

2019 PURCHASE OF SERVICES AGREEMENT

1. PARTIES

This Agreement is made by and between the WAUKESHA COUNTY, DEPARTMENT OF HEALTH AND HUMAN SERVICES, whose principal address is 514 Riverview Avenue, Waukesha, WI 53188 3631, hereinafter referred to as Purchaser, and

_____, whose principal address is _____, hereinafter referred to as Provider.

For purposes of this Agreement, the terms client, applicant, participant, recipient, customer and consumer are interchangeable, and all are meant to refer to the persons receiving services from the Purchaser or the Provider.

In consideration of the mutual covenants and promises contained herein, the parties hereby agree as follows:

2. TERM OF THE AGREEMENT

The term of this Agreement is one (1) year from January 1, 2019 thru December 31, 2019. This Agreement will not automatically renew.

3. COMPENSATION

Compensation shall be governed by the terms of the attached Program Description(s).

4. PURCHASE AND COST OF SERVICES

A. Subject to the terms and conditions set forth in the 2019 State of Wisconsin/Waukesha County Contract covering Social Services and Community Programs, or the 2019 Greater Wisconsin Agency on Aging Resources Inc. (GWAAR) Grant Agreements for Older Americans Programs, as applicable, Purchaser agrees to purchase for, and Provider agrees to provide to clients during the term of this Agreement, the services as described in the attached Program Description(s). Program Description(s) are attached hereto and incorporated by reference to this Agreement in their entirety.

B. The Provider agrees to provide the Purchaser with the services listed in the Program Description(s) at the agreed upon rates and units of service. The total amount Purchaser will pay Provider for services provided in accordance with this Agreement shall not exceed the total amount set forth in the Program Description(s) or the Program Service Pre-authorization, any statutory or common law provisions to the contrary notwithstanding.

C. Nothing contained in this Agreement shall be construed to supersede the lawful powers or duties of either party.

- D. Purchaser reserves the right to withdraw any recipient from the program, service, institution, or facility of Provider at any time, when in the judgement of Purchaser, it is in the best interest of Purchaser or the recipient to do so.
- E. Registration – Out of State Providers Transacting Business in Wisconsin. Chapters 178, 179, 180, 181, and 183 of the Wisconsin Statutes contain a general provision that the following organizations shall not transact business in the state of Wisconsin until a certificate of authority or registration has been obtained from the Department of Financial Institutions: a foreign (out-of-state) corporation, nonstock corporation, limited partnership, limited liability company, cooperative association, or limited liability partnership. Providers meeting the above criteria must be registered to do business in the State of Wisconsin with the Department of Financial Institutions (<https://www.wdfi.org/>) or 608-261-7577 prior to execution of this Agreement. For assistance regarding state statute requirements, contact the State of Wisconsin Department of Financial Institutions.
- F. Sole Proprietors. If the Provider is a sole proprietor, a Federal Employer Identification Number (FEIN) must be provided. If the Provider is a sole proprietor whose principal address is located outside of the state of Wisconsin, the Provider must also designate an agent in the State of Wisconsin for service of process and submit that contact information for the in-state agent to Purchaser prior to execution of this Agreement.

5. STAFFING AND DELIVERY OF SERVICES

- A. Purchaser shall not pay Provider unless Provider has returned a signed 2019 Purchase of Services Agreement to the Purchaser, any signed Program Description(s) for the specific service(s), as well as any relevant items listed below, and said Agreement provides for sufficient funds to pay for the services. Required items include:
 - i. Current Certificate of Insurance
 - ii. Civil Rights Letter of Assurance
 - iii. Photocopy of Provider agency or Provider license or certificate (only if Provider provides a licensed/certified service)
 - iv. Confidentiality/Non-Disclosure Agreement and/or Business Associate Agreement (BAA) if required in the attached Program Description(s)
 - v. Business to Business Network Access Agreement if required in the attached Program Description(s)
- B. Provider shall furnish all personnel required to perform the services under this Agreement. Such personnel shall not be employees of, or have any other contractual relationships with the Purchaser.
- C. Provider certifies through signing this Agreement that Provider staff (including contractors, volunteers, interns and students) are compliant with all of the requirements outlined in the Agreement.

- D. Whenever publicity or brochures are prepared by the Provider, it is recommended that the following statement be incorporated in them:

“The service(s) have been provided, totally or in part, through funding from the Waukesha County, Department of Health and Human Services.”

6. PAYMENT FOR SERVICE

- A. Purchaser agrees to pay Provider for authorized services provided in accordance with this Agreement and the attached Program Description(s).
- B. The total amount paid to the Provider for this contract period shall not exceed the maximum compensation set forth in the attached Program Description(s). Provider shall submit a bill, on a form approved by the Purchaser, indicating both the number of hours worked and a description of the work performed. Such bill shall be submitted to the Purchaser after services have been rendered and no later than the 10th day of the month following the month during which the work was performed.
- C. Submit to Purchaser, by January 17, 2020, all final billings or adjustments to billings that would be reimbursed under the terms of this Agreement. No billings for 2019 will be accepted after this date. This will insure that Purchaser will be able to meet the State of Wisconsin deadlines for submission of expenses to obtain reimbursement. Failure to obtain billing for services by this date will negate any payment terms.
- D. Where third party payment is involved, including, but not limited to, cases involving payment to the Provider by an insurance company, Medicare, Medicaid or HMO, Purchaser shall pay for Provider's approved client services (not including deductible or co-payments) up to the limits of the Agreement only after written evidence of payment or non-coverage of the submitted claim for services has been made by the third party payer.
- E. Fees collected on behalf of a client from any source will be treated as an adjustment to the costs and will be reported accordingly on Provider's billings; that is, the Provider shall report gross charges and gross revenues and the Purchaser will send a net payment.
- F. Notwithstanding any statutory or common law provisions to the contrary, Provider shall return to Purchaser funds paid in excess of the actual allowable costs of the programs provided. Provider shall tender the amount of repayment within (30) thirty days of determination of repayment. If the Provider fails to tender the repayment, Purchaser may elect to recover such funds from subsequent payments made to Provider. The allowable costs of standard programs shall be determined pursuant to the Department of Health Services' Accounting Principle and Allowable Cost Policy Manual.
- G. Additionally, Purchaser shall recover from Provider money paid in excess of the terms of this Agreement or money paid for services not received or provided. Upon Purchaser's written

demand for repayment, Provider shall tender the amount of repayment within (30) thirty days, unless other repayment terms are agreed upon in writing. If the Provider fails to tender the repayment, Purchaser may elect to recover such funds from subsequent payments made to Provider.

- H. Purchaser will not pay or be liable for any amount in excess of maximum compensation set forth in the Program Description(s), regardless of the actual units of service provided.
- I. Provider invoice forms shall be approved by the Purchaser. Invoices shall not be submitted for payment prior to the delivery of the last unit of service for that billing period.
- J. Providers billing a monthly proration of the total contract (1/12th amount) shall indicate actual units delivered as well as the actual costs for the time period invoiced. Unless otherwise authorized by Purchaser's staff, reimbursement will either be the monthly prorated expenses or the actual expenses (to a maximum of the total YTD prorated amount), whichever is less.
- K. Community Based Residential Facilities (CBRF), Residential Care Apartment Complexes (RCAC) and Adult Family Homes (AFH) shall, as a condition of this Agreement, complete the State CBRF Model Contract rate setting form (commonly referred to in State Medicaid Waivers manual as Attachment 4) or a form approved by the Purchaser as justification for their daily rate when required by Purchaser.
- L. Purchaser will make payments for this contract period only when all insurance and other Compliance requirements have been met (or waived by the Purchaser). Evidence of compliance with the insurance requirement will be a Certificate of Insurance submitted to and approved by the Purchaser.

7. INDEMNITY AND LIMITATION OF LIABILITY

- A. Provider agrees to indemnify, hold harmless and defend Purchaser, its officers, agents, and employees from any and all liability, including claims, demands, losses, judgment, costs, damages, fees and expenses of every kind, or damage to persons or property, which either arise out of, in connection with, or occur during the course of this Agreement, where such liability is founded upon or grows out of the acts or omissions of any employee, contractor, volunteer, intern, student, or agent of the Provider. Provider further agrees to indemnify Purchaser for any amount Purchaser may be required to repay to the State of Wisconsin by virtue of payments made to Provider by Purchaser under this Agreement that the State of Wisconsin determines to be overpayments or inappropriate payments.
- B. Nothing in this Agreement, including but not limited to the indemnification terms, or the acts of the Purchaser shall in any way constitute a waiver by Purchaser, its agents, officers and employees of any immunity, liability limitation, limitation on the amount recoverable, or

other protections available to Purchaser under Chapter 893, Wisconsin Statutes, any other applicable statute or law.

- C. In the event any action, suit, or other proceeding is brought against the Purchaser upon any matter here indemnified against, the Purchaser shall give notice to Provider and shall cooperate with Provider in defense of the action, suit or other proceeding.

8. INSURANCE

- A. Provider agrees that, in order to protect itself and Purchaser under the indemnity Agreement set forth in the paragraph above, it will, at all times during the terms of this Agreement, keep in force and effect insurance policies as outlined below, issued by a company or companies authorized to do business in the State of Wisconsin and satisfactory to the Purchaser. Such insurance shall be primary. Purchaser shall be given thirty (30) days advance notice of cancellation or non-renewal during the term of this Agreement.
- B. Upon execution of this Agreement, Provider shall furnish Purchaser with a Certificate of Insurance (as well as any applicable renewal notice) and, upon request, certified copies of the required insurance policies showing the following:
 - i. Commercial General Liability Insurance-Policy shall be written to provide coverage for, but not limited to the following: premises and operations, products and completed operations, personal injury, blanket contractual. Policy shall be endorsed so that “who is insured” includes employees, volunteers, students and interns of the Provider. Limits of liability not less than \$500,000 general aggregate, \$500,000 products/completed operations aggregate, \$500,000 personal injury, \$500,000 each occurrence. Waukesha County, its boards, commissions, agencies, officers, employees and representatives shall be named as additional insured and so stated on the Certificate of Insurance.
 - ii. Automobile Liability Insurance-Business automobile policy covering all owned, hired and non-owned private passenger and commercial vehicles. Limits of liability not less than \$500,000 combined single limit.
 - iii. Worker’s Compensation and Employers’ Liability Insurance-Statutory worker’s compensation benefits and employers’ liability insurance with a limit of liability not less than \$100,000 each accident. Company shall require subcontractors not protected under its insurance to take out and maintain such insurance.
 - iv. Professional Liability Insurance-Required for services involving professionally licensed personnel such as medical services, accounting services or financial management services, or as otherwise required by the Purchaser and so noted in this Agreement. Policy shall provide liability coverage for damages arising out of the negligent act, error or omission of the Provider in the conduct of their work. Limits of liability not less than \$500,000 each occurrence/claim, \$500,000 aggregate.

- v. Fidelity/Crime Coverage-Required for services involving in-home or group home services to clients, financial management services, property management services or any other service involving care, custody, or control of County or client assets. Employee fidelity/dishonesty coverage to cover dishonest acts of insured's employees and agents resulting in loss of property, money or securities of County or its clients including forgery or alteration. Limits of liability not less than \$25,000.
- vi. Umbrella Liability Coverage-If Provider receives \$25,000 or more from Purchaser for services provided in a calendar year period, Provider shall arrange for additional insurance coverage as listed below:

Limit of Umbrella Liability insurance or General Liability:

- (1) \$1,000,000 Each Occurrence
- (2) \$1,000,000 Aggregate

Umbrella coverage to be in excess of all basic coverages set forth in Sections i, ii, and iii above.

- C. For claims-made coverage, the retroactive date of coverage for policies in force during this Agreement shall be no later than the inception date of the Agreement. Coverage shall be extended beyond this Agreement and the policy year either by a supplemental extended reporting period endorsement with no less coverage for at least two (2) years after this Agreement has terminated or by providing a retroactive date no later than the inception date of this Agreement for any policy issued within two (2) years after this Agreement terminates.

9. CERTIFIED FINANCIAL AUDIT REQUIREMENTS

- A. If Provider receives \$100,000 or more from Purchaser for services provided in a calendar year period, Provider shall arrange for an independent financial and compliance audit pursuant to applicable federal guidelines (2-CFR, Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, and any other appropriate federal program compliance requirements) plus those guidelines provided by the Department of Health Services and/or the Department of Children and Families [in the form of DHS Audit Guide and the State Single Audit Guidelines, available online at www.dhs.wisconsin.gov/grants/Audit/auditdept/index.htm]. The source of funding will determine which guidelines need to be followed. Provider shall incorporate by reference in the engagement letter any federal and state guidelines.
- B. Provider agrees to deliver to Purchaser, within 180 days of the end of the reporting year, one copy of the resultant independent audit report, to include, but not limited to, the following elements:
 - i. Financial Statements:
 - (1) Comparative Balance Sheet of Total Agency.
 - (2) Statement of Operations for Total Agency.

- (3) Statement of Changes in Financial Position for Total Agency.
 - (4) Supplementary schedule of revenues and expenses by funding agency, by program, activity, or function.
 - (5) Notes to financial statements including units of service, if applicable, provided by Contract [if not disclosed on the face of the financial statements], and disclosure of related party transactions, if any.
- ii. Auditor's Reports:
- (1) Report on the financial position, results of operations, and change in financial position of the entire agency, and supplementary schedule of revenues and expenses by program.
 - (2) Report on compliance including compliance with applicable laws and regulations, any subsequent revisions, and compliance with material financial terms and conditions of the Contract.
 - (3) Report on Evaluation of Internal Accounting Controls.
 - (4) Findings of non-compliance.
 - (5) Schedule of questioned cost and the potential amount of repayment prior to offsetting any unrelated items.
 - (6) Show separately the individual program costs. Report any dollar amount owed Purchaser due to the year-end audit findings, and show that amount separately with a complete explanation of how the amount was determined.
 - (7) If vendor manages any client funds, the Auditor shall sample the client accounts to determine the appropriate use of the funds and evaluate for adequate internal controls. The Auditor shall comment on their findings in their report.
 - (8) Copy of management letter, if one was issued.
- iii. General:
- (1) If Provider administers multiple programs or activities, including one or more public funded programs, the audit shall follow the provisions of the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards to the extent possible. These requirements are established to insure that audits are made on an organization wide basis rather than on a grant by grant basis.
 - (2) Financial examinations should be made in accordance with generally accepted auditing standards adopted by the American Institute of Certified Public Accountants (AICPA) and incorporated in "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions," 1988 revision, issued by the U.S. Comptroller General.
 - (3) Provider agrees to deliver to Purchaser this audit report within thirty (30) days of its receipt by Provider, but no later than one hundred and eighty (180) days after the completion of Provider's fiscal year.

- C. With the exception of government entities organized under the Wisconsin Statutes, Purchaser shall notify Provider of receipt of the audit completed by the independent auditor if the audit does not meet the requirements of the Department of Health Services' or the Department of Children and Families' audit guidelines, as appropriate. Purchaser shall initiate resolution of audit findings with Provider within ninety (90) days following notification of the audit's acceptance.
- D. Purchaser reserves the right to conduct an independent audit of Provider if Provider fails to secure an audit covering all funds or if a follow up review of selected areas is determined to be necessary. In the event that Provider fails to secure an audit, Purchaser's costs for completing an audit will be charged to Provider.
- E. Purchaser will initiate resolution of audit findings with Provider pursuant to Audit Resolution Policies developed by the Department of Health Services or the Department of Children and Families.
- F. Provider hereby authorizes and directs Auditor to share the work papers with Purchaser or Purchaser's representative upon request of Purchaser.
- G. Failure to comply with the requirements of this section: In the event that the Provider fails to have an appropriate audit performed or fails to provide a complete audit report to the Purchaser within the specified timeframes, the Purchaser may:
 - i. Conduct an audit or arrange for an independent audit of the Provider and charge the cost of completing the audit to the Provider
 - ii. Charge the Provider for all loss of Federal or State aid or for penalties assessed to the Purchaser because the Provider did not submit a complete audit report within the required time frame;
 - iii. Disallow the cost of audits that do not meet these standards; and/or
 - iv. Withhold payment, cancel the contract, or take other actions deemed by the Purchaser to be necessary to protect the Purchaser's interests.
- H. If a provider delivers less than \$100,000 in services in a calendar year, no audit is required, however a financial review may be requested.

10. DISCRIMINATION, AFFIRMATIVE ACTION, CIVIL RIGHTS COMPLIANCE

- A. ALL PROVIDERS must submit a signed and completed Letter of Assurance, regardless of number of employees or dollar amount of contracted services. A copy can be found at <http://dhs.wisconsin.gov/civilrights/CRC/requirements.htm>.
- B. IF YOU ARE A PROVIDER WITH MORE THAN 50 EMPLOYEES AND MORE THAN \$50,000 IN CONTRACTED SERVICES IN A BUDGET YEAR, you will complete a current Subrecipient Civil Rights Compliance Action plan for Meeting Equal Opportunity

Requirements under Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title VI and XVI of the Public Service Health Act, the Age Discrimination Act of 1975, the Omnibus Budget Reconciliation Act of 1981 and the Americans with Disabilities Act (ADA) of 1990. You must keep this plan on file and have it available for Purchaser to view in either a desk audit or a site visit. You do not have to submit a copy to Purchaser unless requested. The plan may cover a 3 year period. A copy of the plan can be found at <http://dhs.wisconsin.gov/civilrights/CRC/requirements.htm>.

- C. Purchaser will monitor the Civil Rights Compliance of Provider. Purchaser may conduct reviews to ensure that the Provider is in compliance by performing desk audits or onsite reviews. Provider agrees to comply with Civil Rights monitoring reviews, including the examination of records and relevant files maintained by Provider, as well as interviews with staff, clients, applicants for services, subcontractors and referral agencies. Purchaser will also conduct reviews to address immediate concerns of complainants.
- D. The Provider agrees to the following provisions:
 - i. No otherwise qualified person shall be excluded from participation in, be denied the benefits of, or otherwise be subject to discrimination in any manner on the basis of race, color, national origin, religion, sex, disability or age. This policy covers eligibility for and access to service delivery, and treatment in all programs and activities.
 - ii. No otherwise qualified person shall be excluded from employment, be denied the benefits of employment or otherwise be subject to discrimination in employment in any manner or term of employment on the basis of age, race, religion, color, sex, national origin, or ancestry, handicap (as defined in Section 504 and the Americans with Disabilities Act (ADA)), physical condition, developmental disability (as defined in s.51.05(5)), arrest or conviction record (in keeping with s.111.32), sexual orientation, marital status, or military participation. All employees are expected to support goals and programmatic activities relating to non-discrimination in employment.
 - iii. The Provider shall post the Equal Opportunity Policy, the name of the Equal Opportunity Coordinator and the discrimination complaint process in conspicuous places available to applicants and clients of services, and applicants for employment and employees. The complaint process will be according to Purchaser's standards and made available in languages and formats understandable to applicants, clients and employees.
 - iv. The Provider agrees that through its normal selection of staff, it will employ staff with special language skills or find persons who are available within a reasonable time and who can communicate with non-English speaking clients; train staff in human relations techniques and sensitivity to cultural patterns; and make the programs and facilities

accessible, as appropriate, through outstations, authorized representatives adjusted work hours, ramps, doorways, elevators, or ground floor rooms.

- E. The Purchaser will take constructive steps to ensure compliance by the Provider with the provisions of this subsection.

11. PROVIDER RESPONSIBILITIES

- A. Provider agrees to comply with State and Federal Rules and Regulations, applicable to the services covered by this Agreement.
- B. Submit to Purchaser all documentation required for Purchaser to claim any eligible State and Federal funding sources, as detailed in the Program Description(s) in a timely manner. **Failure to meet any documentation or compliance requirements set forth in the Program Description(s), which result in a loss of State or Federal funding, will be reimbursed by Provider.**
- C. Maintain a uniform double entry accounting system and a management information system compatible with the cost accounting and control systems. [See DHS Accounting Principles and Allowable Costs Policies Manual, Division of Management Services.]
- D. Cooperate with Purchaser on establishing costs for State and Federal reporting and reimbursement purposes.
- E. Enter a client into service only with the prior authorization of Purchaser.
- F. Transfer a client from one category of care or service to another only upon receipt of advance approval of Purchaser.
- G. Promptly communicate with Purchaser regarding any incidents, situations or conditions that have endangered, or if not addressed, may endanger the health or safety of the client.
- H. Comply with the requirements for Mandated Reporters as defined under Chapter 48 of Wisconsin statutes.
- I. Submit copies of State certification and licensing for the respective programs being purchased under this Agreement. Renewals of State licenses or certificates shall also be provided within 10 working days of receipt.
- J. Notify Purchaser in writing, thirty (30) days prior to any changes in a specified location of the delivery of the provided services, and of any major changes in the officers, management, or ownership of Provider's agency. Such a change may be determined by Purchaser as cause to terminate or amend this Agreement.

- K. Provide a high quality service as agreed to under this Agreement. The quality of the Provider's service is to be measured either by any standards established by the Provider's industry, State/Federal regulations, or in the event such standards have not been established, by comparison to the service offered by similarly situated providers in the industry.
- L. Conduct caregiver background checks at its own expense of all employees, volunteers, students, interns, contractors and agents providing services on behalf of Provider if required under the provisions of DHS 12, Wis. Admin. Code (online at http://docs.legis.wisconsin.gov/code/admin_code/dhs/001/12). The Provider shall maintain the results of background checks on its own premises for at least three (3) years from the conclusion of this contract. The Provider shall notify Purchaser in writing within one (1) day if an employee, volunteer, student, intern, contractor or agent has been charged with or convicted of any crime specified in DHS 12.07(2). Purchaser reserves the right to request the results of the background checks and/or to do additional background checks.
- M. Certify through signing this Agreement that neither Provider or any of its principals are debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in federal assistance programs by any federal department or agency. In addition, Provider shall notify Purchaser within five business days in writing if Provider or its principals receive a designation from the federal government that they are debarred, suspended, proposed for debarment, or declared ineligible by a federal agency.
- N. All services by Provider and all material, equipment and supplies used in performance of this Agreement or provided to the Purchaser must comply with all safety requirements as set forth by the Wisconsin Administrative Code, Rules of the Industrial Commission on Safety and all applicable OSHA standards.
- O. If access to any Waukesha County building or facility is given to Provider, including Provider's employees, volunteers, students, interns, contractors or agents, the Provider is responsible for training these individuals and ensuring their compliance with the Waukesha County Controlled Access Policy. Purchaser may rescind card access badge or modify access protocols at any time as it deems necessary. Provider will ensure its employees, volunteers, students, interns, contractors and agents:
- i. Have undergone background checks in accordance with this Agreement.
 - ii. Not permit any other individuals to "tailgate" with them into the building using their card access. Any visitors such as family, friends, visitors, or other members of the public must go through the County's controlled access screening station during the stated hours of operation.
 - iii. Not bring firearms, knives or any other prohibited weapons or contraband into building.
 - iv. Not loan out card access to other persons.
 - v. Not use emergency exits unless there is an emergency.
 - vi. Report lost or misplaced card access badge to Purchaser within twenty-four (24) hours. Provider will be charged a fee of \$10.00 for each replacement card.

- vii. Within one (1) hour of termination or removal of employee, Provider will collect card access badge and return to the Purchaser.
- viii. Remove any employee from servicing Purchaser who violates card access policies and procedures and return card access badge to Purchaser within twenty-four (24) hours.

12. RECORDS

- A. Provider shall maintain all records and financial statements as required by Purchaser, and State and Federal rules and regulations. The standard record retention period is 10 years unless specified otherwise by County, State or Federal rules and regulations.
- B. When directed by Purchaser, Provider shall provide statistical reports and/or client data to meet state of Wisconsin reporting requirements for the Human Services Reporting System [HSRS], Program Participation System [PPS], or other state reporting systems.
- C. Purchaser's representatives, or representatives of appropriate State or Federal agencies (i.e. The Centers for Medicare and Medicaid Services), shall have a right of access to client, employee, financial or other records of Provider as may be necessary to evaluate or confirm Provider's rates and charges for care and service, collections and cost estimates in compliance with the specifications of this Agreement. The provision of this paragraph shall continue for a period of three years following the completion of services.
- D. Any information, records and reports provided to or obtained by the Purchaser pursuant to the preceding paragraph, or which otherwise comes into possession of the Purchaser pursuant to this Agreement, shall be subject to the provisions of Wisconsin's Public Records Law.
- E. The use or disclosure by any party of any information concerning clients who receive services from Provider for any purpose not connected with the administration of Provider's or Purchaser's responsibilities under this Agreement is prohibited except with the informed, written consent of the eligible client or the client's legal guardian.

13. CLIENT ELIGIBILITY

Provider shall provide services only to individuals who are eligible for services. Provider and Purchaser understand and agree that the eligibility of individuals to receive the services to be purchased from Provider under this Agreement will be determined by Purchaser. When Purchaser and Provider agree that services will be provided to an individual with disabilities, client eligibility for services purchased under this Agreement shall not be affected by virtue of any such disabilities, as required by State or Federal laws.

14. INCORPORATION OF GRIEVANCE PROCEDURE AND OTHER PROCEDURES/DOCUMENTS

Provider shall abide by the provisions of the Waukesha County Health and Human Services' "Client Rights and the Grievance Procedure for Community Services" which is hereby incorporated by reference and made a part of this Agreement with such additions, exceptions, or

alterations as may be stated therein, and section 22 "Qualified Service Agreement" of this Agreement. Provider shall give Purchaser a written report for each grievance that is filed against Provider regarding any client that is subject to this Agreement.

Provider shall maintain a complaint process allowing for verbal or written complaints made by a Purchaser client or concerning a Purchaser client. Provider shall notify Purchaser of all complaints under this Agreement in a timely manner. Additionally, Provider shall inform Purchaser of the resolution of all such complaints.

15. RESOLUTION OF DISPUTES, GOVERNING LAW, AND VENUE

The parties will attempt to resolve any dispute regarding this Agreement between themselves and any mutually agreed upon resolution will be in writing. Disputes under this Agreement will be governed by Wisconsin law. Venue for state claim lawsuits shall be Waukesha County Circuit Courts and for federal claim lawsuits shall be the Eastern District Federal Court in Wisconsin.

16. AMENDMENTS AND TERMINATIONS OF THE AGREEMENT

- A. If through any cause, the Provider shall fail to fulfill in a timely and proper manner its obligations under this Agreement, or if the Provider shall violate any of the covenants or stipulations of this Agreement, or if Provider violates State or Federal law while providing services under this Agreement, the Purchaser shall thereupon have the right to terminate this Agreement by giving written notice to the Provider specifying the effective date thereof, at least five days before the effective notice of such termination.
- B. Any and all amendments of this Agreement shall be agreed to in writing by Purchaser and Provider in an Amendment, to be signed by the authorized representatives of both parties.
- C. If Provider or Purchaser determines that Provider is unable to provide the required quality or quantity of services, Purchaser and Provider shall determine whether such inability will require an amendment or termination of this Agreement.
- D. This Agreement, or any part thereof, must be amended or terminated in the event of any of the following that affect the substance of the program:
 - i. Increased or decreased volume of services
 - ii. Change in Medicaid or Medicare rates
 - iii. Changes required by Federal or State laws, regulation, rules and policies
 - iv. Administrative Agency or Court action
 - v. Change in available funding

17. PROHIBITED PRACTICES

- A. During the period of this Agreement, Provider shall not hire, retain, or utilize for compensation, any member, officer, or employee of Waukesha County, or any person, whom, to the knowledge of the Provider, has a conflict of interest. No employee of Waukesha County shall be an officer, member of the Board of Directors, or have a

proprietary interest in the Provider's business. Any exceptions to this term must be approved in writing in advance by the Purchaser.

- B. Provider shall furnish Purchaser with written disclosure of any financial interest, employee relationship, professional services or consultant relationship, which any of Provider's employees, officers, board members, stockholders, or members of their immediate family may have with respect to any supplier of goods and services under this Agreement.

18. ASSIGNMENT LIMITATION

This Agreement shall be binding upon and inure to the benefit of the parties and their successors and assigns provided, however, neither party shall assign its obligations hereunder without the prior written consent of the other.

19. SUBCONTRACTING

The Provider shall not subcontract any portion of this Agreement without the prior written consent of Purchaser, and consent to a subcontract shall not be deemed to be consent to any subsequent subcontract. Any such subcontract without such consent shall be void, and shall, at the option of Purchaser, terminate this Agreement. If such subcontracting does occur, Provider remains responsible for fulfillment of all terms of this Agreement.

20. INDEPENDENT CONTRACTOR

Nothing contained in this Agreement shall constitute or be construed to create an employment relationship, a partnership or joint venture between the Purchaser or its successors or assigns and Provider or its successors or assigns. By entering into this Agreement and by acting in compliance herewith, Provider is at all times acting and performing as an independent contractor, duly authorized to perform the acts required hereunder, and in no sense shall be considered employees, agents or volunteers of the Purchaser.

21. INSPECTION OF PREMISES

Provider shall allow Purchaser's representatives and the representatives of any local, state or federal unit to visually inspect the Provider's premises. Inspection shall be permitted without formal notice whenever care and services are being furnished. Purchaser may conduct on-site reviews of any contracted service programs.

22. QUALIFIED SERVICE AGREEMENT

In order to insure the provision of services to the Purchaser's clients and allow for the Purchaser to monitor those services, considering that the disclosure of this information is governed by one or more State Administrative Codes, State Statutes, Federal Regulations and/or Federal Statutes, the Purchaser and the Provider each agree:

- A. To be fully bound by the governing State Code or Statute and/or Federal Regulation or Statute in receiving, storing, and otherwise dealing with any information about a client who receives services.

- B. To institute appropriate procedures for safeguarding such information, particularly client identifying information.
- C. Absent a lawful court order, to refuse to provide any confidential information pertaining to clients unless authorized to do so by the governing State Code or Statute and/or Federal Regulation or Statute or proper authorization form executed by the client or legal representative.
- D. To recognize that any unauthorized disclosure of client information may result in either civil and/or criminal proceedings.
- E. Provider agrees to pay the cost of addressing any information security breach, including the unauthorized release of personal client information such as SSN, DOB, etc., or the release of information protected by HIPAA or other relevant federal laws. The cost would include credit monitoring or any other expense for any breach for which they are responsible.

23. HIPAA COMPLIANCE

- A. The Provider agrees to comply with the Federal regulations implementing the Health Insurance Portability and Accountability Act of 1996 (HIPAA) to the extent those regulations apply to the services the Provider provides or purchases with funds provided under this contract, including any subsequent amendments to the law.
- B. When applicable, Provider agrees to comply with the Health Information and Technology for Economic and Clinical Health Act (HITECH) which was enacted by Congress on Feb. 17, 2009. This Act increases Provider responsibilities regarding the requirements of HIPAA privacy and security provisions.

24. CLTS WAIVER FUNDED SERVICES – THIRD PARTY ADMINISTRATOR

- A. If services are funded through Children’s Long Term Support (CLTS) waivers, Provider must bill for services through the Third Party Administrator unless specifically exempted by Purchaser.
- B. Provider will receive Children’s Long-Term Support (CLTS) Waiver payments from the Wisconsin Department of Health Services (DHS) Third Party Administration (TPA) claims vendor according to the TPA claims processing business rules. Claims filed past the timely filing limit may be denied. The timely filing limit for claims with no coordination of benefits (COB) is 90 days from date of service, or the end date of service when a date span is used. The timely filing limit for claims with COB is 90 days from process date of other insurance/Medicare. Purchaser is not liable for payment of any services the Provider claimed outside the allowable billing period.
- C. All Medicaid waiver service providers must execute a SMA Provider Agreement with the Department of Health Services and must register online with the Department. Provider Agreements are available online at <https://www.dhs.wisconsin.gov/clts/providers.htm> under the Program Resources tab. Registration can be accessed online at

<https://www.dhs.wisconsin.gov/clts/providers.htm> under the How to Register tab. These requirements need to be completed every four years.

- D. Provider must communicate with designated county staff and other providers within confidentiality laws about any incidents or situations regarded as Critical Incidents, as defined within the CLTS Waiver Manual.
- E. This Agreement may not limit the consumer's right to select a different provider at any time or guarantee the provider any payment of waiver dollars if the service is ultimately not provided.
- F. Termination of this Agreement shall not release the Provider of its obligation to serve covered clients receiving services from the Provider until transfer of the case to another service provider can be accomplished.
- G. The Provider is subject to certain federal and state laws regarding confidentiality and disclosure of medical records or other health information, including, but not limited to, the Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) for all services, information, transactions (including electronic transactions), privacy, and security regulations.
- H. An entity that receives or makes payments under a state Medicaid Plan or any waiver of such plan totaling at least \$5,000,000 annually shall establish written policies for all employees and contractors in accordance with s. 6032 of the Deficit Reduction Act of 2005.
- I. Extrapolation may be used as method to calculate the amounts owed by the Provider to the Wisconsin CLTS Waiver Program when it has been determined, as a result of an investigation or audit conducted by the DHS, the Wisconsin Department of Justice Medicaid Fraud Control Unit, the federal U.S. Department of Health and Human Services, the Federal Bureau of Investigation, or an authorized agent of any of these entities based on a sample of claims, that the Provider was overpaid.
- J. The Provider has sole responsibility for maintaining the privacy and security of any access code the Provider uses to submit information to the TPA, and any individual who submits information using such access code does so on behalf of the Provider, regardless of whether the Provider gave the access code to the individual or had knowledge that the individual knew the access code or used it to submit information to the TPA. The Provider is responsible for repaying any overpayment of CLTS Waiver claims to the Department's TPA vendor, and is subject to any sanctions that may be imposed by the DHS, based on any information submitted by the Provider to any third party in the Provider's name or provider number or using the Provider's access code, with or without the Provider's knowledge or consent, regardless of the manner in which the information was submitted.

25. OLDER AMERICANS ACT

The Provider agrees to comply with the Federal Regulations of the Older Americans Act of 1965 (as amended in 2006) to the extent those regulations apply to the services the Provider provides or purchases with funds provided under this contract.

26. NOTICE

Any notice provided under this Agreement shall be sent to the parties using the following contact information:

PURCHASER:

Jennifer Carriveau
Senior Financial Analyst
514 Riverview Ave
Waukesha WI 53188
jcarriveau@waukeshacounty.gov
(262) 548-7219
Fax: (262) 970-6696

PROVIDER (Please complete this section):

Name: _____
Title: _____
Address: _____
E-Mail: _____
Phone: _____
Fax: _____

27. ENTIRE AGREEMENT

It is understood and agreed that the entire Agreement between the parties is contained herein except for those matters incorporated herein by reference, and that this Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter thereof.

28. EXECUTION OF AGREEMENT

The Provider's Authorized Representative executing this contract represents that s/he is authorized to execute contracts on behalf of the Provider and, as a consequence, the Provider is bound by such signature.

Provider's Authorized Representative

Date

Provider's Authorized Representative Name/Title (Please Print)

Organization Name (Please Print)

Antwayne Robertson, Director

Date

Waukesha County, Department of Health and Human Services

Attachments: Program Description(s)