

NASPO ValuePoint
REVISED PARTICIPATING ADDENDUM



CLOUD SOLUTIONS 2016-2026

Led by the State of Utah

Master Agreement #: AR3110

Contractor: **WELLSKY CORPORATION**

Participating Entity: **STATE OF OREGON**

The Participating Addendum, between WellSky Corporation (Contractor) and the State of Oregon, acting by and through Oregon Housing and Community Services (Participating Entity), executed on 01/14/2021, is hereby revoked and replaced with this Revised Participating Addendum, OHCS# 6028, between Contractor and Participating Entity ("Addendum") effective upon the date signed by all parties

The following products or services are included in under this Addendum:

- All products and accessories included in Master Agreement #AR3110, as listed on the Contractor page of the NASPO ValuePoint website and as may be amended from time to time.

Master Agreement Terms and Conditions:

1. Scope: This Addendum covers the Contractor's **Cloud Solutions** master agreement awarded by the State of *Utah* for use by state agencies and other eligible entities located in the State of Oregon with the prior approval of the State's Chief Procurement Official. Participating Entity has obtained approval from Oregon's Chief Procurement Officer.
2. Participation: This Addendum may be used only by the Participating Entity.
3. Access to Cloud Solutions Services Requires State CIO Approval: Unless otherwise stipulated in this Addendum, specific services accessed through the NASPO ValuePoint cooperative Master Agreements for Cloud Solutions by state executive branch agencies are subject to the authority and prior approval of the Office of the State Chief Information Officer also known as Enterprise Information Services (EIS). The State Chief Information Officer and EIS are the individual and entity designated by the Governor within the Executive Branch with enterprise-wide responsibilities for leadership and management of information technology resources of a state.
4. Primary Contacts: The primary contact individuals for this Addendum are as follows (or their named successors):

Contractor

Name:	Murali Pillai
Address:	11300 Switzer Rd. Overland Park, KS 66210
Telephone:	703-657-1472
Fax:	913-307-1111
Email:	Murali.Pillai@WellSky.com

Participating Entity

Name:	Hunter Belgard
Address:	725 Summer St. NE B, Salem, OR 97301
Telephone:	503-507-8233
Fax:	n/a
Email:	hunter.belgard@oregon.gov

5. PARTICIPATING ENTITY MODIFICATIONS OR ADDITIONS TO THE MASTER AGREEMENT

These modifications or additions apply only to actions and relationships within the Participating Entity.

Participating Entity must check one of the boxes below.

☐ No changes to the terms and conditions of the Master Agreement are required.

☒ The following changes are modifying or supplementing the Master Agreement terms and conditions, in addition to the provisions set forth in Exhibits No. 1-6.

6. Subcontractors: All contactors, dealers, and resellers authorized in the State of Oregon, as shown on the dedicated Contractor (cooperative contract) website, are approved to provide sales and service support to participants in the NASPO ValuePoint Master Agreement. The contractor's dealer participation will be in accordance with the terms and conditions set forth in the aforementioned Master Agreement.
7. Orders: Any order placed by a Participating Entity or Purchasing Entity for a product and/or service available from this Master Agreement shall be deemed to be a sale under (and governed by the prices and other terms and conditions) of the Master Agreement unless the parties to the order agree in writing that another contract or agreement applies to such order.

IN WITNESS WHEREOF, the parties have executed this Addendum as of the date of execution by both parties below.

Participating Entity: STATE OF OREGON, acting by and through Oregon Housing and Community Services	Contractor: WellSky Corporation
Signature: Caleb Yant Digitally signed by Caleb Yant DN: O=OHCS, CN=Caleb Yant, E=Caleb.Yant@oregon.gov Reason: I am the author of this document Location: your signing location here Date: 2021-05-28 13:06:31 Foxit Reader Version: 10.0.0	Signature:  7823EBE9444A485...
Name: Caleb Yant	Name: Stephen Greenberg
Title: Deputy Director	Title: SVP of Human & Social Services
Date: 5-28-2021	Date: 5/27/2021

STATE OF OREGON DEPARTMENT OF JUSTICE

Approved as to Legal Sufficiency By: Sr. A. A. G. Karen Johnson via email 05/27/2021
Assistant Attorney General Date

For questions on executing a participating addendum, please contact NASPO ValuePoint at CCC@naspovaluepoint.org.

**Please email fully executed PDF copy of this document
to
PA@naspovaluepoint.org
to support documentation of participation and posting
in appropriate data bases.**

EXHIBIT NO. 1

Changes to Master Agreement State-Specific Constitutional, Statutory and Other Requirements

1. Incorporation of Master Agreement. Participating State and Purchasing Entities are entitled to rely upon all of the representations and warranties, rights, remedies, and benefits under the Master Agreement and this Addendum, subject to the State-Specific Constitutional, Statutory and other requirements set forth herein.

2. Definitions. Capitalized terms not defined in this Addendum have the meaning ascribed to them in the Master Agreement and its exhibits. The following terms have the meanings set forth below:

“**Business Days**” means Monday through Friday, 8:00 a.m. to 5:00 p.m., pacific time, excluding State of Oregon holidays and business closure days.

3. Service Orders; Other Ordering Instrument.
Intentionally omitted.

4. Third Party Agreements. To the extent any Goods or Services are subject to the provisions of a third-party license agreement, subscription agreement, maintenance and support agreement or any other third-party agreement, Contractor shall provide Purchasing Entity with a copy of any such third-party agreement. Purchasing Entity shall have thirty (30) calendar days to review the agreement. Purchasing Entity may accept the terms of the agreement, reject the terms, or attempt to negotiate the terms with the third-party provider. In the event Purchasing Entity rejects the terms or is unable to come to agreement with the third-party provider, Purchasing Entity may revoke the Service Order and will be entitled to a full refund of all amounts paid under such Service Order and will not be subject to any early termination fees.

5. Payment Provisions; Expenses. All payments are subject to ORS 293.462. Purchasing Entity will not be obligated to pay any travel expenses unless expressly agreed upon in a Service Order. Any obligation to pay travel expenses, including transportation, lodging, or meals, is subject to the rates and limitations set under Oregon law. Contracts with the State of Oregon are subject to the rates and limitations of the Statewide Travel Policy.

6. Funds available and authorized/non-appropriation.

6.1 The State of Oregon’s and Purchasing Entity’s payment obligations under this Addendum are conditioned upon Purchasing Entity receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow Purchasing Entity, in the exercise of its reasonable administrative discretion, to meet its payment obligations under any Service Order issued under this Addendum. Contractor is not entitled to receive payment under this Addendum or any Service Order from any part of Oregon state government other than Purchasing Entity. Nothing in this Addendum or Service Order is to be construed as permitting any violation of Article XI, section 7 of the Oregon Constitution or any other law regulating liabilities or monetary obligations of the State of Oregon. Purchasing Entity represents that it has sufficient appropriations and limitation for the current biennium to make payments under any Service Order issued under this Addendum.

6.2 Federal Funds. Purchasing Entity may elect to use federal funds to acquire the Goods,

Products or Services under this Addendum. In the event Purchasing Entity uses federal funds to acquire the Goods, Products or Services, the provisions set forth in Exhibit No. 7 will apply as well as the following provisions:

6.2.1 Contractor or Subrecipient Determination. In accordance with the Oregon State Controller's Oregon Accounting Manual, policy 30.40.00. 104, Purchasing Entity's determination is that:

☐ Recipient is a subrecipient ☒ Recipient is a contractor

Catalog of Federal Domestic Assistance (CFDA) #(s) of federal funds to be paid through this Addendum and any Order issued hereunder:

6.2.2 Federally Funded Work Product. To the extent required by federal law, work product developed by Contractor for Purchasing Entity's sole and exclusive use and ownership as agreed upon by Contractor in writing, including Deliverables and derivative works and compilations (hereinafter "Purchasing Entity Work Product"), and whether or not such Purchasing Entity Work Product is considered a "work made for hire," is the exclusive property of Purchasing Entity. Purchasing Entity has all right, title, and interest (including ownership of copyright and trademark) to such Purchasing Entity Work Product as Federally Funded Purchasing Entity Work Product. The [federal agency] reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use for federal government purposes, such Purchasing Entity Work Product.

- Such Federally Funded Purchasing Entity Work Product is "work made for hire" of which Purchasing Entity is the author within the meaning of the United States Copyright Act. If for any reason the Federally Funded Purchasing Entity Work Product is not "work made for hire" Contractor hereby irrevocably assigns to Purchasing Entity any and all of its rights, title, and interest in all Federally Funded Purchasing Entity Work Product delivered under this Addendum, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. Upon Purchasing Entity's reasonable request, Contractor shall execute such further documents and instruments to fully vest such rights in Purchasing Entity. Contractor waives any and all rights relating to Federally Funded Work Purchasing Entity Product created pursuant to this Addendum, including without limitation any and all rights arising under 17 USC 106A or any other rights of identification of authorship or rights of approval, restriction, or limitation on use or subsequent modifications.
- Purchasing Entity grants Contractor a perpetual non-exclusive, irrevocable, royalty-free, world-wide license to use, copy, execute, perform, modify, display, distribute, and transmit the Federally Funded Purchasing Entity Work Product to other governmental entities, and to prepare derivative works of Federally Funded Purchasing Entity Work Product, and to authorize others to do the same on Contractor's behalf, for other governmental entities.
- Contractor shall not charge a development, licensing, or user fee to any state, federal, or local governmental entity when distributing copies of, and transferring or sublicensing rights to, the Federally Funded Work Purchasing Entity Product to such entity. Contractor may recover costs of transferring or making such Federally Funded Purchasing Entity Work Product available from the receiving entity.

Contractor's exercise of its right to transfer or sublicense according to this section will be considered an activity performed by Contractor under this Addendum.

7. Warranties. Purchasing Entity is entitled to the warranties, rights, remedies, and benefits under the Master Agreement and this Addendum. All warranties are cumulative except as specifically set forth therein and will be interpreted expansively so as to afford Purchasing Entity the broadest warranty protection available.

8. Dispute Resolution. Any dispute between the parties under this Addendum that is not resolved through informal discussions may be submitted to mediation upon the consent of both parties. If informal discussions or mediation are unsuccessful, either party may initiate litigation to resolve the dispute. The parties specifically disclaim any right to arbitration of disputes. Neither party waives its right to a jury trial or right to participate in class, collective, or representative claims.

9. Control of Defense and Settlement. Contractor's obligation to indemnify Purchasing Entity as set forth in the Master Agreement is conditioned on Purchasing Entity providing to Contractor prompt notification of any claim or potential claim of which Purchasing Entity becomes aware. Contractor shall have control of the defense and settlement of any claim that is subject to indemnification; however, representation of the State of Oregon, in the name of the State of Oregon, on any issue is subject to ORS chapter 180, provided it shall not impact Contractor's control of the defense and settlement as set forth herein. Contractor shall not settle any claim on behalf of the State of Oregon that requires the State of Oregon to pay any money or admit any fault without the approval of the Attorney General.

10. Limitation of Liability.

10.1 The Participating State's or Purchasing Entity's liabilities to Contractor, if any, are subject to the provisions of Article XI, Section 7 of the Oregon Constitution and the Oregon Tort Claims Act (ORS 30.260 to 30.300) as applicable.

10.2 Contractor's liabilities under this Addendum are limited to two times the value of the applicable Service Order, except as set forth below.

10.3 The limitation in Section 10.2 shall not apply to Contractor's liability for any loss, damage, statutory penalty, or expense (including reasonable attorneys' fees) arising out of or resulting from Contractor's:

- (i) breach of its obligations of confidentiality;
- (ii) breach of Contractor's obligations related to data security and breach notification as set forth in this Participating Addendum;
- (iii) personal injury, death, damage to tangible and intangible property, in each event to the extent such loss, damage, statutory penalty, or expense results from the negligent, illegal, or willful misconduct of Contractor or its employees or agents at the Participating Entity's site.

Contractor's liability under this Section 10.3 (i), (ii), and (iii) shall not exceed the greater of (a) five times the value of the applicable Service Order or (b) \$1,000,000.

11. Insurance. Within ten (10) days of the Effective Date, Contractor shall deliver to Purchasing Entity a certificate evidencing the insurance coverage set forth on Exhibit No. 2. No Service Orders or other ordering instruments may be placed or accepted until proof is provided that these requirements have been met. Purchasing Entity may request additional insurance coverage, as necessary.

12. Jurisdiction and Venue. Any claim, action, suit or proceeding (collectively, "Claim") between State or any other agency or department of the State of Oregon, and Contractor, that arises from or relates to this Addendum or a Service Order under this Addendum, will be brought and conducted solely and exclusively in the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it will be brought and conducted solely and exclusively in the United States District Court of the District of Oregon. CONTRACTOR, BY EXECUTION OF THIS ADDENDUM OR ACCEPTANCE OF A PURCHASE ORDER OR OTHER ORDERING INSTRUMENT SUBMITTED PURSUANT TO THIS ADDENDUM HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS. Nothing in this section will be construed as a waiver of the State of Oregon's sovereign immunity with respect to any Claim, whether brought under State or Federal law, or the consent to jurisdiction in State or Federal Court.

13. Remedies. RESERVED

14. Term and Termination of Participating Addendum.

14.1 This Addendum remains in effect until the earlier of (a) the expiration or termination of the Master Agreement, or (b) termination of this Addendum in accordance with its terms.

15. Termination of Individual Service Orders or other ordering instrument. In addition to its termination rights under the Master Agreement, Purchasing Entity and Contractor may mutually agree to terminate a Service Order or other ordering instrument at any time by written consent.

16. Governing Law. The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Addendum and resulting Service Orders or other ordering instruments, including, without limitation, their validity, interpretation, construction, performance, and enforcement.

17. Compliance with Law.

17.1 General. In addition to the compliance of law provisions of the Master Agreement, Contractor shall comply with all federal, state and local laws, and regulations applicable to Contractor or to the Goods or Services ordered under this Addendum or any Service Order. Without limiting the generality of the foregoing, Contractor shall comply with the federal terms and conditions set forth in Exhibit No. 6. Further, a Purchasing Entity's performance under a Service Order or other ordering instrument is conditioned on Contractor's compliance with the applicable provisions of ORS 279B.220, 279B.230. and 279B.270.

17.2 Pay Equity. Contractor shall comply with ORS 652.220 and shall not unlawfully discriminate against any of Contractor's employees in the payment of wages or other compensation for work of comparable character on the basis of an employee's membership in a protected class. "Protected class" means a group of persons distinguished by race, color, religion, sex, sexual orientation, national origin, marital status, veteran status, disability or age. Contractor's compliance with this section constitutes a material element of this Addendum and a failure to comply constitutes a breach that entitles Purchasing Entity or Purchasing Entity to terminate this Addendum or a Service Order for cause.

Contractor may not prohibit any of Contractor's employees from discussing the employee's rate of wage, salary, benefits, or other compensation with another employee or another person. Contractor may not retaliate against an employee who discusses the employee's rate of wage, salary, benefits, or other compensation with another employee or another person.

17.3 False Claims. Contractor understands and acknowledges it is subject to the Oregon False Claims Act (ORS 180.750 to 180.785) and to any liabilities or penalties associated with the making of a false claim under that Act. By its execution of the Addendum, Contractor certifies the truthfulness, completeness, and accuracy of any statement or claim it has made, it makes, it may make, or cause to be made that pertains to the Addendum or the Service Orders or other ordering instruments, including but not limited to Contractor invoices, correspondence, reports, or other deliverables.

17.4 Non-Discrimination. Contractor certifies that it has a written policy and practice that meets the requirements described in ORS 279A.112 for preventing sexual harassment, sexual assault, and discrimination against employees who are members of a protected class. Contractor agrees, as a material condition, to maintain such policy and practice in force during the term of this Addendum and each Service Order.

17.5 Undisclosed Debt; Tax Compliance and Certification. By executing this Addendum, the undersigned certifies under penalty of perjury that, to the best of the individual's knowledge, Contractor has no undisclosed liquidated and delinquent debt owed to the State of Oregon or any of its agencies, boards, commissions, departments or divisions, and Contractor complied with the tax laws of the State of Oregon and the applicable tax laws of any political subdivision of this state, and Contractor shall, for the term of this Addendum and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. For the purposes of this section, "tax laws" includes: (i) All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318; (ii) Any tax provisions imposed by a political subdivision of this state that apply to Lessor, to Lessor's property, operations, receipts, or income, or to Lessor's performance of or compensation for any work performed by Lessor; (iii) Any tax provisions imposed by a political subdivision of this state that apply to Lessor, or to goods, services, or property, whether tangible or intangible, provided by Lessor; and (iv) Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions. Any violation of this provision will be considered a material breach of this Addendum and applicable Service Orders or other ordering instruments. Purchasing Entity and Purchasing Entity, as applicable, may pursue any and all remedies set forth in the Master Agreement, including termination of this Addendum or a Service Order.

This Addendum will be reported to the Oregon Department of Revenue. The Department of Revenue may take any and all actions permitted by law relative to the collection of taxes and debt due to the State of Oregon or a political subdivision, including (i) garnishing Lessor's compensation under this Lease, or (ii) exercising a right of setoff against Lessor's compensation relating to this Lease for any amounts that may be due and unpaid to the State of Oregon or its political subdivisions for which the Department of Revenue collects debts.

18. Security and Data Privacy Laws.

18.1 In addition to the confidentiality provisions set forth in the Master Agreement, Contractor and all Contractor employees, contractors, and agents shall comply with the provisions set forth in Exhibit No. 5, all applicable state and federal laws and regulations, and State of Oregon policies, available to the Contractor at <https://www.oregon.gov/das/Pages/policies.aspx>, governing use and disclosure of Purchasing Entity's information and data and access to State of Oregon information assets, including as those laws, regulations, and policies may be updated from time to time, provided to the extent a policy conflicts with federal standards, the federal standard shall control. Notwithstanding anything to the contrary, including in any State of Oregon policy, neither Contractor nor its employees or contractors shall be obligated to complete the Acceptable Use Agreement.

18.2 If the Purchasing Entity asserts it is not a Covered Entity, Purchasing Entity represents and warrants that it is not a Covered Entity as defined in HIPAA and, thereby, does not require a business associate agreement between Contractor and Purchasing Entity, governing use and disclosure of PHI. Purchasing Entity agrees that if it is determined that Purchasing Entity is a Covered Entity, Purchasing Entity will notify Contractor immediately, and the business associate agreement under the Master Agreement shall apply. Furthermore, Purchasing Entity shall be solely liable for and hold Contractor and its officers, directors, and employees harmless from and against any claims, suits, liabilities, obligations, judgments, and causes of action and associated costs and expenses (including reasonable attorneys' fees) to the extent arising out of or resulting from Purchasing Entity's representation or warranty that it is not a Covered Entity or a determination that Purchasing Entity is a Covered Entity.

18.3 Purchasing Entity hereby grants to Contractor a right to : (a) use Client Data in connection with the provision of the Licensed Software or Cloud Services as defined in the Master Agreement and Addendum between the parties; (b) use the Client Data to create Deidentified Data. Contractor shall own such Deidentified Data. Contractor may access, use, and disclose Client Data for any purposes set forth herein, including patient matching and claims data sharing, to facilitate billing, payments, or claims-related activities by any insurance provider, payer, or similar third party to Purchasing Entity. Contractor may aggregate Client Data with other Contractor customer data for the creation and maintenance of consumer or patient health records. Purchasing Entity shall include a description of the disclosure to Contractor in Purchasing Entity's privacy policies and shall notify Contractor promptly of any consumer's request to opt-out of such disclosure. For the purposes of this section, "Client Data" means all electronic data or information submitted by Purchasing Entity to the Licensed Software or Cloud Services but excluding Deidentified Data; and "Deidentified Data" means Client Data that is deidentified by Contractor and such deidentification is certified by a third-party as compliant with the deidentification standards under HIPAA or otherwise meets the deidentification requirements under HIPAA.

18.4 Purchasing Entity represents and warrants it has obtained all necessary patient or consumer consents and authorizations for Contractor's access, use, and disclosure of Client Data as set forth herein.

19. Application of Public Records Law. Participating State or Purchasing Entity's obligations of confidentiality, if any, are subject to application of the Oregon Public Records Law, including but not limited to ORS 192.311 - 192.478, the provisions for the Custody and Maintenance of Public Records, ORS 192.005 – 192.710, and of ORS 646.461 - 646.475.

20. Recycled Products. To the maximum extent economically feasible in the performance of this Addendum or any Service Order or other ordering instruments, Contractor will 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 plastic resin products and recycled products (as "recycled product" is defined in ORS 279A.010(1)(ii)).

21. Foreign Contractor. If Contractor is not domiciled in or registered to do business in the State of Oregon as of the effective date of this Addendum, Contractor will promptly provide to the Oregon Department of Revenue all information required by that Department relative to the Addendum or any Service Order. Purchasing Entity may withhold final payment under a Service Order or other ordering instrument until Contractor has provided the Oregon Department of Revenue with the required information.

22. Independent Contractor. Contractor shall act at all times as an independent contractor and not as an agent or employee of Purchasing Entity. Contractor has no right or authority to incur or create any obligation for or legally bind Purchasing Entity in any way. Contractor is not an "officer", "employee", or "agent" of Purchasing Entity (or any other agency, office, or department of the State of Oregon), as those terms are used in ORS 30.265, and shall not make representations to third parties to the contrary. Neither party shall make any statements, representations, nor commitments of any kind or to take any action binding on the other except as provided for herein or authorized in writing by the party to be bound.

23. Access to Records. Contractor will maintain all fiscal records relating to Service Orders in accordance with generally accepted accounting principles and will maintain any other records relating to Service Orders in such a manner as to clearly document Contractor's performance thereunder. Upon reasonable written request and in a mutually agreeable time and manner, the Purchasing Entity, the State and its agencies, the Oregon Secretary of State Audits Division and their duly authorized representatives will have access to such fiscal records and to all other books, documents, papers, plans and writings of Contractor which relate to this Addendum to perform examination and audits and make excerpts and transcripts. To the extent provided by law, the federal government will be entitled to the same access as the State of Oregon and Purchasing Entity. Contractor will retain and keep accessible all such fiscal records, books, documents, papers, plans, and writings for a minimum of six years, or such longer period as may be required by applicable law following final payment and termination of this Addendum, or until the conclusion of any audit, controversy or litigation arising out of or related to this Addendum, whichever date is later.

EXHIBIT NO. 2**INSURANCE**

Contractor shall obtain at Contractor's expense the insurance specified in this Exhibit No. 2 prior to performing under this Addendum and shall maintain it in full force and at its own expense throughout the duration of this Addendum and all warranty periods and as required by any extended reporting period or tail coverage requirements. Contractor shall obtain the required insurance from insurance companies or entities that are rated A or better by A.M. Best Company or similar rating company and that are acceptable to Purchasing Entity. Coverage shall be primary and non-contributory with any other insurance and self-insurance. Contractor shall pay for all deductibles, self-insured retention and self- insurance, if any.

WORKERS' COMPENSATION & EMPLOYERS' LIABILITY. All employers, including Contractor, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and provide workers' compensation insurance, unless they meet the requirements of an exemption under ORS 656.126(2), Employers' Liability Insurance with limits not less than \$500,000 each accident. Contractor shall require and ensure that each of its subcontractors complies with these requirements. If Contractor is an employer subject to any other state's workers' compensation law, Contractor shall provide workers' compensation insurance coverage for its employees as required by applicable workers' compensation laws including employers' liability insurance coverage with limits not less than \$500,000.

COMMERCIAL GENERAL LIABILITY. Commercial General Liability Insurance covering bodily injury, death and property damage in a form and with coverage that are satisfactory to the State. This insurance shall include personal injury liability, products and completed operations, and contractual liability coverage, in each case arising out of Contractor's negligence, and have no limitation of coverage to designated premises, project, or operation. Coverage must be written on a claims basis in an amount of \$2,000,000 per claim and \$4,000,000 aggregate.

EXCESS/UMBRELLA INSURANCE. A combination of primary and excess/umbrella insurance may be used to meet the required limits of insurance.

AUTOMOBILE LIABILITY INSURANCE. Automobile Liability Insurance covering all owned, non-owned, or hired vehicles with a combined single limit of not less than \$1,000,000.00 for bodily injury and property damage. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for Commercial General Liability and Automobile Liability). Use of personal automobile liability insurance coverage may be acceptable if evidence that the policy includes a business use endorsement is provided.

PROFESSIONAL LIABILITY. As set forth in the Master Agreement, Contractor shall provide Technology Errors & Omissions insurance in an amount of \$10,000,000 per claim and in the aggregate covering Contractor's liability arising from acts, errors or omissions in rendering or failing to render computer or information technology services, including the failure of technology products to perform the intended function or serve the intended purpose as set forth in this Participating Addendum. This insurance must include coverage for violation of intellectual property rights including trademark copyright, privacy liability, the failure of computer or network security to prevent a computer or network attack, misrepresentations, and unauthorized access or use of computer system or networks. This insurance must also include coverage for unauthorized disclosure,

access or use of Agency Data (which may include, but is not limited to, Personally Identifiable Information ("PII"), Payment Card Data and Protected Health Information ("PHI")) in any format.

ADDITIONAL INSURED. The Commercial General Liability insurance and Automobile Liability insurance required under this Addendum shall include the State of Oregon, its officers, employees and agents as Additional Insureds, including additional insured status with respect to liability arising out of ongoing operations and completed operations but only with respect to Contractor's activities to be performed under this Addendum.

TAIL COVERAGE. If any of the required insurance is on a claims made basis and does not include an extended reporting period of at least 24 months, Contractor shall maintain or have the option to obtain either tail coverage or continuous claims made liability coverage, provided the effective date of the continuous claims made coverage is on or before the effective date of this Addendum, for a minimum of 24 months following the later of (i) Contractor's completion and Purchasing Entity's acceptance of all Services required under this Addendum, or, (ii) The expiration of all warranty periods provided under this Addendum .

CERTIFICATE(S) AND PROOF OF INSURANCE. Contractor shall provide to Purchasing Entity Certificate(s) of Insurance for all required insurance before delivering any Goods and performing any Services required under this Addendum. The Certificate(s) shall include the State of Oregon, its officers, employees and agents as a Certificate holder and as Additional Insured, and that all coverage shall be primary and non-contributory with any other insurance and self-insurance. If excess/umbrella insurance is used to meet the minimum insurance requirement, the Certificate of Insurance must include a list of all policies that fall under the excess/umbrella insurance.

NOTICE OF CHANGE OR CANCELLATION. Contractor or its insurer must provide at least 30 days' written notice to Purchasing Entity before cancellation of or non-renewal of the required insurance coverage(s).

INSURANCE REQUIREMENT REVIEW. Contractor agrees to periodic review of insurance requirements by Purchasing Entity under this Addendum and to provide updated requirements as mutually agreed upon by Contractor and Purchasing Entity.

EXHIBIT NO. 3
CONTRACTOR DATA

Contractor Information. This information is requested pursuant to ORS 305.385.

PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION

Contractor Name (exactly as filed with the IRS): _____

Street address: _____

City, state, zip code: _____

Email address: _____

Telephone: _____ () _____ Fax: _____ () _____

Contractor's taxpayer identification numbers;

Federal Tax Number _____ Oregon Tax Number _____

Is Contractor a nonresident alien, as defined in 26 U.S.C. § 7701(b)(1)?

(Check one box): ☐ YES ☐ NO

Business Designation: (Check one box):

- ☐ Professional Corporation
- ☐ Limited Liability Company
- ☐ Corporation

- ☐ Nonprofit Corporation
- ☐ Limited Liability Partnership
- ☐ Partnership

- ☐ Limited Partnership
- ☐ Sole Proprietorship
- ☐ Other

EXHIBIT NO. 4**WELLSKY CORPORATION
ORDER FORM**

This Order Form (“**Order**”) is dated as of _____ (“**Effective Date**”) between **Oregon Housing and Community Services** (“**Client**”) with offices at 15850 NW Energia St, Portland, OR 97229 and **WellSky Corporation**, with offices at 11300 Switzer Road Overland Park, KS 66210 (“**WellSky**”) for the products and services set forth herein. This Order is subject to and hereby incorporates the terms and conditions of the Master License and Services Agreement entered into between the parties, dated _____ (“**Agreement**”), except to the extent explicitly identified in this Order.

This Order consists of the following Attachments:

Any questions or changes to this Order, please contact Murali Pillai at 914-564-3260.

Ordering Procedure:

Scan or fax this signed Order to WellSky’s Contracts Department as follows:

LegalContracts@wellsky.com

Fax: (913) 871-9571 or 9138719571@fax2mail.com

This Service Order is subject to Master Agreement #AR3110, and Participating Addendum OHCS #6028 The terms and conditions contained in the Participating Addendum apply to this purchase and take precedence over all other conflicting terms and conditions, express or implied. There are no understandings, agreements or representations, oral or written, not specified herein.

OREGON HOUSING AND COMMUNITY SERVICES:		WELLSKY CORPORATION:
Signature:		Signature:
Name:		Name: Stephen Greenberg
Title:		Title: SVP Human and Social Services
Date:		Date:

**ORDER FORM
ATTACHMENT 1**

TERM AND PAYMENT TERMS

1. Term:
2. Payment Terms. All fees due under this Order shall be paid as follows:

Professional Services:

Client agrees to pay _____% of the fixed fee/ fixed scope professional services fees on the Effective Date.

Please provide your accounts payable or billing contact information.

Name:
Title:
E-mail:
Phone:

DRAFT

Fixed Fee Costs

Professional Services	One-time Fees
Total	

Client has requested that WellSky Corporation (“WellSky”) perform the following services (“Services”) as set forth in this Order Form.

DRAFT

EXHIBIT NO. 5**SECURITY AND HOSTING REQUIREMENTS**

Contractor's obligations under the Addendum include the requirements of this exhibit.

1. Data Classification and Compliance with Applicable Laws.

1.1. Data Classification. Contractor shall assume that Purchasing Entity Data contains information that has been classified as Level 3 Information under the State of Oregon's Information Asset Classification policy, available online at <https://www.oregon.gov/das/Policies/107-004-050.pdf>. Contractor certifies the Services provide the appropriate level of protection for Level 3 Information.

1.2. Compliance Requirements. Contractor and its Services comply with all of the following minimum information technology standards:

1.2.1. Oregon's Statewide Information Security Standards:

<https://www.oregon.gov/das/OSCIO/Documents/2019StatewideInformationAndCyberSecurityStandardsV1.0.pdf>.

1.2.2. Oregon's Statewide Information Security Plan:

<https://www.oregon.gov/das/OSCIO/Documents/StatewideInformationSecurityPlan.pdf>

1.2.3. Oregon's Statewide Policies:

<https://www.oregon.gov/das/Pages/policies.aspx#IT>

1.2.4. Statewide Cloud Computing policy: <https://www.oregon.gov/das/policies/107-004-150.pdf>

1.2.5. Oregon's Statewide Policies: www.oregon.gov/das/Pages/policies.aspx#IT.

1.2.6. The Oregon Consumer Information Protection Act, ORS 646A.600 through 646A.628, to the extent applicable.

1.2.7. HIPAA/HITECH statutes, rules, regulations, and codes as well as any other applicable state and federal statutes, regulations, or codes regarding "Protected Health Information" as defined in 45 CFR Section 160.103, and "Personal Information" as defined under ORS 646A.602(12);

1.2.8. Section 508 Compliance: Contractor has completed a Voluntary Product Accessibility Template and will work to resolve specific issues as needed by Participating Entity users and in accordance with Contractor's product roadmap.

1.3. Privacy and Security Measures. Contractor represents and warrants it has established and will maintain reasonable privacy and security measures that meet or exceed the standards set in laws, rules, and regulations set forth herein applicable to the

safeguarding, security, and privacy of Purchasing Entity Data. Contractor shall monitor, periodically assess, and update its physical, technical, and logical security controls and risk to ensure continued effectiveness of those controls.

1.4. Security Logs and Reports. Contractor shall allow Purchasing Entity to request a report of the records that a specific user accessed over a specified period of time.

1.5. Testing. Purchasing Entity reserves the right to conduct periodic security testing of the Services.

2. Privacy Obligations.

2.1. Privacy Protections. The information exchanged between the parties may include Purchasing Entity Data subject to specific confidentiality protections under state or federal law, and the implementing regulations of those laws. Contractor, its employees, agents, and contractors shall comply with laws and regulations applicable to the information, including as those laws and regulations may be updated from time to time. Contractor shall maintain protections required by law or this Addendum for any retained Purchasing Entity Data for so long as Contractor (including through any third party) retains Purchasing Entity Data.

2.2. Privacy and Security Training. Contractor shall ensure its employees, agents, and contractors receive periodic training on privacy and security obligations relating to this Addendum.

2.3. Limited Purposes. Contractor shall limit the use or disclosure of Purchasing Entity Data to persons directly connected with the administration of this Addendum.

2.4. Access to Data. Except as set forth in the Master Agreement, Contractor shall not suspend Purchasing Entity's access to Purchasing Entity Data at any time during the term of this Addendum or the post-termination access period.

2.5. Post-Termination Access to Purchasing Entity Data. Upon Addendum or Service Order or other ordering instruments' termination (including by expiration), Contractor shall, at Purchasing Entity's discretion, either return all Purchasing Entity Data to Purchasing Entity (or delegate) in an agreed-upon format, or ensure Purchasing Entity has read-only access and the ability to retrieve Purchasing Entity Data for at least a 90-calendar day period following termination at Contractor's then-current rates. Contractor shall not retain any copies of Purchasing Entity Data following Purchasing Entity's written verification that Purchasing Entity no longer requires post-termination access, except as necessary for audit verification purposes.

2.6. Transition Services. Contractor shall at Purchasing Entity's option provide transition services to support a responsible and secure transition of Services and Purchasing Entity Data to another service provider or to Purchasing Entity at Contractor's then-current rates unless otherwise agreed upon by Contractor and Purchasing Entity.

2.7. Sanitization. Contractor shall not retain any copies of Purchasing Entity Data following the post-termination access period referenced in Section ## 2.5 above. Contractor shall notify Purchasing Entity of any conditions that make returning all Purchasing Entity Data not feasible. Except for such infeasible Purchasing Entity Data, Contractor shall purge or destroy retained Purchasing Entity Data in all its forms (including copies of returned data) in accordance with the most current version of NIST SP 800-88 and provide Purchasing Entity with written certification of sanitization.

3. Hosting Obligations.

3.1. Hosting Services. Services are provided via SSAE-16 SOC I and SOC II Audited Data Centers which are located within the continental United States. This is a material representation of fact upon which Purchasing Entity may rely. Contractor shall not transfer or materially modify these hosting services without 90 days' advance written notice to Purchasing Entity's Authorized Representative. Any hosting services must meet or exceed requirements set forth in this Addendum and be located within the continental United States.

3.2. Encryption. Purchasing Entity Data on or in Contractor's system must be encrypted on disk for both OLTP databases and database backups using AES-256-bit encryption when at rest and encrypted during transit using approved SSL/TLS certificate, preferably TLS 1.2 or later, employing 2048-bit keys for digital signatures, and Counter with Cipher block chaining mode (CCM), with AES-256 for message authentication and a SH-256-bit hash for secure hashing.

3.3. No Overseas Access, Storage, or Transmission. Purchasing Entity Data will not be accessed from, transmitted, or stored outside of the United States or its territories, including for any maintenance, support, disaster recovery, or data backup.

3.4. Business Continuity. Contractor shall have a business continuity management and disaster recovery plan in effect throughout the course of performance.

3.5. Third Party Audit. All aspects of the Services must meet the criteria of the American Institute of Certified Public Accounts for SOC 3 Type II, including access controls; availability; processing integrity; data confidentiality; and data privacy, collection, use, retention, disclosure, and disposal. Contractor shall ensure it and its subservice organizations undergo periodic examinations from an independent auditor to verify continued compliance. Contractor shall provide a summary of the most recent examination results report to Purchasing Entity upon request.

3.6. Security Risk Management Plan. Contractor shall ensure the level of security and privacy protection required by this Addendum, which is documented in a security risk management plan. Contractor will make its plan available to Purchasing Entity for review upon request.

4. Notifications.

4.1.1. **Incident and Breach Notification.** In the event Contractor or its subcontractor or agents discover or are notified of a security incident, or a breach or potential breach of security or privacy, including a failure to comply with Contractor's confidentiality obligations, Contractor shall promptly, but in no event later than 72 hours, notify Purchasing Entity's point of contact of the incident, breach, or potential breach. If Purchasing Entity determines that a breach or potential breach requires notification of its clients, or other notification required by law, Purchasing Entity will have sole control over the notification content, timing, and method, subject to Contractor's obligations under applicable law.

4.1.2. **Requests for Purchasing Entity Data.** In the event Contractor receives a third party request for Purchasing Entity Data, including any electronic discovery, litigation hold, or discovery searches, Contractor shall first give Purchasing Entity notice, unless precluded by law or court order, and provide such information as may reasonably be necessary to enable Purchasing Entity to take action to protect its interests.

5. **Purchasing Entity Audit Rights and Access.** Contractor shall maintain records in such a manner as to clearly document its compliance with and performance under this Addendum, and provide Purchasing Entity and their duly authorized representatives access to Contractor's records to:

5.1. Determine Contractor's compliance with this Addendum,

5.2. Validate Contractor's written security risk management plan, or

5.3. Gather or verify any additional information Purchasing Entity may require to meet any state or federal laws, rules, or orders, including those regarding Purchasing Entity Data.

5.4. **Notice.** Except as stated below for security logs, access to records under this section will be granted following reasonable notice to Contractor. Records include paper or electronic form, and related system components and tools (including hardware and software), required to perform examinations and audits, and to make excerpts and transcripts, including for data forensics.

5.5. **System Security Logs.** Purchasing Entity shall have on-line access to system security logs for the Services, including user level access logs for both Purchasing Entity and Contractor users.

EXHIBIT NO. 6

Without limiting the generality of the Master Agreement or Addendum, Contractor shall comply with all federal law, regulations and executive orders, as indicated, and shall cause all subcontractors to comply with all federal law, regulations and executive orders including the following. For purposes of this Addendum, all references to federal laws are references to federal laws as they may be amended from time to time. For the purposes of this Addendum, subcontractor shall mean a third party contracted by Contractor to perform professional services at the Purchasing Entity site.

1. Equal Employment Opportunity. If this Addendum, including amendments, is for more than \$10,000, then Contractor shall comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60). The Executive Order prohibits contractors and federally assisted construction contractors and subcontractors who do over \$10,000 in Government business in one year from discriminating in employment decisions on the basis of race, color, religion, sex, or national origin. The Executive Order also requires contractors to take affirmative action to ensure that equal opportunity is provided in all aspects of their employment.

During the performance of the Addendum, Contractor agrees as follows:

- 1.1** Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- 1.2** Contractor will, in all solicitations or advertisements for employees placed by or on behalf of Contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
- 1.3** Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with Contractor's legal duty to furnish information.
- 1.4** Contractor will send to each labor union or representative of workers with which Contractor has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of Contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- 1.5** Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- 1.6** Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- 1.7** In the event of Contractor's noncompliance with the nondiscrimination clauses of this Addendum or with any of the said rules, regulations, or orders, this Addendum may be canceled, terminated, or suspended in whole

or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

- 1.8** Contractor will include the portion of the sentence immediately preceding subsection 1.1 and the provisions of subsection 1.1 through subsection 1.8 in every subcontract or Service Order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. Contractor will take such action with respect to any subcontract or Service Order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency Contractor may request the United States to enter into such litigation to protect the interests of the United States.

2. Davis-Bacon Act.

- 2.1.** All transactions regarding this Addendum will be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) and the requirements of 29 C.F.R. pt.5 as may be applicable. Contractor shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable.
- 2.2.** Contractor shall pay wages to non-exempt laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.

3. Copeland "Anti-Kickback" Act.

- 3.1.** Contractor shall comply with 18 U.S.C. §874, 40 U.S.C. §3145, and the requirements of 29 C.F.R. pt.3 as may be applicable, which are incorporated by reference into this Addendum.
- 3.2.** Contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as the Federal Emergency Management Agency (FEMA) may be appropriate instruction require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontract with all of these contract clauses.
- 3.3.** A breach of the contract clauses above may be grounds for termination of the Addendum and for debarment as a contractor and subcontractor as provided in 29 C.F.R. §5.12.

4. Contract Work Hours and Safety Standards Act.

- 4.1.** Overtime requirements. No contractor or subcontractor contracting for any part of the Addendum work which may require or involve the employment of non-exempt laborers or mechanics shall require or permit any such non-exempt laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such work week unless such non-exempt laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rates of pay for all hours worked in excess of forty hours in such workweek.
- 4.2.** Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in subsection 4.1, Contractor or subcontractor responsible therefor shall be liable for the unpaid wages. Such liquidated damages shall be computed with respect to each individual non-exempt laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subsection 4.1, in the sum of \$26 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by subsection 4.1.
- 4.3.** Withholding for unpaid wages and liquidated damages. The Purchasing Entity shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by Contractor or subcontractor under the Addendum or any other Federal contract with Contractor or subcontractor or any other federally-assisted contract subject to the same Contract Work Hours and Safety Standards Act, which is held by Contractor or

subcontractor, such sums as may be determined to be necessary to satisfy any liabilities of the Contractor or subcontractor for unpaid wages and liquidated damages as provided in subsection 4.2.

- 4.4. Subcontracts.** Contractor or subcontractor shall insert in any subcontract the clauses set forth in subsections 4.1 through 4.4 and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. Contractor shall be responsible for compliance by any subcontractor with these provisions.

- 5. Clean Air Regulations.** Not applicable
- 6. Clean Water Regulations.** Not applicable.
- 7. Solid Waste Disposal Act.** Not applicable.
- 8. EPA Regulations.** Not applicable.
- 9. Resource Conservation and Recovery.** Not applicable.
- 10. Recycled Materials.** Not applicable.
- 11. Energy Efficiency.** Not applicable.

12. Byrd Anti-Lobbying Amendment; Truth in Lobbying. This Act prohibits the recipients of federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the federal government in connection with a specific contract, grant, or loan. As required by Section 1352, Title 31 of the U.S. Code and implemented at 34 CFR Part 82 for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Section 82.105 and 82.110. Contractor certifies, to the best of the Contractor's knowledge and belief that:

- 12.1.** No federal appropriated funds have been paid or will be paid, by or on behalf of Contractor, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.
- 12.2.** If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan or cooperative agreement, the Contractor shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.
- 12.3.** Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients and subcontractors shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this Addendum was made or entered into. Submission of this certification is a prerequisite for making or entering into this Addendum imposed by section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure. Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure.

13. HIPAA Compliance. If the work performed under this Addendum are covered by the Health Insurance Portability and Accountability Act or the federal regulations implementing the Act (collectively referred to as HIPAA), Contractor agrees to perform the work in compliance with HIPAA, and if the Participating Entity is a Covered Entity or Hybrid Covered Entity as defined in HIPAA, the Business Associate Agreement under the Master Agreement shall apply. Without limiting the generality of the foregoing, work performed under this Addendum is covered by HIPAA. Contractor shall comply and cause all subcontractors to comply with the following:

- 13.1. Privacy and Security of Individually Identifiable Health Information.** Individually Identifiable Health Information about specific individuals is confidential. Individually Identifiable Health Information relating to specific individuals may be exchanged between Contractor and the State for purposes directly related to the provision of services to clients which are funded in whole or in part under this Addendum. However, Contractor shall not use or disclose any Individually Identifiable Health Information about specific individuals in a manner that would violate the State's Privacy Rules, OAR 407-014-0000 et. seq., or the State's Notice of Privacy Practices, if done by Purchasing Entity. A copy of the most recent State Notice of Privacy Practices is posted on the State web site at:
<http://www.oregon.gov/OHA>, or may be obtained from Purchasing Entity.
- 13.2. Data Transactions Systems.** If Contractor intends to exchange electronic data transactions with Purchasing Entity in connection with claims or encounter data, eligibility or enrollment information, authorizations or other electronic transaction, Contractor shall execute an EDI Trading Partner Agreement with the State and shall comply with the State's EDI Rules.
- 13.3. Consultation and Testing.** If Contractor reasonably believes that the Contractor's or the State's data transactions system or other application of HIPAA privacy or security compliance policy may result in a violation of HIPAA requirements, Contractor shall promptly consult the State's HIPAA officer. Contractor or State may initiate a request for testing of HIPAA transaction requirements, subject to available resources and the State's testing schedule.
- 13.4. If Contractor is deemed to be a business associate of State under HIPAA's Privacy Rule, 45 CFR Parts 160 and 164,** Contractor hereby provides the State with satisfactory assurances that if it receives from the State or any trading partner any protected health information of any individual, it shall maintain the security and confidentiality of such information as required by the HIPAA's Privacy Rule, and other applicable laws and regulations. Without limiting the foregoing, Contractor agrees that:
- 13.4.1. Contractor will not use or further disclose Protected Health Information otherwise than as permitted or required by this Addendum or as required by law;
 - 13.4.2. Contractor will use appropriate safeguards to prevent use or disclosure of PHI otherwise than as provided for by this Addendum;
 - 13.4.3. Contractor agrees to mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of PHI by Contractor in violation of the requirements of the Addendum;
 - 13.4.4. Contractor will report to Purchasing Entity any use or disclosure of PHI not provided for by this Addendum of which Contractor becomes aware;
 - 13.4.5. Contractor agrees to ensure that any agents, including subcontractors, to whom it provides PHI, agree to the same or substantially similar restrictions and conditions that apply to Contractor with respect to such information;
 - 13.4.6. Contractor shall make available to Purchasing Entity such information as they may require to fulfill their obligations to account for disclosures of such information;
 - 13.4.7. Contractor shall make its internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from the State or trading partner (or created or received by Contractor on behalf of the State or trading partner) available to the Secretary of the United States Department of Health and Human Services, for purposes of determining the State's or trading partners' compliance with HIPAA; and

- 13.4.8. If feasible, upon termination of this Addendum, Contractor shall return or destroy all PHI received from the State or trading partners (or created or received by Contractor on behalf of the State or trading partners) that Contractor still maintains in any form, and shall retain no copies of such information or, if return or destruction is not feasible, Contractor shall continue to extend the protections of this Addendum to such information, and limit further use of the information to those purposes that make the return or destruction of the information infeasible.

Subject to the foregoing restrictions, Purchasing Entity agrees that Contractor may use such PHI in the process of providing transaction mapping, trading partner profiling and training and mentoring services for Purchasing Entity and trading partners under this Addendum

14. Medicaid Compliance. To the extent Contractor performs any work whose costs are paid in whole or in part by Medicaid, Contractor shall comply with and cause its subcontractors to comply with the federal and State Medicaid statutes and regulations applicable to the work, including but not limited to:

- 14.1. Keeping such records as may be necessary to disclose the extent of services furnished to clients and, upon request, furnish such records or other information to Purchasing Entity, the Medicaid Fraud Control Unit of the Oregon Department of Justice and the Secretary of Health and Human Services;
- 14.2. Complying with all applicable disclosure requirements set forth in 42 CFR Part 455, Subpart B;
- 14.3. Complying with any applicable advance directive requirements specified in 42 CFR section 431.107(b)(4); and
- 14.4. Complying with the certification requirements of 42 CFR sections 455.18 and 455.19.
- 14.5. Contractor shall include and cause all subcontractors to include in all contracts with subcontractors receiving Medicaid, language requiring the subcontractor to comply with the record keeping and reporting requirements set forth in this section and with the federal laws identified in this section.

15. Substance Abuse Prevention and Treatment and Drug Free Workplace. Contractor shall comply with federal rules and statutes pertaining to the Substance Abuse, Prevention, and Treatment Block Grant, including the reporting provisions of the Public Health Services Act (42 USC 300x through 300x-64). In addition, the Federal government implemented the Drug Free Workplace Act of 1988 in an attempt to address the problems of drug abuse on the job. It is a fact that employees who use drugs have less productivity, a lower quality of work, and a higher absenteeism, and are more likely to misappropriate funds or services. From this perspective, the drug abuser may endanger other employees, the public at large, or themselves. Damage to property, whether owned by this entity or not, could result from drug abuse on the job. All these actions might undermine public confidence in the services this entity provides. Therefore, in order to remain a responsible source for government contracts, Contractor acknowledges the following:

- 15.1. The unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the workplace.
- 15.2. Violators may be terminated or requested to seek counseling from an approved rehabilitation service.
- 15.3. Employees must notify their employer of any conviction of a criminal drug statute no later than five days after such conviction.
- 15.4. Although alcohol is not a controlled substance, it is nonetheless a drug. It is the policy of the State of Oregon that abuse of this drug will also not be tolerated in the workplace.

Contractor certifies that will provide drug-free workplaces for their employees.

16. Funding Agreements. Not applicable.

17. Access to Records; Audits. Intentionally omitted.

Participating Addendum Exhibits

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18. Debarment and Suspension. Contractor shall comply and shall cause its subcontractors to comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and shall not permit any person or entity to be a subcontractor if the person or entity is listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal Procurement or Non-procurement Programs" in accordance with Executive Orders No. 12,549 and No. 12,689, "Debarment and Suspension". (See 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000, Contractor principles as defined in 2 C.F.R. §180.995 or its affiliates, as defined in 2 C.F.R. §180.905.). This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory authority other than Executive Order No. 12549 (excluded as defined in 2 C.F.R. §180.940 or disqualified as defined in 2 C.F.R. §180.935). Subcontractors with awards that exceed the simplified acquisition threshold shall provide the required certification regarding their exclusion status and that of their principals prior to award. Contractor certifies:

- 18.1.** Contractor is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
- 18.2.** Contractor has not within a three-year period preceding the Effective Date of this Addendum been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- 18.3.** Contractor is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in subsection, 16.2 of this certification; and
- 18.4.** Contractor has not within a three-year period preceding the Effective Date of this Addendum had one or more public transactions (federal, state, or local) terminated for cause or default.

19. Americans with Disabilities Act. Contractor shall comply and cause all subcontractors to comply with Title II of the Americans with Disabilities Act of 1990 (codified at 42 USC 12131 et. seq.) in the construction, remodeling, maintenance and operation of any structures and facilities, and in the conduct of all programs, services and training associated with the performance of work. This Act (28 CFR Part 35, Title II, Subtitle A) prohibits discrimination on the basis of disability in all services, programs, and activities provided to the public by State and local governments, except public transportation services.

20. Pro-Children Act. Contractor shall comply and cause all subcontractors to comply with the Pro-Children Act of 1995 (codified at 20 USC section 6081 et. seq.).

21. Federal Tax Information. Contractor shall comply with the provisions of Section 6103(b) of the Internal Revenue Code, the requirements of IRS Publication 1075, and the Privacy Act of 1974, 5 U.S.C. §552a et. seq. related to federal tax information.

22. Educational Records. Contractor shall comply with the provisions of the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) and Title IX of the Education Amendments of 1972 (20 U.S.C. section 1681, et. seq) and the implementing regulations at 6 CFR Part 17 and 44 CFR Part 19.

23. Whistleblower Protection Act. Contractor shall comply with the requirements for whistleblower protections (if applicable) at 10 U.S.C. Section 2409, 10 U.S.C. Section 4712, 10 U.S.C. 2324, 41 U.S.C. Sections 4304 and 4310.

24. US Patriot Act of 2001. Contractor shall comply with the requirements of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (US PATRIOT Act), which amends 18 U.S.C. section 175-175c.

25. Rehabilitation Act of 1973. Contractor shall comply with requirements of Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. section 794, as amended.

26. Trafficking Victims Protection Act of 2000. Contractor shall comply with the requirements of the government-wide award term which implements Section 106(g) of the Trafficking of Victims Protection Act of 2000 (TVA), as amended by 22 U.S.C. section 7104.

27. Age Discrimination Act. Contractor shall comply with the requirements of the Age Discrimination Act of 1975 (Title 42 U.S. C. section 6101 et. seq.).

28. Buy American and Hire American. Intentionally omitted.

29. Use of Logos. Contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

30. False Statements. Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to Contractor's actions pertaining to this Addendum.

31. John S. McCain National Defense Authorization Act. Contractor certifies, following a reasonable inquiry for purposes of this representation, that Contractor does not use telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, that are prohibited under Section 889(a)(1)(B) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Public Law 115-232 (hereinafter, the NDAA), regardless of whether such use is in Contractor's performance under this Addendum unless exempt.

32. General Provisions. The Federal government is not a party to this Addendum and is not subject to any obligations or liabilities to Purchasing Entity, Contractor or any other party pertaining to any matter resulting from the Addendum.