

Tillamook County Transportation District
Board of Directors
Regular Monthly Meeting



Dial-A-Ride
A Service of Tillamook County Transportation District



Thursday, March 16th, 2023 at 6:00PM
Transportation Building
3600 Third Street, Tillamook, Oregon

January 2023 Statement

Open Date: 12/24/2022 Closing Date: 01/24/2023


Visa® Company Card with Rewards
 TILLAMOOK CNTY TRANS (CPN [REDACTED])

Account: [REDACTED]

Cardmember Service 8 1-866-552-8855
 BUS 30 ELN 15

New Balance	\$7,441.53
Minimum Payment Due	\$247.00
Payment Due Date	02/22/2023

Reward Points	
Earned This Statement	2,772
Reward Center Balance	100,277
as of 01/23/2023	
For details, see your rewards summary.	

Activity Summary	
Previous Balance	+ \$4,778.35
Payments	\$0.00
Other Credits	- \$29.57 ^{CR}
Purchases	+ \$2,567.00
Balance Transfers	\$0.00
Advances	\$0.00
Other Debits	\$0.00
Fees Charged	+ \$39.00
Interest Charged	+ \$86.75
New Balance	= \$7,441.53
Past Due	\$48.00
Minimum Payment Due	\$247.00
Credit Line	\$10,000.00
Available Credit	\$2,558.47
Days in Billing Period	32

**Tillamook County
 Transportation**
FEB 06 2023

 Account _____
 Account _____
 Approval _____

Payment Options:

 Mail payment coupon
 with a check

 Pay online at
myaccountaccess.com

 Pay by phone
 1-866-552-8855

Please detach and send coupon with check payable to: Cardmember Service CPN 001469460


Visa Business Rewards Company Card

Rewards Center Activity as of 01/23/2023	
Rewards Center Activity*	0
Rewards Center Balance	100,277

*This item includes points redeemed, expired and adjusted.

Rewards Earned	This Statement	Year to Date
Points Earned on Net Purchases	2,303	2,303
Gas, Restaurants & Telecom Double Points	469	469
Total Earned	2,772	2,772

For rewards program inquiries and redemptions, call 1-888-229-8864 from 8:00 am to 10:00 pm (CST) Monday through Friday, 8:00 am to 5:30 pm (CST) Saturday and Sunday. Automated account information is available 24 hours a day, 7 days a week.

Important Messages

Paying Interest: You have a 24 to 30 day interest-free period for Purchases provided you have paid your previous balance in full by the Payment Due Date shown on your monthly Account statement. In order to avoid additional INTEREST CHARGES on Purchases, you must pay your new balance in full by the Payment Due Date shown on the front of your monthly Account statement.

There is no interest-free period for transactions that post to the Account as Advances or Balance Transfers except as provided in any Offer Materials. Those transactions are subject to interest from the date they post to the Account until the date they are paid in full.

The minimum payment includes a past due amount which is payable immediately upon receipt of this statement. If this amount has already been mailed, please disregard this notice. If you cannot immediately forward this past due amount, please contact our collection department at 1-877-838-4347 to make other suitable arrangements for payment.

Transactions BOND, CATHY Credit Limit \$2500

Post Date	Trans Date	Ref #	Transaction Description	Amount	Notation
Purchases and Other Debits					
12/27	12/24	4581	LANGUAGE LINE, INC. 800-7526096 CA	\$23.70	_____
12/30	12/30	2484	FIELDPRINT INC 888-291-1369 PA	\$12.50	_____
01/03	01/02	3703	ENDICIA 800-576-3279 TX	\$9.95	_____
01/03	12/31	7415	FIELDPRINT INC 888-291-1369 PA	\$12.50	_____
01/05	01/04	2128	ADOBE *ACROPRO SUBS 408-536-6000 CA	\$29.99	_____
01/11	01/11	8698	FIELDPRINT INC 888-291-1369 PA	\$12.50	_____
01/12	01/12	2283	FIELDPRINT INC 888-291-1369 PA	\$12.50	_____
01/13	01/13	0228	FIELDPRINT INC 888-291-1369 PA	\$12.50	_____
01/23	01/22	6376	ADOBE *CREATIVE CLOUD 408-536-6000 CA	\$84.99	_____
01/23	01/22	0408	IRON MOUNTAIN 800-934-3453 MA	\$156.61	_____
Total for Account [REDACTED]				\$367.74	



Transactions REED, MICHAEL Credit Limit \$3500

Post Date	Trans Date	Ref #	Transaction Description	Amount	Notation
Purchases and Other Debits					
12/27	12/22	1226	SAFEWAY #2723 TILLAMOOK OR	\$6.39	_____
12/29	12/27	4188	SAFEWAY #2723 TILLAMOOK OR	\$62.47	_____
01/10	01/09	0299	CKE*THE FERN CAFE TILL TILLAMOOK OR	\$37.00	_____
01/10	01/09	3511	PAYPAL *TRANSPORTWI 402-935-7733 OR	\$220.00	_____
01/10	01/09	3138	PAYPAL *TRANSPORTWI 402-935-7733 OR	\$220.00	_____
01/11	01/09	2911	TELMA RETARDER INC 847-5931098 IL	\$72.65	_____
01/11	01/10	1939	TENNANT CO 800-5538033 MN	\$410.09	_____
01/17	01/13	8100	SAFEWAY #2723 TILLAMOOK OR	\$27.09	_____
01/23	01/20	0053	TORA SUSHI LOUNGE TILL TILLAMOOK OR	\$90.66	_____
Total for Account [REDACTED]				\$1,146.35	

Transactions ZUERCHER, NATALIE Credit Limit \$2500

Post Date	Trans Date	Ref #	Transaction Description	Amount	Notation
Other Credits					
01/09	01/08	1870	AMZN Mktp US Amzn.com/bill WA MERCHANDISE/SERVICE RETURN	\$29.57CR	_____
Purchases and Other Debits					
12/30	12/29	7767	ZOOM.US 888-799-9666 WWW.ZOOM.US CA	\$40.00	_____
01/03	01/02	7201	AMZN Mktp US*3P7B99TZ3 Amzn.com/bill WA	\$9.99	_____
01/03	01/01	7225	ONLINE JOB ADS INDEED 512-4595300 TX	\$450.00	_____
01/04	01/03	9157	BAUDVILLE INC. 800-728-0888 MI	\$54.12	_____
01/09	01/06	4513	EVENT* 2023 SDAO ANNUA WWW.CVENT.COM VA	\$95.00	_____
01/17	01/16	3056	Amazon Prime*D944L9T43 Amzn.com/bill WA	\$14.99	_____
01/17	01/15	9126	ENDICIA 800-576-3279 TX	\$24.99	_____
01/17	01/13	7940	USPS STAMPS ENDICIA 888-434-0055 DC	\$25.00	_____
01/17	01/13	4422	AMZN Mktp US*4A9CU9YJ3 Amzn.com/bill WA	\$88.27	_____
01/17	01/14	1486	AMZN Mktp US*C03H23FD3 Amzn.com/bill WA	\$64.72	_____
01/19	01/18	3883	AMZN Mktp US*BL9KI4BU3 Amzn.com/bill WA	\$28.04	_____
01/20	01/19	1515	SQ *RECESS FOOD TRUCK gosq.com OR	\$67.20	_____
01/24	01/23	9589	VISTAPRINT 866-207-4955 MA	\$90.59	_____
Total for Account [REDACTED]				\$1,023.34	

Transactions BILLING ACCOUNT ACTIVITY

Post Date	Trans Date	Ref #	Transaction Description	Amount	Notation
Fees					
01/23	01/22		LATE FEE - PAYMENT DUE ON 01/22	\$39.00	_____

Continued on Next Page



Transactions BILLING ACCOUNT ACTIVITY

Post Date	Trans Date	Ref #	Transaction Description	Amount	Notation
			TOTAL FEES FOR THIS PERIOD	\$39.00	
Interest Charged					
01/24			INTEREST CHARGE ON PURCHASES	\$86.75	_____
			TOTAL INTEREST FOR THIS PERIOD	\$86.75	
			Total for Account [REDACTED]	\$125.75	

2023 Totals Year-to-Date	
Total Fees Charged in 2023	\$39.00
Total Interest Charged in 2023	\$86.75

Interest Charge Calculation

Your Annual Percentage Rate (APR) is the annual interest rate on your account.

**APR for current and future transactions.

Balance Type	Balance By Type	Balance Subject to Interest Rate	Variable	Interest Charge	Annual Percentage Rate	Expires with Statement
**BALANCE TRANSFER	\$0.00	\$0.00	YES	\$0.00	16.49%	
**PURCHASES	\$7,441.53	\$6,000.98	YES	\$86.75	16.49%	
**ADVANCES	\$0.00	\$0.00	YES	\$0.00	28.24%	

Contact Us



Voice: 1-866-552-8855
 TDD: 1-888-352-6455
 Fax: 1-866-807-9053



Questions
 Cardmember Service
 P.O. Box 6353
 Fargo, ND 58125-6353



Mail payment coupon with a check
 Cardmember Service
 P.O. Box 790408
 St. Louis, MO 63179-0408



Online
myaccountaccess.com

UMPQUA BANK: CLOSING DATE 1/24/2023

Date	Vendor	Description of Transaction	Amount
CATHY BOND			
12/27/22	Language Line	Phones	\$23.70
12/30/22	Fieldprint Inc	TCTD Background	\$12.50
01/03/23	Endicia	Postage	\$9.95
01/03/23	Fieldprint Inc	TCTD Background	\$12.50
01/05/23	Adobe	NWR Computer	\$29.99
01/11/23	Fieldprint Inc	TCTD Background	\$12.50
01/12/23	Fieldprint Inc	TCTD Background	\$12.50
01/13/23	Fieldprint Inc	TCTD Background	\$12.50
01/23/23	Adobe	Admin. Computer	\$84.99
01/23/23	Iron Mountain	Office Shred	\$156.61
			\$367.74
MIKE REED			
12/27/22	Safeway	Employee Welfare	\$6.39
12/29/22	Safeway	Employee Welfare	\$62.47
01/10/23	Fern Café	Employee Meal	\$37.00
01/10/23	PayPal	CDL Test	\$220.00
01/10/23	PayPal	CDL Test	\$220.00
01/11/23	Telma Retarder	Parts	\$72.65
01/11/23	Tennant Co	Shop Equipment	\$410.09
01/17/23	Safeway	Employee Welfare	\$27.09
01/23/23	Tora Sushi	Employee Meal	\$90.66
			\$1,146.35
NATALIE ZUERCHER			
12/30/22	Zoom	Subscription	\$40.00
01/03/23	Amazon	Office Supplies	\$9.99
01/03/23	Indeed	Recruitment NWR	\$450.00
01/04/23	Baudville	Employee Appreciation	\$54.12
01/09/23	SDAO Event	SDAO Conference	\$95.00
01/17/23	Amazon	Office Supplies	\$14.99
01/17/23	Enidica	Postage	\$24.99
01/17/23	USPS Stamps	Subscription	\$25.00
01/17/23	Amazon	Operations	\$88.27
01/17/23	Amazon	Office Supplies	\$64.72
01/19/23	Amazon	Office Supplies	\$28.04
01/20/23	Recess Food Truck	Board Meeting Dinner	\$67.20
01/24/23	Vistaprint	Service Change Materials	\$90.59
01/08/23	Amazon	Return credit	\$29.57
			\$1,023.34
Charges total			\$2,537.43
Late Fees & Intrest			\$125.75
Grand Total Due			\$2,663.18

APPROVAL

DATE

MONTHLY PERFORMANCE

Service Month	Passengers per Hour	Farebox Ratio	Operating Cost per Hour
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Dial-A-Ride Services

Jan-22	1.5	46.1%	102.61
Oct-22	1.5	48.3%	90.77
Nov-22	1.5	50.5%	88.03
Dec-22	1.5	47.0%	95.17
Jan-23	1.5	49.0%	93.62

Deviated Fixed Routes

Jan-22	4.2	5.5%	103.08
Oct-22	5.0	5.8%	91.62
Nov-22	4.9	5.8%	88.95
Dec-22	4.8	5.2%	96.50
Jan-23	4.8	5.0%	94.96

Intercity Services

Jan-22	2.0	8.7%	118.87
Oct-22	2.6	12.3%	104.26
Nov-22	2.5	11.9%	101.75
Dec-22	2.3	10.3%	110.86
Jan-23	2.3	10.1%	108.52

Other Services

Jan-22	3.2	0.3%	92.22
Oct-22	6.2	0.1%	92.69
Nov-22	6.1	0.1%	89.82
Dec-22	6.1	0.1%	97.24
Jan-23	6.0	0.1%	95.41

Dial-a-Ride includes County-wide DAR, NW Rides, Veterans Transportation

Deviated Fixed Routes: 1 Town Loop, 2A Oceanside, 2B POTB, 3 Manzanita/Cannon Beach, 4 Lincoln City

Intercity Routes: 5 Portland, 60X Coastal Connector, 70X Salem/Grand Ronde

Other Services: Trippers, Special Bus Operations/PC Free Shuttle

**Primary Performance Measures Report
thru Jan 2023**

	Passengers per Hour	Cost per Trip	Cost per Hour	Farebox Return %
<u>Dial-A-Ride</u>				
Dial-A-Ride	2.0	\$ 45.26	\$ 89.99	10.2%
NW Rides	1.0	\$ 93.89	\$ 96.68	79.4%
Total	1.5	\$ 63.78	\$ 93.62	49.0%
<u>Deviated Route</u>				
Rt 1: Town Loop	9.7	\$ 8.88	\$ 85.80	7.6%
Rt 2A: Oceanside	1.5	\$ 57.53	\$ 87.07	2.0%
Rt 2B: PORT	4.7	\$ 18.61	\$ 88.26	3.8%
Rt 3: Manzanita	3.9	\$ 25.74	\$ 99.26	5.6%
Rt 4: Lincoln City	2.2	\$ 47.54	\$ 105.26	3.7%
Total	4.8	\$ 19.79	\$ 94.96	5.0%
<u>Intercity</u>				
Rt 5: Portland	2.1	\$ 51.94	\$ 107.72	17.7%
Rt 60X: Salem	2.6	\$ 42.33	\$ 109.29	7.0%
Rt 70X: Grand Ronde	2.1	\$ 50.95	\$ 108.42	3.1%
Total	2.3	\$ 47.31	\$ 108.52	10.1%
<u>Other Services</u>				
Trippers	1.8	\$ 47.14	\$ 84.18	1.0%
SBO	6.7	\$ 14.60	\$ 97.10	0.0%
Total	6.0	\$ 15.86	\$ 95.41	0.1%
FY 2022-23 YTD	3.2	\$ 30.90	\$ 97.89	19.4%
FY 2021-22 YTD	2.8	\$ 37.78	\$ 105.81	18.5%
Percent Change	13.1%	-18.2%	-7.5%	4.9%

Tillamook County Transportation District

MONTHLY PERFORMANCE REPORT

January 2023

RIDERSHIP BY SERVICE TYPE

	Jan 2023	Jan 2022	YTD FY 22-23	YTD FY 21-22	YTD % Change
<u>Dial-A-Ride Service</u>					
Tillamook County	790	841	6,189	5,942	4.2%
NW Rides	623	533	3,808	3,338	14.1%
Dial-A-Ride Total	1,413	1,374	9,997	9,280	7.7%
<u>Deviated Fixed Route Service</u>					
Rt 1: Town Loop	3,476	2,709	24,825	19,176	29.5%
Rt 2A: Netarts/Oceanside	258	231	1,720	2,519	-31.7%
Rt 2B: Port of Tillamook Bay	542	162	2,576	638	303.8%
Rt 3: Manzanita/Cannon Beach	1,286	1,065	9,567	10,414	-8.1%
Rt 4: Lincoln City	534	427	5,474	4,354	25.7%
Local Fixed Rt Total	6,096	4,594	44,162	37,101	19.0%
<u>Intercity Service</u>					
Rt 5: Portland	510	375	4,157	3,670	13.3%
Rt 60X: Salem	740	612	5,691	4,531	25.6%
Rt 70X: Grand Ronde	288	264	2,507	2,088	20.1%
Inter City Total	1,538	1,251	12,355	10,289	20.1%
<u>Other Services</u>					
Tripper Routes	27	11	105	79	32.9%
Special Bus Operations	0	0	2,608	1,125	131.8%
Other Services Total	27	11	2,713	1,204	125.3%
TOTAL ALL SERVICES	9,074	7,230	69,227	57,874	19.6%

ONE-WAY TRIPS BY USER GROUP					
	Fixed		YTD	YTD	YTD %
USER GROUP	Route	DAR	FY 22-23	FY 21-22	Change
General (18 years to 60 years of age)	4,553	226	35,860	30,488	17.6%
Senior/Disabled	2,508	1,130	25,863	23,433	10.4%
Child/Youth (less than 18 years of age)	600	57	4,661	3,953	17.9%
Total	7,661	1,413	66,384	57,874	14.7%

OTHER RIDER CATEGORIES					
	Fixed		YTD	YTD	YTD %
	Route	DAR	FY 22-23	FY 21-22	Change
Ride Connection	74		637	561	13.5%
Tillamook Bay Community College	140		842	292	188.4%
NWOTA Visitor Pass	72		403	960	-58.0%
NW Rides		623	3,808	3,120	22.1%
Amtrak/Greyhound	67		611	803	-23.9%

nwCONNECTOR

Coordinating Committee Virtual Meeting

March 10, 2023; 10:00 am—12:00 pm

VIRTUAL

Join Zoom Meeting:

<https://us02web.zoom.us/j/87552290259>

Call In: 1 253 215 8782

Meeting ID: 875 5229 0259

Agenda

10:00— 10:15a	1. Introductions. Welcome to Brian Vitulli	Cynda Bruce
10:15— 10:35a	2. Consent Calendar (Action Item) 🚦 February Meeting Minutes (Attached) 🚦 Financial Report 🚦 Ridership Tracking	Cynda Bruce/All
10:35— 10:50a	3. NWOTA Standing Items 🚦 Marketing Update – Pending contract 🚦 Website Update	Sarah Lu Heath
10:50- 11:05a	4. Token Transit	All
11:05- 11:20a	5. Service to PDX	All
11:20- 11:30p	6. Other Business	All
11:30a – 12:00p	7. Member Updates	All

Attachments:

February Meeting Minutes
Ridership/Passenger Mile Tracking

NWOTA meetings are open to the public and accommodations will be provided to persons with disabilities. If a sign language interpreter is needed, please call Sarah Lu Heath at 971.328.2877 at least 48 hours prior to the meeting.

NWOTA Meeting Minutes
February 17, 2023

In attendance: Brad Dillingham, Arla Miller, Brian Vitulli, Cynda Bruce, Mike Reed, Natalie Zuercher, Sarah Lu Heath

Consent Calendar Reviewed: Corrections to the minutes: TCTD has four board member positions open, not yet filled. Brian Vitulli made a motion to accept the consent calendar, Brad Dillingham seconded; motion passed unanimously.

Marketing Update: TCTD is working to add the professional services agreement to the marketing plan for signing.

Website Update: Chris Perry provided update via email: Website home page has been updated with the Google trip planner. Mike Reed mentioned issues with on-time website updates for new service plan despite advanced knowledge of needs.

Token Transit: The group discussed how to improve service to the PDX airport as well as how to improve interline agreements with other transit providers. Regarding token transit specifically TCTD struggles to sell visitor passes. Additionally, new rates make family passes less appealing.

NW Transit Access Plan – High Priority Stops: Benton County stops are no longer relevant and should be removed from the list of possible stops. The group reviewed the proposed letter in support of funding for additional transit stops. Brian Vitulli moved to accept the letter and Brad Dillingham seconded; the motion passed unanimously.

Other Business: None.

Member Updates:

Benton Area Transit: RFP is out for a new contractor.

Tillamook County Transit District: Focused on on-boarding the new General Manager.

Lincoln County Transit: biennial grants have been submitted; STIF request is for building expansion.

ODOT: Arla Miller is advocating for a statewide transit coordinator to support the existing regional coordinators.

Meeting was adjourned at 11:40am.

**2023 NON-EMERGENT MEDICAL TRANSPORTATION SERVICES
DELEGATION AGREEMENT**

This non-emergent medical transportation services delegation agreement (“Agreement”) is between CareOregon, Inc. (hereinafter “CareOregon”) and

Name: Tillamook County Transportation District
Address: 3600 Third Street, Suite A, Tillamook OR 97141
Contact name: Brian Vitulli, General Manager
Telephone: (503) 815-3115
Email address: bvitulli@tillamookbus.com

Deleted: 8283
Field Code Changed

hereinafter referred to as “Delegate.”

RECITALS

- A. CareOregon is a nonprofit organization that provides management services for and operates as a coordinated care organization as defined under Oregon law, and as such, CareOregon coordinates health care coverage for enrollees of the Oregon Health Plan (“OHP”) or otherwise;
- B. CareOregon is the sole member of Columbia Pacific CCO, LLC (“CCO”), which has entered into a Health Plan Services Contract, Coordinated Care Organizations Contract and Non-Medicaid Health Plan Services Contract, intentionally referred to in the singular in this Contract as the “CCO Contract”, with the State of Oregon, acting by and through its Oregon Health Authority (“OHA”);
- C. Delegate has the capacity and competency to perform delegated functions in furtherance of CCO’s obligations to deliver non-emergent medical transportation (“NEMT”) services under the CCO Contract; and
- D. The parties desire to contract with one another such that Delegate fulfills certain duties and obligations necessary to deliver NEMT services under the CCO Contract.

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GENERAL PROVISIONS

1. Effective Date and Duration

The Agreement, effective as of January 1, 2021, is hereby amended and restated in its entirety effective as of January 1, 2023, “Effective Date”. The amendment and restatement of this Agreement does not affect its terms and conditions for Work prior to January 1, 2023. Unless extended or terminated earlier in accordance with terms provided for in this Agreement, this Agreement shall expire on December 31st, 2023. Agreement termination shall not extinguish or prejudice CCO’s right to enforce this Agreement with respect to any default by Delegate that has not been cured.

Deleted: 2022
Deleted: 2022
Deleted: 2022

2. Entire Agreement/Merger Clause and Amendment

- a. This Agreement consists of these General Provisions, and includes the following listed exhibits which are incorporated into this Agreement:

Exhibit A:	Definitions
Exhibit B:	Statement of Work
Exhibit C:	Payment and Financial Reporting
Exhibit D:	Standard Terms and Conditions
Exhibit E:	Required Federal Terms and Conditions
Exhibit F:	Insurance
Exhibit G:	Business Associate Agreement

- b. This Agreement and its exhibits represent the complete and entire understanding between the parties and supersede all prior agreements, understandings, or representations, oral or written, between the parties with respect to the subject matter hereof. Except as otherwise expressly provided in this Agreement, any representations, promises, warranties, or statements that differ in any way from the terms of this Agreement have no force or effect. This Agreement shall inure to the benefit of, and be binding upon the parties, their respective successors, heirs, legal representatives or personal representatives.
- c. No amendment or modification to the terms of this Agreement are valid unless made in writing and signed by each of the parties hereto. All exhibits and schedules, some of which in turn have attachments, which are attached hereto, are incorporated by reference into this Agreement.

3. Enrollment Limits and Service Area

For the purposes of this Agreement, Delegate’s Service Area is all zip codes contained in the CCO service area as outlined in the CCO Contract.

Delegate agrees to provide non-emergent medical transportation services to all of CCO’s Members, without an Enrollment Limit.

- 4. **Administration and Interpretation of Agreement.** The Parties acknowledge and agree that this Agreement is subject to the terms and conditions of the CCO Contract between CCO and the Oregon Health Authority (“OHA”) effective October 1, 2019 and amended and reinstated in its entirety January 1, 2023 only to the extent that such terms and conditions relate to the subject matter herein. The parties shall interpret and administer this Agreement in accordance with the CCO Contract, Section 4.2 titled “Administration of Contract” and Section 4.3 titled “Interpretation of Contract” which shall be incorporated herein by reference.

Deleted: 2022

The parties further acknowledge and agree that in the event that any provision, clause or application of this Agreement is ambiguous with respect to the delegation of CCO Contract provisions by CCO to Delegate due to drafting, technical or similar issues, the parties shall interpret this Agreement in a manner consistent with the original intention of the parties, to allow CCO to delegate duties and obligations related to providing Non-Emergent Medical Transportation Services that are Covered Services, as outlined in the Statement of Work, to Members under the CCO Contract to Delegate as CCO and Delegate agree are commercially reasonable and appropriate in light of Delegate’s mission and objectives. Provided any inconsistency exists between any term or condition in this Agreement with the terms and conditions in the CCO Contract, this Agreement shall control to the extent that such inconsistency does not contradict or otherwise conflict with applicable law.

EXHIBIT A
Definitions

Capitalized terms used in this Agreement, but not otherwise defined in this Agreement, shall have the same meaning as those terms in the CCO Contract, including definitions incorporated herein by reference.

The order of preference for interpreting conflicting definitions in this Agreement is (in descending order of priority):

- A. Express definitions in this Exhibit A,
 - B. Express definitions elsewhere in this Agreement or in the CCO Contract,
 - C. Definitions in OAR 410-120-0000 and OAR 410-141-3500.
1. Terms Defined by this Agreement:
- a. **“Agreement”** means this Non-Emergent Medical Transportation Services Agreement by and between CareOregon and Delegate including all exhibits, addenda and attachments, all of which are incorporated herein by reference.
 - b. **“Central Dispatch”** means the centralized authorization and dispatch call center for Rides, defined infra.
 - c. **“Covered Services”** means a service for which CCO is responsible for payment as contained in the CCO Contract, Health Systems Division General Rules, and the Oregon Health Plan rules under OAR 410-141-3500 et seq.
 - d. **“Member”** means an individual properly enrolled with CCO and eligible to receive Covered Services at the time services are rendered.
 - e. **“Member Reimbursement”** is defined as payment to a Member that includes but is not limited to miles, meals, and lodging.
 - f. **“Policies and Procedures”** means the criteria and methods pertaining to participation, compensation, payment rules, processing guidelines, medical policy, utilization management, quality improvement, fraud and abuse, health benefit plan standards, and such other matters determined from time to time by CCO which have been provided in writing to Delegate.
 - g. **“Ride(s)”** means NEMT Services for a Member either to or from a location where Covered Services are provided. Ride(s) does not include Member reimbursed medical transportation or ambulance transportation requiring an Emergency Medical Technician.
 - h. **“Utilization Management”** (“UM”) is defined as the evaluation of medical necessity, appropriateness, and efficiency of the use of healthcare services, procedures, and facilities under the provisions of the Oregon Health Plan.
 - i. **“Volunteer”** means an individual selected, trained and under the supervision of Oregon Department of Human Services (DHS) and brokered by Delegate who is providing services under this Agreement in a non-paid capacity except for incidental expense reimbursement.
 - j. **“Work”** means the required activities, obligations, tasks, deliverables, reporting, and invoicing requirements as defined herein, in this Agreement, and, where relevant, the CCO Contract.

EXHIBIT B
STATEMENT OF WORK

1. **Member Rights.** (Derived in part from Exhibit B, Part 3 of the CCO Contract)

Delegate shall:

- a. Require and cause its Subcontractors, Providers, and Volunteers to require, that CCO Members are treated with respect, due consideration for Member's dignity and privacy, and the same as non-Members or other customers who receive services equivalent to Covered Services consistent with the requirements of this Agreement and OAR 410-141-3590, OHP Member Rights and Responsibilities and CCO Policies and Procedures;
 - b. Ensure and cause its Subcontractors, Providers and Volunteers to ensure that each CCO Member is free to exercise said Member's rights, and that the exercise of those rights does not adversely affect the way Delegate, its staff, subcontractors, providers or volunteers treat Members. Delegate shall not discriminate in any way against Members when those Members exercise their rights under the Oregon Health Plan;
 - c. Not deny, and shall cause all subcontractors or volunteers to not deny, any Member Non-Emergent Medical Transportation Services on the basis of race, color, sex, sexual orientation, gender, religion, national origin, creed, marital status, age, health status or the presence of any sensory, mental, or physical disability;
 - d. Not bill or hold any Member responsible for payment for Non-Emergent Medical Transportation Services. Delegate shall ensure that it or its Subcontractors or Providers do not bill Members for services that are not covered under the CCO Contract unless there is a full written disclosure or waiver (also referred to as agreement to pay) on file signed by the Member, in advance of the service being provided, in accordance with the applicable State rules and regulations.
2. **Covered Services.** CCO hereby delegates to Delegate and Delegate hereby accepts delegation of, and agrees to provide to Members certain Covered Services delineated in, relevant parts, Exhibit B, Part 2, Section 5 of the CCO Contract associated with NEMT Services and as further particularized in this Agreement. Delegate expressly assumes the duties, obligations, rights, and privileges applicable to "Contractor" as described in the designated exhibits, parts, and sections of the CCO Contract, as they relate to providing certain Non-Emergent Transportation Services that are Covered Services and that are further enumerated herein.
- Delegate shall provide NEMT Services on behalf of CCO to CCO's Members directly or through subcontracts with Transportation Providers.
3. **CCO Delegate Requirements.** The services provided under this Agreement are being delivered on behalf of CCO, as Delegate is performing on contractual obligations for specified health plan services. To the extent applicable to the terms of this Agreement, Delegate shall comply and cause all subcontractors to comply with the following provisions of the CCO Contract to allow CareOregon or CCO to meet its CCO Contract requirements and obligations:

- i. All the general subcontractor requirements listed in Exhibit B, Part 4, Section 11 of the CCO Contract, to the extent the requirements apply to Delegate's scope of work under this Agreement.
- ii. Delegate agrees to comply with the Program Integrity requirements listed in Exhibit B, Part 9, Section 11-18 of the CCO Contract, to the extent they apply to Delegate's Work under this Agreement.
- iii. Exhibit D, Sections 1, 2, 3, 4, 15, 16, 18, 19, 24, and 30-32, which address:
 - Governing Law, Consent to Jurisdiction
 - Compliance with Applicable Law
 - Independent Contractor
 - Representations and Warranties
 - Access to Records and Facilities; Records Retention; Information Sharing
 - Force Majeure
 - Assignment of Contract, Successors in Interest
 - Subcontracts
 - Survival
 - Equal Access
 - Media Disclosure
 - Mandatory Reporting
- iv. Delegate agrees to comply with the federal requirements listed in the CCO Contract, Exhibit E, to the extent they apply to Delegate's Work under this Agreement.
- v. Delegate will comply with the requirements listed in the CCO Contract, Exhibit N, to the extent Delegate has Access to OHA or State Data, Network, and Information Systems, and Information Assets as defined in the CCO Contract.

4. Operations. (Derived in part from Exhibit B, Part 2, Section 5 of the CCO Contract)

- a. General Operations.
 - i. Delegate will provide adequate staffing to support maintaining the regulatory and operational requirements of the delegated functions within this Agreement.
 - (1) On an annual basis, Delegate and Contractor will work to develop an agreed upon staffing plan including review of annual audits and/or operational check-ins to address any relevant considerations. Staffing plan shall include, at a minimum, the following:
 - Minimum customer service representatives related to call center metrics that include dispatch and ride assignment functions
 - Quality assurance and compliance staffing responsible for administrative processes such as but not limited to: member mileage, lodging and meal reimbursement processing, grievance monitoring, and regulatory reporting deliverables
 - Provider network oversight staffing and functions that support credentialing processes, compliance monitoring, and regulatory reporting deliverables unique to NEMT network management
 - ii. Delegate will provide access to Brokerage Call Centers for ride requests with a toll-free number. Delegate shall ensure that all Call Centers comply with all applicable terms and conditions set forth in Para. f. of Sec. 5, Ex. B, Part 2 of the CCO Contract titled, *NEMT Call Center Operations*. In particular, Call Centers

Commented [SS2]: Overall intent is not to create operation processes to propose staffing changes over annual periods and/or applicable to annual reviews. The intent is to call out areas of staffing that we would require dedicated focus.

Commented [SS3R2]: The goal we are trying to achieve is to support staffing changes at the NWR brokerage, that we'd like to prevent from having to be reviewed and presented each time at TCTD board of directors levels. And trying to assist NWR in minimum staffing to meet CareOregon Delegation Oversight annual review submissions.

shall:

- [a] Operate at minimum Monday through Friday from 9:00 a.m. to 5:00 p.m., but may close the call center on New Year's Day, Memorial Day, July 4, Labor Day, Thanksgiving, and Christmas.
 - [b] Shall provide an after-hours message in, at a minimum, English and Spanish during any hours the Call Center is closed. The after-hours message must:
 - (1) Explain how to access alternative transportation arrangements, in a manner that does not require Member to place a second call; and,
 - (2) Offer the caller the opportunity to leave a message.
 - iii. Delegate will provide after-hours call center service to provide transports for after-hour hospital discharges or urgent ride requests.
 - iv. Emergent Need. Providing Emergent Medical Transportation is not part of Delegate's obligation under this Agreement but available to CCO Members. Delegate shall have procedures for referring Members requesting Emergent Medical Transportation to 911 Emergency Services.
 - v. Delegate will ensure timely communication and collaboration with CCO and other necessary parties for sharing NEMT request information including knowledge concerning special needs of any particular Member and any other programmatic material that will support a timely and safe transportation of all Members.
 - vi. Delegate will provide online portal for Members and medical providers to schedule ride requests for Members already enrolled into NEMT services.
 - vii. Delegate will provide all equipment and staff necessary for adequate operation of the NEMT benefit, including the purchase of workstations, computers, computer peripherals, and software (hereinafter "Equipment"). Vehicles are excluded from the definition of Equipment and from Reimbursement under this Agreement.
- b. Communication Materials For Members.
- i. Delegate and CCO will collaborate to develop materials to educate and outreach to Members about their options to access NEMT services. At minimum, the partnership will develop material to inform Members of their rights and responsibilities for accessing the NEMT benefit. Delegate shall not implement any changes to Member outreach and education materials without prior approval from CCO. The information must contain:
 - [a] Operation hours.
 - [b] How to register and request a ride along with how to access mileage, lodging, and meal reimbursements.
 - [c] Public transit and shared-ride options.

- [d] Programmatic elements pertaining to vehicle-provided rides, reimbursement, public transit and shared-rides information.
 - [e] An individual's rights and responsibilities to access their benefits and healthcare services as according to the Oregon Health Plan.
 - [f] Member's right to request preferred transportation providers for vehicle-provided rides.
 - [g] How to file a complaint, compliment, or appeal a denied NEMT request.
- ii. CCO will be responsible for submitting Member materials to OHA for approval. Member materials will include, but are not limited to:
 - [a] Rider Guide, printed and online accessible versions
 - [b] Member Satisfaction Surveys
 - [c] Call Center Scripts
- c. Policies and Procedures.
- i. The Delegate and CCO will develop and implement processes to deliver the NEMT services efficiently, and in a manner that minimizes costs while meeting Member's needs.
 - ii. Policies and Procedures will include, but are not limited to:
 - [a] NEMT Member Communications & Materials
 - [b] Benefit Determinations
 - [c] Ride Assignments and Dispatch
 - [d] Pick up and Delivery
 - [e] Adverse Weather
 - [f] Disaster Preparedness & Emergency Planning
 - [g] Incidents & Accidents Reporting
 - [h] Non-Emergent Ambulance authorizations and payment
 - [i] Grievance and Appeals
 - [j] Network Management
 - [k] Quality Assurance Program
 - [l] NEMT Encounter Data Validation, Program & Payment Integrity
 - [m] Brokerage Manual and NEMT Provider Manual
- d. Delegate and CCO will collaborate to develop NEMT call center scripts for calls requesting NEMT services that include a sequence of questions and criteria that the NEMT call center representatives shall use to determine the Member's eligibility for NEMT services, the appropriate mode of transportation, the purpose of the trip, and all other pertinent information relating to the trip. CCO will be responsible for submitting call center scripts to OHA for approval

5. Eligibility, Level of Service Assessments, and Dispatch

- a. Eligibility.
 - i. Delegate shall verify Member's eligibility prior to scheduling or submitting reservation requests for NEMT services by screening and confirming:
 - [a] Member's enrollment with CCO, including that the Member's CCO enrollment is up-to-date and that the Member's benefit package

includes NEMT services. Delegate will confirm enrollment through various means, including:

- (1) Reviewing Eligibility Files, CCO shall provide access to Eligibility Files. In addition, Delegate shall review electronic eligibility information as determined by the Brokerage Manual.
- (2) Access and utilizing the Oregon Health Authority's Provider Web Portal at <https://or-medicaid.gov> or Division of Medical Assistance Programs (DMAP) Provider Services telephone number (800-336-6016) to verify any client's eligibility in CCO enrollment or receiving services under DMAP;
- (3) Contacting CCO to provide additional support in verifying enrollment, notably when eligibility information is conflicting or not available by other means.

[b] That the service for which NEMT Service is requested is a Covered Service or Health-Related Service (referred to herein as "Flex Rides") as further defined in the CCO Contract.

ii. Delegate will not seek payment from CCO for services provided to ineligible members unless Delegate verified member eligibility through the process above prior to providing services, and the member is later determined to have been ineligible.

b. Registration and Level of Service Assessments. Delegate shall assign vehicle-provided Rides based upon an assessment of a Member's resources and abilities as directed in this Agreement. Subsequently, Delegate shall consider in its assignment: cost; appropriate equipment; any factors related to transportation provider capabilities, transportation provider availability, and transportation provider past performance; and any other reasonable factors as deemed appropriate.

i. Delegate is responsible for assessing a Member's resources and abilities to find the most appropriate ride type available that is cost efficient. This assessment will occur at the registration of the first-time request of a new Member accessing their NEMT benefit. Delegate will include, in its assessment of a Member, any additional special needs including, but not limited to whether the member:

- [a] Is ambulatory and the Member's current level of mobility and financial independence;
- [b] Will be accompanied by an attendant, including those permitted under OAR 410-141-3935, and if so, whether the Member requires assistance and whether the attendant meets the requirements for an attendant;
- [c] Is under the age of twelve (12) and will be accompanied by an adult;
- [d] Has any special conditions or needs, not known by CCO, and modify as may be required, the NEMT Services in accordance with OAR 410-141-3955;
- [e] Requires Secured Transport in accordance with OAR 410-141-3940; and
- [f] Based on approval of previous NEMT services, Delegate shall display Members' permanent and temporary special needs, appropriate mode of transportation, and any other information necessary to ensure that appropriate transportation is approved and provided.

- ii. CCO will provide additional supporting information to determine a Member's physical and mental health abilities in order to assist Delegate in determining the most appropriate ride type available that is cost efficient.
 - iii. CCO will provide any known updates in health status that would qualify Member for any higher level of transport type that Member is unable to report themselves. Delegate will request information from CCO verifying any reported significant health status change that would qualify member for any higher level of transport type that Member is unable to report themselves or medical necessity of a previously lower level of service already authorized.
 - iv. Delegate shall maintain records reporting the reasons for Ride assignments.
- c. Scheduling, Ride Assignment & Dispatch. Delegate will:
- i. Permit a Member or a Member's Representative to make a request for NEMT services on behalf of that member. For purposes of this section, Representatives include the Member's Community Health Worker, foster parent, adoptive parent, or other Provider delegated with this authority.
 - ii. Approve and schedule or deny a request for NEMT Services (including all legs of the trip) within twenty-four (24) hours of receiving the request. This timeframe shall be reduced as necessary to ensure the Member arrives in time for such Member's appointment. In so doing, Delegate shall:
 - [a] Make every reasonable effort to arrange rides including with same day notice.
 - [b] Schedule ongoing Member appointments for a minimum of one month and accept multiple ride requests at one time for a Member.
 - [c] Allow Members or their Representatives to schedule NEMT services up to ninety (90) days in advance.
 - [d] Unless there are safety or operational constraints, provide the name and telephone number of the NEMT driver to the Member and confirm the scheduled pick-up time and address with the Member not less than two (2) days prior to the scheduled pick-up time.
 - iii. Notify Members requesting NEMT Services of approval or denial, in full or in part, of the request by adhering to the following:
 - [a] If NEMT service is approved, this notification shall include information about the transportation arrangements and logistics of a vehicle-provided ride as further elucidated in the CCO Contract.
 - [b] Delegate will make every attempt to notify Member of the determination including, when appropriate, details of the transportation arrangements prior to the date of the NEMT service.
 - (1) Delegate shall provide this notification to a Member within twenty-four (24) hours of receiving the request and, when possible, whichever comes sooner:
 - (i.) During the phone call requesting the NEMT Service; or,

(ii.) As soon as the transportation arrangements are in place and prior to the date of the NEMT Service.

(2) Otherwise, if NEMT Request requires CCO review prior to approval at the time of request, Delegate shall obtain the Member's preferred method of communication (e.g., phone call, email, fax) and preferred time of contact.

[c] Delegate will document all notifications, including all attempts to notify Member.

[d] If NEMT Service is denied, denial and timeliness of notification must be in accordance with OAR 410-141-3835 through 410-141-3915, 410-141-3920, and OAR 410-141-3955.

iv. Schedule a single transport with an alternate subcontractor or volunteer if the subcontractor or volunteer originally authorized to provide the transport is unable to provide the transport.

6. Program Components.

a. Mileage, Lodging and Meal Reimbursement.

i. The Delegate will offer a mileage, lodging, and meal reimbursement program for Members. Mileage reimbursement is offered when Member or a friend or family member that/who do not have the means to afford to get to their medical appointments. Lodging and meal reimbursement programs are offered primarily for travel to out-of-area or state medical providers that are far enough to require an overnight stay.

ii. Rate setting for the member mileage, lodging and meal reimbursements (collectively, "Reimbursements") are set by the OHA. Delegate shall make Reimbursements in accordance with the stated reimbursement rates as published by the OHA, unless CareOregon requests Delegate to use alternative higher rates. CareOregon reserves the right to increase the Reimbursement rates and work in partnership with the Delegate for planning and implementation of any rate increases.

a. CareOregon shall notify the Delegate of any intent to change the member mileage, lodging, and/or meal reimbursement rates at minimum 6 months advanced notice.

b. The Delegate shall communicate and collaborate with CareOregon on an implementation process for rate changes.

c. CareOregon shall use the OHA member materials requirements to inform and notify members of rate reimbursement changes via the Mileage, Lodging and Meals Reimbursement Guide.

iii. The Delegate will determine and administer the most appropriate, reasonable and timely method of reimbursement program to Members.

iv. The Delegate and CCO will develop a program guide to describe how Member may qualify and access the reimbursement program.

Deleted: as they see fit

d. Volunteer Drivers.

- iii. The Oregon Department of Human Services (DHS) trains and manages a corps of volunteers. DHS supervises and assumes all liability for each volunteer provided by law. OAR 410-136-3020(17).
- iv. Delegate may utilize DHS volunteers to provide medical transportation. Delegate is not required to use DHS volunteers in the provision of any Service to members under this agreement. OAR 410-136-3020(17).
- v. If Delegate decides to utilize DHS volunteers as drivers, Delegate will provide such volunteer(s) with any equipment necessary to provide rides for CCO members.
- vi. Under ORS 409.360, in the performance of Services under this Agreement, OHA Volunteers are agents of the State and not Agents of CCO or Delegate in the performance of activities on behalf of and under the direction of OHA, and as such shall have the benefit of, and be subject to, the Oregon Tort Claims Act (OTCA) unless otherwise disqualified under the OTCA. Delegate will make every reasonable effort to:
 - [a] Promptly report any claim or occurrence of which Delegate has actual knowledge that could give rise to a claim in writing to Risk Management Division, 1225 Ferry Street SE, U150, Salem, Oregon 97301 (or any subsequent address of such division) and to CCO; and,
 - [b] Cooperate fully in the investigation and defense conducted by the State of any claim covered by the OTCA and otherwise comply in all respects with the OTCA. If Delegate offers dispatch services for OHA volunteer drivers, Delegate, at its option may utilize OHA volunteers and OHA assumes all liability for each OHA volunteer as provided by law.

e. Non-Emergent Ambulance Transports

- iii. Delegate will authorize and coordinate Non-Emergent Ambulance Transports on behalf of CCO. Delegate will assist ambulance providers in completing authorization form that authorizes amount of payment based on ride type and level of medical monitoring needs. Delegate will provide payment based on the authorization form and approved cost in accordance with the Brokerage Manual.
- iv. Delegate will assist ambulance providers by providing education on relevant policies and procedures.

7. Utilization Management (“UM”).

a. Outlined Activities.

- i. The Delegate will be provided the authority to make decisions to provide rides based on Member Eligibility and verification that the ride is to a Covered Service, as described in this Agreement, as part of UM activities prior to the evaluation of medical necessity under the provisions of Covered Services and Member Eligibility.

- ii. CCO will provide UM review activities for urgent or same day ride requests, out-of-area, out-of-state, higher level of service based on medical necessity, and any requested information from Delegate that might require clinical review for medical necessity, along with any ad-hoc requests.
 - iii. Delegate will perform appointment verifications to check on Member attendance for continuing service requests by contacting the medical provider or volunteer of the Covered Services on a minimum of five percent (5%) of all NEMT rides provided under this Agreement to ensure the Member is being transported to a Covered Service.
 - [a] CCO, Delegate, and any other appropriate party will collaborate on operational implementation of appointment verification.
 - [b] At a minimum, all approved same day and/or urgent requests should be verified at time of request.
 - [c] Mileage Reimbursement will require Member submissions to verify appointment attendance.
- b. **Prior-Authorization Requirements.** Delegate shall follow CCO's procedures for initial and continuing authorizations for services provided that such authorizations do not violate any Applicable Law, regulation, or contractual obligation within the CCO Contract. In addition, Delegate must obtain authorization for Covered Services from CCO, except to the extent prior authorization is not required under applicable rules, regulations, or elsewhere in the CCO Contract.
- i. Out-of-area. Delegate will utilize CCO clinical network systems to verify if services are available within CCO network.
 - ii. Out-of-state.
 - [a] Delegate will request medical prior-authorization from CCO prior to approving out-of-state NEMT service(s). CCO requires that any out-of-state service(s) that surpasses OARs 410-141-3930 service area parameters shall require an evaluation for medical necessity and a verification that no medical providers located inside the state of Oregon can provide said service(s).
 - [b] Delegate shall arrange for and purchase commercial airline tickets (or most appropriate mode of transportation) in accordance with OHA guidelines for qualifying out-of-state travel approved by CCO for medical necessity and any necessary ground travel to and from an airport or other departure location within Oregon. Delegate may utilize any procurement method and criteria to purchase airline tickets and any necessary travel to and from an airport or other departure location within Oregon, subject to the requirement to use the least expensive mode of transportation that meets the non-emergent medical needs of the member.
 - [c] Delegate shall provide the reimbursement options to Members for their out-of-state meals, mileage, and lodging expenses in accordance with the applicable rules and regulations and shall not seek additional reimbursements for these costs from CCO outside of the Payment Provisions in Exhibit C of this Agreement.

- c. Denials. Delegate will provide appropriate denial of individual NEMT Service requests.
 - i. The Delegate will establish an immediate secondary review process by an employee other than the initial screener prior to the denial of any ride.
 - ii. Within seventy-two 72 hours of denying a ride, Delegate will send a letter to the Member, with a copy to CCO upon request, explaining why the Member's ride has been denied.
 - iii. CCO will provide Delegate with regulatory template and guidance for appropriate denial reasons and compliance procedures.
 - iv. Consistent with 42 CFR 431.231, Delegate will reinstate denied NEMT services under certain circumstances.

8. Grievance and Appeals. (Derived in part from Exhibit I of the CCO Contract)

- a. Subject to CCO's reservation of authority over final adjudication of grievances and appeals and subject to CCO's oversight activities, Delegate shall develop and implement a Grievance System with CCO supported with written procedures under which CCO Members or Providers acting on their own behalf may challenge any Action that includes a Grievance process, Appeals process, and explains access to and the process of Contested Case Hearings.
- b. As applicable, the shared Grievance System shall meet the requirements of the CCO Contract to the extent such requirements are applicable, OAR 410-141-3875 through 410-141-3915, 42 CFR 438.400 through 438.424, and any other applicable provisions of this Agreement.
- c. CCO will provide training and technical assistance to develop Delegate's responsibility of Grievance System and produce a policy and procedure. CCO will support development of documentation for Grievance and Appeals Member communication.
- d. Delegate will determine protocols for receiving expressions of dissatisfaction, concerns, problems, or issues from Members, Member Representatives and/or network providers about NEMT services and attempt to resolve those complaints in a timely manner.
- e. CCO will be responsible for accepting and processing member appeals for any NEMT Actions issued; CCO will develop procedures and communicate to Delegate that which may require investigation and, when appropriate, Delegate and CCO agree to collaborate to resolve and process individual appeals.
- f. Delegate shall provide to all transportation network subcontractors, at the time they enter into a subcontract, the following procedure and timeframes for member rights to Grievance, Appeal, and Contested Case Hearings:
 - i. How to file grievances and appeals and the requirements and timeframes associated with such filings; the availability in filing; the toll-free numbers to file oral Grievances and Appeals;
 - ii. The Members' rights to a Contested Case Hearing including how to obtain a hearing and rules regarding a Member's representation at said hearing;
 - iii. Members' rights to request continuation of benefits during an appeal or Contested Case Hearing along with information that if Delegate's Action is

upheld in a Contested Case Hearing, the Member may be liable for the cost of any continued benefits; and,

- iv. Any state-determined provider appeal rights to challenge the failure of the organization to cover a service.

- g. On a quarterly basis, Delegate shall document all Grievances and Appeals using the approved state grievance log sheet. Delegate shall submit each prepared Grievance Log Sheet accompanied with the quarterly Grievance and Analysis Report to CCO no later than thirty (30) days following the end of each calendar quarter. Delegate shall monitor the Grievance Log Sheets on a monthly basis for completeness and accuracy. On a quarterly basis, or upon request, Delegate shall submit to CCO copies of the Notice of Actions that Delegate has sent to Members for submission to the State with the quarterly report.

9. Provider and Delivery System.

- c. Delegate is solely responsible for subcontracting any vehicle and driver services needed to support the CCO NEMT benefit.
- d. Delegate must ensure NEMT services meet all applicable vehicle equipment and driver requirements set forth in OAR 410-141-3925 and all local, state, and federal requirements applicable to NEMT.
- e. Delegate will be responsible for disseminating information and regulations that pertain to Member rights and responsibilities, vehicle and driver safety standards, and Covered Services to subcontractors at time of onboarding.
- f. CCO will support Delegate oversight activities for provider and delivery system upon request.
- g. Delegate shall be responsible for consistent and regular communication and data sharing with CCO related to achieving performance metrics, regulatory requirements regarding grievances, and operations related to direct delivery of services.

10. Accountability and Transparency of Operations. (Derived in part from Exhibit B, Part 8 of the CCO Contract)

c. Record Keeping Requirements.

- iii. In accordance with ORS 414.572(2)(m), Delegate shall use best practices in the management of its finances, contracts, claims processing, payment functions and Provider Networks related to the Services.
- iv. Per the CCO Contract, Ex. B Part 8, Section 1, Delegate shall provide OHA or CCO (via OHA's requests forwarded to CCO) OHA's external quality review organization, or any of OHA's other designees, agents or subcontractors, or any combination thereof, with reasonable and timely access to Delegate's records and facilities and cooperate with such parties in the reasonable collection of information for the purposes of monitoring Delegate's performance of the Services, and cooperate with such parties in the collection of information for the purposes of monitoring compliance with this Agreement, including but not limited to verification of services actually provided, and for developing, monitoring and analyzing performance and outcomes. Collection methods may include, without limitation: consumer surveys, onsite reviews, financial reporting and financial record reviews, interviews with staff, and other means determined by OHA.

- v. Delegate shall ensure record keeping policies and procedures are in accordance with 42 CFR §438.3(u). Notwithstanding any shorter retention period that may be required under 42 CFR §§438.5(c), 438.604, 438.606, and 438.608, Delegate shall maintain all records and documents related to this Agreement as specified in Exhibit D, Section 15 of the CCO Contract.
 - vi. Delegate shall develop and maintain a record keeping system that meets all of the following standards:
 - [a] Is supported by written policies and procedures; and
 - [b] Allows Delegate to ensure that data received from Providers is accurate and complete by verifying the accuracy and timeliness of reported data; screening the data for completeness, logic, and consistency; and collecting service information in standardized formats.
 - vii. Delegate must review all of its internal record keeping policies and procedures which are pertinent to this Agreement on a biennial basis or as required by other sections in this Agreement.
 - viii. Delegate must respond and comply in a timely manner to any and all requests from CCO or from OHA or its designee for information or documentation pertaining to Work outlined in this Agreement.
- d. **Privacy, Security, and Breach Notification.** Exhibit B, Part 8, Section 2 of the CCO Contract is delegated to Delegate, whereby Delegate ensures compliance with all requirements found within. If the terms or services provided under this Agreement permit Delegate to have access to any OHA Information Asset or Network and Information System to which security and privacy requirements apply, and OHA grants access to such OHA Information Assets or Network and Information Systems, Delegate shall comply with OAR 943-014-0300 through 943-014-0320 and Exhibit N of the CCO Contract.
- e. **Access to Records.** Delegate shall maintain its Records and allow access to all records, documents, information systems, and facilities in accordance with Exhibit D, Section 11 of this Agreement
- f. **Disclosure of Ownership Interests.**
- iii. 42 CFR 455.104 requires the State Medicaid agency to obtain the following information from any provider of Medicaid or CHIP services, including fiscal agents of providers and managed care entities: (1) the name and address (including the primary business address, every business location and P.O. Box address) of any person (individual or corporation) with an ownership or control interest in the provider, fiscal agent or managed care entity; (2) in the case of an individual, the date of birth and Social Security Number, or, in the case of a corporation, the tax identification number of the entity, with an ownership interest in the provider, fiscal agent or managed care entity or of any subcontractor in which the provider, fiscal agent or managed care entity has a 5% or more interest; (3) whether the person (individual or corporation) with an ownership or control interest in the provider, fiscal agent or managed care entity is related to another person with ownership or control interest in the provider, fiscal agent or managed care entity as a spouse, parent, child or sibling, or whether the person (individual or corporation) with an ownership or control interest in any subcontractor in which the provider, fiscal agent or managed care entity has a 5% or more interest is related to another person with ownership or control interest in the provider, fiscal agent or managed care entity as a spouse, parent, child or sibling; (4) the name of any other provider, fiscal agent or managed care entity in which an owner of the provider, fiscal

agent or managed care entity has an ownership or control interest; and, (5) the name, address, date of birth and Social Security Number of any managing employee of the provider, fiscal agent or managed care entity.

- iv. 42 CFR 455.434 requires as a condition of enrollment as a Medicaid or CHIP provider, to consent to criminal background checks, including fingerprinting when required to do so under state law, or by the category of the provider based on risk of fraud, waste, and abuse under federal law.
 - v. As such, a provider must disclose any person with a 5% or greater direct or indirect ownership interest in the provider whom has been convicted of a criminal offense related to that person's involvement with the Medicare, Medicaid, or title XXI program in the last ten (10) years.
 - vi. Delegate shall make the disclosures required by this Section to OHA. OHA reserves the right to take such action required by law, or where OHA has discretion, it deems appropriate, based on the information received (or the failure to receive information) from the provider, fiscal agent or managed care entity.
- g. **Subrogation.** Delegate agrees to subrogate to OHA any and all claims the Delegate has or may have against any entity or individual that directly or indirectly receives funds under this Agreement, including, but not limited to any manufacturers, wholesale or retail suppliers, sales representatives, testing laboratories, or other Providers in the design, manufacture, Marketing, pricing, or quality of drugs, pharmaceuticals, medical supplies, medical devices, DMEPOS, or other products.

11. Program Integrity. (Derived in part from Exhibit B, Part 9 of the CCO Contract)

c. **Monitoring and Compliance Review.**

- iii. **Delegation Oversight.** As a delegate under the CCO Contract, Delegate agrees to participate in CCO's required monitoring and delegation oversight activities as listed in Exhibit B, Part 4, Section 11 of the CCO Contract, including but not limited to:
 - [a] Ongoing oversight and monitoring of Delegate's compliance with the terms of this Agreement.
 - [b] At least once per year, cooperating with CCO to produce a formal review of Delegate's performance under this Agreement, referred to as the "Annual Subcontractor Performance Report" in the CCO Contract. The Annual Subcontractor Performance Report will include, at a minimum, the following:
 - (1) An assessment of the quality of Delegate's performance of contracted Work;
 - (2) Any complaints or Grievances filed in relation to Delegate's Work;
 - (3) Any late submission of reporting deliverables or incomplete data;
 - (4) Whether employees of the Delegate are screened and monitored for federal exclusion from participating in Medicaid;
 - (5) The adequacy of Delegate's compliance functions including all Fraud, Waste, and Abuse policies and procedures required in Exhibit B, Part 9, Section 11-18 of the CCO Contract; and

- (6) Any deficiencies that have been identified by OHA or CCO related to work performed by Delegate.
 - [c] Allow CCO to perform Monitoring, audit, and other review processes for the purpose of determining and reporting compliance with the terms and conditions of this Agreement, including, without limitation, compliance with records security and retention policies and procedures.
- iv. Delegate agrees that OHA is authorized to monitor compliance with the terms and conditions of the CCO Contract as it relates to this Agreement and the Delegate's Work, along all applicable rules, regulations, and laws. Delegate understands that methods of monitoring compliance may include review of documents or records of Delegate, CCO Contract performance review, Grievances, on-site reviews of documentation or any other source of relevant information.
- v. Delegate agrees to cooperate and participate with CCO and, when necessary, OHA in any monitoring, review, or oversight activities such as the Annual Subcontractor Performance Report expressed in this Exhibit B.
- vi. If after conducting an audit or other compliance review of the CCO, Delegate's compliance cannot be determined, or if OHA determines that the CCO and/or Delegate has breached the terms or conditions of the CCO Contract, OHA may impose Sanctions on the CCO which will be applied to CCO and Delegate in so far as the Sanctions relate to work performed under this Agreement. Information regarding OHA's authority and potential sanctions are contained in Exhibit B, Part 9 of the CCO Contract.
- vii. Upon identification by CCO, OHA, or their respective designees of issues with Delegate's performance, including indications that quality, access, or expenditure management goals are being compromised, that Member rights or health are being affected, or any other notable deficiencies or material breach(es) of this Agreement, Delegate shall cooperate with CCO in developing and implementing, within thirty (30) days, a Corrective Action Plan to remediate the identified issue(s) and establish care improvements.
 - [a] Such remediation could include additional analysis of underlying data and gathering supplementary data to identify causes and trends, followed closely by interventions that are targeted to improve outcomes in the problem areas defined.
 - [b] If the interventions undertaken as a result of reports and in execution of this section do not result in improved performance in identified areas of concern within ninety (90) days, CCO may require Delegate to intensify the rapid cycle improvement process. Subsequent actions may include terminating Agreement with Delegate.
 - [c] The timeline for remedying deficiencies will comply with timeframes prescribed by OHA, if any
- viii. The actions in this section are in addition to any other rights CCO may have under the Agreement, at law, or in equity.
- d. **OHA Sanctions.** In the CCO Contract, OHA has reserved the right to impose sanctions on the CCO. In the event that any act or failure to act by Delegate pursuant to this Agreement results in OHA imposing a sanction against CCO, CCO may impose or pass through such sanctions to Delegate. The CCO's right to file a request for an Administrative Review with OHA will pass through the Delegate should the sanction be

related to Delegate's performance unless OHA exercises its reserved right to provisionally impose a sanction before such Administrative Review. In the event OHA imposes sanctions on Delegate due to any act or failure to act by CCO, CCO shall indemnify Delegate for any such sanction and shall cooperate with Delegate in the defense of any such sanction, including filing a request for Administrative Review with OHA.

- e. **Fraud, Waste, & Abuse.** Exhibit B, Part 9, Section 10-18 of the CCO Contract is delegated to Delegate, which require Delegate to (i) Develop and implement a Fraud, Waste, and Abuse prevention and detection program and policies and procedures that ensure compliance with 42 CFR Part 455, 42 CFR Part 438, Subpart H, OAR 410-141-3520, OAR 410-141-3625, and OAR 410-120-1510; and, (ii) annually creating a plan for implementing its policies and procedures.
 - iii. CCO is required to ensure Delegate complies with the terms and conditions set forth in Exhibit B, Part 9, Section 11-18 of the CCO Contract.
 - iv. In addition, Delegate shall comply, to the extent permissible, with CCO's Fraud and Abuse policies to prevent and detect fraud and Abuse activities as such activities relate to the OHP, and shall promptly refer all suspected cases of fraud and Abuse to the CCO and the Medicaid Fraud Control Unit ("MFCU"). Delegate shall permit the MFCU or OHA or both to inspect, evaluate, or audit books, records, documents, files, accounts, and facilities maintained by or on behalf of Delegate, as required to investigate an incident of Fraud and Abuse. Delegate shall cooperate with the MFCU and OHA investigator during any investigation of Fraud and Abuse. Delegate shall provide copies of reports or other documentation regarding any suspected fraud at no cost to MFCU or OHA during an investigation.
 - v. Delegate will report any Provider or Member fraud, waste, or abuse to CCO within three (3) business days of identification, which CCO will in turn report to OHA or the applicable agency, division, or entity.
 - vi. Delegate recognizes that CCO may perform oversight and monitoring of these requirements at regular intervals including but not limited to an Annual Subcontractor Performance Report.

12. Quality and Performance Outcomes and Requirements.

- c. **Member Satisfaction Surveys.** CCO and Delegate will jointly develop and periodically administer a Member satisfaction survey as part of a larger NEMT Program Evaluation, the results of which will be used to identify potential operation deficiencies and opportunities for program improvements within the transportation programs. CCO will be responsible for submitting Member satisfaction surveys to OHA, where required.
- d. **General Reporting.**
 - i. As part of CCO's NEMT Quality Assurance Plan, Delegate shall provide CCO with the information necessary to comply with its obligations under CCO Contract Exhibit B, Part 2, Section 5(g)(3) to submit data to OHA on a quarterly

basis using the NEMT Quality Assurance (QA) Guidance Document. CCO will provide Delegate with the reporting template from the CCO Contract Forms Website, and Delegate will provide CCO with the data necessary to complete this template. Delegate will provide CCO with audit reports for all NEMT requests, provided and denied services using the agreed upon detailed transportation billing codes, no later than the 15th day of the following quarter, or upon CCO's request.

- ii. Delegate shall timely provide to CCO such call center data and recordings as CCO may reasonably require from time-to-time as necessary to prepare reports necessary to fulfill CCO's reporting obligations pursuant to the CCO Contract; including without limitation, Delegate shall submit to CCO no later than the 30th day of the following month, document the number of services for NEMT Services, modes of transportation being used, and operating costs of the NEMT program.
- iii. CCO will be responsible for submitting data and reports to OHA.
- iv. Where Delegate has granted CCO such access to Delegate's call center and NEMT services systems so as to enable CCO to generate the reports required by subsections (i) and (ii), Delegate will be exempt from these reporting requirements.
- e. **External Quality Review.** In conformance with 42 CFR § 438.350 and § 438.358, and 42 CFR § 457.1250, Delegate shall cooperate with CCO, OHA, and their designees by providing access to records and facilities for the purpose of an annual External Quality Review of CCO and Delegate's compliance with all applicable laws and the CCO Contract, as well as the quality outcomes and timeliness of, and access to, services provided under this Agreement.
- f. **Performance Metrics.** If desired, CCO and Delegate will work in partnership to define any additional performance metrics that are relevant to provision of services and operation of the NEMT benefit. Such additional performance metrics may be implemented if mutually agreed upon by CCO and Delegate.

EXHIBIT C
PAYMENT AND FINANCIAL REPORTING

Where applicable to each section herein, Delegate shall follow and use Statutory Accounting Principles in the preparation of all financial statements and reports filed with CCO, unless CCO policies and procedures or written reporting instructions allow otherwise.

Delegate shall maintain sound financial management procedures and demonstrate to CCO through proof of financial responsibility that it is able to perform the work required under this Agreement efficiently, effectively and economically while also complying with all other requirements specified by this Agreement.

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

1. Compensation

- a. No later than the 15th day of each month, CCO will advance Delegate a base payment of \$10.89 per member per month ("PMPM" or "Payment") for total CCO membership per the monthly 820 report from OHA
- b. Payment Contingent on CCO Receiving Payment. Under Exhibit B, Part 4, Section 11(d) of the CCO Contract, Delegate understands and agrees that if CCO is not paid or not eligible for payment by OHA for services provided because the applicable CCO is not paid, Delegate will not be paid or be eligible for payment by OHA.
- c. Payment Process for Flex Rides. No later than forty-five (45) days after the end of each month, Delegate will prepare and present to CCO a separate invoice reflecting Flex Ride costs. CCO will review and reimburse Delegate for any Flex Ride costs within thirty (30) days of said Flex Ride invoicing and reporting.
- d. Payment Process for Medicare Supplemental Transportation Rides. No later than forty-five (45) days after the end of each month, Delegate will prepare and present to CCO a separate invoice reflecting Medicare Ride costs. CCO will review and reimburse Delegate for any Medicare Ride costs within thirty (30) days of said Medicare Ride invoicing and reporting.
- e. Delegate shall, in good faith, prepare and timely submit all invoices, reports, or other necessary information required for CCO to process payment.

2. Revenue Approach.

- a. Reconciliation process. No later than thirty (30) days after the end of each quarter, Delegate will send CCO the revenue and expenditure reports for the quarter to CCO for review. The parties will review the records and settle any payments within thirty (30) days after initial receipt of reports. Flex Ride and Medicare Supplemental Transportation Ride reimbursements will not be subject to this reconciliation process.
- b. Risk corridor. The parties agree that in the event Delegate's revenues exceed its

expenses, Delegate will retain fifty percent (50%) of the amount of the PMPM advance received from CCO in the quarter that revenue exceeds expenses and CCO will retain the other fifty percent (50%). This additional revenue shall be used to help build Delegate's reserve account. CCO will be liable for 100% of losses incurred and Delegate will not be liable for any losses. Delegate shall work in good faith toward achieving and remaining in a net gain position.

3. Financial Administration

- a. Delegate will establish and maintain a separate NEMT bank account to pay for all expenses incurred for CCO Members and to hold reserves. The reserve account is intended to fund quarterly true-up if needed and to build reserves for future NEMT risk and gain participation by Delegate.
 - b. CCO agrees to maintain its own reserve fund at levels sufficient to cover standard ride costs, and shall not use reserve funds to pay for Flex Rides should the reserve amount drop below \$250,000.
 - c. On a quarterly basis, CCO and Delegate will assess the financial impact of the risk sharing agreement and reserve amount to ensure the terms of this agreement are sufficient.
4. CCO and Delegate will review compensation agreement to renegotiate any of the above described details based on the below.
- a. Both parties recognize that the rates discussed herein are subject to fluctuations in cost that are out of their control including, but not limited to, OHA rate changes, gas rate fluctuations, and CCO membership increase or decrease. CCO and Delegate agree to renegotiate the PMPM when necessitated by such factors. These rate negotiations will be built into the partnership on a regular basis to ensure responsiveness to such fluctuations. Both parties value the principle of managing NEMT at sustainable rates.
 - b. On a quarterly basis and more frequently as needed, CCO and Delegate will assess the financial impact of the risk sharing agreement and reserve amount to ensure the terms of this agreement are sufficient.

5. Records and Encounter Data.

- a. Records. Delegate shall maintain documentation of NEMT Services provided to CCO Members ("Encounter Data"). This documentation shall include at least the following:
 - i. Name of Member or person requesting the ride or service on behalf of the Member (both if different);
 - ii. Member's DMAP ID number;
 - iii. Date and time of original request;
 - iv. Date and time of requested transportation OHP Covered Service;
 - v. Type of transportation authorized for Member;
 - vi. Pick up location;
 - vii. Destination
 - viii. Covered Service, or type of Covered Service, Member is being transported to;

- ix. Availability of other transportation services to Member
 - x. Approval or denial of transport and level of transport authorized;
 - xi. Reason for denying transportation to a Member;
 - xii. Justification of type of transportation authorized (if appropriate);
 - xiii. Personal approving/denying request;
 - xiv. Subcontractor assigned;
 - xv. Date and time subcontractor notified.
- b. Claims processing. Delegate shall submit to CCO claims in such form, and containing such information and supporting documentation, as is specified by CCO Policies. Delegate shall submit claims to CCO no later than one hundred twenty (120) days after the Covered Service is provided. Delegate shall submit claims to CCO no less frequently than once a month. Delegate, by submitting each claim thereby, certifies that all claims, submissions and/or information Delegate submits to CCO hereunder is and shall be true, accurate, and complete. Delegate acknowledges that Payment shall be from federal and state funds, and therefore any falsification or concealment of material fact by Delegate may be prosecuted under federal and state laws. All billing and Payments will be processed in the above section, and the claims submissions will be considered encounter data and no payment associated with those claims.
- c. Encounter Data. Delegate shall submit all Encounter Data to CCO electronically. Delegate must submit all data in an 837 HIPAA Compliant format and as set forth in HIPAA's Implementation Guides, DHS' 837 Companion Guides and system specifications supplied by DHS. The Encounter Data must constitute the minimum data elements required for DHS processing. DHS requires an 837P format and the following minimum data elements for DHS processing of Encounters:
- i. Delegate to report NPI and Provider Taxonomy Code, as applicable, must be used pursuant to 45 CFR 162.410 and 162.412;
 - ii. ICD-10-CM diagnosis code authorized for transportation purposes;
 - iii. Date(s) of Service;
 - iv. Modifier(s);
 - v. Procedure code(s) (e.g., CPT, HCPC) (if applicable);
 - vi. Quantity of units of service;
 - vii. Amount paid by Delegate to Subcontractor pursuant to OAR 410-120-1295 for Non-participating providers or the rate so deemed agreeable between subcontracted provider and Delegate;
 - viii. Any third-party liability payments including Medicare.
6. Risk of Insolvency
- a. Delegate assures that it is able to perform the Work required under this Agreement efficiently, effectively and economically and is able to comply with the requirements of this Agreement. As part of the proof of financial responsibility, Delegate shall provide assurances satisfactory to CCO, that Delegate's provision(s) against the risk of insolvency are adequate to ensure that Members will not be liable for Delegate's debts if Delegate becomes insolvent.
 - b. Delegate shall provide solvency protection through maintenance of a restricted reserve account, or other means approved by CCO.

- i. Funds held in the restricted reserves, if any, shall be made available to CCO for the purpose of making payments to providers in the event of Delegate's insolvency. Insolvency occurs when Delegate is unable to pay debts when due, even if assets exceed liabilities.
 - ii. If any of the information that forms the basis for determining the manner or amount of a restricted reserve account is eliminated, changed, or modified in any manner, Delegate shall immediately notify CCO.
 - iii. Failure to maintain adequate financial solvency, including solvency protections specified pursuant to the requirements of this Agreement shall be grounds for termination under this Agreement at CCO's sole discretion.
- c. In the event that insolvency occurs, Delegate remains responsible for providing covered services for Clients through the end of the period for which it has been paid.

EXHIBIT D
STANDARD TERMS AND CONDITIONS

(Derived in part from Exhibit D of the CCO Contract)

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 CCO and Delegate or any other entity whereby the Claim implicates CCO and respectively Delegate that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County or Multnomah County for the State of Oregon; provided, however, if a Claim must be brought in or is removed to a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. Delegate agrees that a suit brought by the State of Oregon can be in the jurisdiction of any court and it is entitled to any form of defense to or immunity from any Claim whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise. This Section shall survive expiration or termination of this Agreement. DELEGATE, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

2. **Compliance with Applicable Law.**

- a. Delegate shall comply and cause all subcontractors to comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to this Agreement or to the performance of Work as they may be adopted, amended, or repealed from time to time, including but not limited to the following: (i) all Medicaid laws, rules, regulations, as well as all applicable sub-regulatory guidance and contract provisions; (ii) ORS 659A.142; (iii) OHA rules pertaining to the provision of integrated and coordinated care and services, OAR Chapter 410, Division 141; (iv) all other OHA Rules in OAR Chapter 410; (v) rules in OAR Chapter 309, Divisions 012, 014, 015, 018, 019, 022, 032 and 040, pertaining to the provisions of Behavioral Health services; (vi) rules in OAR Chapter 415 pertaining to the provision of Substance Use Disorders services; (vii) state law establishing requirements for Declaration for Mental Health Treatment in ORS 127.700 through 127.737; and (viii) all other applicable requirements of State civil rights and rehabilitation statutes, rules and regulations. These laws, regulations, executive orders and ordinances are incorporated by reference herein to the extent that they are applicable to this Agreement and required by law to be so incorporated. OHA's performance under the CCO Contract and where applicable under this Agreement is conditioned upon Delegate's compliance with the provisions of ORS 279B.220, ORS 279B.225, ORS 279B.230, ORS 279B.235 and ORS 279B.270, which are incorporated by reference herein. Delegate shall, to the maximum extent economically feasible in the performance of this Agreement, use recycled paper (as defined in ORS 279A.010(1)(gg)), recycled PETE products (as defined in ORS 279A.010(1)(hh)), and other recycled products (as "recycled product" is defined in ORS 279A.010(1)(ii)). This Section shall survive expiration or termination of this Agreement.
- b. In compliance with the Americans with Disabilities Act, any written material that is generated and provided by Delegate under this Agreement to Clients or Members, including Medicaid-Eligible Individuals, shall, at the request of such Clients or Members, be reproduced in alternate formats of communication, to include Braille, large print, audiotape, oral presentation, and electronic format. Delegate shall not be reimbursed for costs incurred

in complying with this provision. Delegate shall cause all subcontractors under this Agreement to comply with the requirements of this provision.

- c. Delegate shall comply with the federal laws as set forth or incorporated, or both, in this Agreement and all other federal laws applicable to Delegate's performance under this Agreement as they may be adopted, amended or repealed from time to time.

3. **Independent Contractor.** Delegate shall perform all Work as an Independent Contractor.

- a. Delegate is not an officer, employee, or agent of CCO or its affiliates or of the State of Oregon as those terms are used in ORS 30.265 or otherwise.
- b. If Delegate is currently performing work for the State of Oregon or the federal government, Delegate by signature to this Agreement, represents and warrants that Delegate's Work to be performed under 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 Delegate currently performs work would prohibit Delegate's Work under this Agreement. If compensation under this Agreement is to be charged against federal funds, Delegate certifies that it is not currently employed by the federal government.
- c. Delegate is responsible for all federal and State taxes applicable to compensation paid to Delegate under this Agreement and, unless Delegate is subject to backup withholding, CCO will not withhold from such compensation any amounts to cover Delegate's federal or State tax obligations. Delegate is not eligible for any social security, unemployment insurance or workers' compensation benefits from compensation paid to Delegate under this Agreement, except as a self-employed individual.
- d. CCO reserves the right (i) to determine and modify the delivery schedule for the Work and (ii) evaluate the quality of the Work Product; however, CCO may not and will not control the means or manner of Delegate's performance. Delegate is responsible for determining the appropriate means and manner of performing the Work.

4. **Representations and Warranties.**

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

(6) Delegate's employees and subcontractors are not excluded from participation in the Medicare or Medicaid programs and are not included in the Office of Inspector General List of Excluded Individuals/Entities.

(7) Delegate 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/>

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.** Delegate agrees that time is of the essence under this Agreement.

6. **Recovery of Overpayments.** If billings under this Agreement result in payments to Delegate to which Delegate is not entitled, CCO, after giving written notification to Delegate, may withhold from payments due to Delegate such amounts as are necessary to recover the amount of the overpayment unless Delegate provides a written objection within fourteen (14) calendar days from the date of the notice. If Delegate provides a timely written objection to CCO's 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. CCO reserves its right to pursue any or all of the remedies available to it under this Agreement and at law or in equity including CCO's right to setoff. Delegate acknowledges that all payments made under this Agreement are subject to Medicaid Program Integrity rules regarding overpayments.

7. **Indemnity.**

Delegate shall defend, save, hold harmless, and indemnify CCO and its officers, directors, employees and agents from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever, including attorney's fees, resulting from, arising out of, or relating to the activities of Delegate or its officers, directors, employees, subcontractors, or agents under this Agreement. This section shall survive expiration or termination of this Agreement.

CCO shall defend, save, hold harmless, and indemnify Delegate and its officers, directors, employees and agents from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever, including attorney's fees, resulting from, arising out of, or relating to the activities of CCO or its officers, directors, employees, subcontractors, or agents under this Agreement. This section shall survive expiration or termination of this Agreement.

This indemnity extended under this section is subject to the limits of the Oregon Tort Claims Act to the extent it applies to each of the parties.

8. **Default; Remedies; Termination.**

a. Default by Delegate. Delegate shall be in default under this Agreement if:

(1) Delegate 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) Delegate no longer holds a license or certificate that is required for Delegate to perform its obligations under the Agreement; or

(3) Delegate fails to ensure that no cancellation, material change, potential exhaustion of aggregate limits or non-renewal of insurance coverage(s) occurs without thirty (30) days' prior written notice from Delegate or its insurer(s), which shall be made to CCO; or

(4) Delegate commits any material breach or default of any covenant, warranty, obligation or agreement under this Agreement, fails to perform the Work under this Agreement within the time specified herein or any extension thereof, or so fails to pursue the Work as to endanger Delegate's performance under this Agreement in accordance with its terms, and such breach, default or failure is not cured within thirty (30) calendar days after CCO's notice, or such longer period as CCO may specify in such notice; or

(5) Delegate knowingly has a director, officer, partner or person with beneficial ownership interest in their business or has an employment, consulting or other subcontractor agreement for the provision of items and services that are significant and material to Delegate's obligations under this Agreement, concerning whom: (i) any license or certificate required by law or regulation to be held by Delegate or subcontractor to provide services required by this Agreement is for any reason denied, revoked or not renewed; or (ii) is suspended, debarred or otherwise excluded from participating in procurement activities under Federal Acquisition Regulation or from participating in non-procurement activities under regulations issued pursuant to Executive Order No. 12549 or under guidelines implementing such order; or (iii) is suspended or terminated from the Oregon Medical Assistance Program or excluded from participation in the Medicare program; or (iv) is convicted of a felony or misdemeanor related to a crime or violation of Title XVIII, XIX, or XX of the Social Security Act or related laws (or entered a plea of no-lo contendere); (v) if OHA or CCO determines that the health or welfare of Members is in jeopardy if this Agreement continues; or

(6) CCO or OHA determines that health or welfare of Members is in jeopardy if this Agreement continues.

b. CCO's Remedies for Delegate's Default. In the event Delegate is in default under the above section, CCO 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;

(2) Withholding all monies due for Work and Work Products that Delegate 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.

These remedies are cumulative to the extent the remedies are not inconsistent, and CCO may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever. If a court determines that Delegate was not in default under this section, then Delegate shall be entitled to the same remedies as if this Agreement was terminated pursuant to the relevant terms of this Exhibit D.

c. Default by CCO. CCO shall be in default under this Agreement if CCO 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 Delegate's notice or such longer period as Delegate may specify in such notice.

d. **Delegate's Remedies for CCO's Default.** In the event CCO terminates the Agreement or in the event OHA is in default and whether or not Delegate elects to exercise its right to terminate the Agreement under Section 8, Subsection e. of this Exhibit D to this Agreement, Delegate's sole monetary remedy shall be, with respect to Work compensable at a stated rate, a claim for unpaid invoices and time worked within any limits set forth in this Agreement but not yet invoiced. In no event shall CCO be liable to Delegate for any expenses related to termination of this Agreement or for anticipated profits. If previous amounts paid to Delegate exceed the amount due to Delegate under this Section, Delegate shall immediately pay any excess to CCO upon written demand. If Delegate does not immediately pay the excess, CCO may recover the overpayments in accordance with Section 6., *Recovery of Overpayments*, supra and may pursue any other remedy that may be available to it.

e. **Termination.**

(1) CCO's Right to Terminate

- (a) At its sole discretion, CCO may terminate this Agreement:
 - i. For its convenience upon 120-days' prior written notice by CCO to Delegate;
 - ii. Immediately upon written notice if CCO fails to receive funding, appropriations, limitations, allotments or other expenditure authority at levels sufficient to pay for the Work or Work Products; or,
 - iii. Immediately upon written notice to Delegate if there is a threat to the health, safety, or welfare of any recipient of services under this Agreement, including any Medicaid Eligible Individual, under its care.
- (b) For Cause. In addition to any other rights and remedies CCO may have under this Agreement, CCO may terminate this Agreement for cause (i) immediately upon written notice to Delegate or (ii) at such later date as CCO may establish in such notice, if Delegate is in default under Section 8.a. of this Exhibit D, supra, and Delegate fails to cure such default within thirty (30) calendar days after Delegate receives CCO's notice or such longer period as CCO may specify in such notice.

(2) Delegate's Rights to Terminate:

- (a) At its sole discretion, Delegate may terminate this Agreement:
 - i. For its convenience upon 120 days' prior written notice by Delegate to CCO;
 - ii. Immediately upon written notice if CCO fails to receive funding, appropriations, limitations, allotments or other expenditure authority at levels sufficient to pay for the Work or Work Products; or,
 - iii. Immediately upon written notice to Delegate if there is a threat to the health, safety, or welfare of any recipient of services under this Agreement, including any Medicaid Eligible Individual, under its care.

(b) For Cause. Delegate may terminate this Agreement for cause (i) upon thirty (30) days written notice to CCO, or (ii) at such later date as Delegate may establish in such notice, if CCO is in default under Section 8.c. of this Exhibit D, supra, and CCO fails to cure such default within thirty (30) calendar days after CCO receives Delegate's notice or such longer period as Delegate may specify in such notice.

(3) Mutual Termination. This 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.

(4) The Party initiating the termination, under any circumstance, shall render written Legal Notice of termination to the other Party and must specify the provision of this Agreement giving the right to terminate, the circumstances giving rise to termination, and the date on which such termination is proposed to become effective.

(5) Actions Following Termination or Expiration of Agreement.

(a) Transition Plan. After providing notice of termination or in the case of expiration, Delegate shall:

i. Submit to CCO a Transition Plan detailing how Delegate will fulfill its continuing obligations under this Agreement and identifying an individual (with contact information) as Delegate's transition coordinator. The Transition Plan is subject to approval by CCO. Delegate shall make revisions to the plan as reasonably requested by CCO. Failure to submit a Transition Plan and obtain written approval of the Transition Plan by CCO may result in CCO extending the Termination Date by the amount of time necessary in order for CCO to provide a Transition Plan or approve the Transition Plan submitted by Delegate. The Transition Plan shall include the prioritization of high-needs Members for care coordination and other Members requiring high level coordination.

ii. Submit reports to CCO five (5) days before said reports are due to OHA and every thirty (30) calendar days thereafter, or as otherwise agreed upon in the Transition plan, detailing Delegate's progress in carrying out the Transition Plan. Delegate shall submit a final report to CCO describing how Delegate has fulfilled obligations under the Transition Plan including resolution of outstanding responsibilities.

iii. Maintain adequate staffing to perform all functions specified in this Agreement during the implementation and operation of the Transition Plan.

iv. Cooperate with CCO to arrange for orderly and timely transfer of Members from coverage under this Agreement to coverage under new arrangements authorized by CCO. Such actions of cooperation shall include but are not limited to Delegate continuing to provide NEMT services until appropriate NEMT services can be arranged for particular Members for which change of Delegate could be harmful.

(b) Continuity of Care. Upon termination or expiration of this Agreement, the parties shall cooperate in ensuring the transition of the Members' care, and wrap-up all duties and responsibilities. Delegate shall ensure:

- i. Continuation of NEMT Services to Members for any period and Covered Service for which CCO has actually paid Compensation to Delegate, including the period associated with the Transition Plan as particularized above.
- ii. Orderly and reasonable transfer of Member care in progress at the end of the Term, whether or not those Members are hospitalized.
- ii. Timely submission of information, records, and reports including encounter data, required to be provided to CCO and/or OHA relating to the services provided.

(c) Return of Property. Upon termination of this Agreement for any reason whatsoever, Delegate shall immediately deliver to CCO all of CCO's property that is in the possession or under the control of Delegate at that time. This clause shall survive the expiration or termination of this Agreement.

(d) Upon termination or expiration of this Agreement and when expressly directed by CCO, Delegate shall immediately cease all activities under this Agreement.

(e) If Delegate continues to provide services to a Member after the Term including the time required for Continuity of Care and the Transition Plan, CCO shall pay for such services pursuant to this Agreement unless alternate compensation is mutually agreed upon within the Transition Plan.

(f) Delegate acknowledges and agrees that CCO is obligated to provide written notice of the Termination of this Agreement to each CCO Member regularly served by Delegate under this Agreement, within fifteen (15) days after such termination.

9. **Limitation of Liabilities.** Except for liability arising under or related to section 7, Indemnity, neither party shall be liable for incidental or consequential damages arising out of or related to this Agreement.

10. **Insurance.** Delegate shall maintain insurance as set forth in Exhibit F.

11. Access to Records and Facilities; Records Retention; Information Sharing. Delegate shall maintain and shall require its subcontractors and participating providers to maintain, all financial records relating to this Agreement in accordance with best practices or National Association of Insurance Commissioners accounting standards. In addition, Delegate shall maintain any other records, books, documents, papers, plans, records of shipments and payments and writings of Delegate, whether in paper, electronic or other form, that are pertinent to this Agreement, in such a manner as to clearly document Delegate's performance. All Clinical Records, financial records, other records, books, documents, papers, plans, records of shipments and payments and writings of Delegate whether in paper, electronic or other form, that are pertinent to this Agreement, are collectively referred to as "Records". Delegate agrees that OHA, the Oregon Secretary of State, CMS, HHS, the Office of the Inspector General, the Comptroller General of the United States, or their duly authorized representatives and designees, or all of them or any combination of them, have the right to audit, evaluate, and inspect any books, Records, contracts, computers or other electronic systems of the Delegate, or of the Delegate's contractor, that pertain to any aspect of services and activities performed, or determination of amounts payable under this Contract;

Commented [JH4]: OHA requested exact language from CCO contract so this replaces the deleted section which substantively states the same requirements.

- a. Delegate will make available, for purposes of audit, evaluation, or inspection its premises, physical facilities, equipment, books, Records, contracts, computer, or other electronic systems relating to its Medicaid Members;
- b. Delegate must respond and comply in a timely manner to any and all requests from OHA or its designee for information or documentation pertaining to Work outlined in this Agreement;
- c. Delegate agrees that the right to audit by OHA, CMS, the DHHS Inspector General, the Comptroller General or their designees, will exist for a period of ten (10) years from this Agreement's Expiration Date or from the date of completion of any audit, whichever is later;
- d. If OHA, CMS, or the DHHS Inspector General determine that there is a reasonable possibility of Fraud or similar risk, OHA, CMS, or the DHHS Inspector General may inspect, evaluate, and audit the Delegate at any time;

- e. Delegate shall retain and keep accessible all Records for the longest of ten (10) years or for:
 - i. The retention period specified in the CCO Contract for certain kinds of records;
 - ii. The period as may be required by Applicable Law including the records retention schedules set forth in OAR Chapters 410 and 166; or,
 - iii. Until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement.
- f. In accordance with OAR 410-141-5080, OHA has the right to provide the Oregon Department of Consumer and Business Services with information reported to OHA by CCO and its subcontractors and/or delegates provided that OHA and DCBS have entered into information sharing agreements that govern the disclosure of such information.

12. Force Majeure. No party is responsible for delay or default caused by an event beyond its reasonable control. CareOregon may terminate this Agreement upon written notice after reasonably determining the delay or default reasonably prevents performance of this Agreement.

Neither CareOregon nor Delegate shall be held responsible for delay or default caused by riots, acts of God, pandemic, power outage, internet, telecommunications, software malfunction or latency, or utility outage, fire, civil unrest, labor unrest, strikes, labor shortages, software issues, equipment failures, government fiat, terrorist acts, other acts of political sabotage or war, earthquake, tsunami, flood, or other similar natural disaster which is beyond the reasonable control of CareOregon or Delegate, respectively. Each party shall, however, make all reasonable efforts to remove or eliminate such cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement. CareOregon may terminate this Agreement upon written Legal Notice to Delegate after determining, in CareOregon's reasonable discretion, that the delay or default will likely prevent successful performance of this Agreement. Nothing in this Section shall not excuse Delegate from performance under this Agreement if, and to the extent possible, the cause of the force majeure event was reasonably foreseeable and a prudent professional in Delegate's profession would have taken commercially reasonable measures prior to the occurrence of the force majeure event to eliminate or minimize the effects of such force majeure event. Notwithstanding the above, impacts to the Services as a result of the COVID-19 pandemic or other public health events shall not be considered a Force Majeure event unless such impact is a result of restrictive governmental

Deleted: <#>." Delegate acknowledges and agrees that CCO and its affiliates, OHA, the Oregon Secretary of State, DHHS, CMS, the Office of the Inspector General, the Comptroller General of the United States, the Oregon Department of Justice Medicaid Fraud Control Unit and their duly authorized representatives shall have access to all Delegate, its subcontractors, and participating provider Records to perform examinations and audits and make excerpts and transcripts evaluating compliance with this Agreement, and to evaluate the quality, appropriateness and timeliness of services. Delegate further acknowledges and agrees that the foregoing entities may, at any time, inspect the premises, physical facilities, computer systems or other electronic systems, and any other equipment and facilities where Medicaid-related activities or Work is conducted or equipment is used (or both conducted and used). ¶ The right to audit under this section exists for ten (10) years from, as applicable, the Expiration Date or the date of termination, or from the date of completion of any audit, whichever is later.¶

Delegate shall, upon request and without charge, provide a suitable work area and copying capabilities to facilitate such a review or audit. This right also includes timely and reasonable access to Delegate's personnel and the personnel of any subcontractors for the purpose of interview and discussion related to such documents. The rights of access in this section are not limited to the required retention period but shall last as long as the records are retained.¶ If OHA, CMS, or the DHHS Inspector General determine that there is a reasonable possibility of Fraud or similar risk, OHA, CMS, or the DHHS Inspector General may inspect, evaluate, and audit Delegate at any time.

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requirement(s) that substantially impacts either party's ability to fulfill the responsibilities under this Agreement.

b. If the rendering of Services or benefits under this Agreement is delayed or made impractical due to any of the circumstances listed in Subsection 12(a). of this Agreement, NEMT Covered Services may be deferred until after resolution of those circumstances.

c. If any of the circumstances listed in Section 12(a) above, disrupts normal execution of Delegate duties under this Agreement, Delegate shall notify Members in writing of the situation and direct Members to bring serious health care needs to Delegate's attention.

d. Delegate shall maintain and exercise business continuity plans to take all reasonable commercial actions to restore Services.

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

- a. Delegate shall not assign or transfer its interest in this Agreement, voluntarily or involuntarily, whether by merger, consolidation, dissolution, operation of law, or in any other manner without the prior written approval of CCO. Any such assignment or transfer, if approved, is subject to such conditions and provisions as OHA or CCO may deem necessary, including but not limited to Exhibit B, Part 8, Section 21 of the CCO Contract. No approval by CCO of any assignment or transfer of interest shall be deemed to create any obligation of CCO in addition to those set forth in this Agreement.
- b. This Agreement's provisions are binding upon and inure to the benefit of the parties to this Agreement and their respective successors and permitted assigns.

14. **Subcontracts.**

- a. In addition to all of the other provisions OHA requires under the CCO Contract, including without limitation, information required to be reported under Ex. B, Part 4 of the CCO Contract, and any other information OHA or CCO may request from time to time, Delegate shall include in any permitted downstream subcontract under this Agreement provisions to ensure that OHA will receive the benefit of Delegate performance as if the Delegate were the CCO with respect to Sections 1, 2, 3, 4, 15, 16, 18, 19, 24, and 30-32 of Exhibit D of the CCO Contract and as further specified in various provisions of this Agreement, OHA and/or CCO's consent to any downstream subcontract(s) shall not relieve Delegate of any of its duties or obligations under this Agreement.
- b. Where Delegate is permitted to subcontract certain functions of this Agreement, Delegate shall notify CCO, in writing, of any subcontract(s) for any of the Work required by the CCO Contract other than information submitted in Exhibit G of the CCO Contract.
- c. Delegate shall take reasonable steps, such as through a quote, bid, proposal, or similar process, to ensure that MWESB certified firms are provided an equal opportunity to compete for and participate in the performance of any Subcontracts under this Agreement. If there may be opportunities for Subcontractors to work on the Contract, it is the expectation of OHA that Delegate will take reasonable steps to ensure that MWESB certified firms, as referenced on: <https://www.oregon4biz.com/How-We-Can-Help/COBID/>.
- d. Delegate acknowledges and agrees that it is a "Business Associate" and shall ensure it enters into Business Associate agreements with any Subcontractors performing work related to this Agreement when required under, and in accordance with, HIPAA.

- e. Delegate and any Subcontractors must meet the standards for timely access to care and services as set forth in the CCO Contract and OAR 410-141-3515, which includes, without limitation, providing services within a time frame that takes into account the urgency of the need for services.
- f. Annual subcontractor performance reporting by Delegate to CareOregon should include at a minimum, whether the employees of the subcontractor have undergone a criminal background check prior to starting any work identified in the Agreement, which is also required for employees of Delegate.

15. **No Third-Party Beneficiaries.** CCO and Delegate 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 Agreement. This Section shall survive expiration or termination of this Agreement.

16. **Amendments.** The Parties may mutually amend this Agreement in writing. CCO may amend this Agreement to comply with any changes that occur in federal or state statute or regulations, or changes in Covered Services or Payments under ORS 414.735, such that failure to amend this Agreement may place CCO at risk of non-compliance with Federal or state statute or regulations or at risk of breach of the CCO Contract; or, to address any changes needed in the event that the CCO's service area is expanded or reduced. Whenever feasible, CCO commits to providing advance notice to Delegate of any such anticipated changes, engaging Delegate in the development of these amendments and to the extent possible will provide Delegate with a preview of proposed amendments as soon as possible. No amendment shall be effective until it is provided in writing to Delegate.

17. **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.

18. **Survival.**

- a. All rights and obligations cease upon termination or expiration of this Agreement, except for the rights and obligations, and declarations which expressly or by their nature survive termination of this Agreement, including without limitation the following Sections or provisions set forth below in this Section 18 and the indemnification provisions set forth in Section 7 above. Without limiting the forgoing or anything else in this Agreement, in no event shall the CCO Contract expiration or termination extinguish or prejudice OHA and/or CCO's right to enforce the CCO Contract and/or this Agreement with respect to any default by Delegate that has not been cured.
 - i. CCO Contract Exhibit A, Definitions
 - ii. CCO Contract General Provisions: Sections 4 and 5
 - iii. CCO Contract Exhibit B, Part 10: Section 3
 - iv. CCO Contract Exhibit D: Sections 1, 4 through 13, 15, 16, 18 through 29, 31.
 - v. CCO Contract Exhibit E: Section 6, HIPAA Compliance (but excluding paragraph d) shall survive termination for as long as Delegate holds, stores, or otherwise preserved

Individually Identifiable Health Information of Members or for a longer period if required under the CCO Contract Section 12 of Exhibit D.

- vi. CCO Contract Exhibit N, Privacy and Security shall survive termination for the period of time that Delegate retains any Access (as such term is defined in Section 2.1 of CCO Contract Exhibit N) to OHA or State Data, Network and Information Systems, and Information Assets.

- b. Special Terms and Conditions: In addition to any other provisions of this Agreement that by their context are meant to survive expiration or termination, the following special terms and conditions survive expiration or termination, for the period of two (2) years unless a longer period is set forth in this Agreement, and as long as the scope of Work include functions or operations that implicate the below items:
 - i. Claims Data
 - [a] The submission of all Encounter Data for services rendered to CCO's Members during contracted period;
 - [b] Certification that Delegate attests that the submitted encounter claims are complete, truthful, and accurate to the best knowledge and belief of the Delegate's authorized representative, subject to False Claims Act liability;
 - [c] Adjustments to encounter claims in the event Delegate receives payment from a Member's Third Party Liability, or Third Party recovery; and,
 - [d] Adjustments to encounter claims in the event Delegate recovers any Provider Overpayment from the Provider.

 - ii. Financial Reporting
 - [a] Quarterly financial statements as defined in Exhibit L of the CCO Contract;
 - [b] Audited annual financial statements as defined in Exhibit L of the CCO Contract;
 - [c] Submission of details related to ongoing Third Party Liability and Third Party recovery activities by Delegate or its downstream subcontractors;
 - [d] Submission of any and all financial information related to the calculation of Delegate's MMLR; and,
 - [e] Data related to the calculation of quality and performance metrics.

 - iii. Operations
 - [a] Point of contact for operations while transitioning;
 - [b] Claims processing;
 - [c] Provider and Member Grievances and Appeals; and,
 - [d] Implementation of and any necessary modifications to the Transition Plan.

 - iv. Corporate Governance
 - [a] Oversight by Governing Board and Community Advisory Council;
 - [b] Not initiating voluntary bankruptcy, liquidation, or dissolution;

- [c] Maintenance of all licenses, certifications, and registrations necessary to do business as a Delegate of a CCO in Oregon; and,
- [d] Responding to subpoenas, investigations, and governmental inquiries.

v. Financial Obligations. The following requirements survive Agreement expiration or termination indefinitely:

- [a] Reconciliation of Risk Corridor Payments;
- [b] Reconciliation and right of setoffs;
- [c] Recoupment of MMLR Rebates;
- [d] Reconciliation of prescription drug rebates;
- [e] Recoupment of capitation paid for Members deemed ineligible or who were enrolled into an incorrect benefit category; and,
- [f] Recoupment (by means of setoff or otherwise) of any identified Overpayment.

vi. Sanctions and Liquidated Damages

- [a] Agreement expiration or termination does not limit OHA's ability to impose Sanction or Liquidated Damages for the failure or acts (or both) of the CCO and its downstream subcontractors and Delegates as set out in Exhibit B, Part 9 of the CCO Contract.
- [b] The decision to impose a Sanction or Liquidation Damages does not prevent OHA from imposing additional Sanctions against CCO and its downstream subcontractors and Delegates at a later date.
- [c] Sanctions imposed on the CCO and its downstream subcontractors and Delegates after Agreement expiration or termination will be reported to CMS according to the requirements set out in the CCO Contract, Exhibit B, Part 9.

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

20. **Media Disclosure.** Delegate shall not provide information to the media regarding a recipient of services under this Agreement without first consulting with and receiving approval from CCO, who must seek approval from its affiliates and OHA. Delegate shall make immediate contact with CCO when media contact occurs. CCO will coordinate the appropriate follow-ups to its affiliates and OHA and a response for the media.

21. **Mandatory Reporting of Abuse.**

- a. Delegate shall immediately report any evidence of Child Abuse, neglect or threat of harm to DHS Child Protective Services or law enforcement officials in full accordance with the mandatory Child Abuse Reporting law (ORS 419B.005 to 419B.045). If law enforcement is notified, the Delegate shall notify the referring case worker within twenty-four (24) hours. Delegate shall immediately contact the local DHS child Protective Services office if questions arise whether an incident meets the definition of Child Abuse or neglect.

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

- 22. **Medicaid Managed Care Provisions.** Delegate shall comply with the requirements of 42 CFR § 438.6 that are applicable to the Work required under this Agreement.
- 23. **Participation in Health Equity Plan.** Pursuant to OAR 410-141-3735, CCO is required to work with its affiliates to develop and implement a Health Equity Plan designed to address the cultural, socioeconomic, racial, and regional disparities in health care that exist among OHP Members and the communities within the CCO's Service Area. In so far as the Health Equity Plan includes functions that the Delegate is performing on behalf of CCO, Delegate will participate and contribute to the development and execution of the Health Equity Plan.
- 24. **Screening.** CCO must ensure that all Delegates are screened for exclusion from participation in federal programs and that all Delegates and their employees undergo criminal background checks prior to starting any work identified in this Agreement. Delegate shall adopt policies regarding criminal background checks and screening employees for exclusion from participation in federal programs.
- 25. **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, or mailing the same, postage prepaid to Delegate or CCO at the address 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 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.

CCO: Attn: Director, Transportation & Strategic Partnerships

315 SW Fifth Ave

Portland, Oregon 97204

Telephone: 503-416-4100

Facsimile: 503-416-1335

Email: sunowens@careoregon.org

This Section shall survive expiration or termination of this Agreement.

26. **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.

27. **Delegate's Failure to Perform.** Delegate's failure to perform the Statement of Work specified in Exhibit B to this Agreement or to meet the performance standards established in this Agreement, may result in consequences that include, but are not limited to:

- a. Reducing or withholding payment under this Agreement;
- b. Requiring Delegate to perform at Delegate's expense additional work necessary to perform the statement of work or meet performance standards; and
- c. Declaring a default of this Agreement and pursuing any available remedies for default, including termination of the Agreement as permitted in Section 8. Default; Remedies; Termination of this Agreement.

EXHIBIT E
REQUIRED FEDERAL TERMS AND CONDITIONS

1. To the extent applicable to the terms of this Agreement, Delegate shall comply and cause all subcontractors to comply with all applicable standards, policies, orders or requirements that apply to "Contractor" as stated in Exhibit E of the CCO Contract.
2. To the extent applicable, Delegate certifies that it will comply with the terms of Exhibit E, Section 5 of the CCO Contract as it pertains to lobbying activities.

EXHIBIT F
INSURANCE

(Derived in part from Exhibit F of the CCO Contract)

Required Insurance: Delegate shall obtain at Delegate's expense the insurance specified in this Exhibit F prior to performing under this Agreement and shall maintain it in full force and at its own expense throughout the duration of this Agreement and all warranty periods. Delegate shall obtain the following insurance from insurance companies or entities that are authorized to transact the business of insurance and issue coverage in State and that are acceptable to CCO. The requirements of this section are subject to the limits of the Oregon Tort Claims Act (ORS 30.260 et seq.) to the extent it applies to each of the parties.

1. Workers Compensation: All employers, including Delegate, that employ subject workers who work under this Agreement in the state of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation insurance coverage, unless such employers are exempt under ORS 656.126. Delegate shall require and ensure that each of its subcontractors complies with these requirements.
2. Commercial General Liability: Delegate shall obtain, at Delegate's expense, and keep in effect during the term of this Agreement, Commercial General Liability Insurance covering bodily injury, death and property damage in a form and with coverages that are satisfactory to the CCO. This insurance shall include personal and advertising injury liability, products and completed operations, and contractual liability coverage for the indemnity provided under this Agreement. Coverage shall be written on an occurrence basis in an amount not less than \$1,000,000 per occurrence. Annual aggregate limit shall not be less than \$3,000,000.
3. Automobile Liability Insurance: Delegate shall obtain, at Delegate's expense, and keep in effect during the term of this Agreement, Automobile Liability Insurance covering Delegate's business use, including coverage for all owned, non-owned, or hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for "Commercial General Liability" and "Automobile Liability"). Delegate shall provide proof of insurance of not less than the following amounts: Per occurrence limit for any single claimant, \$1,000,000 for bodily injury and property damage. Per occurrence limit for multiple claimants, \$3,000,000 for bodily injury and property damage.
4. Network Security and Privacy Liability: Delegate shall provide network security and privacy liability insurance for the duration of the Agreement and for the period of time in which Delegate (or its Business Associates or subcontractor(s)) maintains, possesses, stores or has access to CCO or Member data, whichever is longer. Such insurance shall be in the amount of not less than \$1,000,000 per claim or occurrence and \$1,000,000 annual aggregation. This insurance shall include coverage for third party claims and for losses, thefts, unauthorized disclosures, access or use of CCO or Member data (which may include, but is not limited to, Personally Identifiable Information ("PII"), Payment Card Data and Protected Health Information ("PHI")) in any format, including coverage for accidental loss, theft, unauthorized disclosure access or use of CCO data.
5. Additional Insured. The Commercial General Liability insurance and Automobile Liability insurance required under this Agreement shall include the CCO, its officers, employees and

agents as Additional Insureds but only with respect to Delegate's activities to be performed under this Agreement. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

6. Notice of Cancellation or Change. Delegate will provide CCO with notice of any cancellation, material change, potential exhaustion of aggregate limits or non-renewal of insurance coverage(s) with as much advance written notice as possible. Any failure to comply with the reporting provisions of this clause shall constitute a material breach of Agreement and shall be grounds for immediate termination of this Agreement by CCO.
7. Proof of Insurance. Delegate shall provide to CCO information requested for all required insurance before delivering any goods and performing any services required under this Agreement. Delegate shall pay for all deductibles, self-insured retention and self-insurance, if any.
8. Notice of Claims Involving Members. Delegate shall promptly notify CCO of any claim or demand involving any Member based on alleged negligence of any person. Delegate shall notify CCO of any settlement or judgment involving a Member within ten (10) days following execution or filing thereof.
9. Insurance Requirements for Subcontractors. In the event Delegate subcontracts any of the work under this Agreement, Delegate shall require that its subcontractors obtain, and provide proof of insurance in the types and amounts specified herein. Notwithstanding the foregoing, Delegate may elect in its sole discretion to allow its subcontractors to provide automobile insurance and general comprehensive insurance in a minimum amount of \$1 million dollars on the condition that Delegate's hired and non-owned automobile insurance policy acts as excess coverage.
10. Limit Adjustments. CCO reserves the right to propose an increase or decrease to limits as appropriate, necessitated by business needs or regulatory requirements, as agreed on by both parties.

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EXHIBIT G
BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (“BAA”) is between the CareOregon, Inc. (“Company”) and Tillamook County Transportation District (“Business Associate”). Business Associate and the Company have entered into a non-emergent medical transportation services delegation agreement (“Agreement”) and this BAA is incorporated by reference in the Agreement. The parties’ activities pursuant to the Agreement sometimes may involve (i) the disclosure of PHI by the Company (or another business associate of the Company) to Business Associate, (ii) the use or disclosure by Business Associate of PHI received from the Company and (iii) the transmission by Electronic Media or the maintenance in Electronic Media of Individually Identifiable Health Information by Business Associate. Accordingly, the relationship between the Company and Business Associate is subject to provisions of the HIPAA Rules. The Company and Business Associate intend to protect the privacy of PHI and the security of electronic PHI held by Business Associate in connection with the Agreement in compliance with this BAA, the HIPAA Rules and other applicable laws.

I. Definitions

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

- a) “Agent” means an agent as used and defined under the HIPAA Rules and federal common law.
- b) “Breach” has the same meaning as in 45 C.F.R. § 164.402.
- c) “Designated Record Set” has the same meaning as in 45 C.F.R. 164.501.
- d) “Discovery” means the first day on which a Breach is known, or reasonably should have been known, to Business Associate (including any person, other than the individual committing the Breach, who is an employee or officer of Business Associate) or any Agent or Subcontractor of Business Associate.
- e) “Effective Date” means the date first written above.
- f) “Electronic Media” means the same as in 45 C.F.R. § 160.103.
- g) “Electronic Protected Health Information” or “EPHI” means the same as in 45 C.F.R. § 160.103, limited for purposes of this BAA to EPHI received by Business Associate from, or received or created by Business Associate on behalf of, the Company.
- h) “Electronic Transactions Rules” means 45 CFR Part 162.
- i) “Fundraising” means raising funds for the Business Associate’s own benefit as governed by 45 CFR § 164.514.
- j) “HIPAA Rules” means the Privacy Rules, the Security Rules, and the Electronic Transactions Rules.
- k) “Individual” means a person to which specific PHI applies.
- l) “Marketing” means the same as in 45 CFR § 164.501.
- m) “PHI” or “Protected Health Information” means the same as in 45 CFR § 160.103, limited for purposes of this BAA to PHI received by Business Associate or its Agent or Subcontractor from, or received or created by Business Associate, its Agent or Subcontractor on behalf of, the Company.
- n) “Privacy Rule” means the Standards for Privacy of Individually Identifiable Health Information in 45 CFR Part 160 and Part 164, Subparts A and E.
- o) “Required by Law” means the same as in 45 C.F.R. § 164.103.

- p) “Secretary” means the Secretary of the United States Department of Health and Human Services or the Secretary’s designee.
- q) “Security Incident” means the same as in 45 CFR § 164.304.
- r) “Security Rule” means the Security Standards for the Protection of Electronic Protected Health Information in 45 CFR Part 164, Subpart C.
- s) “Subcontractor” means the same as in 45 C.F.R. § 160.103.
- t) “Unsecured PHI” means the same as the term “unsecured protected health information” in 45 C.F.R. § 164.402.

2. Obligations and Activities of Business Associate

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

- j) Business Associate agrees to make any amendment(s) to PHI in a Designated Record Set as directed or agreed to by the Company pursuant to 45 CFR § 164.526, at the request of the Company or of the Individual concerned.
- k) Business Associate agrees to make internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of, the Company available to the Company or, at the request of the Company, to the Secretary or other regulatory official as directed by the Company, in a time and manner requested by the Company or such official for the purpose of determining the Company' or Business Associate's compliance with the HIPAA Regulations.
- l) Business Associate agrees to implement administrative, physical, and technical safeguards (including written policies and procedures) that reasonably and appropriately protect the confidentiality, integrity, and availability of EPHI that it receives from, or creates or receives on behalf of, the Company as required by the Security Rule. Business Associate will ensure that any Agent or Subcontractor to whom Business Associate provides EPHI agrees to implement reasonable and appropriate administrative, physical and technical safeguards to reasonably and appropriately protect the confidentiality, integrity and availability of such EPHI. Business Associate agrees to comply with Sections 164.306, 164.308, 164.310, 164.312, and 164.316 of Title 45, Code of Federal Regulations with respect to all EPHI.
- m) In conducting any electronic transaction that is subject to the Electronic Transactions Rule on behalf of the Company, Business Associate agrees to comply with all requirements of the Electronic Transactions Rule that would apply to the Company if the Company were conducting the transaction itself. Business Associate agrees to ensure that any Agent or Subcontractor of Business Associate that conducts standard transactions with PHI of the Company will comply with all of the requirements of the Electronic Transactions Rule that would apply to the Company if the Company were conducting the transaction itself.
- n) Business Associate shall not disclose PHI to any member of its workforce unless Business Associate has advised such person of Business Associate's privacy and security obligations under this BAA, including the consequences for violation of such obligations. Business Associate shall take appropriate disciplinary action against any member of its workforce who uses or discloses PHI in violation of this BAA or applicable law.
- o) Business Associate shall notify the Company of any Breach without unreasonable delay, and in no case later than five business days after Discovery of the Breach. Business Associate will require its Subcontractors and Agents to notify the Company of a Discovery of a Breach at the same time its Subcontractors and Agents notify the Business Associate, and the following shall apply:
 - 1. Notice to the Company shall include, to the extent possible: (i) the names of the Individual(s) affected by the Breach; (ii) a brief description of what happened, including the date of the Breach and the date of the discovery of the Breach, if known; (iii) a description of the types of Unsecured PHI that were involved in the Breach; (iv) any steps affected Individuals should take to protect themselves from potential harm resulting from the Breach; (v) a description of what Business Associate is doing to investigate the Breach, to mitigate harm to the affected Individual(s), and to protect against further Breaches; (vi) any notice Business Associate has given pursuant to 45 CFR § 164.404 and (vii) any other information that the Company reasonably requests.
 - 2. After receipt of notice, from any source, of a Breach involving PHI used, disclosed, maintained, or otherwise possessed by Business Associate or any Subcontractor or Agent of Business Associate, the Company may: (i) require Business Associate, at Business Associate's sole expense, to use a mutually agreed upon written notice to notify, on the Company' behalf, the affected Individual(s), in accordance with the notification

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

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

3. Permitted Uses and Disclosures by Business Associate

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

4. Obligations of the Company

- a) The Company shall provide Business Associate with its notice of privacy practices produced in accordance with 45 CFR § 164.520 and any changes to such notice while this BAA is in effect.
- b) The Company shall provide Business Associate with any changes in or revocation of permission by any Individual for use or disclosure of PHI if such change or revocation affects Business Associate's permitted or required uses and disclosures of the PHI.
- c) The Company shall notify Business Associate of any restrictions on the use or disclosure of PHI that the Company have agreed to in accordance with 45 CFR § 164.522 to the extent that such restrictions affect Business Associate's use or disclosure of PHI.

5. Term and Termination

- a) This BAA shall be effective as of the Effective Date and shall terminate when all PHI provided is destroyed or returned to the Company, or, if it is infeasible to return or destroy PHI, as long as protections are extended to such PHI in accordance with (e)(2).
- b) Upon the Company obtaining knowledge of a material breach or violation of this BAA by Business Associate, the Company shall take one of the following actions:
 - 1. If the Company determine that the breach or violation is curable, the Company shall provide an opportunity for Business Associate to cure the breach or end the violation within

a reasonable time period set by the Company, which shall not exceed 90 days. If the breach or violation is not cured or ended within the time set by the Company, the Company may: (i) immediately terminate this BAA and the Agreement; or (ii) suspend performance by the Company under the Agreement until such breach or violation is cured.

2. If the Company determine that the breach or violation is not curable, The Company may immediately terminate this BAA and the Agreement.
3. If the Company determine that neither a termination of this BAA and the Agreement nor a cure of a breach or violation is feasible, the Company may take such other appropriate actions to remedy, correct or mitigate the breach or violation as the Company shall determine.
4. In addition to the forgoing, the Company may immediately terminate this BAA and the Agreement if the Company determine that Business Associate has violated a material term of this BAA concerning the Security Rule.

c) Effect of Termination.

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

6. Indemnification

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

7. Miscellaneous

- a) A reference in this BAA to a section in the HIPAA Rules means the section as in effect or as amended, and for which compliance is required.
- b) The Parties agree to take such action as is necessary to amend this BAA from time to time for the Company to comply with the requirements of the HIPAA Rules and the Health Insurance Portability and Accountability Act, Public Law 104-191, as amended.
- c) The respective rights and obligations of Business Associate under Section 5 of this BAA shall survive the termination of this BAA.
- d) Any ambiguity in this BAA shall be resolved in favor of a meaning that permits the Company to comply with the HIPAA Rules and other applicable law. The section and paragraph headings of this BAA are for the convenience of the reader only, and are not intended to act as a limitation of the scope or meaning of the sections and paragraphs themselves.
- e) Subject to the following, this BAA shall not be assigned or otherwise transferred by a party without the prior written consent of the other party, which consent shall not be unreasonably

withheld. However, no such consent shall be required for either party's assignment or transfer of this BAA in connection with a merger, sale or transfer of all or substantially all of the business or assets of the assigning party.

- f) The invalidity of any term or provision of this BAA will not affect the validity of any other provision. Waiver by any party of strict performance of any provision of this BAA will not be a waiver of or prejudice any party's right to require strict performance of the same provision in the future or of any other provision on the same or any other occasion.
- g) Any notices permitted or required by this BAA will be addressed to the receiving party at the address shown at the top of this BAA or at such other address as either party may provide to the other.
- h) This BAA may be executed in multiple counterparts, all of which together will constitute one agreement, even though all parties do not sign the same counterpart.
- i) To the extent of any inconsistency between any other agreement between the parties and this BAA, the provisions of this BAA shall prevail.
- j) This BAA supersedes any other business associate agreement in effect among or between the parties to this BAA.

Deleted: ¶

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

COMPANY

CAREOREGON, INC.

By: _____

Title: _____

Date: _____

BUSINESS ASSOCIATE

TILLAMOOK COUNTY
TRANSPORTATION DISTRICT

By: _____

Title: _____

Date: _____

Tillamook County Transportation District
Board of Directors Regular Monthly Meeting
Thursday, February 16, 2023 – 6:00PM
Transportation Building
3600 Third Street, Tillamook, OR
Meeting Minutes



1. Call to Order: Board Chair Mary Johnson called the meeting to order at 6:00 pm.
2. Pledge of Allegiance
3. Roll Call:

Present

TCTD Board of Directors

Mary Johnson, Board Chair
Gary Hanenkrat, Treasurer
Linda Adler, Secretary
Marty Holm, Director
Jackie Edwards, Director

TCTD Staff

Brian Vitulli, General Manager
Mike Reed, Operations Superintendent
Cathy Bond, Finance Supervisor
Natalie Zuercher, Admin Assistant/ Board Clerk
Jules Hooter, Brokerage Manager

Guest

Arla Miller, ODOT
Kathy Kleczek, NW Transportation Options
Marni Johnson, Citizen
Nathan Findling, Citizen
Mary Leverette, Citizen

4. **Announcements and Changes to Agenda:**

GM Vitulli discussed the moving of the NWOTA meeting to 02/17.

5. **Public & Guest Comments:**

Kathy Kleczek discussed helping with transportation at events or employee needs, let her know, she would love to participate. Also offered help with safety item distributions if needed.

6. **Executive Session:** None

REPORTS

7. Financial Report: FS Bond gave the following year-to-date update:

Apologized for not being at last Board Meeting. Gap is getting smaller, will be current with financials at next meeting. Financials provided but we want to keep January together.

We did close our quarter with ODOT. Mike, Brian, and I completed. These are in good reflection of district.

Missing item under request for reimbursement through grant process, quarterly reporting. Don't have to be done but its recommended. Didn't know to process. Affects line 4220-4226. Normally have budget items but not provided because of this. Have a plan to move forward. Will see a significant increase at next Board Meeting.

Resources are low, somewhere close to million for reimbursement. Retention bonus is a part of this as well as Veterans money.

Dir. Holm asked about revenue, hearing out of school district it will be low, will it affect district with reduction of money. Could see significant challenges.

GM Vitulli added that he joined ODFW (Oregon Department of Fish and Wildlife) meeting to address this. Chair Jim Kelly said he encouraged everyone to take a deep breath and acknowledge everyone's feelings. Don't want to end up in timber wars. First hour was somebody from ODFW answering questions, never got into potential of shortages. They went into executive session, so I don't know what came out of it. Not at that level yet but chair urged patience. Dir. Holm replied that's good news, it still a ways out but people are becoming nervous.

GM Vitulli said those receiving funds in Tillamook districts did not seem to be affected or minimally. It's all early too.

8. Service Measure Performance Report: GM Vitulli gave the following updates:

November and December next month will have January through February.

Next month with service change will have a better look at outcome. From drivers it's been very successful.

Discussed November and December Service Performance Report

BC Johnson asked about NWOTA visitor pass and how it's down. Asked if it picks up in the Summer. OS Reed said it crashed, its coming back a little bit. We are rebounding.

Dir. Adler asked if we are advertising NWOTA with passes. AA Zuercher replied through social media but unaware of what you are referring to.

FS Bond said we don't see it locally but yes; they are marketing in the valley we are contracted with NWOTA for this.

OS Reed added that we have brought items for board approval with NWOTA contracts, this is taken care of from that.

9. Northwest Oregon Transit Alliance: GM Vitulli gave the following update:

Dir. Hanenkrat asked for clarification on minutes since it says we have four new board members. We just have four positions open. GM Vitulli replied we will get this updated.

10. Planning & Development: GM Vitulli gave the following updates:

- a. Kittleson is updating our coordinated transit and HR services plan. Hoping to get an update from them soon. Hopefully will have next month. It's interesting to me. Want to see how far along they are.

11. Grant Funding: Vitulli gave following update:

STIF formula funds 2023-2025 have been approved, need to go to OTC for final approval.

Thanked Arla for her support and help with the district. I can't be more pleased to have a partner at the state level. Thank you for your help with district.

12. Facility/Property Management: Vitulli gave following updates:

Still getting up to speed with things, hopefully will have more next month. Want to get into transit center renovations.

13. NW Ride Brokerage: BM Hooter shared the following updates:

Training new Brokerage Coordinator and looking to hire new CSR.

CARE Oregon will bring agreement to you in March.

2,400 rides to members in Tillamook, Clatsop and Columbia County.

14. Miscellaneous: None.

CONSENT CALENDAR

15. Motion to Approve the Minutes of January 19, 2023 Regular Board Meeting

16. Motion to Approve the FY 2023-24 Budget Calendar

17. Motion to Appoint Brian Vitulli as FY 2023-24 Budget Officer

Dir. Adler said she won't be able to attend June 15th meeting.

Motion by Dir. Holm to approve Consent Calendar. *Motion Seconded* by Dir. Edwards.

Motion Passed
By Directors Hanenkrat, Adler,

ACTION ITEMS

18. Resolution #23-05 In the Matter of Authorizing Signing Authority for District Bank and Investment Accounts

Dir. Holm asked if Umpqua changed names. FS Bond replied that she heard they got bought out but no. Heard there was changes. Dir. Holm added that it may be seamless.

FS Bond said we need Brian to be able to sign. It will remove Mikes authority. Operations Coordinator needs a card as well. GM will be primary card holder. Helps financial needs.

GM Vitulli said if you approve this you will need to go to bank. Board of Directors agreed.

Motion by BC Johnson to Approve Resolution #23-05 In the Matter of Authorizing Signing Authority for District Bank and Investment Accounts. Motion seconded by Dir. Holm

Motion Passed
By Directors Hanenkrat, Adler,
Holm, Edwards, and Board Chair Johnson.

DISCUSSION ITEMS

19. Appointment to Board of Director Position #1 Expiring 2025 and Appointment to Board of Director Position #4 Expiring 2023.

BC Johnson discussed this being back on agenda from last month. Heard rumors floating around about district. Bring to board again to provide clarification to public. Last meeting was on side of not filling seats because of obtaining a new GM. Seems like a lot of change. Personally thought we shouldn't but my feelings have changed. It will benefit us to appoint people. To wash rumors about what's happening here. The last thing I want is misinformation, if filling board seats will make things easier then will do. Just didn't want to disrupt GM coming in with changes that could happen during election.

Dir. Holm said is in favor of leaving these seats open. Posted with county clerk. People have filed for positions in this huge election. They are already out there. Closing is coming up. I still feel change would be more challenging. We aren't as a board doing anything wrong or unusual. Any accusations I disagree with. Voters will make their choice. There's still lots of time to file for position. Dir. Edwards and I may or may not choose to file and run again this is nature of democracy. Don't want to appoint for short period of time. Dir. Hanenkrat agreed.

Dir. Edwards also agreed and said it's difficult for other board members as well.

Dir. Hanenkrat said no one has filed as of this morning.

Dir. Adler said this is a reenactment of supreme court, being put off. This vacant seat has been open for almost a year. Likes TJ Fiorelli. Can't say that I am not going to make every board meeting. Will not be at financial board meeting in June. I have two that I think will be ideal, I think it's a good idea to have more than 5 of us right now.

BC Johnson asked if it's good for some people to be here for a little bit getting their feet wet then have this change. If the public will choose different people I have these concerns. Wants to see these rumors ended.

Dir. Hanenkrat asked if Linda can call in for meeting, she will be gone during. Dir. Linda replied maybe.

Dir. Hanenkrat replied we will have a quorum, and still vote.

BC Johnson said the board will stay with decision from last month.

20. Staff Comments/Concerns:

General Manager Vitulli: Thanked the board for selecting him. Looking forward to time here. My head is feeling quite large. Thank you for confidence. Thanked staff, they have been tremendous. Couldn't have been easier landing.

Operations Superintendent Reed: Two big things happening. One, new GM. It's gone very smooth and fitting in well. Secondly, is the service plan, this one was the big one since 2016. After implementation, there's been hardly any problems. Chat about the change that has occurred. Back to pre-pandemic service offerings. Third trip to Portland, starting to grow ridership. Encouraged by this, Summer hopefully people have opportunity and trust that service will benefit service. Proud of staff for going with these changes. They have done a wonderful job. Thanked the board for allowing him to make that happen. Has been successful. Ridership next month will be an incomplete picture.

Financial Supervisor Bond: First off good job board on picking a GM. Considering all that we been through, Brian is refreshing and similar background to Doug. It has been nice addition to staff. Asking good questions. This has been a positive change. Thank you, Brian, for taking that. This was the best service change and has positive impact. Drivers are enjoying changes. Great reflection of district. Thank you for the kind words about my mother.

Admin. Assistant/ Board Clerk Zuercher: Very thankful for Brian coming in as the new GM, breath of fresh air.

Brokerage Manager Hooter: Thank you Natalie, you don't get enough recognition and thank you to Mike and Cathy for all your help.

21. Board of Directors Comments/Concerns:

Dir. Holm: Glad you are here Brian. Don't want to bombard you. Look forward to spending time and discuss district business. Be looking to meet up every few months, it has value in learning. Our role is that you run us, and we aren't into the weeds. We are on a different level. It's important to have conversations.

Dir. Adler: Thank all the staff, Mike, and Cathy with extra mile. Thank you, Arla, with helping be glue behind the scenes. Welcome Brian. Would love to have lunch one on one.

Dir. Hanenkrat: Thanked all the staff, welcome Brian.

Board Chair Johnson: Thanked everyone for everything you do. Appreciate everyone in this room. Welcome Brian, happy to have you here.

Dir. Edwards: It's nice to see everyone here. We have a good GM. It's nice to see everyone work together it's so positive. It's a good district.

Arla Miller said on behalf of ODOT we are happy in choice of GM. He is very up to speed on federal but caught up to speed on state. Thankful to work with Brian. Welcome.

Adjournment: Board Chair Johnson adjourned the meeting at 6:53 pm.

These minutes approved this 16th day of March 2023.

ATTEST:

Mary Johnson, Board Chair

Brian Vitulli, General Manager

**BEFORE THE BOARD OF DIRECTORS
OF THE
TILLAMOOK COUNTY TRANSPORTATION DISTRICT**

**A RESOLUTION AUTHORIZING)
THE TRANSFER OF BUDGET) RESOLUTION NO. 23-06
APPROPRIATIONS WITHIN THE)
OPERATIONS -GENERAL FUND FOR)
FISCAL YEAR 2022-2023)**

WHEREAS, the Board of Directors of the Tillamook County Transportation District adopted a budget for the District for the fiscal year 2022-2023 via Resolution No. 22-17 on June 23, 2022.

WHEREAS ORS 294.463 permits the transfer of budgeted appropriations within a fund when authorized by a resolution of the governing body of a municipal corporation, provided that the net change in the fund’s total appropriations is zero.

WHEREAS, the District’s Board of Directors finds the transfer of appropriations within the District’s Operations – General Fund to be appropriate to account for the staffing adjustment.

NOW, THEREFORE, BE IT RESOLVED by the Tillamook County Transportation District Board of Directors that:

The transfer appropriations within the District’s Operations – General Fund as set forth in Exhibit “A” attached hereto are hereby authorized for fiscal year 2022-2023. Section 2.

This resolution shall become effective immediately upon passage.

INTRODUCED AND ADOPTED this 16th day of March, 2023.

ATTEST:

By: _____
Mary Johnson, Board Chair

By: _____
Brian Vitulli, General Manager

Exhibit "A"
Fiscal Year 2022-2023 Budget Transfer

**OPERATIONS – GENERAL FUND
PERSONNEL SERVICES**

Capital Outlay	Adopted Budget	Changes	Amended Budget
2 Payroll Dispatch	\$175,000	-0-	\$175,000
3 Payroll Drivers	\$1,650,000	-0-	\$1,650,000
Capital Outlay	Description		Amended Description
2 Payroll Dispatch	2.0 FTE Dispatchers plus coverage at Transit Center	-1 FTE-	3.0 FTE Dispatchers plus coverage at Transit Center
3 Payroll Drivers	Budget for 19 FT , 14 PT, and Extra Board	-(1 FTE)--	Budget for 18 FT , 14 PT, and Extra Board

The descriptions of the appropriations listed above are changed to reflect the addition of one full time dispatcher and the reduction of one full time driver. Total net change in the appropriation within the District's Operation – General Fund is zero.

**BEFORE THE BOARD OF DIRECTORS
OF THE
TILLAMOOK COUNTY TRANSPORTATION DISTRICT**

**Authorizing the General Manager)
to Execute Intergovernmental Agreement)
Administering the Disadvantaged Business)
Enterprise Unified Certification Program)**

RESOLUTION NO. 23-07

WHEREAS, the Disadvantaged Business Enterprise (“DBE”) program, as set forth in Title 49 CFR Part 26, Section 81, requires all State Agencies receiving federal transportation funds establish a single Unified Certification Process to certify businesses owned by socially and economically disadvantaged, or historically marginalized, individuals as DBEs; and

WHEREAS, Oregon Department of Transportation’s (“ODOT”) Office of Civil Rights (“OCR”) is responsible for ensuring compliance with the federal regulations in the determination of a DBE certification; and

WHEREAS, Oregon Business Development Department (“OBDD”) is the sole state agency authorized to certify DBEs as eligible to perform on public contracts in the state of Oregon; and

WHEREAS, the Tillamook County Transportation District (“TCTD”) receives funding for federal transportation functions and activities and is required to comply with the requirements for a Unified Certification Process; and

WHEREAS, the Intergovernmental Agreement between ODOT, OBDD, and cities, counties and local partners receiving federal funds, including TCTD, defines the roles and responsibilities of the parties that guide the partnership for the Unified Certification Process; and

WHEREAS, the Intergovernmental Agreement provides for the parties to cooperate and coordinate the administration the DBE certification process for a term of five (5) years.

NOW, THEREFORE, BE IT RESOLVED by the TCTD Board of Directors that:

the General Manager is authorized to execute the Intergovernmental Agreement Administering the Disadvantaged Business Enterprise Unified Certification Program (Agreement No. PO-73000-00011634), a copy of which is attached hereto as Exhibit A.

INTRODUCED AND ADOPTED this 16th day of March 2023.

ATTEST:

By: _____
Mary Johnson, Board Chair

By: _____
Brian Vitulli, General Manager