHI” means the same as in 45 C.F.R. § 160.103, limited for purposes of this BAA to EPHI received by Business Associate from, or received or created by Business Associate on behalf of, the Company.
- (h) “Electronic Transactions Rules” means 45 CFR Part 162.
- (i) “Fundraising” means raising funds for the Business Associate’s own benefit as governed by 45 CFR § 164.514.
- (j) “HIPAA Rules” means the Privacy Rules, the Security Rules, and the Electronic Transactions Rules.
- (k) “Individual” means a person to which specific PHI applies.
- (l) “Marketing” means the same as in 45 CFR § 164.501.
- (m) “PHI” or “Protected Health Information” means the same as in 45 CFR § 160.103, limited for purposes of this BAA to PHI received by Business Associate or its Agent or Subcontractor from, or received or created by Business Associate, its Agent or Subcontractor on behalf of, the Company.
- (n) “Privacy Rule” means the Standards for Privacy of Individually Identifiable Health Information in 45 CFR Part 160 and Part 164, Subparts A and E.
- (o) “Required by Law” means the same as in 45 C.F.R. § 164.103.
- (p) “Secretary” means the Secretary of the United States Department of Health and Human Services or the Secretary’s designee.
- (q) “Security Incident” means the same as in 45 CFR § 164.304.
- (r) “Security Rule” means the Security Standards for the Protection of Electronic Protected Health Information in 45 CFR Part 164, Subpart C.
- (s) “Subcontractor” means the same as in 45 C.F.R. § 160.103.
- (t) “Unsecured PHI” means the same as the term “unsecured protected health information” in 45 C.F.R. § 164.402.

## 2. **Obligations and Activities of Business Associate**

- (a) Business Associate agrees to not use or disclose PHI other than as permitted or required by this BAA or as Required by Law.
- (b) Business Associate agrees to use appropriate safeguards to prevent use or disclosure of PHI other

than as provided for by this BAA.

- (c) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate or a Subcontractor or Agent of Business Associate in violation of the requirements of this BAA.
- (d) Business Associate agrees to report to the Company any Breach by Business Associate or a Subcontractor or Agent of Business Associate within one business day after Business Associate becomes aware of such Breach.
- (e) Business Associate agrees to report to the Company any Security Incident, Breach of Unsecured PHI or any use or disclosure of PHI that is not authorized by this BAA of which Business Associate becomes aware.
- (f) Business Associate will ensure that any Subcontractor or Agent of Business Associate using or disclosing PHI has executed a business associate agreement containing substantially the same terms as this BAA, including the same restrictions and conditions that apply through this BAA to Business Associate with respect to such PHI. Business Associate will ensure that any Agent to whom Business Associate provides PHI received from, or created or received by Business Associate on behalf of, the Company has executed an agreement containing substantially the same restrictions and conditions that apply through this BAA to Business Associate with respect to such PHI. Business Associate will provide, upon written request by the Company, a list of any such Subcontractors of Business Associate and any Agents of Business Associate using or disclosing PHI.
- (g) Business Associate will ensure that any permitted disclosure will be only as minimally necessary for the purpose of the disclosure.
- (h) Business Associate agrees to provide access, at the reasonable request of, and in the time and manner designated by, the Company to PHI in a Designated Record Set, to the Company or, as directed by the Company, to an Individual in order to meet the requirements under 45 CFR § 164.524. If the Company requests an electronic copy of PHI that is maintained electronically in a Designated Record Set in Business Associate's custody or control or the custody or control of a Subcontractor or Agent of Business Associate, Business Associate will provide such PHI in the electronic format requested by the Company unless the PHI is not readily produced in such format, in which case Business Associate will provide another reasonable electronic format as agreed to by the parties and the Individual requesting such PHI.
- (i) Within 30 days of receiving a request by the Company, Business Associate will document disclosures of PHI and information related to such disclosures in such form as would be required for the Company to respond to a request by an Individual for an accounting of disclosures in accordance with 45 C.F.R. § 164.528.
- (j) Business Associate agrees to make any amendment(s) to PHI in a Designated Record Set as directed or agreed to by the Company pursuant to 45 CFR § 164.526, at the request of the Company or of the Individual concerned.
- (k) Business Associate agrees to make internal practices, books, and records relating to the use and

disclosure of PHI received from, or created or received by Business Associate on behalf of, the Company available to the Company or, at the request of the Company, to the Secretary or other regulatory official as directed by the Company, in a time and manner requested by the Company or such official for the purpose of determining the Company's or Business Associate's compliance with the HIPAA Regulations.

- (l) Business Associate agrees to implement administrative, physical, and technical safeguards (including written policies and procedures) that reasonably and appropriately protect the confidentiality, integrity, and availability of EPHI that it receives from, or creates or receives on behalf of, the Company as required by the Security Rule. Business Associate will ensure that any Agent or Subcontractor to whom Business Associate provides EPHI agrees to implement reasonable and appropriate administrative, physical and technical safeguards to reasonably and appropriately protect the confidentiality, integrity and availability of such EPHI. Business Associate agrees to comply with Sections 164.306, 164.308, 164.310, 164.312, and 164.316 of Title 45, Code of Federal Regulations with respect to all EPHI.
- (m) In conducting any electronic transaction that is subject to the Electronic Transactions Rule on behalf of the Company, Business Associate agrees to comply with all requirements of the Electronic Transactions Rule that would apply to the Company if the Company were conducting the transaction itself. Business Associate agrees to ensure that any Agent or Subcontractor of Business Associate that conducts standard transactions with PHI of the Company will comply with all of the requirements of the Electronic Transactions Rule that would apply to the Company if the Company were conducting the transaction itself.
- (n) Business Associate shall not disclose PHI to any member of its workforce unless Business Associate has advised such person of Business Associate's privacy and security obligations under this BAA, including the consequences for violation of such obligations. Business Associate shall take appropriate disciplinary action against any member of its workforce who uses or discloses PHI in violation of this BAA or applicable law.
- (o) Business Associate shall notify the Company of any Breach without unreasonable delay, and in no case later than one business day after Discovery of the Breach. Business Associate will require its Subcontractors and Agents to notify the Company of a Discovery of a Breach at the same time its Subcontractors and Agents notify the Business Associate and the following shall apply:
  - 1) Notice to the Company shall include, to the extent possible: (i) the names of the Individual(s) affected by the Breach; (ii) a brief description of what happened, including the date of the Breach and the date of the discovery of the Breach, if known; (iii) a description of the types of Unsecured PHI that were involved in the Breach; (iv) any steps affected Individuals should take to protect themselves from potential harm resulting from the Breach; (v) a description of what Business Associate is doing to investigate the Breach, to mitigate harm to the affected Individual(s), and to protect against further Breaches; (vi) any notice Business Associate has given pursuant to 45 CFR § 164.404 and (vii) any other information that the Company reasonably requests.
  - 2) After receipt of notice, from any source, of a Breach involving PHI used, disclosed, maintained, or otherwise possessed by Business Associate or any Subcontractor or Agent of Business Associate, the Company may: (i) require Business Associate, at Business



Associate's sole expense, to use a mutually agreed upon written notice to notify, on the Company's behalf, the affected Individual(s), in accordance with the notification requirements set forth in 45 CFR § 164.404, without unreasonable delay, but in no case later than sixty (60) days after discovery of the Breach; or (ii) elect to itself provide such notice. Business Associate shall indemnify, hold harmless, and defend the Company from and against any and all costs (including mailing, labor, administrative costs, vendor charges, and any other costs determined to be reasonable by the Company), losses, penalties, fines, and liabilities arising from or associated with the Breach, including without limitation, the costs of the Company's actions taken to: (i) notify the affected Individual(s) of and to respond to the Breach; (ii) mitigate harm to the affected Individual(s); (iii) respond to questions or requests for information about the Breach; and (iv) fines, damages or penalties assessed against the Company on account of the Breach of Unsecured PHI.

- (p) Business Associate shall not use or disclose PHI that is genetic information, or sell (or directly or indirectly receive remuneration in exchange for), any PHI in violation of 45 CFR §164.502(a)(5).
- (q) Business Associate shall not use or disclose PHI for Marketing or Fundraising purposes without prior written consent from the Company, subject to any conditions of such consent.

### **3. Permitted Uses and Disclosures by Business Associate**

- (a) Subject to this BAA and applicable law, Business Associate may use or disclose PHI in connection with functions, activities or services for, or on behalf of, the Company under the Agreement, provided that such use or disclosure would not violate the HIPAA Rules or the Company's own policies and procedures concerning compliance with the "minimum necessary" standard under 45 CFR § 164.502(b) if performed by the Company.
- (b) Business Associate may use and disclose PHI for the proper management and administration of Business Associate or to carry out the legal obligations of Business Associate, but only if:
  - 1) The disclosure is required by Law; or
  - 2) Business Associate receives reasonable assurances from any party to whom the PHI is disclosed that: (i) the PHI will be held confidentially by that party; (ii) the PHI will be used or further disclosed by that party only as required by law or for the purpose for which it was disclosed to that party; and (iii) the party agrees to notify Business Associate of any Breaches of which the party becomes aware.

### **4. Obligations of the Company**

- (a) The Company shall provide Business Associate with its notice of privacy practices produced in accordance with 45 CFR § 164.520 and any changes to such notice while this BAA is in effect.
- (b) The Company shall provide Business Associate with any changes in or revocation of permission by any Individual for use or disclosure of PHI if such change or revocation affects Business Associate's permitted or required uses and disclosures of the PHI.

- (c) The Company shall notify Business Associate of any restrictions on the use or disclosure of PHI that the Company have agreed to in accordance with 45 CFR § 164.522 to the extent that such restrictions affect Business Associate's use or disclosure of PHI.

**5. Term and Termination**

- (a) This BAA shall be effective as of the Effective Date and shall terminate when all PHI provided is destroyed or returned to the Company, or, if it is infeasible to return or destroy PHI, as long as protections are extended to such PHI in accordance with (c)(2).
- (b) Upon the Company obtaining knowledge of a material breach or violation of this BAA by Business Associate, the Company shall take one of the following actions:
  - 1) If the Company determines that the breach or violation is curable, the Company shall provide an opportunity for Business Associate to cure the breach or end the violation within a reasonable time period set by the Company, which shall not exceed 90 days. If the breach or violation is not cured or ended within the time set by the Company, the Company may: (i) immediately terminate this BAA and the Agreement; or (ii) suspend performance by the Company under the Agreement until such breach or violation is cured.
  - 2) If the Company determines that the breach or violation is not curable, the Company may immediately terminate this BAA and the Agreement.
  - 3) If the Company determines that neither a termination of this BAA and the Agreement nor a cure of a breach or violation is feasible, the Company may take such other appropriate actions to remedy, correct or mitigate the breach or violation as the Company shall determine.
  - 4) In addition to the forgoing, the Company may immediately terminate this BAA and the Agreement if the Company determines that Business Associate has violated a material term of this BAA concerning the Security Rule.

(c) Effect of Termination.

- 1) Except as provided in paragraph (c) (2), upon termination of this BAA for any reason, Business Associate shall return or destroy all PHI in possession of Business Associate, its Agents or Subcontractors. Business Associate, its Agents and Subcontractors shall retain no copies of the PHI.
- 2) In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide to the Company notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the parties that return or destruction of PHI is infeasible, Business Associate shall extend the protections of this BAA to such PHI (including PHI held by Agents or Subcontractors of Business Associate) and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate, its Agents or

Subcontractors maintain such PHI.

## **6. Indemnification**

Business Associate agrees to indemnify and hold harmless the Company from direct losses and damages suffered as a result of Business Associate's breach of its obligations under this BAA, including but not limited to direct losses and damages relating to third party claims. The obligations under this Section 6 regarding indemnification will survive any expiration or termination of this BAA.

## **7. Miscellaneous**

- (a) A reference in this BAA to a section in the HIPAA Rules means the section as in effect or as amended, and for which compliance is required.
- (b) The Parties agree to take such action as is necessary to amend this BAA from time to time for the Company to comply with the requirements of the HIPAA Rules and the Health Insurance Portability and Accountability Act, Public Law 104-191, as amended.
- (c) The respective rights and obligations of Business Associate under Section 5 of this BAA shall survive the termination of this BAA.
- (d) Any ambiguity in this BAA shall be resolved in favor of a meaning that permits the Company to comply with the HIPAA Rules and other applicable law. The section and paragraph headings of this BAA are for the convenience of the reader only, and are not intended to act as a limitation of the scope or meaning of the sections and paragraphs themselves.
- (e) Subject to the following, this BAA shall not be assigned or otherwise transferred by a party without the prior written consent of the other party, which consent shall not be unreasonably withheld. However, no such consent shall be required for either party's assignment or transfer of this BAA in connection with a merger, sale or transfer of all or substantially all of the business or assets of the assigning party.
- (f) The invalidity of any term or provision of this BAA will not affect the validity of any other provision. Waiver by any party of strict performance of any provision of this BAA will not be a waiver of or prejudice any party's right to require strict performance of the same provision in the future or of any other provision on the same or any other occasion.
- (g) Any notices permitted or required by this BAA will be addressed to the receiving party at the address shown at the top of this BAA or at such other address as either party may provide to the other.
- (h) This BAA may be executed in multiple counterparts, all of which together will constitute one agreement, even though all parties do not sign the same counterpart.
- (i) To the extent of any inconsistency between any other agreement between the parties and this BAA, the provisions of this BAA shall prevail.

(j) This BAA supersedes any other business associate agreement in effect among or between the parties to this BAA.

IN WITNESS WHEREOF, the parties have caused this Business Associate Agreement to be executed on their behalf by their duly authorized representatives' signatures as of the dates set forth below.

**THE COMPANY**

**CAREOREGON, INC.**

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

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

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

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

**BUSINESS ASSOCIATE**

**CLACKAMAS COUNTY**

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

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

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

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

## EXHIBIT G

### DATA SECURITY REQUIREMENTS

1. CareOregon Data. CareOregon Data is defined as all confidential and proprietary business information including but not limited to contract payment terms, business relationships, potential collaborations, trade secrets, payor lists, Personal Information (as defined in ORS 646A.602(12)), Protected Health Information (as defined in 45 C.F.R § 160.103), information considered confidential and restricted under other Oregon State and Federal laws, databases, strategic and financial information and other business information, the unauthorized disclosure or use of which will be highly injurious to CareOregon and its business and its relationships in amounts not readily ascertainable.
2. Security Program. Subcontractor agrees to at all times maintain a well-documented security program that conforms to generally recognized industry standards, employ the use of at least one recognized security framework for its operations, and abide by all applicable laws or regulations. The security program must at a minimum include
  - a. Oversight and management of technologies used to protect CareOregon data,
  - b. Proactive identification and addressing of vulnerabilities,
  - c. Periodic testing of security controls, and
  - d. Detection of and response to security events.
3. Backup and Retrieval. Subcontractor shall be responsible for the commercially reasonable and prudent infrastructure and maintenance of the infrastructure to provide the herein described Work. This includes, but is not limited to database backups, application backups, OS patches and upgrades, database patches and upgrades, power supply, network security, etc.
4. Third-Party Audits. Subcontractor agrees that a SSAE 18 audit certification (SSAE 18, issued by the American Institute of Certified Public Accountants) will be conducted annually, and Subcontractor agrees to provide CareOregon with the current SSAE 18 SOC2 Type II audit certification upon CareOregon's request.
5. CareOregon Audits. At any time during the term of the Contract CareOregon may independently, at its own expense, perform an audit or review of the security of Subcontractor's systems used to store, transmit, or process CareOregon Data. Subcontractor agrees to respond to all reasonable requests for documentation in the execution of that audit, such as security program documentation, system security plans (SSP), architectural or technical diagrams, security policies and procedures, internal risk assessments, and other third-party security audits and/or assessments. CareOregon may issue findings or corrective actions to the Subcontractor as an outcome of the audit. Subcontractor agrees to review, respond, and remediate the findings in good faith. Any audit requests by CareOregon must be completed in a timely manner not exceeding 30 days from date of request.
6. Data Security. Subcontractor agrees to preserve the confidentiality, integrity, and accessibility of CareOregon Data with administrative, technical, and physical measures that conform to generally recognized industry standards and best practices. Maintenance of a secure processing environment includes but is not limited to the timely application of patches, fixes, and updates to operating systems and applications as provided by software vendor or open-source software support.

7. Data Storage. Subcontractor agrees that any and all CareOregon Data will be stored, processed, and maintained solely on designated target servers in accordance with “Data Location” below. CareOregon Data must be encrypted while at rest, and in accordance with “Data Encryption Standard” below. Unless agreed to in writing, at no time will CareOregon Data be processed on or transferred to any portable or laptop computing device or any portable storage medium, unless that device or storage medium is in use as part of the Subcontractor’s designated backup and recovery processes and is encrypted in accordance with “Data Encryption Standard” below.
8. Data Location. Unless otherwise stated in the Scope of Work and approved in advance by CareOregon, the Subcontractor will limit the storage and transmission of CareOregon Data to data centers and network paths physically located in the continental United States. This includes the Subcontractor’s own data center assets and any third party or subcontracted “cloud” services used by the Subcontractor to provide services to CareOregon.
9. Data Encryption Standard. Subcontractor agrees to encrypt all CareOregon Data regardless of location using commercially supported encryption solutions. Subcontractor agrees that all designated backup and recovery processes maintains data in encrypted form, including on recovery media. The Subcontractor shall ensure physical storage encryption modules are consistent with FIPS 140-2 “Security Requirements for Cryptographic Modules”. Encryption algorithms will meet or exceed the standards defined in NIST SP 800-57 Part 3 “Recommended Key Sizes and Algorithms” and at a minimum will be deployed with no less than a 256-bit key length for symmetric encryption and a 2048-bit key length for asymmetric encryption.
10. Data Transmission. Subcontractor agrees that any and all electronic transmission of CareOregon data unless initiated by CareOregon, shall be transmitted in an encrypted state using encryption per Data Encryption Standard above, and take place solely in accordance with “Data Re-Use” below.
11. Data Re-Use. Subcontractor agrees that data exchanged shall be used expressly and solely for the purposes enumerated in this Contract. Data shall not be distributed, repurposed, or shared across other applications, environment, or business units of Subcontractor, except as required by Subcontractor to support care coordination. Subcontractor further agrees that no CareOregon Data of any kind shall be transmitted, exchanged, or otherwise passed to other providers or interested parties except on a case-by-case basis as specifically agreed to in writing by CareOregon unless the disclosure is related to compliance with the Interoperability and Patient Access final rule.
12. Non-disclosure and Separation of Duties. The Subcontractor shall enforce separation of job duties, require commercially reasonable non-disclosure agreements, and limit staff knowledge of CareOregon Data to that which is absolutely necessary to perform job duties.
13. Data Breach. The Parties agree to shall provide notice, either orally or in writing, of any known, actual, or suspected compromise of the security, confidentiality, or integrity of CareOregon Data (“Data Breach”). Such notice shall be made as promptly as possible under the circumstances and without unreasonable delay of any Data Breach, but in no event more than one (1) business day after the Party reasonably believes there has been a Data Breach. The Parties shall use commercially reasonable efforts to contain such Data Breach and provide the other Party with a detailed report that includes: (i) the nature of the unauthorized use or disclosure, (ii) the CareOregon Data used or disclosed, (iii) who made the unauthorized use or received the unauthorized disclosure, (iv) what the Party has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure, and (v) what corrective action the

Party has taken or shall take to prevent future similar unauthorized use or disclosure. The Party shall provide the other Party with all reasonably available information regarding such Data Breach and provide supplemental information as it is discovered.

The Party may need to communicate with outside parties regarding a Data Breach, which may include contacting law enforcement, fielding media inquiries and seeking external expertise as mutually agreed upon, defined by law or contained in the Contract. Discussing Data Breaches with the other Party should be handled on an urgent as needed basis, as part of the Party's communication and mitigation processes as mutually agreed upon, defined by law, or contained in the Agreement.

The Party shall (1) cooperate with the other Party as reasonably requested to investigate and resolve the Data Breach, (2) promptly implement necessary remedial measures, if necessary, and (3) document responsive actions taken related to the Data Breach, including any post-incident review of events and actions taken to make changes in business practices in providing the Work, if necessary.

Unless otherwise stipulated, if a Data Breach is a direct result of the other Party's breach of its contractual obligation to encrypt personal data or otherwise prevent its release as reasonably determined by the other Party, the Party shall bear the costs associated with (1) the investigation and resolution of the Data Breach; (2) notifications to individuals, regulators or others required by federal and state laws or as otherwise agreed to; (3) a credit monitoring service required by state (or federal) law or as otherwise agreed to; (4) a website or a toll-free number and call center for affected individuals required by federal and state laws - all not to exceed the average per record per person cost calculated for data breaches in the United States in the most recent Cost of Data Breach Study: Global Analysis published by the Ponemon Institute at the time of the Data Breach; and (5) complete all corrective actions as reasonably determined by Subcontractor based on root cause.

14. Damages. Notwithstanding any other provision in this Contract, Subcontractor shall indemnify, hold harmless, and defend CareOregon from and against any and all costs (including without limitation, mailing, labor, administrative costs, vendor charges), fines, liabilities, and corrective action (including without limitation, notification costs, forensics, credit monitoring services, call center services, identity theft protection services, and crisis management/public relations services) arising out of a Data Breach that is caused by the Subcontractor.

15. Rights to Data. Subcontractor and CareOregon agree that as between them, all rights, including all intellectual property rights, in and to CareOregon Data shall remain the exclusive property of CareOregon, and Subcontractor has a limited, non-exclusive license to access and use CareOregon Data as provided to Subcontractor solely for performing its obligations under the Contract. Nothing herein shall be construed to confer any license or rights.

16. End of Agreement Data Handling. Subcontractor agrees that upon termination of the Contract it shall erase, destroy, and render unrecoverable all CareOregon Data and certify in writing that these actions have been completed within thirty (30) days of the termination of the Contract or within seven (7) days of the request of the CareOregon Contract Administrator, whichever comes first. At a minimum a "Clear" media sanitation is to be performed according to the standards enumerated by the National Institute of Standards, Guidelines for Media Sanitation, SP800-88, Appendix A (csrc.nist.gov). For those Subcontractors who are a public entity, all end of Agreement data handling is subject to record retention requirements.

17. Subcontractors. Subcontractor shall require all subcontractors that have access to CareOregon Data comply with these CareOregon Data Security Requirements. Upon request by CareOregon, Subcontractor shall disclose to CareOregon all subcontractors or service providers that have access to CareOregon Data.

18. Legally Required Disclosures. If Subcontractor is required to disclose CareOregon Data pursuant to the order of a court or administrative body of competent jurisdiction or a government agency, Subcontractor shall: (i) if practicable and permitted by law, notify CareOregon prior to such disclosure, and as soon as possible after such order; (ii) cooperate with CareOregon (at CareOregon's costs and expense) in the event that CareOregon elects to legally contest, request confidential treatment, or otherwise attempt to avoid or limit such disclosure; and (iii) limit such disclosure to the extent legally permissible.

19. Subcontractor shall provide to CareOregon relevant contact information for a Subcontractor employee who CareOregon may contact any time should any security related questions, or concerns arise.



# Financial Assistance Application Lifecycle Form

Use this form to track your potential award from conception to submission.

Sections of this form are designed to be completed in collaboration between department program and fiscal staff.

**If renewal or direct appropriation, complete sections I, II, IV & V only. Section III is not required.**

**If Disaster or Emergency Relief Funding, EOC will need to approve prior to being sent to the BCC**

**\*\*CONCEPTION\*\***

## Section I: Funding Opportunity Information - To Be Completed by Requester

Direct Appropriation (no application)

Award type:  Subrecipient Award  Direct Award

Award Renewal?  Yes  No

<b>Lead Fund # and Department:</b>	240 - H3S Behavioral Health
<b>Name of Funding Opportunity:</b>	2024 Behavioral Health Delegation Agreement

Funding Source:  Federal – Direct  Federal – Pass through  State  Local

Requestor Information: (Name of staff initiating form)	Mary Rumbaugh
Requestor Contact Information:	MaryRum@clackamas.us; 503-742-5305
Department Fiscal Representative:	Kim Russell; KRussell@clackamas.us; 503-742-5318
Program Name & Prior Project #: (please specify)	Care Coordination and Intensive Care Coordination

Brief Description of Project:

The 2024 Behavioral Health Delegation Agreement provides funding certain behavioral health services - Care Coordination and Intensive Care Coordination.

Name of Funding Agency: CareOregon, Inc.

Notification of Funding Opportunity Web Address: CareOregon, Inc., 315 SW Fifth Avenue, Portland, OR 97204

**OR**

Application Packet Attached: Yes  No

Completed By: Angela Russell Date: October 31, 2023

**\*\* NOW READY FOR SUBMISSION TO DEPARTMENT FISCAL REPRESENTATIVE \*\***

## Section II: Funding Opportunity Information - To Be Completed by Department Fiscal Rep

Competitive Application  Non-Competing Application  Other

Assistance Listing Number (ALN), if applicable:	N/A	Funding Agency Award Notification Date:	November 28, 2023
Announcement Date:	N/A	Announcement/Opportunity #:	N/A
Grant Category/Title	N/A	Funding Amount Requested:	\$1,251,648.00
Allows Indirect/Rate:	Yes	Match Requirement:	No
Application Deadline:	N/A	Total Project Cost:	\$1,251,648.00
Award Start Date:	January 1, 2024	Other Deadlines and Description:	
Award End Date	December 31, 2024		
Completed By:	Kim Russell	Program Income Requirements:	N/A
Pre-Application Meeting Schedule:	N/A		

Additional funding sources available to fund this program? Please describe:  
Oregon Health Authority provides funding for Non-Medicaid member Care Coordination.

How much General Fund will be used to cover costs in this program, including indirect expenses?  
No General Fund will be used.

How much Fund Balance will be used to cover costs in this program, including indirect expenses?  
No Fund Balance will be used to support this program.

In the next section, limit answers to space available.

**Section III: Funding Opportunity Information** - To Be Completed at Pre-Application Meeting by Dept Program and Fiscal Staff

**Mission/Purpose:**

1. *How does the grant/funding opportunity support the Department and/or Division's Mission/Purpose/Goals?*

2. *Who, if any, are the community partners who might be better suited to perform this work?*

3. *What are the objectives of this funding opportunity? How will we meet these objectives?*

4. *Does the grant/financial assistance fund an existing program? If yes, which program? If no, what is the purpose of the program?*

**Organizational Capacity:**

1. *Does the organization have adequate and qualified staff? If no, can staff be hired within the grant/financial assistance funding opportunity timeframe?*

2. *Are there partnership efforts required? If yes, who are we partnering with and what are their roles and responsibilities?*

3. *If this is a pilot project, what is the plan for sun setting the project and/or staff if it does not continue (e.g. making staff positions temporary or limited duration, etc.)?*

4. *If funded, would this grant/financial assistance create a new program, does the department intend for the program to continue after initial funding is exhausted? If yes, how will the department ensure funding (e.g. request new funding during the budget process, supplanted by a different program, etc.)?*

**Collaboration**

1. List County departments that will collaborate on this award, if any.

**Reporting Requirements**

1. What are the program reporting requirements for this grant/funding opportunity?

2. How will performance be evaluated? Are we using existing data sources? If yes, what are they and where are they housed? If not, is it feasible to develop a data source within the grant timeframe?

3. What are the fiscal reporting requirements for this funding?

**Fiscal**

1. Are there other revenue sources required, available, or will be used to fund the program? Have they already been secured? Please list all funding sources and amounts.

2. For applications with a match requirement, how much is required (in dollars) and what type of funding will be used to meet it (CGF, In-kind, local grant, etc.)?

3. Does this grant/financial assistance cover indirect costs? If yes, is there a rate cap? If no, can additional funds be obtained to support indirect expenses and what are those sources?

Other information necessary to understand this award, if any.

Program Approval:

Name (Typed/Printed)	Date	Signature
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<b>** NOW READY FOR PROGRAM MANAGER SUBMISSION TO DIVISION DIRECTOR **</b>
<b>**ATTACH ANY CERTIFICATIONS REQUIRED BY THE FUNDING AGENCY. COUNTY FINANCE OR ADMIN WILL SIGN**</b>

**Section IV: Approvals**

DIVISION DIRECTOR (or designee, if applicable)

Mary Rumbaugh

11.28.2023

Mary Rumbaugh

Digitally signed by Mary Rumbaugh  
Date: 2023.11.28 16:23:32 -08'00'

Name (Typed/Printed)

Date

Signature

DEPARTMENT DIRECTOR (or designee, if applicable)

Adam Brown

Nov 30, 2023

  
Adam Brown (Nov 30, 2023 20:39 PST)

Name (Typed/Printed)

Date

Signature

FINANCE ADMINISTRATION

Elizabeth Comfort

Dec 1, 2023



Name (Typed/Printed)

Date

Signature

EOC COMMAND APPROVAL **WHEN NEEDED FOR DISASTER OR EMERGENCY RELIEF APPLICATIONS ONLY**

Name (Typed/Printed)

Date

Signature

**Section V: Board of County Commissioners/County Administration**

(Required for all grant applications. If your grant is awarded, all grant awards must be approved by the Board on their weekly consent agenda regardless of amount per local budget law 294.338.)

**For applications \$150,000 and below:**

COUNTY ADMINISTRATOR	Approved:	Denied:
Name (Typed/Printed)	Date	Signature

**For applications up to and including \$150,000 email form to Tracy Moreland at [TracyMor@clackamas.us](mailto:TracyMor@clackamas.us) for Gary Schmidt's approval.**

**For applications \$150,000.01 and above, email form with Staff Report to the Clerk to the Board at [ClerktotheBoard@clackamas.us](mailto:ClerktotheBoard@clackamas.us) to be brought to the consent agenda.**

BCC Agenda item #:

Date:

**OR**

Policy Session Date:

County Administration Attestation

County Administration: re-route to department at  
and  
Grants Manager at [financegrants@clackamas.us](mailto:financegrants@clackamas.us)  
when fully approved.

Department: keep original with your grant file.

## Russell, Angela

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**From:** Foreman, Sarah  
**Sent:** Wednesday, November 29, 2023 12:28 PM  
**To:** Russell, Angela  
**Cc:** Counsel Contract Review; Rumbaugh, Mary; H3S - Director's Office - Contracts  
**Subject:** RE: \*\*FOR REVIEW\*\* Contract #11383 - CareOregon, Inc.  
**Attachments:** H3SBHCareOregonInc11383 2024 Delegation Agreement FINAL.docx

Hello,

I did the best I could going line by line, but there appear to be a lot of subtle changes. Is it possible to get a redline version from CareOregon in the future? I'm assuming you reviewed and noted all the changes and are ok with them. If you are, I approve. Attached I highlighted areas or made comments where I noticed differences in the contract.

Sarah

### *Sarah Foreman*

Assistant County Counsel  
Clackamas County  
2051 Kaen Rd., Oregon City, OR 97045  
P. 503.655.8363 Fax 503.742.5397  
Hours of Operation: Mon-Thurs 7am – 6pm  
[www.clackamas.us](http://www.clackamas.us)

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**From:** Russell, Angela <ARussell@clackamas.us>  
**Sent:** Tuesday, November 28, 2023 4:21 PM  
**To:** Foreman, Sarah <SForeman@clackamas.us>  
**Cc:** Counsel Contract Review <Counsel-Review@clackamas.us>; Rumbaugh, Mary <MaryRum@clackamas.us>; H3S - Director's Office - Contracts <H3S-Director'sOffice-Contracts@clackamas.us>  
**Subject:** \*\*FOR REVIEW\*\* Contract #11383 - CareOregon, Inc.

Hi Sarah,

Attached for your review please find Contract #11383 with CareOregon, Inc. The attached is the final version of our 2024 Behavioral Health Delegation Agreement.

Also attached, for your reference, please find the executed 2023 BH Delegation Agreement.

Should there be any questions please let us know.

Thank you.

**Angie Russell, Contracts Coordinator**

Pronouns: she/her/hers

Behavioral Health Division  
Clackamas County Health, Housing and Human Services Department  
2051 Kaen Road, Oregon City, OR 97045  
503-742-5316 Office  
971-806-4269 Cell  
Hours of operation: Mon-Thu, 7 a.m.- 6 p.m.  
[www.clackamas.us](http://www.clackamas.us)

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