



Contract Number PO-10000-00044835

**STATE OF OREGON
PERSONAL/PROFESSIONAL SERVICES CONTRACT**

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

**Youth Unlimited Inc.
Mailing Address: PO Box 828
Physical Address: 121 E Historic Columbia River Hwy
Troutdale, OR 97060
Attention: April Johnson
Telephone: 503-890-0440
E-mail address: ajohnson@yuioregon.net**

hereinafter referred to as “Contractor.”

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

**Office of Child Welfare Programs
Treatment Services
500 Summer Street NE
Salem, OR 97301
Contract Administrator: Susana Dietrich or delegate
Telephone: 503-779-4144
E-mail address: susana.a.dietrich@odhs.oregon.gov**

1. **Effective Date and Duration.** This Contract shall become effective on the later of: (I) the last date all required signatures in Section 6., below have been obtained, or (II) **August 1, 2025** provided it is (i) signed by all parties on or before such date, and (ii) when required, approved in writing by the Oregon Department of Justice on or before such date, and (iii) when required, approved in writing by the Oregon Department of Administrative Services. Unless extended or terminated earlier in accordance with its terms, this Contract shall expire on **July 31, 2030**. Contract termination shall not extinguish or prejudice ODHS' right to enforce this Contract with respect to any default by Contractor that has not been cured.
2. **Contract Documents.**
 - a. This Contract consists of this document and includes the following listed exhibits which are incorporated into this Contract:
 - (1) Exhibit A, Part 1: Statement of Work
 - (2) Exhibit A, Part 2: Payment and Financial Reporting
 - (3) Exhibit A, Part 3: Special Provisions
 - (4) Exhibit B: Standard Terms and Conditions
 - (5) Exhibit C: Insurance Requirements

There are no other contract documents unless specifically referenced and incorporated into this Contract.
 - b. This Contract and the documents listed in Section 2., "Contract Documents", Subsection a. above, shall be in the following descending order of precedence: this Contract less all exhibits, Exhibits B, A, and C.
3. **Consideration.**
 - a. The maximum, not-to-exceed compensation payable to Contractor under this Contract, which includes any allowable expenses, is **\$843,200.00**. ODHS will not pay Contractor any amount in excess of the not-to-exceed compensation of this Contract for completing the Work, and will not pay for Work performed before the date this Contract becomes effective or after the termination or expiration of this Contract. If the maximum compensation is increased by amendment of this Contract, the amendment must be fully effective before Contractor performs Work subject to the amendment.
 - b. Payments to Contractor shall be subject to ORS 293.462, and shall be made in accordance with the payment schedule and requirements in Exhibit A, Part 2., "Payment and Financial Reporting."
 - c. ODHS will only pay for completed Work under this Contract. For purposes of this Contract, "Work" means the tasks or services and deliverables accepted by ODHS as described in Exhibit A, Part 1, "Statement of Work."
4. **Contractor Determination.** In accordance with the State Controller's Oregon Accounting Manual, policy 30.40.00.104, ODHS' determination is that:
☐ Contractor is a contractor ☒ Not applicable
Assistance Listings number(s) of federal funds to be paid through this Contract: N/A

5. Contractor Information and Certification.

- a. Contractor Information.** This information is requested pursuant to ORS 305.385 and OAR 125-246-0330(1).

PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION

Contractor Name (exactly as filed with the IRS): Youth Unlimited Inc.

Street address: 121 E Historic Columbia River Hwy

City, state, zip code: Troutdale, OR 97060

Email address: ajohnson@yuioregon.net

Telephone: () 5038900440 **Fax:** ()

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

Business Designation. (Check one box):

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

Contractor Proof of Insurance. Contractor shall provide the following information upon submission of the signed Contract. All insurance listed herein and required by Exhibit C must be in effect prior to Contract execution.

Commercial General Liability Insurance Company: Pennsylvania Manufactures Association Insurance

Policy #: 8224011426568 **Expiration Date:** 12/1/2025

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

Workers' Compensation Insurance Company: SAIF

Policy #: 885945 **Expiration Date:** 8/1/2026

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

- (1) Contractor is in compliance with all insurance requirements in Exhibit C of this Contract, and notwithstanding any provision to the contrary, Contractor shall deliver to the ODHS Contract Administrator (see page one of this Contract) the required Certificate(s) of Insurance within 30 days of execution of this Contract. By certifying compliance with all insurance as required by this Contract, Contractor acknowledges it may be found in breach of the Contract for failure to obtain required insurance. Contractor may also be in breach of the Contract for failure to provide Certificate(s) of Insurance as required and to maintain required coverage for the duration of the Contract;

- (2) Contractor acknowledges that the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any “claim” (as defined by ORS 180.750) that is made by (or caused by) the Contractor and that pertains to this Contract or to the project for which the Contract work is being performed. Contractor certifies that no claim described in the previous sentence is or will be a “false claim” (as defined by ORS 180.750) or an act prohibited by ORS 180.755. The Oregon Attorney General may enforce the liabilities and penalties provided by the Oregon False Claims Act against the Contractor, in addition to any remedies that may be available to ODHS under this Contract;
- (3) The undersigned is authorized to act on behalf of Contractor and represents and warrants that Contractor has complied with the tax laws of the State of Oregon and the applicable tax laws of any political subdivision of Oregon. Contractor shall, throughout the duration of this Contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of Oregon. For the purposes of this Section, “tax laws” includes: (i) All tax laws of Oregon, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318; (ii) Any tax provisions imposed by a political subdivision of Oregon that applied to Contractor, to Contractor’s property, operations, receipts, or income, or to Contractor’s performance of or compensation for any work performed by Contractor; (iii) Any tax provisions imposed by a political subdivision of Oregon that applied to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor; and (iv) Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

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

- (4) The information shown in Section 5.a., “Contractor Information” above is Contractor’s true, accurate and correct information;
- (5) To the best of the undersigned’s knowledge, Contractor has not discriminated against and will not discriminate against minority, women or emerging small business enterprises certified under ORS 200.055 in obtaining any required subcontracts;
- (6) Contractor and Contractor’s employees and agents are not included on the list titled “Specially Designated Nationals” maintained by the Office of

Foreign Assets Control of the United States Department of the Treasury and currently found at: <https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>;

- (7) Contractor is not listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal procurement or Non-procurement Programs" currently found at: <https://www.sam.gov/SAM>;
- (8) Contractor is not subject to backup withholding because:
 - (a) Contractor is exempt from backup withholding;
 - (b) Contractor has not been notified by the IRS that Contractor is subject to backup withholding as a result of a failure to report all interest or dividends; or
 - (c) The IRS has notified Contractor that Contractor is no longer subject to backup withholding; and
- (9) Contractor's Federal Employer Identification Number (FEIN) or Social Security Number (SSN) provided to ODHS is true and accurate. If this information changes, Contractor shall provide ODHS with the new FEIN or SSN within 10 days.

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

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

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

Youth Unlimited Inc.

By:

April Johnson Digitally signed by April Johnson
Date: 2025.07.15 14:53:48
-07'00'

Authorized Signature

CEO

Title

April Johnson

Printed Name

July 15, 2025

Date

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

By:

**Sara Fox, Treatment
Services Program Manager** Digitally signed by Sara Fox,
Treatment Services Program
Manager
Date: 2025.07.21 07:53:49 -07'00'

Authorized Signature

Printed Name

Title

Date

Approved by the Oregon Department of Administrative Services:

Exempt per OAR 125-246-0170(2)

Authorized Signature

Title

Date

Approved for Legal Sufficiency:

Approved via e-mail by Jeffrey J. Wahl, Assistant Attorney General
Oregon Department of Justice

July 15, 2025
Date

EXHIBIT A

Part 1 Statement of Work

1. Purpose.

The purpose of this Contract is for the development and implementation of an Individual Residential Care (IRC) program that is a licensed Child Caring Agency (CCA) pursuant to Oregon Administrative Rule (OAR) 419-400-0005 through OAR 419-400-0310.

Once the development phase has been completed, this Contract will be amended to add the Services for the implementation phase.

2. Definitions. For purposes of this Exhibit A, Part 1, “Statement of Work”,

- a. “Client”** means the Child Welfare participant, adult or child, who is receiving the services under this Contract.
- b. “Temporary Lodging”** means when no placement can be found for children and young adults, and they stay overnight in a hotel with ODHS Child Welfare staff, while ODHS works to resolve the placement crisis.

3. Services to be Provided.

a. Development and Implementation.

Contractor shall develop and implement an Individual Residential Care (IRC) program that is designed to support children and young adults ranging from ages 5 through 20:

- (1)** Who are in the care and custody of ODHS; and
- (2)** Have extraordinary needs that require specialized one on one care.

b. IRC Program Requirements.

Contractor’s IRC program shall:

- (1)** Have the ability to accept all referrals made by ODHS for children ages 5-17 and young adults ages 18-20, for all genders.
- (2)** Serve one Client at a time, while working toward recommended care settings or until a more permanent plan can be achieved, or both.
- (3)** Have the ability to process admissions 24 hours a day, seven days a week and intake for placement within 24 hours of referral .
- (4)** Have a no reject policy, for any child or young adult that meets admission criteria, that will outline how the Contractor’s program will manage unknown needs of children or young adults entering the IRC program.
- (5)** Have a minimal eject policy, approved by ODHS, limited to escalation to detention, closed custody or a hospitalization setting with no more than 5% of Clients ejected in a 12-month period. Contractor shall not prematurely discharge or eject Clients from the program. The policy shall outline the procedure for welcoming Clients back to the placement setting

and managing behaviors after short absences. Exception to no eject requirements are:

- (a) The Client is recommended for psychiatric hospitalization and a bed is immediately available.
 - (b) Youth is incarcerated.
 - (c) Legal action prevents youth's return to the Contractor as a victim has been identified to work or live in the placement setting.
- (6) Have placement and care in a licensed residential building pursuant to OAR 419-470-000 through OAR 419-470-0180, operated in a facility-based structure or home-like setting that can meet Children's Care licensing program requirements.
 - (7) Have the ability to develop an individualized service plan within 48 hours of intake, that includes a safety plan and behavior management plan.
 - (8) Ensure the physical, emotional and financial safety of Clients in the IRC program.

c. IRC Program Staffing Requirements.

Contractor's IRC Program shall have the ability to:

- (1) Have employees to perform IRC services in the positions listed below, that meet or exceed the staff qualifications and competencies required by the Oregon Health Authority under OAR 309-022-0120 and 309-022-0125 as a Qualified Mental Health Associate (QMHA) as defined in OAR 309-019-0105(94), a Qualified Mental Health Professional (QMHP) as defined in OAR 309-019-0105(95), a Licensed QMHP, or a Licensed Medical Practitioner as appropriate for each role.
 - (a) Supervising Staff shall have a bachelors from an accredited college or University. Supervisor shall have two years of serving children with complex needs either in Child Welfare, Intellectual or Developmental Disabilities services or mental health settings. A combination of formal education and experience serving children may be substituted for a Bachelor's Degree.
 - (b) Direct care staff shall have a minimum of two-years' experience supporting children with complex needs.
 - (c) At least one staff member shall be designated to support family engagement including integration of family and natural supports, or both into case planning (visitation, supporting youth to develop and strengthen natural relationships, and flexibility in providing customized services to families) and decision making.
- (2) Have staff that are certified in a physical restraint model, as described in OAR 419-400-0170, to safely intervene when children or young adults place themselves or others in risk of imminent harm.

- (3) Have staff that have the ability for supervision and skilled interventions, knowledge or expertise in supports related to those who have the following potential needs:
 - (a) Psychiatric needs or instability (does not include the provision of psychiatric treatment services) which may include self-harm and suicidality;
 - (b) Serious aggression requiring physical interventions; and
 - (c) Intellectual and developmental disabilities, or both.
- (4) Maintain staffing based on the individual Client's needs with the ability to meet up to a 3 (staff):1 (child and young adult) ratio requirement.
- (5) Maintain staff infrastructure and program operations to allow placement for one Client at all times during periods of vacancy.

d. Service Requirements.

Contractor shall have the ability to:

- (1) Ensure all Services shall be individualized, and both inclusive of, and attentive to the following:
 - (a) A range of ages;
 - (b) Cultural identities;
 - (c) Sexual orientation; and
 - (d) Gender identity and expression.
- (2) Coordinate Services with other providers and professionals to collaborate on strengths, needs and supports of Client. This includes facilitating, coordinating and scheduling medical and mental health and clinical services, or both, and providing transportation to appointments.
- (3) Develop individualized service plans designed to meet a Client's comprehensive needs such as activities of daily living, enhanced supervision and medical needs.
- (4) Complete a comprehensive assessment developed within 30 days of placement. This will document the Client's needs, strengths, team or family or both, goals, discharge planning and transition planning.
- (5) Perform services within a trauma-informed, therapeutic environment.

e. Case Planning and Transition Planning.

- (1) Contractor shall participate in quarterly placement redetermination staffing facilitated by the ODHS;
- (2) Contractor shall develop a Transition Plan describing how the Client will successfully transition from its program to the recommended level of care or into the community and identify the aftercare services that shall be

provided following discharge. The plan should be individualized, including the following categories at minimum:

- (a) Personal Growth & Social Development;
- (b) Family Support & Healthy Relationships;
- (c) Home safety and community safety;
- (d) Ongoing outpatient services;
- (e) Education; and
- (f) Respite and other supports required to meet the child or young adult's ongoing needs while focusing on the first 6 months of discharge and the services necessary to help the children and young adults achieve their goals.

- (3) Contractor shall provide discharge supports for 180 days after discharge which can include but not limited to training and/or coaching based skill development to support the aftercare resource's ability to meet the needs of the Client.

4. Program Outcomes.

Contractor's IRC program will be evaluated during the initial two-year period of operation to assess success of implementation and determine sustainability. The following program outcomes will be reviewed:

- a. Number of Clients discharging from Contractor's IRC program to Temporary Lodging including situations where Client enters an intermediate placement at an Emergency Department and then transition to Temporary Lodging.
- b. If treatment plans reflect permanency planning that is practical and actionable.
- c. If integrated collaboration with the child and family team occurred. Example: service plans are co-created (portions authored) by the Client, family, caseworker.
- d. If Contractor strengthened and supported the development of community and natural supports.
- e. Number of children and young adults accepted to the program and if it occurred in a timely and thoughtful manner without unnecessary stays in Temporary Lodgings being used during the referral process.
- f. Contractor's annual report to provide recommendation for system change based on advocacy for and exhausting all available community supports for the individual needs of Clients serviced.

Contractor shall create key performance indicators based on outcome goals above to demonstrate achievement that ODHS will use as part of evaluation.

5. Start-up Costs.

- a. ODHS will provide a one-time start-up payment to Contractor upon execution of this Contract and a completed invoice pursuant to Exhibit A, Part 2., "Payment and Financial Reporting". Contractor shall use the start-up funds only for the purchase and development of a residential property to be licensed by CCLP, vehicle lease and administration expenses that are directly associated with the implementation of an IRC program under this Contract in preparation for ODHS Client placement on approximately December 1, 2025. Start-up funds must be spent by October 31, 2025, after execution of this Contract. Any remaining start-up funds, not spent by October 31, 2025, must be returned to ODHS within 45 calendar days after October 31, 2025. If Contractor places the start-up funds in an interest-bearing account for any length of time prior to use as outlined in this Contract, Contractor shall account for any earned interest on those funds and apply such earned interest towards its IRC program costs. Contractor shall include in its Reimbursement Report all such interest earned and application to its IRC program costs.
- b. As a condition of receiving the startup funding, Contractor shall serve children or young adults solely within Child Welfare custody and care for a minimum of ten years. If Contractor does not provide placement services solely within Child Welfare custody and care referred by Child Welfare for a minimum of ten years, Contractor must repay the residence purchase start-up funds in the amount listed below as liquidated damages based on the length of time Contractor has provided the services required under this Contract as follows:

Less than 2 years	\$440,403.00
At least 2 years but less than 4 years	\$334,160.00
At least 4 years but less than 6 years	\$318,645.00
At least 6 years but less than 8 years	\$210,800.00
More than 8 years but less than 10 years	\$105,400.00

For purposes of this subsection and calculation of when services begin, the time period begins on the date when the first child or young adult is placed with the Contractor. If no individuals are placed with Contractor prior to the termination of this Contract, the time period begins upon the Effective Date of this Contract. Repayment must be made within twenty-one days of Contract termination

This provision shall survive termination or expiration of the Contract.

- c. Contractor shall obtain a vehicle, and maintain the use of a vehicle for Contractor's IRC program for the duration of this Contract. ODHS will provide a one-time start-up payment to Contractor upon execution of this Contract and a completed invoice pursuant to Exhibit A, Part 2., "Payment and Financial Reporting". Contractor shall use the start-up funds only for the purchase or lease of a vehicle for the IRC program. The vehicle must be for the sole use of Contractor's IRC program under this Contract. If Contractor elects to lease the vehicle and the Contractor ends the lease early, for any reason, ODHS will not pay for any early termination fees, remaining lease payments, vehicle preparation

fees, market value adjustment, transfer fees, taxes, or any other charges related to early termination.

- (1) Contractor shall maintain the vehicle in good working condition, maintain full coverage insurance on the vehicle, and remain liable for its use, operation, and maintenance. This section shall survive Contract termination or expiration through May 10, 2030, provided the obligations of this Section have been satisfied.
- (2) The vehicle must contain working safety locks on all doors. This Section shall survive Contract termination or expiration through May 10, 2030, provided the obligations of this Section have been satisfied.
- (3) If any claims are brought against ODHS during Contractor's operation of the vehicle, Contractor agrees to indemnify the State of Oregon and ODHS pursuant to Exhibit B, "Standard Terms and Conditions", Section 9., "Indemnity". This Section shall survive Contract termination or expiration for as long as Contractor operates the vehicle.

6. Specifications or Performance Standards. ODHS requires that Contractor meets the highest standards prevalent in the industry or business most closely involved in providing the appropriate goods or services.

EXHIBIT A

Part 2 Payment and Financial Reporting

1. Payment Provisions.

a. Startup Funds.

Upon execution of this Contract, and a completed and submitted invoice, ODHS will disburse a one-time payment to Contractor for start-up costs in the amount of \$724,000 to be spent pursuant to Exhibit A, Part 1, "Statement of Work", Section 5., "Start-up Costs".

(1)	Residence purchase	\$ 660,000.00
(2)	Vehicle lease	\$ 32,000.00
(3)	Administration expenses	\$ 32,000.00

b. Reimbursable Expense payments.

(1) ODHS will reimburse Contractor for the allowable monthly expenses identified below and that are directly associated with the development and implementation of a new Individual Residential Care program. Upon ODHS' receipt and approval of Contractor's completed and submitted invoice and required monthly reimbursement reports, ODHS will reimburse Contractor for allowable monthly expenses as follows:

- (A) Consulting and contracting costs not to exceed \$18,500.
- (B) Facility preparation to include: household and office supplies; software; furniture and equipment not to exceed \$29,700.
- (C) Repairs and maintenance of the purchased home not to exceed \$71,000.

(2) Reimbursement Reports. Contractor shall prepare and submit written monthly reimbursement reports to the ODHS Contract Administrator via email that describes and documents in detail any start-up cost deposit interest earned, application of said interest to IRC Program costs, and the expenses for which Contractor wishes to be reimbursed. Monthly reimbursement reports must include an itemized list of actual costs, and the progress made toward opening the Individual Residential Care Program. Written monthly reimbursement reports are due by the 5th day of the month following the month the expenditures occurred. Contractor shall provide original receipts to ODHS upon request. Allowable monthly expenses include:

- (A) Consulting and contracting costs.
- (B) Facility preparation: household and office supplies; software; furniture and equipment.
- (C) Repairs and maintenance of the purchased home.

(2) **Contractor Invoice.**

Contractor shall send the invoice to ODHS' Contract Administrator at the address specified on page 1, or to any other address as ODHS may indicate in writing to Contractor. Contractor's claims to ODHS for overdue payments on invoices are subject to ORS 293.462.

EXHIBIT A

Part 3 Special Provisions

1. Confidentiality of Information.

a. Client Information.

- (1) All information as to personal facts and circumstances obtained by the Contractor on the client (“Client Information”) shall be treated as privileged communications, shall be held confidential, and shall not be divulged without the written consent of the client, his or her guardian, or the responsible parent when the client is a minor child, or except as required by other terms of this Contract. Nothing prohibits the disclosure of information in summaries, statistical, or other forms which does not identify particular individuals.
- (2) The use or disclosure of Client Information shall be limited to persons directly connected with the administration of this Contract. Confidentiality policies shall be applied to all requests from outside sources.
- (3) If Contractor, or any of its officers, directors, employees, agents, or subcontractors receives or has access to confidential Social Security Administration (SSA), or Federal Tax Information (FTI) records in the performance of Work under this Contract, Contractor shall comply, and ensure that all of Contractor’s officers, directors, employees, agents and subcontractors comply, with the following provisions:
 - (a) With respect to SSA records:
 - i. Provide a current list of employees and employees of any agent or subcontractor with access to SSA records;
 - ii. Adhere to the same security requirements as employees of ODHS;
 - iii. Abide by all relevant Federal laws, restrictions on access, use, disclosure, and the security requirements contained within ODHS’ agreement with SSA;
 - iv. Provide its employees and agents the same security awareness training as ODHS employees; and
 - v. Include the provisions of this Section 1.a.(3)(a) in any subcontract.
 - (b) With respect to Federal Tax Information (FTI), as defined in IRS Publication 1075:
 - i. Contractor and its officers, directors and employees with access to, or who use FTI provided by ODHS must meet the background check requirements defined in IRS Publication 1075;

- ii. Any FTI made available to Contractor shall be used only for the purpose of carrying out the provisions of this Contract. Contractor shall treat all information contained in FTI as confidential and that information shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this Contract. Inspection by or disclosure to anyone other than an officer or employee of the Contractor is prohibited;
 - iii. Contractor shall account for all FTI upon receipt and shall properly store all FTI before, during, and after processing. In addition, all FTI related output and products will be given the same level of protection as required for the source material;
 - iv. No work involving FTI furnished under this Contract will be subcontracted without prior written approval of the IRS;
 - v. Maintain a list of employees who are authorized access to FTI. Such list will be provided to ODHS and, upon request, to the IRS reviewing office; and
 - vi. Include the provisions of this Section 1.a.(3)(b) in any subcontract.
- (c) Failure to abide by any of the requirements in this subsection could result in criminal or civil penalties and result in termination of this Contract.
- (d) Contractor may be subjected to periodic and ongoing security reviews to ensure compliance with the requirements of Section 1.a.(3).
- (4) Except as prohibited by Section 1.a.(3) above, ODHS, Contractor and any subcontractor will share information as necessary to effectively serve ODHS clients.

b. Non-Client Information.

- (1) Each Party acknowledges that it and any of its officers, directors, employees and agents may, in the course of performing its responsibilities under this Contract, be exposed to or acquire information that is confidential to the other Party. To the extent permitted by law, any and all information of any form provided to a Party or its officers, directors, employees and agents in the performance of the Contract that reasonably could at the time of its disclosure be understood to be confidential shall be deemed to be confidential information of the originating Party (“Confidential Non-Client Information”).
- (2) Confidential Non-Client Information shall be deemed not to include information that:

- (a) Is or becomes (other than by disclosure by the Party acquiring such information) publicly known or is contained in a publicly available document except to the extent applicable law still restricts disclosure;
 - (b) Is furnished by the originating Party to others without restrictions similar to those imposed on the receiving Party under this Contract;
 - (c) Is rightfully in the receiving Party's possession without the obligation of nondisclosure prior to the time of its disclosure by the originating Party under this Contract;
 - (d) Is obtained from a source other than the originating Party without the obligation of confidentiality;
 - (e) Is disclosed with the written consent of the originating Party; or
 - (f) Is independently developed by the receiving Party's officers, directors, employees and agents who can be shown to have had no access to the Confidential Non-Client Information.
- (3) Nondisclosure. The receiving Party shall hold all Confidential Non-Client Information in strict confidence, using at least the same degree of care that it uses in maintaining the confidentiality of its own confidential information; and shall not sell, assign, license, market, transfer or otherwise dispose of, give or disclose Confidential Non-Client Information to third parties; shall not use Confidential Non-Client Information for any purposes whatsoever other than as contemplated by this Contract or reasonably related thereto; and shall advise any of its officers, directors, employees and agents that receive or have access to the Confidential Non-Client Information of their obligations to keep Confidential Non-Client Information confidential. These confidentiality obligations do not restrict disclosure of information otherwise qualifying as Confidential Non-Client Information if the receiving Party can show that either of the following conditions exists: (i) the information was disclosed in response to a subpoena or court order duly issued in a judicial or legislative process, in which case the receiving Party shall notify the originating Party of the subpoena five days prior to the disclosure, unless such notice could not reasonably be given; or (ii) the disclosure was required to respond to a request for the information made under the Oregon Public Records Law, ORS 192.311 to 192.478. The receiving Party shall notify the originating Party of a public records request five days prior to the disclosure.
- c. Upon request and pursuant to the instructions of ODHS, Contractor shall return or destroy all copies of Confidential Information, and Contractor shall certify in writing the return or destruction of all Confidential Information.
- d. "Client" means any individual, family or provider:

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

2. Amendments.

- a.** Subject to Section 2.c. below, ODHS reserves the right to amend or extend this Contract under the following general circumstances:
 - (1) ODHS may extend the Contract for additional periods of time up to a total Contract period of 5 years, and for additional money associated with the extended period(s) of time. The determination for any extension for time may be based on ODHS’ satisfaction with performance of the work or services provided by the Contractor under this Contract.
 - (2) ODHS may periodically amend any payment rates throughout the life of the Contract proportionate to increases in Portland Metropolitan Consumer Price Index; and to provide Cost Of Living Adjustments (COLA) if ODHS so chooses. Any negotiation of increases in rates to implement a COLA will be as directed by the Oregon State Legislature. In addition, ODHS may periodically amend any payment rates throughout the life of the Contract to meet current market conditions.
- b.** ODHS further reserves the right to amend the Statement of Work based on the original scope of work of RFA # **S-10000-00008917** for the following:
 - (1) Programmatic changes, additions or modifications deemed necessary to accurately reflect the original scope of work that may not have been expressed in the original Contract or previous amendments to the Contract;
 - (2) Implement additional phases of the Work; or
 - (3) As necessitated by changes in Code of Federal Regulations, Oregon Revised Statutes, or Oregon Administrative Rules, which, in part or in combination, govern the provision of services provided under this Contract.
- c.** Upon identification, by any party to this Contract, of any circumstance which may require an amendment to this Contract, the parties may enter into negotiations regarding the proposed modifications. Any resulting amendment must be in writing and be signed by all parties to the Contract before the modified or

additional provisions are binding on either party. All amendments must comply with Exhibit B, “Standard Terms and Conditions”, Section 24., “Amendments; Waiver; Consent.” of this Contract.

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

- a.** Contractor shall comply with, and cause its employees, agents and subcontractors to comply with, the applicable laws for mandatory reporting of abuse, including but not limited to abuse of the following classes of persons in Oregon:
 - (1) Children (ORS 419B.005 through 419B.045);
 - (2) Elderly Persons (ORS 124.055 through 124.065);
 - (3) Residents of Long Term Care Facilities (ORS 441.630 through 441.645);
 - (4) Adults with Mental Illness or Developmental Disabilities (ORS 430.735 through 430.743).
- b.** Contractor shall immediately make reports of suspected abuse of persons who are members of the classes established in Section 3.a. above to Oregon’s Statewide Abuse Reporting Hotline: 1-855-503-SAFE (7233) or local law enforcement, as a requirement of this Contract. The Contractor does not need to know abuse occurred, just suspect abuse, to be required to report.
- c.** In addition to the requirements of Sections 3.a. and 3.b. above, if law enforcement is notified regarding a report of child abuse, neglect, or threat of harm, Contractor shall also notify the local referring ODHS’ caseworker within 24 hours. If law enforcement is notified regarding a report of abuse of elderly, long term care facility residents, adults with mental illness or developmental disabilities, Contractor shall also notify the local Aging and People with Disabilities Office of ODHS within 24 hours.
- d.** If known, the abuse report must contain the following:
 - (1) The name and address of the abused person and any people responsible for that person’s care;
 - (2) The abused person’s age;
 - (3) The nature and the extent of the abuse, including any evidence of previous abuse;
 - (4) The explanation given for the abuse;
 - (5) The date of the incident; and
 - (6) Any other information that might be helpful in establishing the cause of the abuse and the identity of the abuser.

4. Reserved.

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

6. **Media Disclosure.** The Contractor will not provide information to the media regarding a recipient of services purchased under this Contract without first consulting the ODHS office that referred the child or family. The Contractor will make immediate contact with the ODHS office when media contact occurs. The ODHS office will assist the Contractor with an appropriate follow-up response for the media.
7. **Nondiscrimination.**
- a. The Contractor must provide services to ODHS clients without regard to race, religion, national origin, sex, age, marital status, sexual orientation or disability (as defined under the Americans with Disabilities Act). Contracted services must reasonably accommodate the cultural, language, and other special needs of clients.
 - b. Contractor certifies that Contractor has a written policy and practice that meets the requirements described in ORS 279A.112 for preventing sexual harassment, sexual assault, and discrimination against employees who are members of a protected class. Contractor agrees, as a material term of this Contract, to maintain such policy and practice in force during the entire Contract term.
 - c. As required by ORS 279B.235, Contractor must comply with ORS 652.220 and shall not unlawfully discriminate against any of Contractor's employees in the payment of wages or other compensation for work of comparable character on the basis of an employee's membership in a protected class. "Protected class" means a group of persons distinguished by race, color, religion, sex, sexual orientation, national origin, marital status, veteran status, disability, or age. Contractor's compliance with this Section constitutes a material element of this Contract and a failure to comply constitutes a breach that entitles ODHS to terminate this Contract for cause.
 - d. Contractor may not prohibit any of Contractor's employees from discussing the employee's rate of wage, salary, benefits, or other compensation with another employee or another person. Contractor may not retaliate against an employee who discusses the employee's rate of wage, salary, benefits, or other compensation with another employee or another person.
8. **Building Approvals.** Contractor shall provide documentation satisfactory to ODHS that Contractor has obtained all necessary approvals to conduct the Project and is permitted to complete the Project.
9. **Prevailing Wage Requirements.** The prevailing wage rate requirements that may apply to the Project are set forth in ORS 279C.800 through 279C.870, the administrative rules promulgated thereunder (OAR Chapter 839, Division 25) and Oregon Laws 2021, chapter 678, section 17 (collectively, "**PWR**"), or, when applicable, 40 U.S.C. 3141 et seq. ("**Davis-Bacon Act**"). Contractor shall comply with PWR, and specifically:
- (a) Determine when PWR or Davis-Bacon Act apply.
 - (b) Require its contractors and subcontractors to pay the applicable PWR or Davis-Bacon Act rates.

- (c) Comply with all other Oregon Bureau of Labor and Industries (“BOLI”) requirements, including on all contracts and subcontracts and in filing separate public works bonds with the Construction Contractors Board.
- (d) Retain responsibility for both providing the notice to the BOLI Commissioner required by ORS 279C.835 and the payment of any prevailing wage fee(s) required under ORS 279C.825 and BOLI’s rules, including OAR 839-025-0200 to OAR 839-025-0230. For avoidance of any doubt, Contractor contractually agrees to pay applicable prevailing wage fees for the Project rather than ODHS, the public agency providing funds under this Contract.
- (e) Unless exempt under Section 17(2) of Oregon Laws 2021, Chapter 678, if Contractor is a “public body” and the Project is a “qualified project,” as those terms are defined in Section 17(3) of Oregon Laws 2021, Chapter 678, Contractor shall require each contractor in a contract with an estimated cost of \$200,000 or greater to:
 - (1) Enter into a project labor agreement that, at a minimum, provides for payment of wages at or above the prevailing rate of wage.
 - (2) Employ apprentices to perform 15 percent of the work hours that workers in apprenticeable occupations performed under the contract, in a manner consistent with the apprentices’ respective apprenticeship training programs.
 - (3) Establish and execute a plan for outreach, recruitment and retention of women, minority individuals and veterans to perform work under the contract, with the aspirational target of having at least 15 percent of total work hours performed by individuals in one or more of those groups.
 - (4) Require any subcontractor with a subcontract with an estimated cost of \$200,000 or greater to perform the requirements set forth in subparagraphs a, b, and c above.
- (f) Contractor represents and warrants that it is not on the BOLI current list of contractors ineligible to receive public works contracts found at <https://www.oregon.gov/boli/employers/Pages/pwr-ineligible-contractors.aspx> and that it will not contract with any contractor on this list.

10. Responsibility. Contractor assumes full responsibility for ownership of the Project, for its operation, and acknowledges that ODHS has no direct or contractual responsibility for the Project, for ownership of the Project, or for its operation.

EXHIBIT B

Standard Terms and Conditions

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

- d. Contractor shall perform all Work as an Independent Contractor, as defined in ORS 670.600. ODHS reserves the right (i) to determine and modify the delivery schedule for the Work, and (ii) to evaluate the quality of the Work Product, however, ODHS may not and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing the Work.

4. **Representations and Warranties.**

- a. **Contractor's Representations and Warranties.** Contractor represents and warrants to ODHS that:
 - (1) Contractor has the power and authority to enter into and perform this Contract;
 - (2) The obligations set forth in this Contract, when executed and delivered, shall be valid and binding obligations of the Contractor enforceable in accordance with its terms;
 - (3) Contractor has the skill and knowledge possessed by well-informed members of its industry, trade or profession and Contractor will apply that skill and knowledge with care and diligence to perform the Work in a professional manner and in accordance with the highest standards prevalent in Contractor's industry, trade or profession;
 - (4) Contractor shall, at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work; and
 - (5) Contractor prepared its proposal related to this Contract, if any, independently from all other proposers, and without collusion, fraud, or other dishonesty.
- b. **Warranties Cumulative.** The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

5. **Time is of the Essence.** Contractor agrees that time is of the essence under this Contract.

6. **Funds Available and Authorized; Payments.**

- a. Contractor shall not be compensated for Work performed under this Contract by any other agency or department of the State of Oregon or the federal government. ODHS certifies that it has sufficient funds currently authorized for expenditure to finance the costs of this Contract within ODHS' current biennial appropriation or limitation. Contractor understands and agrees that ODHS' payment for Work performed is contingent on ODHS receiving appropriations, limitations, allotments or other expenditure authority sufficient to allow ODHS, in the exercise of its reasonable administrative discretion, to continue to make payments under this Contract.
- b. **Payment Method.** Payments under this Contract will be made by Electronic Funds Transfer (EFT). Upon request, Contractor shall provide its taxpayer identification number (TIN) and other necessary banking information to receive EFT payment. Contractor shall maintain at its own expense a single financial

institution or authorized payment agent capable of receiving and processing EFT using the Automated Clearing House (ACH) transfer method. The most current designation and EFT information will be used for all payments under this Contract. Contractor shall provide this designation and information on a form provided by ODHS. In the event that EFT information changes or the Contractor elects to designate a different financial institution for the receipt of any payment made using EFT procedures, the Contractor shall provide the changed information or designation to ODHS on an ODHS-approved form. ODHS is not required to make any payment under this Contract until receipt of the correct EFT designation and payment information from the Contractor.

7. **Recovery of Overpayments.** IF BILLINGS UNDER THIS CONTRACT, OR UNDER ANY OTHER CONTRACT BETWEEN CONTRACTOR AND ODHS, RESULT IN PAYMENTS TO CONTRACTOR TO WHICH CONTRACTOR IS NOT ENTITLED, ODHS, AFTER GIVING WRITTEN NOTIFICATION TO CONTRACTOR, MAY WITHHOLD FROM PAYMENTS DUE TO CONTRACTOR SUCH AMOUNTS, OVER SUCH PERIODS OF TIME, AS ARE NECESSARY TO RECOVER THE AMOUNT OF THE OVERPAYMENT, UNLESS CONTRACTOR PROVIDES A WRITTEN OBJECTION WITHIN 14 CALENDAR DAYS FROM THE DATE OF THE NOTICE. ABSENT TIMELY WRITTEN OBJECTION, CONTRACTOR HEREBY REASSIGNS TO ODHS ANY RIGHT CONTRACTOR MAY HAVE TO RECEIVE SUCH PAYMENTS. IF CONTRACTOR PROVIDES A TIMELY WRITTEN OBJECTION TO ODHS' WITHHOLDING OF SUCH PAYMENTS, THE PARTIES AGREE TO CONFER IN GOOD FAITH REGARDING THE NATURE AND AMOUNT OF THE OVERPAYMENT IN DISPUTE AND THE MANNER IN WHICH THE OVERPAYMENT IS TO BE REPAID. ODHS RESERVES ITS RIGHT TO PURSUE ANY OR ALL OF THE REMEDIES AVAILABLE TO IT UNDER THIS CONTRACT AND AT LAW OR IN EQUITY INCLUDING ODHS' RIGHT TO SETOFF.

8. **Ownership of Work Product.**

- a. **Definitions.** As used in this Section, and elsewhere in this Contract, the following terms have the meanings set forth below:
- (1) "Contractor Intellectual Property" means any intellectual property owned by Contractor and developed independently from the Work.
 - (2) "Third Party Intellectual Property" means any intellectual property owned by parties other than ODHS or Contractor.
 - (3) "Work Product" means every invention, discovery, work of authorship, trade secret or other tangible or intangible item and all intellectual property rights therein that Contractor is required to deliver to ODHS pursuant to the Work.
- b. **Original Works.** All Work Product created by Contractor pursuant to the Work, including derivative works and compilations, and whether or not such Work Product is considered a "work made for hire," shall be the exclusive property of ODHS. ODHS and Contractor agree that all Work Product is "work made for

hire” of which ODHS is the author within the meaning of the United States Copyright Act. If for any reason the original Work Product created pursuant to the Work is not “work made for hire,” Contractor hereby irrevocably assigns to ODHS any and all of its rights, title, and interest in all original Work Product created pursuant to the Work, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. Upon ODHS' reasonable request, Contractor shall execute such further documents and instruments necessary to fully vest such rights in ODHS. Contractor forever waives any and all rights relating to original Work Product created pursuant to the Work, including without limitation, any and all rights arising under 17 U.S.C. §106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.

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

9. Indemnity.

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

EXPENSES, INCLUDING ATTORNEYS FEES, AND DAMAGES ARISING OUT OF OR RELATED TO ANY CLAIMS THAT THE WORK, THE WORK PRODUCT OR ANY OTHER TANGIBLE OR INTANGIBLE ITEMS DELIVERED TO ODHS BY CONTRACTOR THAT MAY BE THE SUBJECT OF PROTECTION UNDER ANY STATE OR FEDERAL INTELLECTUAL PROPERTY LAW OR DOCTRINE, OR ODHS' USE THEREOF, INFRINGES ANY PATENT, COPYRIGHT, TRADE SECRET, TRADEMARK, TRADE DRESS, MASK WORK, UTILITY DESIGN, OR OTHER PROPRIETARY RIGHT OF ANY THIRD PARTY; PROVIDED, THAT THE STATE OF OREGON SHALL PROVIDE CONTRACTOR WITH PROMPT WRITTEN NOTICE OF ANY INFRINGEMENT CLAIM.

THIS SECTION SHALL SURVIVE EXPIRATION OR TERMINATION OF THIS CONTRACT.

10. Default; Remedies; Termination.

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

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

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

- (1) termination of this Contract under Section 10.e.(2) below;
- (2) withholding all monies due for Work and Work Products that Contractor has failed to deliver within any scheduled completion dates or has performed inadequately or defectively;

- (3) initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief; or
- (4) exercise of its right of recovery of overpayments under Section 7., “Recovery of Overpayment”, of this Exhibit B.

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

- c. **Default by ODHS.** ODHS shall be in default under this Contract if ODHS commits any material breach or default of any covenant, warranty, or obligation under this Contract, and such breach or default is not cured within 30 calendar days after Contractor's notice or such longer period as Contractor may specify in such notice.
- d. **Contractor's Remedies for ODHS' Default.** In the event ODHS terminates the Contract under Section 10.e.(1) below, or in the event ODHS is in default under Section 10.c. above, and whether or not Contractor elects to exercise its right to terminate the Contract under Section 10.e.(3) below, Contractor's sole monetary remedy shall be: (i) with respect to Work compensable at a stated rate, a claim for unpaid invoices, time worked within any limits set forth in this Contract but not yet invoiced, authorized expenses incurred and interest within the limits permitted under ORS 293.462, and (ii) with respect to deliverable-based Work, a claim for the sum designated for completing the deliverable multiplied by the percentage of Work completed and accepted by ODHS, less previous amounts paid and any claim(s) that ODHS has against Contractor. In no event shall ODHS be liable to Contractor for any expenses related to termination of this Contract or for anticipated profits. If previous amounts paid to Contractor exceed the amount due to Contractor under this Section 10.d., Contractor shall immediately pay any excess to ODHS upon written demand. If Contractor does not immediately pay the excess, ODHS may recover the overpayments in accordance with Section 7., “Recovery of Overpayments”, and may pursue any other remedy that may be available to it.
- e. **Termination.**
 - (1) **ODHS' Right to Terminate at its Discretion.** At its sole discretion, ODHS may terminate this Contract:
 - (a) For its convenience upon 30 days' prior written notice by ODHS to Contractor;
 - (b) Immediately upon written notice if ODHS fails to receive funding, appropriations, limitations, allotments or other expenditure authority at levels sufficient to pay for the Work or Work Products;
 - (c) Immediately upon written notice if federal or state laws, regulations, or guidelines are modified or interpreted in such a way that ODHS' purchase of the Work or Work Products under this

Contract is prohibited, or ODHS is prohibited from paying for such Work or Work Products from the planned funding source; or

- (d) Immediately upon written notice to Contractor if there is a threat to the health, safety, or welfare of any ODHS client or recipient of services under this Contract, including any Medicaid Eligible Individual, under its care.

- (2) ODHS' Right to Terminate for Cause. In addition to any other rights and remedies ODHS may have under this Contract, ODHS may terminate this Contract immediately upon written notice to Contractor, or at such later date as ODHS may establish in such notice, if Contractor is in default under Section 10.a. above.
- (3) Contractor's Right to Terminate for Cause. Contractor may terminate this Contract upon 30 days written notice to ODHS, or at such later date as Contractor may establish in such notice, if ODHS is in default under Section 10.c. above, and ODHS fails to cure such default within 30 calendar days after ODHS receives Contractor's notice or such longer period as Contractor may specify in such notice.
- (4) Mutual Termination. The Contract may be terminated immediately upon mutual written consent of the parties or at such other time as the parties may agree in the written consent.
- (5) Return of Property. Upon termination of this Contract for any reason whatsoever, Contractor shall immediately deliver to ODHS all of ODHS' property that is in the possession or under the control of Contractor at that time. This Section 10.e.(5) survives the expiration or termination of this Contract.
- (6) Effect of Termination: Upon receiving a notice of termination of this Contract, or upon issuing a notice of termination to ODHS, Contractor shall immediately cease all activities under this Contract, unless in a notice issued by ODHS, ODHS expressly directs otherwise.

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

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

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

12. **Limitation of Liabilities.** EXCEPT FOR LIABILITY ARISING UNDER OR RELATED TO SECTION 9., "INDEMNITY", NEITHER PARTY SHALL BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS CONTRACT.
13. **Insurance.** Contractor shall maintain insurance as set forth in Exhibit C, attached hereto.
14. **Records Maintenance, Access.** Contractor shall maintain all financial records relating to this Contract in accordance with generally accepted accounting principles. In addition, Contractor shall maintain any other records, books, documents, papers, plans, records of shipments and payments, and writings of Contractor, whether in paper, electronic or other form, that are pertinent to this Contract, in such a manner as to clearly document Contractor's performance. All financial records, other records, books, documents, papers, plans, records of shipments and payments, and writings of Contractor, whether in paper, electronic or other form, that are pertinent to this Contract, are collectively referred to as "Records." Contractor acknowledges and agrees that ODHS, the Oregon Secretary of State's Office, and the federal government, and their duly authorized representatives shall have access to all Records to perform examinations and audits, and to make excerpts and transcripts. Contractor shall retain and keep accessible all Records for the longest of:
 - a. Six years following final payment and termination of this Contract;
 - b. The period as may be required by applicable law, including the records retention schedules set forth in OAR Chapter 166; or
 - c. Until the conclusion of any audit, controversy or litigation arising out of or related to this Contract.
15. **Information Privacy/Security/Access.** If the Work performed under this Contract requires Contractor or, when allowed, its subcontractor(s), to access or otherwise use any ODHS Information Asset or Network and Information System in which security or privacy requirements apply, and ODHS grants Contractor, its subcontractor(s), or both access to such ODHS Information Assets or Network and Information Systems, Contractor shall comply and require its subcontractor(s) to which such access has been granted to comply with the terms and conditions applicable to such access or use, including OAR 407-014-0300 through 407-014-0320, as such rules may be revised from time to time. For purposes of this Section, "Information Asset" and "Network and Information System" have the meaning set forth in OAR 407-014-0305, as such rule may be revised from time to time.
16. **Force Majeure.** No party is responsible for delay or default caused by an event beyond its reasonable control. ODHS may terminate this Contract, without liability to Contractor, upon written notice after reasonably determining the delay or default reasonably prevents performance of this Contract.

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

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

This Section shall survive expiration or termination of this Contract.

22. **Headings.** The headings and captions to sections of this Contract have been inserted for identification and reference purposes only and shall not be used to construe the meaning or to interpret this Contract.
23. **Merger Clause.** This Contract constitutes the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, regarding this Contract not specified herein.
24. **Amendments; Waiver; Consent.** ODHS may amend this Contract to the extent provided herein, the solicitation document, if any from which this Contract arose, and to the extent permitted by applicable statutes and administrative rules. No amendment, waiver, or other consent under this Contract shall bind either party unless it is in writing and signed by both parties and when required, approved by the Oregon Department of Justice. Such amendment, waiver, or consent shall be effective only in the specific instance and for the specific purpose given. The failure of either party to enforce any provision of this Contract shall not constitute a waiver by that party of that or any other provision. This Section shall survive the expiration or termination of this Contract.
25. **Contractor's Failure to Perform.** Contractor's failure to perform the statement of work specified in this Contract, or to meet the performance standards established in this Contract, may result in consequences that include, but are not limited to:
- a. Reducing or withholding payment under this Contract;
 - b. Requiring Contractor to perform at Contractor's expense additional work necessary to perform the statement of work or meet performance standards; or
 - c. Declaring a default of this Contract and pursuing any available remedies for default, including termination of the Contract as permitted in Section 10., "Default; Remedies; Termination", of this Contract.

EXHIBIT C

Insurance Requirements

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

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

WORKERS' COMPENSATION & EMPLOYERS' LIABILITY:

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

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

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

COMMERCIAL GENERAL LIABILITY:

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

AUTOMOBILE LIABILITY INSURANCE: ☐ Required ☒ Not required

PROFESSIONAL LIABILITY: ☐ Required ☒ Not required

NETWORK SECURITY AND PRIVACY LIABILITY: ☐ Required ☒ Not required

POLLUTION LIABILITY: ☐ Required ☒ Not required

EXCESS/UMBRELLA INSURANCE:

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

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

ADDITIONAL INSURED:

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

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

WAIVER OF SUBROGATION:

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

CONTINUOUS CLAIMS MADE COVERAGE:

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

- (i) Contractor’s completion and ODHS’s acceptance of all goods and Services required under this Contract, or
- (ii) ODHS’s or Contractor’s termination of this Contract, or
- (iii) The expiration of all warranty periods provided under this Contract.

CERTIFICATE(S) AND PROOF OF INSURANCE:

Contractor shall provide to ODHS Certificate(s) of Insurance for all required insurance before delivering any goods and performing any Services required under this Contract. The Certificate(s) of Insurance must list the State of Oregon, its officers, employees, and agents as a Certificate holder and as an endorsed Additional Insured. The Certificate(s) of Insurance must also include all required endorsements or copies of the applicable policy language effecting coverage required by this Contract. If excess/umbrella Insurance is used to meet the minimum insurance requirement, the Certificate(s) of Insurance must include a list of all policies that fall under the Excess/Umbrella Insurance. As proof of insurance, ODHS has the right to request copies of insurance policies and endorsements relating to the insurance requirements under this Exhibit.

NOTICE OF CHANGE OR CANCELLATION:

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

INSURANCE REQUIREMENT REVIEW:

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

STATE ACCEPTANCE:

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