

ATTACHMENT I – SAMPLE GRANT AGREEMENT



Grant Agreement Number **000000**

STATE OF OREGON GRANT AGREEMENT

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

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

Recipient Legal Entity Name
d.b.a. Facility or Assumed Name
Address
Address
Attention: (required)
Telephone: (required)
Fax: (optional)
E-mail address: (required)

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

The program to be supported under this Agreement relates principally to ODHS’

Office of Self-Sufficiency Programs, Refugee Program
500 Summer Street NE
Salem, OR 97305
Agreement Administrator: (Insert Name) or delegate
Telephone: (Required)
E-mail address: (Required)

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1. **Effective Date and Duration.** This Agreement shall become effective on the later of: (I) the last date all required signatures in Section 6., below have been obtained, or (II) **[insert start date]** provided it is (i) signed by all parties on or before such date, and (ii) when required, approved in writing by the Oregon Department of Justice on or before such date, and (iii) when required, approved in writing by the Oregon Department of Administrative Services. Unless extended or terminated earlier in accordance with its terms, this Agreement shall expire on **[insert end date]**. Agreement termination shall not extinguish or prejudice ODHS’ right to enforce this Agreement with respect to any default by Recipient that has not been cured.

2. **Agreement Documents.**
 - a. This Agreement consists of this document and includes the following listed exhibits which are incorporated into this Agreement:
 - (1) Exhibit A, Part 1: Program Description
 - (2) Exhibit A, Part 2: Disbursement 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 Agreement documents unless specifically referenced and incorporated into this Agreement.
 - b. In the event of a conflict between two or more of the documents comprising this Agreement, the language in the document with the highest precedence shall control. The documents comprising this Agreement shall be in the following descending order of precedence: this Agreement less all exhibits, Exhibits B, A, and C.

3. **Grant Disbursement Generally.** The maximum not-to-exceed amount payable to Recipient under this Agreement, which includes any allowable expenses, is **[\$insert amount]**. ODHS will not disburse grant to Recipient in excess of the not-to-exceed amount and will not disburse grant until this Agreement has been signed by all parties. ODHS will disburse the grant to Recipient as described in Exhibit A.

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

<input checked="" type="checkbox"/> Not applicable	<input type="checkbox"/> Recipient is a subrecipient
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Assistance Listings number(s) of federal funds to be paid through this Agreement: Not applicable

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5. Recipient Information and Certification.

- a. **Recipient Information.** Recipient shall provide the information set forth below.

PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION

Recipient Name (exactly as filed with the IRS): Sample Agreement

Street address: _____

City, state, zip code: _____

Email address: _____

Telephone: () _____ Fax: () _____

Is Recipient a nonresident alien, as defined in 26 USC § 7701(b)(1), a foreign person, or a foreign entity? (Check one box): YES NO

Business Designation. (Check one box):

- | | | |
|----------------------------------------------------|--------------------------------------------------------|----------------------------------------------|
| <input 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 |

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

Commercial General Liability Insurance Company: _____

Policy #: _____ Expiration Date: _____

Directors, Officers and Organization Liability Insurance Company: _____

Policy #: _____ Expiration Date: _____

Network Security and Privacy Liability: _____

Policy #: _____ Expiration Date: _____

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

Workers' Compensation Insurance Company: _____

Policy #: _____ Expiration Date: _____

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

- (1) Recipient is in compliance with all insurance requirements in Exhibit C of this Agreement and notwithstanding any provision to the contrary, Recipient shall deliver to the ODHS Agreement Administrator (see page one of this Agreement) the required Certificate(s) of Insurance within 30 days of execution of this Agreement. By certifying compliance with all insurance as required by this Agreement, Recipient acknowledges it may be found in breach of the Agreement for failure to obtain required insurance. Recipient may also be in breach of the Agreement for failure to provide Certificate(s) of Insurance as required and to maintain required coverage for the duration of the Agreement;
- (2) Recipient 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 Recipient and that pertains to this Agreement or to the project for which the grant activities are being performed. Recipient 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 Recipient, in addition to any remedies that may be available to ODHS under the Agreement;
- (3) The information shown in this Section 5.a., “Recipient Information”, is Recipient’s true, accurate and correct information;
- (4) To the best of the undersigned’s knowledge, Recipient 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;
- (5) Recipient and Recipient’s employees and agents are not included on the list titled “Specially Designated Nationals” maintained by the Office of Foreign Assets Control of the

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

- (6) Recipient 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” found at: <https://www.sam.gov/SAM>;
- (7) Recipient is not subject to backup withholding because:
 - (a) Recipient is exempt from backup withholding;
 - (b) Recipient has not been notified by the IRS that Recipient is subject to backup withholding as a result of a failure to report all interest or dividends; or
 - (c) The IRS has notified Recipient that Recipient is no longer subject to backup withholding.
- (8) Recipient’s Federal Employer Identification Number (FEIN) or Social Security Number (SSN) provided to ODHS is true and accurate. If this information changes, Recipient shall provide ODHS with the new FEIN or SSN within 10 days.

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

6. Signatures. This Agreement 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 Agreement and any amendments so executed shall constitute an original.

Recipient Name

By:

_____ **Sample Agreement**

Authorized Signature

_____ Printed Name

_____ Title

_____ Date

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

By:

_____ Authorized Signature

_____ Printed Name

_____ Title

_____ Date

Approved for Legal Sufficiency:

With Protect Form on, click here [With Protect Form on, click here](#)

_____ Oregon Department of Justice

_____ Date

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EXHIBIT A

Part 1 Program Description

The Program Description will be negotiated between the parties based on the Program Description in the RFGP, the Proposer’s response to the RFGP, and other considerations.

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EXHIBIT A

Part 2

Disbursement and Financial Reporting

1. Disbursement of Grant Funds.

- a. During the period specified in **Section 1., “Effective Date and Duration”**, of this Agreement, ODHS will disburse to Recipient, a maximum not-to-exceed amount as specified in **Section 3., “Grant Disbursement Generally”** of this Agreement, to be disbursed as follows:

Funds will be disbursed in four payments. Each payment shall be 25 percent of the total Agreement disbursement amount in section 3., “Grant Disbursement Generally”. The Recipient shall receive the next payment only after all previously disbursed funds have been fully expended.

b. Recipient Invoice.

1. Recipient shall submit signed invoices on a form that has been created by Recipient, to ODHS’ Agreement Administrator at the address specified on page 1 of this Agreement, or to any other address as ODHS may indicate in writing to Recipient.
2. Invoices must include the following information:
 - (a) Recipient name;
 - (b) Invoice number;
 - (c) Date of invoice;
 - (d) This Agreement number;
 - (e) Accompanying financial report showing liquidation of previously awarded funds.; and
 - (f) The total amount due for disbursement.
3. Invoices must be approved by ODHS prior to disbursement.

c. Monthly Financial Reporting.

The Recipient shall submit monthly financial reports on funds spent,

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to ODHS' Agreement Administrator at the address specified on page 1 of this Agreement, or to any other address as ODHS may indicate in writing to Recipient. The report must be in a format acceptable to ODHS. All reports must be approved by ODHS prior to authorization of the next disbursement of funds.

2. Use and Recovery of Grant Funds

- a. **Use of Grant Funds.** The Recipient shall use Grant Funds only as permitted under this Agreement and shall assume sole liability for any breach by Recipient of the conditions of the Grant.

The Recipient may use Grant Funds to pay for administrative costs. Administrative costs shall not exceed 15 percent of the financial assistance issued to Clients.

- b. **Recovery of Overpayments.** Any overpayment of Grant Funds under this Agreement shall be recovered as described in Exhibit B "Standard Terms and Conditions," Section 5 "Recovery of Overpayments".

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EXHIBIT A

Part 3 Special Provisions

1. Eligibility and Enrollment Guidelines

a. Immigration Status

To be eligible for Financial Assistance under this agreement, an individual must not be a United States (U.S.) citizen, has been in the U.S. for 60 months or less and is any of the following:

- (1) A refugee admitted under 8 U.S.C. 1157.
- (2) An asylee admitted under 8 U.S.C. 1158.
- (3) A Cuban or Haitian entrant as defined in 45 C.F.R. 401.2.
- (4) A parolee admitted under 8 U.S.C. 1182(d)(5).
- (5) An Amerasian immigrant lawfully admitted to the U.S. who is described in 8 U.S.C. 1612(a)(2)(A)(v).
- (6) A victim of a severe form of trafficking in persons and the victim's family members who are eligible for benefits and services from federal and state programs under 22 U.S.C. 7105(b)(1)(A).
- (7) An Iraqi or an Afghan citizen who is a principal noncitizen provided with the status of special immigrant by the U.S. Department of Homeland Security under:
 - (a) Section 1059(a) of the National Defense Authorization Act for Fiscal Year 2006, P.L. 109-163, 119 Stat. 3444;
 - (b) Section 1244(b) of the Refugee Crisis in Iraq Act of 2007, P.L. 110-181, 122 Stat. 397; or
 - (c) Section 602(b) of the Afghan Allies Protection Act of 2009, P.L. 111-8, 123 Stat. 807.
- (8) Holds any other immigration status listed in ORS 411.139 (b).

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b. Residence and Service Area

- (1) Only individuals residing in Oregon are eligible to receive Services.
- (2) Services may be provided to Eligible Refugees anywhere within the State of Oregon.

c. Loss or Reduction of SNAP Benefits Due to HR1 Changes

To be eligible for Financial Assistance individuals must have experienced a loss or reduction of SNAP benefits as a result of HR1 non-citizen eligibility changes.

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EXHIBIT B

Standard Terms and Conditions

- 1. Governing Law, Consent to Jurisdiction.** 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. Any claim, action, suit or proceeding (collectively, “Claim”) between ODHS or any other agency or department of the State of Oregon, or both, and Recipient that arises from or relates to this Agreement 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 Agreement.
- 2. Compliance with Law.** Recipient shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Recipient and this Agreement. This Section shall survive expiration or termination of this Agreement.
- 3. Independent Parties; Conflict of Interest.**

 - a.** Recipient 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 Recipient is currently performing work for the State of Oregon or the federal government, Recipient by signature to this Agreement, represents and warrants that Recipient’s participation in this Agreement 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 Recipient currently performs work would prohibit Recipient’s participation under this Agreement. If disbursement under this Agreement is to be charged

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

4. **Grant Funds; Disbursements.**

- a. Recipient is not entitled to compensation under this Agreement by any other agency or department of the State of Oregon. Recipient understands and agrees that ODHS' participation in this Agreement 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 participate in this Agreement.
- b. **Disbursement Method.** Disbursements under this Agreement will be made by Electronic Funds Transfer (EFT). Upon request, Recipient shall provide its taxpayer identification number (TIN) and other necessary banking information to receive EFT disbursement. Recipient shall maintain at its own expense a single financial institution or authorized disbursement 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 disbursements under this Agreement. Recipient shall provide this designation and information on a form provided by ODHS. In the event that EFT information changes or the Recipient elects to designate a different financial institution for the receipt of any disbursement made using EFT procedures, the Recipient shall provide the changed information or designation to ODHS on an ODHS-approved form. ODHS is not required to make any disbursement under this Agreement until receipt of the correct EFT designation and disbursement information from the Recipient.

5. **Recovery of Overpayments.** Any funds disbursed to Recipient under this Agreement that are expended in violation or contravention of one or more of the provisions of this Agreement "Misexpended Funds" or that remain unexpended on the earlier of termination or expiration of this Agreement "Unexpended Funds" must be returned to ODHS. Recipient shall return all Misexpended Funds to ODHS promptly after ODHS' written demand and no later than 15 days after ODHS' written demand. Recipient shall return all Unexpended Funds to ODHS within 14 days after the earlier of termination or expiration of this Agreement. ODHS, in its sole discretion, may recover Misexpended or Unexpended Funds by withholding from payments due to Recipient such amounts, over such periods of time, as are necessary to

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recover the amount of the overpayment. Prior to withholding, if Recipient objects to the withholding or the amount proposed to be withheld, Recipient shall notify ODHS that it wishes to engage in dispute resolution in accordance with Section 13 of this Exhibit.

- 6. Ownership of Work Product.** Reserved.
- 7. Indemnity.** RECIPIENT 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 RECIPIENT OR ITS OFFICERS, EMPLOYEES, SUBCONTRACTORS, OR AGENTS UNDER THIS AGREEMENT.

THIS SECTION SHALL SURVIVE EXPIRATION OR TERMINATION OF THIS AGREEMENT.

- 8. Default; Remedies; Termination.**
- a. Default by Recipient.** Recipient shall be in default under this Agreement if:
- (1) Recipient 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) Recipient no longer holds a license or certificate that is required for Recipient to perform its obligations under the Agreement and Recipient 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) Recipient commits any material breach or default of any covenant, warranty, obligation or agreement under this Agreement, fails to perform any obligation under this Agreement within the time specified herein or any extension thereof, or so fails to pursue performance of any obligation as to endanger Recipient's performance under this Agreement 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.

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- b.** ODHS' Remedies for Recipient's Default. In the event Recipient is in default under Section 8.a., ODHS may, at its option, pursue any or all of the remedies available to it under this Agreement and at law or in equity, including, but not limited to:
- (1) termination of this Agreement under Section 8.e.(2);
 - (2) withholding all or part of monies not yet disbursed by ODHS to Recipient;
 - (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 5. 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 Recipient was not in default under Section 8.a., then Recipient shall be entitled to the same remedies as if this Agreement was terminated pursuant to Section 8.e.(1).

- c.** Default by ODHS. ODHS shall be in default under this Agreement if ODHS commits any material breach or default of any covenant, warranty, or obligation under this Agreement, and such breach or default is not cured within 30 calendar days after Recipient's notice or such longer period as Recipient may specify in such notice.
- d.** Recipient's Remedies for ODHS' Default. In the event ODHS terminates the Agreement under Section 8.e.(1), or in the event ODHS is in default under Section 8.c. and whether or not Recipient elects to exercise its right to terminate the Agreement under Section 8.e.(3), Recipient's sole monetary remedy will be a claim for unpaid invoices or for reimbursement or disbursement of funds authorized by this Agreement but not yet invoiced. In no event shall ODHS be liable to Recipient for any expenses related to termination of this Agreement or for anticipated profits or loss.
- e.** Termination.
- (1) ODHS' Right to Terminate at its Discretion. At its sole discretion, ODHS may terminate this Agreement:

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- (a) For its convenience upon 30 days' prior written notice by ODHS to Recipient;
 - (b) Immediately upon written notice if ODHS fails to receive funding, appropriations, limitations, allotments or other expenditure authority at levels sufficient to continue supporting the program; or
 - (c) Immediately upon written notice if federal or state laws, regulations, or guidelines are modified or interpreted in such a way that ODHS' support of the program under this Agreement is prohibited or ODHS is prohibited from paying for such support from the planned funding source.
 - (d) Immediately upon written notice to Recipient if there is a threat to the health, safety, or welfare of any person receiving funds or benefitting from services under this Agreement "ODHS Client", 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 Agreement, ODHS may terminate this Agreement immediately upon written notice to Recipient, or at such later date as ODHS may establish in such notice if Recipient is in default under Section 8.a.
- (3) Recipient's Right to Terminate for Cause. Recipient may terminate this Agreement upon 30 days written notice to ODHS or at such later date as Recipient may establish in such notice, if ODHS is in default under Section 8.c. and ODHS fails to cure such default within 30 calendar days after ODHS receives Recipient's notice or such longer period as Recipient may specify in such notice.
- (4) Mutual Termination. The Agreement 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 Agreement for any reason whatsoever, Recipient shall immediately deliver to ODHS all of ODHS' property that is in the possession or under

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the control of Recipient at that time. This Section 8.e.(5) survives the expiration or termination of this Agreement.

(6) Effect of Termination. Upon receiving a notice of termination of this Agreement or upon issuing a notice of termination to ODHS, Recipient shall immediately cease all activities under this Agreement unless, in a notice issued by ODHS, ODHS expressly directs otherwise.

- 9. Insurance.** Recipient shall maintain insurance as set forth in Exhibit C, attached hereto.
- 10. Records Maintenance, Access.** Recipient shall maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles. In addition, Recipient shall maintain any other records, books, documents, papers, plans, records of shipments and payments and writings of Recipient, whether in paper, electronic or other form, that are pertinent to this Agreement, in such a manner as to clearly document Recipient’s performance. All financial records, other records, books, documents, papers, plans, records of shipments and payments and writings of Recipient whether in paper, electronic or other form, that are pertinent to this Agreement, are collectively referred to as “Records.” Recipient acknowledges and agrees that ODHS and 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 make excerpts and transcripts. Recipient shall retain and keep accessible all Records for the longest of:
- a. Six years following final disbursement and termination of this Agreement;
 - 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 Agreement.
- 11. Information Privacy/Security/Access.** If this Agreement requires or allows Recipient 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 Recipient, its subcontractor(s), or both access to such ODHS Information Assets or Network and Information Systems, Recipient shall comply and require its subcontractor(s) to which such access has been granted to comply with the

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terms and conditions applicable to such access or use, including OAR 407-014-0300 through OAR 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.

12. Assignment of Agreement, Successors in Interest.

- a.** Recipient shall not assign or transfer its interest in this Agreement without prior written consent of ODHS. Any such assignment or transfer, if approved, is subject to such conditions and provisions required by ODHS. No approval by ODHS of any assignment or transfer of interest shall be deemed to create any obligation of ODHS in addition to those set forth in this Agreement.
- b.** The provisions of this Agreement shall be binding upon and inure to the benefit of the parties, their respective successors, and permitted assigns.

13. Resolution of Disputes. The parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation. This Section shall survive expiration or termination of this Agreement.

14. Subcontracts. Recipient shall not enter into any subcontracts for any part of the program supported by this Agreement without ODHS’ prior written consent. In addition to any other provisions ODHS may require, Recipient shall include in any permitted subcontract under this Agreement provisions to ensure that ODHS will receive the benefit of subcontractor activity(ies) as if the subcontractor were the Recipient with respect to Sections 1, 2, 3, 6, 7, 9, 10, 11, 12, 14, 15, and 16 of this Exhibit B. ODHS’ consent to any subcontract shall not relieve Recipient of any of its duties or obligations under this Agreement.

15. No Third Party Beneficiaries. ODHS and Recipient are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement 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

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Agreement. This Section shall survive expiration or termination of this Agreement.

- 16. Severability.** The parties agree that 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 the Agreement did not contain the particular term or provision held to be invalid. This Section shall survive expiration or termination of this Agreement.
- 17. Notice.** Except as otherwise expressly provided in this Agreement, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile, e-mail, or mailing the same, postage prepaid to Recipient or ODHS at the address or number set forth in this Agreement, 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 e-mail shall be deemed received and effective five days after the date of e-mailing. Any communication or notice delivered by facsimile 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 facsimile 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 Agreement.

- 18. Headings.** The headings and captions to sections of this Agreement have been inserted for identification and reference purposes only and shall not be used to construe the meaning or to interpret this Agreement.

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- 19. Amendments; Waiver; Consent.** ODHS may amend this Agreement to the extent provided herein, the solicitation document, if any from which this Agreement arose, and to the extent permitted by applicable statutes and administrative rules. No amendment, waiver, or other consent under this Agreement 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 Agreement shall not constitute a waiver by that party of that or any other provision. This Section shall survive the expiration or termination of this Agreement.
- 20. Merger Clause.** This Agreement constitutes the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein, regarding this Agreement.

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EXHIBIT C

Insurance Requirements

Recipient shall obtain at Recipient's expense the insurance specified in this Exhibit prior to performing under this Grant Agreement. Recipient shall maintain such insurance in full force and at its own expense throughout the duration of this Grant Agreement, as required by any extended reporting period or continuous claims made coverage requirements, and all warranty periods that apply. Recipient 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. Recipient shall pay for all deductibles, self-insured retention, and self-insurance, if any.

If Recipient 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 Recipient.

1. **WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY:**

All employers, including Recipient, 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). Recipient shall require and ensure that each of its subcontractors complies with these requirements. If Recipient is a subject employer, as defined in ORS 656.023, Recipient shall also obtain Employers' Liability insurance coverage with limits not less than \$500,000 each accident.

If Recipient is an employer subject to any other state's workers' compensation law, Grantee 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, Recipient 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.

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2. **COMMERCIAL GENERAL LIABILITY:**

Recipient 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 Grant Agreement, 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.

3. **DIRECTORS, OFFICERS, AND ORGANIZATION LIABILITY:**

Required **Not required**

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

4. **AUTOMOBILE LIABILITY INSURANCE:**

Required **Not required**

5. **PROFESSIONAL LIABILITY:**

Required **Not required**

6. **NETWORK SECURITY AND PRIVACY LIABILITY:**

Required **Not required**

Recipient shall provide Network Security and Privacy Liability Insurance for the duration of this Grant Agreement and for the period of time in which Recipient (or its business associates or subcontractor(s)) maintains, possesses, stores, or has access to ODHS or client data, whichever is longer, with a combined single limit of not less than \$1,000,000 per claim or incident. This insurance must include coverage for third party claims and for losses, thefts, unauthorized disclosures, access or use of ODHS or client data (which may include, but is not limited to, Personally Identifiable Information (“PII”), Payment Card Data and Protected Health Information (“PHI”)) in any format,

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including coverage for accidental loss, theft, unauthorized disclosure access or use of ODHS data.

7. **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 Excess or Umbrella 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 Excess or Umbrella or 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 Recipient’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.

8. **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 Grant Agreement must include an Additional Insured endorsement specifying the State of Oregon, its officers, employees, and agents as Additional Insureds, but only with respect to Recipient’s activities to be performed under this Grant Agreement. 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 Recipient’s activities to be performed under this Grant Agreement. The Additional Insured endorsement with respect to liability arising out of Recipient’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.

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9. **WAIVER OF SUBROGATION:**

Recipient shall waive rights of subrogation which Recipient or any insurer of Recipient may acquire against the ODHS or State of Oregon by virtue of the payment of any loss. Recipient 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 Recipient or the Recipient's insurer(s).

10. **CONTINUOUS CLAIMS MADE COVERAGE:**

If any of the required liability insurance other than Physical Abuse and Molestation Insurance is on a claims made basis and does not include an extended reporting period of at least 24 months, then Recipient 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 the Grant Agreement, for a minimum of 24 months following the later of:

- a. Recipient's completion and ODHS's acceptance of all Services required under the Grant Agreement, or
- b. ODHS or Recipient termination of this Grant Agreement, or
- c. The expiration of all warranty periods provided under this Grant Agreement.

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

11. **CERTIFICATE(S) AND PROOF OF INSURANCE:**

Recipient shall provide to ODHS Certificate(s) of Insurance for all required insurance before delivering any goods and performing any Services required under this Grant Agreement. 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 Grant Agreement. 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

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request copies of insurance policies and endorsements relating to the insurance requirements in this Exhibit.

12. NOTICE OF CHANGE OR CANCELLATION:

Recipient or its insurer must 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).

13. INSURANCE REQUIREMENT REVIEW:

Recipient agrees to periodic review of insurance requirements by ODHS under this Grant Agreement and to provide updated requirements as mutually agreed upon by Recipient and ODHS.

14. STATE ACCEPTANCE:

All insurance providers are subject to ODHS acceptance. If requested by ODHS, Recipient 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.