



Dear Prospective Healthways Provider:

Healthways is pleased to present you with the attached Healthways Agreement, providing an opportunity for you to participate in the Healthways fitness provider network. Please note that the terms and conditions of the agreement, including payment, are to remain strictly confidential. Healthways' execution of your submitted agreement will be contingent on acceptance of your location into the Healthways network. Following receipt of the signed agreement, Healthways will contact you regarding your opportunity to join the provider network.

Please scan the entire signed agreement, W-9 and a copy of your location's certificate of insurance, and then email the documents as an attached file to your contact at Healthways. To confirm receipt, please follow up with your contact at Healthways. We look forward to receiving your agreement application.

Yes, I am interested in participating in the Healthways provider network. I am attaching the following documents for consideration:

- ✓ Entire signed, completed contract agreement
 - Sign and date the agreement
 - Complete one Exhibit A-1 for each location covered under the agreement (you may make copies of the exhibit if necessary)
 - Complete Exhibit A-2
 - Completed W-9
- ✓ Certificate of insurance evidencing a minimum of \$1M general liability insurance
(Must show current policy number, expiration date, limits of liability and insured premises)

Comments:

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HEALTHWAYS MATURE MARKET AGREEMENT

This Healthways Agreement, its Program Schedule(s), exhibits and attachments, and any amendments thereto, (collectively the "Agreement") is entered into between AMERICAN HEALTHWAYS SERVICES, LLC, for itself (hereinafter referred to as "Healthways"), a Delaware limited liability company, and the undersigned Facility (as defined below) (Healthways and Facility are collectively referred to herein as the "Parties"). This Agreement replaces and supersedes any other Mature Market agreement between or among Facility and Healthways for the Healthways programs and products represented herein. Following the execution hereof, all such other agreements shall be terminated on the effective date of this Agreement.

PREAMBLE

WHEREAS, Healthways has entered into agreements with Sponsoring Organizations (as defined below) to provide fitness services, benefits, and programs to eligible Members (as defined below) within an established network of fitness centers;

WHEREAS, Facility offers health and fitness programming and services; and

WHEREAS, Healthways would like to include Facility, and Facility desires to be included, as a member of the network of facilities for one or more Healthways products to provide subsidized basic fitness memberships and services, all on the terms and conditions set forth below.

NOW, THEREFORE, in consideration of the mutual premises set forth above and the promises hereinafter appearing, and for other good and valuable consideration, the receipt, sufficiency and adequacy of which is hereby acknowledged, the Parties agree as follows:

AGREEMENT

1. Definitions. The terms defined in this section shall have the meanings specified for all purposes of this Agreement.
 - a) "Confidential Information" means all provisions of this Agreement and any business expertise, manuals, videos, trade secrets, compensation, Sponsoring Organization Member information and any and all Healthways intellectual property **subject to the Oregon Open Records Law**.
 - b) "Facility" means the undersigned Facility whose name and other identifying information appear herein and any additional participating locations of Facility as mutually agreed to and set forth in Exhibit A, which have entered into this Agreement with Healthways to be part of its Healthways Network, on the terms and conditions set forth herein.
 - c) "Healthways Network" means, collectively, all participating locations that have entered into a contract agreement with Healthways to provide the Program.
 - d) "Member" means a Sponsoring Organization member, employee, dependent or other person eligible for the Program as determined by the Sponsoring Organization's criteria.
 - e) "Program" means each of the Healthways programs described in the Program Schedule(s).
 - f) "Program Schedule" means each, and "Program Schedule(s)" shall mean all, of the program schedules attached to this Agreement, and incorporated herein by reference, that describe the Healthways programs provided by Facility to Members of Sponsoring Organizations. Healthways and Facility acknowledge and agree that notwithstanding any other provision of this Agreement, Healthways may amend this Agreement upon sixty (60) days prior written notice to Facility to modify existing Program Schedule(s) or to add one or more new Program Schedule(s), and that Facility may decline participation in a new Program Schedule(s) or decline proposed modifications to an existing Program Schedule(s) upon written notice to Healthways within such sixty (60) day period.
 - g) "Reference Guide" means the procedures and guidelines established by Healthways for participation in the Healthways Network by Facility and under which the Program is administered. The Reference Guide, which shall be provided to Facility prior to the commencement of this Agreement, is incorporated herein by reference; the

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Reference Guide may be periodically updated by Healthways and updated copies shall be provided to Facility from time to time.

- h) "Sponsoring Organization" means any organization, employer group, health plan or subset thereof that is contracted with Healthways to provide the Program to its members and whose members may therefore utilize Facility in accordance with the terms of this Agreement. Facility shall provide the Program to eligible Members of all Sponsoring Organizations. Sponsoring Organization information shall be available to Facility, and such Sponsoring Organization information shall be incorporated herein by reference.
- i) "Term" means the Initial Term of the Agreement and each successive one (1) year period as provided in the Term section of this Agreement.

2. Duties and Obligations of Facility.

- a) Acceptance to and Participation in the Healthways Network. Healthways' execution of this Agreement shall serve as notice of Facility's acceptance into the Healthways Network. In order to become and remain a participant in the Healthways Network, Facility shall throughout the Term of this Agreement comply with the Reference Guide (including any updates thereto), including all quality assurance standards, operations, protocols, policies, procedures, follow-up guidelines, and health and safety standards of Healthways.
- b) Member Program Rights. Facility shall not impose any charges on Members for Program services covered under this Agreement. At no charge to the Member, each Member shall establish and maintain a basic fitness membership with unrestricted hours at Facility, provided that such individual remains an eligible Member and this Agreement remains in effect. The Program excludes programs and services offered by Facility which carry additional charges beyond basic fitness membership services, such as racquetball, tennis, massage and similar fee-based activities. If a Member requests services after being informed that the services are not covered under the Program, Healthways is not responsible for payment to Facility.
- c) Joint Marketing and Public Relations. During the Term of this Agreement, Facility agrees to allow Healthways and Sponsoring Organization to use the name, address, phone, amenities and web site information provided in Exhibit A in marketing and advertising materials and campaigns. All marketing and advertising materials, and materials intended for distribution to Members prepared by Facility that refer to the Program, Healthways, or Sponsoring Organization shall be approved by Healthways in writing prior to their distribution. Facility agrees to make best efforts to coordinate all media communications through the Healthways Public Relations Department, and immediately inform Healthways of all media inquiries regarding the Program, Healthways, or Sponsoring Organization.
- d) Limited Facility Use of Healthways Trademarks, Logos, and Copyrighted Materials. Facility agrees that for the Term of this Agreement, all external marketing and advertising of all Healthways trademarked and service marked names, logos, identities, formats, and materials (the "Marks and Materials"), including the Program name, will first be approved in writing by Healthways, and that at the conclusion of this Agreement, Facility shall cease all advertising, marketing, and references to the same. Nothing in this Agreement grants or shall be deemed to grant to either Party any right, title or interest in or to the other Party's Marks and Materials. All use by Facility of Healthways' Marks (including any goodwill associated therewith) shall inure to the benefit of Healthways.
- e) Dispute Resolution. Facility agrees that in the event any disagreement arises between Facility, Healthways and/or Sponsoring Organization on any matter whatsoever, Healthways, Facility, and/or Sponsoring Organization or any subset thereof shall work with the other party(ies) to reach a resolution of the disagreement, and no one shall involve Members in any matter concerning such a disagreement. Facility shall not contact a member for any reason related to a dispute between Healthways, Facility and/or Sponsoring Organization.
- f) Research Studies. Facility shall obtain prior written approval from Healthways for any research or clinical studies of Members or the Program. Facility shall provide study findings and results to Healthways prior to any publication or presentation of such findings or results.
- g) Membership Conversion. Facility agrees that Members eligible for a fully subsidized Program who are currently members of Facility will be able to inactivate or "freeze" their memberships for the duration of this Agreement and pay no monthly dues, cancellation fee, or other fees during the inactivation period so that they may attend Facility at

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no charge under the Program. At the time this Agreement terminates, or if applicable Members terminate their membership in Sponsoring Organization, those Members will then be responsible for the remaining terms of their individual memberships with Facility. Facility shall not refuse or dissuade eligible Members from participating in the Program.

- h) Healthways Network Reciprocity. For the Term of this Agreement, all Members utilizing the Program will be allowed, after completing Program enrollment, to visit any and all Healthways Network participating locations offering the Healthways Program for which they are eligible. Reciprocity rights under this Agreement shall not include locations of Facility or other affiliated facilities not specifically set forth in Exhibit A.
 - i) Healthways Fitness Provider Portal. All Facility participating locations shall create and maintain user accounts on the web-based Healthways Fitness Provider Portal. Facility shall utilize the Healthways Fitness Provider Portal to verify Member eligibility and to obtain and access Healthways materials, including Sponsoring Organization information, training materials, Program forms, Program reports, and the Reference Guide.
3. Compensation. As payment for Program services, Healthways shall pay Facility according to the terms set forth in each applicable Program Schedule attached hereto for services provided on or after the Program Ready Date. Compensation paid by Healthways is inclusive of any and all taxes which Facility may be required to pay to any governmental authority. Healthways will make payment to Facility via electronic funds transfer.
4. Term.
- a) Initial Term and Ready Date. This Agreement will commence upon execution by the Parties, and shall continue in full force and effect until **May 31, 2017** ("Initial Term"), subject to cancellation as provided in the Cancellation/Termination section below. Services to Members and payment for such services shall commence on a date following the commencement of this Agreement that shall be communicated to Facility by Healthways ("Ready Date"). The Initial Term and any and all Renewal Terms are referred to herein as the "Term".
 - b) Renewal of Agreement. This Agreement shall be automatically renewed for successive one year terms after the Initial Term (the "Renewal Term") unless either party gives written notice of termination at least one hundred twenty (120) days prior to the expiration of the Initial Term or the current Renewal Term of the Agreement or unless the Agreement is canceled pursuant to the Cancellation/Termination section below.
5. Cancellation/Termination.
- a) Change in Terms; Poor Usage. Healthways retains, upon thirty (30) days' written notice, the right to terminate this Agreement or the participation by Facility under any Program Schedule for any location of Facility in Exhibit A on the basis of, in Healthways sole and reasonable discretion, poor usage of Facility by Members or upon termination or change in terms of a Sponsoring Organization's contract with Healthways. In the event Healthways removes Facility from the Healthways Network, Facility shall be compensated per this Agreement for services rendered up to and including the date of cancellation.
 - b) Bankruptcy. Notwithstanding any provision in this Agreement, if at any time there shall be filed by or against a party to this Agreement, in any court, tribunal, administrative agency, or any other forum having jurisdiction, pursuant to any applicable law, either of the United States or of any state, a petition in bankruptcy or insolvency or for reorganization or for the appointment of a receiver, trustee, or conservator of all or a portion of the party's property, or if a party makes an assignment for the benefit of creditors, and if this action is not dismissed after ninety (90) calendar days, this Agreement may be immediately canceled and terminated by the other party.
 - c) Material Breach. If either party breaches any material term or condition of this Agreement, this Agreement may be terminated after written notice of such breach or default by the non-breaching party to the breaching party. The notice must specify the nature of said material breach and provide the breaching party thirty (30) days from receipt of the notice to correct the material breach. In the event the breaching party fails to cure the material breach within the thirty (30) day period, this Agreement shall automatically terminate upon completion of the thirty (30) day period, notwithstanding any other provision in this Agreement.

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- d) Early Termination. Notwithstanding any other provision of this Agreement, Healthways may terminate this Agreement at any time upon notice to Facility due to 1) failure of Facility to maintain required insurance coverage as set forth in this Agreement; 2) closure of Facility, resulting in denial of Program services to Members, without at least thirty (30) days' prior written notice to Healthways; 3) fraudulent Program utilization reporting by Facility; or 4) Healthways' reasonable determination that the health or safety of Members may be in jeopardy if this Agreement is not terminated.
- e) Default. In the event that Facility defaults under this Agreement or the Agreement is terminated pursuant to the Material Breach section or the Early Termination section above, Healthways may, at its sole discretion and without limiting other remedies available to Healthways at law or in equity, withhold payment of any amounts otherwise due and payable to Facility under this Agreement.
6. Confidentiality. All Confidential Information between Healthways and Facility are shared in strictest confidence. During the Term and at all times thereafter, Facility shall not divulge, furnish or make accessible to anyone or use in any way (other than use in the ordinary course of providing services under this Agreement) any Confidential Information except where any such Confidential Information is subject to disclosure by Facility pursuant to the Oregon Open Records Law. Facility shall return to Healthways all of Healthways' materials (including any and all copies of such materials) used in the provision of the Program, including the Reference Guide and Member files, upon completion of this Agreement or in the event of its termination, or at any other time upon request from Healthways.
7. Member Contact. Facility agrees to not directly contact Members during the Term of this Agreement in regard to business related matters pertaining to the Program, such as, but not limited to, switching health care plans, disenrolling, enrolling with other health care plans or similar entities, or contracting directly with Facility instead of Healthways and Sponsoring Organization.
8. Insurance. Facility shall obtain and maintain in force Acceptable general liability insurance coverage in an amount of at least \$1,000,000 per occurrence. In the event that coverage is self-insured or maintained by a risk management pool, insurance trust, assurance pool or risk retention group, coverage is subject to prior approval by Healthways. Facility shall cause such insurance to require that the carrier will list Healthways as certificate holder and shall notify Healthways of expiration, termination, or cancellation at least thirty (30) days prior to any expiration, termination, or cancellation of such policy. Facility shall provide a current certificate of insurance with this Agreement and within ten (10) days of request by Healthways thereafter. **PLEASE ATTACH A COPY OF FACILITY LIABILITY POLICY FACE SHEET.**
- Facility shall cause American Healthways Services, LLC, to be named as an additional insured on its general liability insurance policy "for all services provided under the contract agreement between Healthways and the insured **limited to the course and scope of the Facility's duties as related to this contract.**" Any exception to the additional insured provision must have prior approval by Healthways. Facility shall provide such certificate of insurance to Healthways no later than thirty (30) days after Program Ready Date and within ten (10) days of request by Healthways thereafter. **The Facility is a recognized public entity by the State of Oregon. Nothing herein this contract shall be interpreted as any waiver by Facility of Oregon law including limits, conditions, and protections of the Oregon Governmental Tort Claims Act. ORS 30.260 – et seq.**
9. Notices. Unless expressly provided otherwise, all notices, requests, demands and other communications required or permitted under this Agreement shall be in writing and shall be deemed to have been duly given, made and received when sent by 1) Electronic Mail; or 2) hand delivery, including by a recognized courier service; or 3) registered or certified mail, postage prepaid, return receipt requested. Notices under the Agreement to Facility shall be to the Contract Administrator in Exhibit A-2. Notices under the Agreement to Healthways shall be to: Healthways Provider Networks Department, 1445 South Spectrum Blvd., Suite 100, Chandler, Arizona 85286.
- Facility shall provide a minimum of ten (10) days notice to Healthways in the event of a change in any of the information provided in Exhibit A of this Agreement. Either party may alter the address to which communications or copies are to be sent by giving notice of such change of address in conformity with the provisions of this section for the giving of notice.
10. Miscellaneous.
- a) Compliance with Federal and State Rules and Regulations. For the Term of this Agreement, Facility shall comply with all applicable federal and state rules and regulations regarding services provided to Members.

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- b) Business License and Regulatory Standards. Facility shall hold an active and unrestricted business license as required by law, covering all aspects of services offered, and meet occupational health and safety requirements and regulatory standards in the state and jurisdiction in which Facility operates.
- c) Priority of Documents. Any conflict, ambiguity or inconsistency between the terms and conditions in this Agreement, the Program Schedule(s), the Exhibits and any document referred to in or incorporated into this Agreement shall be resolved in accordance with the following decreasing order of priority: i. this Agreement; ii. The Program Schedule(s); iii. the Exhibits; and iv. such other referenced or incorporated documents.
- d) Severability. Should any provision herein be determined by any court of competent jurisdiction to be illegal, invalid or unenforceable in any respect, in whole or in part, the offending provisions shall not affect the enforceability of the remaining provisions of this Agreement.
- e) Amendment of Agreement to Comply with Law. Healthways and Facility acknowledge and agree that Healthways may amend this Agreement in order to comply with applicable law, by sixty (60) days' prior written notice to Facility, and that Facility may elect to withdraw its acceptance with regard to such amendment within such sixty (60) day period. If Facility elects not to accept such amendment, this Agreement will terminate and each Party's obligations shall cease with regard to the other, except that Healthways shall be obligated to pay, within thirty (30) days of the effective date of termination, any unpaid amounts owed to Facility.
- f) Applicable Law. The validity of this Agreement and of any of its terms and provisions, as well as the rights and duties of the Parties hereunder, shall be interpreted and enforced pursuant to and in accordance with the laws of the State of Oregon.
- g) Counterparts. This Agreement may be executed in any number of counterparts and by different Parties hereto in separate counterparts, with the same effect as if all Parties had signed the same document. All such counterparts shall be deemed an original, shall be construed together and shall constitute one and the same instrument.
- h) Entire Agreement. This Agreement, together with any Exhibits and Schedule(s) hereto, represents the entire understanding and agreement among the Parties with respect to the subject matter hereof and shall supersede any prior writings, understandings, or agreements among the Parties with respect to the subject matter hereof.
- i) Modification. Unless specifically set forth in this Agreement, no alteration, amendment, waiver, cancellation or any other change in any term or condition of this Agreement shall be valid or binding on either Party unless the same shall have been mutually agreed to in writing by both Parties.
- j) Sale of Business/Transfer of Assets. If Facility desires to sell or transfer all or substantially all of its assets or business to another entity, or transfers to a third party a controlling interest in its assets or business, Facility shall so advise Healthways in writing at least ninety (90) days' prior to the sale or transfer date. Upon notification of sale, Healthways may, in its sole discretion, choose to terminate the Agreement effective on date of sale or extend the terms of the Agreement to the new entity.
- k) Authority to Sign. The individual signing below on behalf of Facility represents and warrants that he/she has all requisite corporate power and authority to enter into this Agreement on behalf of Facility.

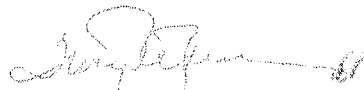
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IN WITNESS WHEREOF, the Parties have agreed as set forth above.

AMERICAN HEALTHWAYS SERVICES, LLC

Name of Facility_____
Signature_____
Signature_____
Mary Jo Ferron_____
Printed Name_____
Vice President, Fitness Programs_____
Title_____
Date_____
Date

APPROVED AS TO FORM



CITY ATTORNEY

2/17/15

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PROGRAM SCHEDULE

Program Name: Mature Market Fully Subsidized Program

Program Brands: SilverSneakers® Fitness program, SilverSneakers Private Brand, Healthways ACCESS, and other brand names for the Mature Market Fully Subsidized Program communicated to Facility by Healthways from time to time

Member Type: Medicare, Group Retirees and Older Adults

Program Description: The Program is offered to Members of the Sponsoring Organization. The Program includes SilverSneakers exercise classes and basic fitness membership services, which may include other Healthways services, for Members provided through a network of facilities; also included in the Program are all facets presented in the Duties and Obligations of Facility section of the Agreement.

1. Program Duties and Obligations of Facility. In exchange for the compensation to be paid by Healthways, Facility shall perform the following services:
 - a) Program Implementation Process. To prepare for Program commencement, Facility agrees to participate in the following 1) coordination with Healthways of electronic reporting containing the required data elements; 2) Healthways-scheduled and led training; and 3) Healthways' evaluation of Facility prior to the Program Ready Date to certify Facility's preparedness to provide Program.
 - b) Staffed Hours. Facility shall be appropriately staffed in accordance with professionally-recognized standards of fitness programs a minimum of six (6) hours per day, Monday through Friday.
 - c) Program Enrollment. Facility shall enroll Members in the Program in accordance with the protocol defined in the Reference Guide or other protocol mutually agreed between the Parties.
 - d) Reporting Obligations of Facility. Facility shall report Program utilization to Healthways on a monthly basis. Program utilization reporting shall consist of all 1) Program forms completed during the previous month as applicable; and 2) visits for the month. Facility shall prepare a report of daily visits and utilization from the month summarizing activity and containing the required data elements and submit it electronically to Healthways no later than the fifth (5th) day of the following month. The required file format, data elements and submission options are defined in the Reference Guide. The Parties to this Agreement shall work cooperatively to establish correct and acceptable electronic monthly utilization data reporting; Healthways may provide technical support to Facility if necessary.
 - e) Facility Staff Training. Facility staff who have regular contact with Members are required to participate in Healthways training prior to commencement of the Program and as needed thereafter to account for staff turnover and to ensure proper service for Members.
 - f) SilverSneakers Program Advisor. Facility shall designate one staff member as the SilverSneakers Program Advisor, who shall serve as a liaison to Healthways and as a resource person for SilverSneakers Members utilizing the Healthways Network, and is knowledgeable concerning all services provided by Facility to Members.
 - g) Guest Pass Program. Facility shall provide Program services to persons presenting a Healthways guest pass. Properly documented guest visits will be counted the same as a Member visit for purposes of calculating Facility's compensation.
2. Medicare Compliance for Program(s) Provided to Medicare Recipients. In recognition that Sponsoring Organization and its subcontractors may be obligated to comply with all applicable federal governmental regulations regarding services to Medicare members, including the rules and regulations of the Centers for Medicare and Medicaid Services (CMS), Healthways and Facility mutually agree to comply with the following for services provided to Medicare members.

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- a) Compliance with Federal and State Laws. Facility acknowledges that payments made to Facility under this Agreement may be made from federal funds. Therefore, in connection with all services rendered under the Agreement, Facility agrees to comply with the requirements of the contracts between Healthways' customers and CMS (the "CMS Contracts"), and all applicable federal and state laws and regulations and CMS guidance and instructions, including, but not limited to all Medicare laws, such as the Medicare Modernization Act and the regulations contained in 42 CFR Parts 422 and 423; all applicable state and federal privacy and security requirements, including but not limited to the confidentiality, privacy and security provisions for Medicare health plans contained in the regulations found at 42 CFR 422.118 and 42 CFR 423.136; and all applicable laws, regulations and guidance designed to prevent fraud, waste or abuse of federal funds, including the False Claims Act (31 U.S.C. 3729 et seq.), the Anti-kickback statute (Social Security Act § 1128B(b)), and HIPAA administrative simplification rules (45 CFR Parts 160, 162, and 164).
- b) Right to Inspect. Facility acknowledges and agrees that the Department of Health and Human Services (HHS), the Comptroller General, or their designees, or any applicable state or federal governmental entity, or Sponsoring Organization, shall have the right to inspect, evaluate, and audit any pertinent contracts, books, documents, papers, and records involving transactions related to services provided under this Agreement to Medicare Members. Facility shall maintain accurate records of compliance with this Agreement ("Records") in accordance with recognized accounting and document retention practices and in a format that shall permit audit. Such Records shall be maintained by Facility for a period of ten (10) years following expiration or termination of this Agreement. This right to inspect shall extend for a period of ten (10) years from the termination date of the CMS Contracts (or applicable CMS Contract), or the date of completion of any audit in connection with the Medicare health plans, whichever is later. Facility will make its books and other records available in accordance with 42 CFR 422.504(i)(2) and 42 CFR 423.505(i)(2) and any other applicable laws and regulations. In the event Facility is unable to retain such records for ten (10) years, Facility shall provide the records to Healthways at the conclusion of this Agreement and Healthways will retain the records on behalf of Facility.
- c) External Review. Facility agrees to cooperate with all independent quality review and improvement organization activities required by CMS and/or Sponsoring Organization pertaining to the provision of services to Sponsoring Organization Members.
- d) Privacy/Confidentiality. Facility agrees to safeguard the privacy of any information that identifies a particular Sponsoring Organization Member in accordance with federal and state laws and Sponsoring Organization policy and to maintain Sponsoring Organization Members' records in an accurate and timely manner.
- e) Non-Discrimination. Facility agrees to not discriminate against any person because of race, sex, age, marital status, national origin, religion, color, citizenship, disability, health status, health insurance coverage or veteran status. As applicable, Facility agrees to comply with 1) Title VI of the Civil Rights Act of 1964 as implemented by regulations at 45 CFR Part 84; 2) The Age Discrimination Act of 1975 as implemented by regulations at 45 CFR Part 91; 3) The Americans With Disabilities Act; 4) The Rehabilitation Act of 1973; 5) Other laws applicable to recipients of federal funds; and 6) All other applicable laws and rules. This Agreement incorporates by reference and is subject to the following regulations of the Office of Federal Contract Compliance Programs, Department of Labor: 41 C.F.R. §60-1.4, Equal Opportunity Clause; 41 C.F.R. §60-250.5, Equal Opportunity Clause and Affirmative Action Clause for Special Disabled Veterans and Veterans of the Vietnam Era; 41 C.F.R. §60-741.5, Equal Opportunity Clause and Affirmative Action Clause for Handicapped and Disabled Persons. Facility agrees not to discriminate against any Medicare Member on the basis of any factor that is related to health status, including, but not limited to the following: (1) medical condition, including mental as well as physical illness; (2) claims experience; (3) receipt of health care; (4) medical history; (5) genetic information; (6) evidence of insurability, including conditions arising out of acts of domestic violence; and (7) disability.
- f) Exclusion of Certain Persons. Facility certifies that neither it nor any of its principals (officers, directors, owners, partners, key employees, principal investigators, researchers or management or supervisory personnel) (Principals) is presently debarred, suspended, proposed for debarment, declared ineligible or excluded from participation in any federal grant, benefit, contract or program (including, but not limited to, Medicare and Medicaid) by any Federal department or agency. Facility agrees to provide immediate written

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notice to Healthways if it learns at any time that the certification herein was erroneous when submitted or if, during the Term of this Agreement, it, or any of its Principals, is debarred, suspended, proposed for debarment, declared ineligible or excluded from participation in any federal grant, benefit, contract or program. If subcontracting is permitted by the Agreement, Facility agrees that its subcontractors will comply with the foregoing covenant. Facility agrees that debarment, suspension, proposed debarment or suspension, ineligibility or exclusion of either party, or any of its principals or subcontractors, shall constitute cause for immediate termination of this Agreement. Facility further agrees to comply with all Federal anti-terrorism rules and regulations. Each party's signature below shall serve as certification that, to the best of the party's knowledge, the party 1) is not; 2) has not been designated as; 3) is not owned, affiliated, or controlled by; and 4) does not support, assist or aid a suspected terrorist organization or individual as defined by Federal law including, but not limited to, Executive Order 13224.

- g) Hold Harmless. With the exception of charges for services not covered under this Agreement, Facility shall in no event bill, charge, collect a deposit from, or hold liable for any debts of Healthways or Facility, Members or any applicable government agency. In the event a Member provides payment to Facility for services provided pursuant to this Agreement, Healthways retains the right to deduct an equivalent amount from the compensation payable to Facility for the purpose of Member reimbursement. All obligations under this section shall survive the termination of this Agreement, regardless of the cause giving rise to such termination, including, without limitation, insolvency of either party or breach of this Agreement.
- h) Mutual Waiver of Claims and Indemnity. Unless caused by the gross negligence or intentional wrongdoing of a Party, Sponsoring Organization, or any applicable government agency, **each Party** hereby waives and releases all claims against the **other Party**, Sponsoring Organization, and any applicable government agency, and/or any of their respective officers, directors, shareholders, employees, or representatives, in respect of a Member participating in the Healthways Network, and Parties, Sponsoring Organization, and government agency shall not be liable for injury to person or damage to property sustained by Sponsoring Organization's Members as a result of participation in any activities which may be undertaken in or sponsored by Operator, including, but not limited to, any accident, or from any occurrence, or act, or from negligence or omission on the part of Operator or any employee or agent thereof. **Notwithstanding anything herein to the contrary, each Party shall indemnify, defend, and hold harmless the other Party.** Sponsoring Organization, Members, and applicable government agency and their respective officers, directors, shareholders, employees, and representatives, on a current basis, from any and all **third-party** claims, demands, suits, liabilities, damages, obligations, and expenses (including without limitation reasonable attorneys' fees) arising out of or in any way related to any negligent act or other wrongful conduct by the indemnifying Party under this Agreement, except to the extent caused by the gross negligence or intentional wrongdoing of the **other Party**, Sponsoring Organization, or any applicable government agency.

Healthways and Facility agree that to the extent permitted by law, the Parties shall cooperate with one another in the defense of any claim arising from alleged tortious acts of their respective officers, shareholders, employees, or agents and to give one another written notice of any claims covered by this paragraph. All obligations under this section shall survive the termination of this Agreement, regardless of the cause giving rise to such termination, including, without limitation, insolvency of either party or breach of this Agreement.

- i) Professionally-Recognized Standards. Healthways and Facility shall provide the Program to Sponsoring Organization Members in a manner consistent with quality assurance standards, the Reference Guide, and professionally-recognized standards of fitness and wellness programs.

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3. Compensation.

- a) **Program Utilization Payment.** Healthways shall compensate the Facility for services provided at the locations identified in Exhibit A-1 as follows in the table below. Visit shall mean one distinct occasion, recorded and reported by Facility in accordance with procedures specified in the Reference Guide, during which a Member enters Facility to enroll in or use the Program. Healthways shall not compensate Facility for more than one Program Visit per day. Program Participant shall mean a Member, who, after completing the Program enrollment, has used the Program at a facility in the Healthways Network at least once in a given month.

Visits Per Participant	Rate per participant
1 - 3	\$14.00
4 - 6	\$24.00
7 - 9	\$29.00
10+	\$32.50

- b) **Payment Schedule.** Payment shall be processed for direct deposit by Healthways by the last day of the month following the month in which Program Visits occurred ("following month"), provided Healthways receives Facility's monthly utilization data by the fifth (5th) day of the following month. In the event utilization data is not received in a timely manner, payment may be delayed. Payment for monthly utilization received after the last day of the following month will be denied for non-timely filing and will not be eligible for reimbursement or appeal. Appeals must be brought to the attention of Healthways within thirty (30) days of receipt of payment; appeals brought at a later date will not be eligible for review.

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EXHIBIT A-1

FACILITY INFORMATION

The information in the box below is intended for marketing purposes. Please confirm that it is accurate.

Facility Name:	<u>Southwest Community Center</u>																	
Physical Address:	<u>6820 SW 45th Ave.</u>																	
	<u>Portland, OR 97219</u>																	
Phone Number:	<u>(503) 823-2846</u>																	
Web Site Address:																		
<p><i>*To enable marketing of amenities and services are marketed, please designate your basic amenities below and all amenities upon initial log in to the Fitness Provider Portal:</i></p> <table border="1"> <thead> <tr> <th>Amenity/Program</th> <th>Offered as part of basic membership at no additional cost to Members</th> </tr> </thead> <tbody> <tr> <td>Cardiovascular Equipment</td> <td><input checked="" type="checkbox"/></td> </tr> <tr> <td>Group Exercise/Aerobics Area</td> <td></td> </tr> <tr> <td>Hot Tub/Whirlpool</td> <td></td> </tr> <tr> <td>Resistance Training Equipment</td> <td></td> </tr> <tr> <td>Steam and/or Sauna</td> <td></td> </tr> <tr> <td>Swimming Pool – Seasonal (not available throughout the year)</td> <td></td> </tr> <tr> <td>Swimming Pool – Year-Round</td> <td></td> </tr> </tbody> </table>			Amenity/Program	Offered as part of basic membership at no additional cost to Members	Cardiovascular Equipment	<input checked="" type="checkbox"/>	Group Exercise/Aerobics Area		Hot Tub/Whirlpool		Resistance Training Equipment		Steam and/or Sauna		Swimming Pool – Seasonal (not available throughout the year)		Swimming Pool – Year-Round	
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Swimming Pool – Seasonal (not available throughout the year)																		
Swimming Pool – Year-Round																		

Fax: () ☐ Direct Fax ☐ Need to call first

General Email: _____

Who will be our primary location contact (Healthways Program Advisor)? This individual will be responsible for scheduling training, coordinating with our Provider Service Liaison, and will need access to member records.

Contact Person: _____

Contact Title: _____

Contact Phone: () _____

Contact Fax: () _____

Contact Email: _____

Confidential

*Southwest Community Center (Cont.)**Mailing Address (if not the same as Physical Address):*

Mailing Address:	_____

Shipping Address (if not the same as Physical Address):

Shipping Address:	_____

Staffed Hours of Operation

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Open							
Closed							

Are Members able to access Facility during unstaffed hours? ☐ No ☐ Yes

What non-English languages does staff speak fluently? Please list:

Please select one category that best describes Facility:

- ☐ Commercial
- ☐ Hotel or Resort
- ☐ JCC
- ☐ Kroc Center
- ☐ Medical with physical therapy
- ☐ Medical without physical therapy
- ☐ Municipal
- ☐ US Tennis Association
- ☐ YMCA
- ☐ YWCA
- ☐ Other not-for-profit
- ☐ Senior living - Independent Living
- ☐ Senior living - Assisted Living
- ☐ Senior living - Residential Care
- ☐ Senior living - Continuing Care
- ☐ Senior living - Nursing Home

Please select one location type:

- ☐ Men and women
- ☐ Women only
- ☐ Men only

Confidential

EXHIBIT A-1

FACILITY INFORMATION

The information in the box below is intended for marketing purposes. Please confirm that it is accurate.

Facility Name: Matt Dishman Community Center

Physical Address: 77 NE Knott St.
Portland, OR 97219

Phone Number: (503) 823-3165

Web Site Address: _____

**To enable marketing of amenities and services are marketed, please designate your basic amenities below and all amenities upon initial log in to the Fitness Provider Portal:*

Amenity/Program	<input checked="" type="checkbox"/> Offered as part of basic membership at no additional cost to Members
Cardiovascular Equipment	
Group Exercise/Aerobics Area	
Hot Tub/Whirlpool	
Resistance Training Equipment	
Steam and/or Sauna	
Swimming Pool – Seasonal (not available throughout the year)	
Swimming Pool – Year-Round	

Fax: () _____ ☐ Direct Fax ☐ Need to call first

General Email: _____

Who will be our primary location contact (Healthways Program Advisor)? This individual will be responsible for scheduling training, coordinating with our Provider Service Liaison, and will need access to member records.

Contact Person: _____

Contact Title: _____

Contact Phone: () _____

Contact Fax: () _____

Contact Email: _____

Confidential

*Matt Dishman Community Center (Cont.)**Mailing Address (if not the same as Physical Address):*Mailing Address: _____
_____*Shipping Address (if not the same as Physical Address):*Shipping Address: _____
_____*Staffed Hours of Operation*

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Open							
Closed							

Are Members able to access Facility during unstaffed hours? ☐ No ☐ Yes*What non-English languages does staff speak fluently? Please list:*
_____*Please select one category that best describes Facility:*

- ☐ Commercial
☐ Hotel or Resort
☐ JCC
☐ Kroc Center
☐ Medical with physical therapy
☐ Medical without physical therapy
☐ Municipal
☐ US Tennis Association
☐ YMCA
☐ YWCA
☐ Other not-for-profit
☐ Senior living - Independent Living
☐ Senior living - Assisted Living
☐ Senior living - Residential Care
☐ Senior living - Continuing Care
☐ Senior living - Nursing Home

Please select one location type:

- ☐ Men and women
☐ Women only
☐ Men only

Confidential

EXHIBIT A-1

FACILITY INFORMATION

The information in the box below is intended for marketing purposes. Please confirm that it is accurate.

Facility Name:	East Portland Community Center
Physical Address:	740 SE 106 th St.
	Portland, OR 97216
Phone Number:	(503) 823-3450
Web Site Address:	www.portlandoregon.gov/parks/
<i>*To enable marketing of amenities and services are marketed, please designate your basic amenities below and all amenities upon initial log in to the Fitness Provider Portal:</i>	
Amenity/Program	<input checked="checked" type="checkbox"/> Offered as part of basic membership at no additional cost to Members
Cardiovascular Equipment	
Group Exercise/Aerobics Area	
Hot Tub/Whirlpool	
Resistance Training Equipment	
Steam and/or Sauna	
Swimming Pool – Seasonal (not available throughout the year)	
Swimming Pool – Year-Round	

Fax: () ☐ Direct Fax ☐ Need to call first

General Email: _____

Who will be our primary location contact (Healthways Program Advisor)? This individual will be responsible for scheduling training, coordinating with our Provider Service Liaison, and will need access to member records.

Contact Person: _____

Contact Title: _____

Contact Phone: () _____

Contact Fax: () _____

Contact Email: _____

Confidential

*East Portland Community Center (Cont.)**Mailing Address (if not the same as Physical Address):*Mailing Address: _____
_____*Shipping Address (if not the same as Physical Address):*Shipping Address: _____
_____*Staffed Hours of Operation*

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Open							
Closed							

Are Members able to access Facility during unstaffed hours? ☐ No ☐ Yes*What non-English languages does staff speak fluently? Please list:*
_____*Please select one category that best describes Facility:*

- ☐ Commercial
☐ Hotel or Resort
☐ JCC
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☐ US Tennis Association
☐ YMCA
☐ YWCA
☐ Other not-for-profit
☐ Senior living - Independent Living
☐ Senior living - Assisted Living
☐ Senior living - Residential Care
☐ Senior living - Continuing Care
☐ Senior living - Nursing Home

Please select one location type:

- ☐ Men and women
☐ Women only
☐ Men only

Confidential

EXHIBIT A-1

FACILITY INFORMATION

The information in the box below is intended for marketing purposes. Please confirm that it is accurate.

Facility Name: Mt. Scott Community Center

Physical Address: 5530 SE 72nd Ave.
Portland, OR 97206

Phone Number: (503) 823-3183

Web Site Address: www.portlandoregon.gov/parks/

**To enable marketing of amenities and services are marketed, please designate your basic amenities below and all amenities upon initial log in to the Fitness Provider Portal:*

Amenity/Program	<input checked="" type="checkbox"/> Offered as part of basic membership at no additional cost to Members
Cardiovascular Equipment	
Group Exercise/Aerobics Area	
Hot Tub/Whirlpool	
Resistance Training Equipment	
Steam and/or Sauna	
Swimming Pool -- Seasonal (not available throughout the year)	
Swimming Pool -- Year-Round	

Fax: () ☐ Direct Fax ☐ Need to call first

General Email: _____

Who will be our primary location contact (Healthways Program Advisor)? This individual will be responsible for scheduling training, coordinating with our Provider Service Liaison, and will need access to member records.

Contact Person: _____

Contact Title: _____

Contact Phone: () _____

Contact Fax: () _____

Contact Email: _____

Confidential

*Mt. Scott Community Center (Cont.)**Mailing Address (if not the same as Physical Address):*Mailing Address: _____
_____*Shipping Address (if not the same as Physical Address):*Shipping Address: _____
_____*Staffed Hours of Operation*

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Open							
Closed							

Are Members able to access Facility during unstaffed hours? ☐ No ☐ Yes*What non-English languages does staff speak fluently? Please list:*
_____*Please select one category that best describes Facility:*

- ☐ Commercial
☐ Hotel or Resort
☐ JCC
☐ Kroc Center
☐ Medical with physical therapy
☐ Medical without physical therapy
☐ Municipal
☐ US Tennis Association
☐ YMCA
☐ YWCA
☐ Other not-for-profit
☐ Senior living - Independent Living
☐ Senior living - Assisted Living
☐ Senior living - Residential Care
☐ Senior living - Continuing Care
☐ Senior living - Nursing Home

Please select one location type:

- ☐ Men and women
☐ Women only
☐ Men only

Confidential

EXHIBIT A-1

FACILITY INFORMATION

The information in the box below is intended for marketing purposes. Please confirm that it is accurate.

Facility Name: Charles Jordan Community Center

Physical Address: 9009 N. Foss
Portland, OR 97203

Phone Number: (503) 823-3631

Web Site Address: www.portlandoregon.gov/parks/

**To enable marketing of amenities and services are marketed, please designate your basic amenities below and all amenities upon initial log in to the Fitness Provider Portal:*

Amenity/Program	<input checked="" type="checkbox"/> Offered as part of basic membership at no additional cost to Members
Cardiovascular Equipment	
Group Exercise/Aerobics Area	
Hot Tub/Whirlpool	
Resistance Training Equipment	
Steam and/or Sauna	
Swimming Pool – Seasonal (not available throughout the year)	
Swimming Pool – Year-Round	

Fax: () ☐ Direct Fax ☐ Need to call first

General Email: _____

Who will be our primary location contact (Healthways Program Advisor)? This individual will be responsible for scheduling training, coordinating with our Provider Service Liaison, and will need access to member records.

Contact Person: _____

Contact Title: _____

Contact Phone: () _____

Contact Fax: () _____

Contact Email: _____

Confidential

*Charles Jordan Community Center (Cont.)**Mailing Address (if not the same as Physical Address):*Mailing Address: _____
_____*Shipping Address (if not the same as Physical Address):*Shipping Address: _____
_____*Staffed Hours of Operation*

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Open							
Closed							

Are Members able to access Facility during unstaffed hours? ☐ No ☐ Yes*What non-English languages does staff speak fluently? Please list:*
_____*Please select one category that best describes Facility:*

- ☐ Commercial
☐ Hotel or Resort
☐ JCC
☐ Kroc Center
☐ Medical with physical therapy
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☐ Other not-for-profit
☐ Senior living - Independent Living
☐ Senior living - Assisted Living
☐ Senior living - Residential Care
☐ Senior living - Continuing Care
☐ Senior living - Nursing Home

Please select one location type:

- ☐ Men and women
☐ Women only
☐ Men only

Confidential

EXHIBIT A-2

CONTRACT ADMINISTRATOR

Name: _____

Title: _____

Mailing Address: _____

Phone: () _____

Fax: () _____

Email: _____

The Contract Administrator shall receive legal correspondence regarding the Agreement, shall have access to payment information for all Facilities in Exhibit A-1 to this Agreement, and shall be responsible for setting up Healthways Fitness Provider Portal accounts for Facility staff.

Who should Healthways contact to coordinate the technical aspects of monthly utilization data reporting? This individual will need to have specific information about your location's reporting capabilities, and be responsible for obtaining management approval for establishing a reporting method.

Name: _____

Phone: _____

Email: _____

187053

Confidential

Form W-9 (Rev. December 2011) Department of the Treasury Internal Revenue Service	Request for Taxpayer Identification Number and Certification	Give Form to the requester. Do not send to the IRS.												
Name (as shown on your income tax return) _____														
Business name/disregarded entity name, if different from above _____														
Print or type See Specific Instructions on page 2	Check appropriate box for federal tax classification: <input type="checkbox"/> Individual/sole proprietor <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate <input type="checkbox"/> Limited liability company. Enter the tax classification (DisC corporation, S corporation, Partnership) ▶ _____ <input type="checkbox"/> Other (see instructions) ▶ _____													
	<input type="checkbox"/> Exempt payee													
	Address number, street, and apt. or suite no. _____													
	City, state, and ZIP code _____													
Last account number(s) here (optional) _____														
Part I Taxpayer Identification Number (TIN) Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see <i>How to get a TIN</i> on page 3. Note: If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.														
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="9" style="text-align: center;">Social security number</td> </tr> <tr> <td style="width: 33.33%; text-align: center;"> <div style="border: 1px solid black; height: 20px; width: 100%;"></div> </td> <td style="width: 33.33%; text-align: center;"> <div style="border: 1px solid black; height: 20px; width: 100%;"></div> </td> <td style="width: 33.33%; text-align: center;"> <div style="border: 1px solid black; height: 20px; width: 100%;"></div> </td> </tr> </table>			Social security number									<div style="border: 1px solid black; height: 20px; width: 100%;"></div>	<div style="border: 1px solid black; height: 20px; width: 100%;"></div>	<div style="border: 1px solid black; height: 20px; width: 100%;"></div>
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Part II Certification Under penalties of perjury, I certify that: 1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and 2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and 3. I am a U.S. citizen or other U.S. person (defined below). Certification instructions: You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign this certification, but you must provide your correct TIN. See the instructions on page 4.														
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%; vertical-align: top;"> Sign Here Signature of U.S. person ▶ _____ </td> <td style="width: 40%; vertical-align: top;"> Date ▶ _____ </td> </tr> </table>			Sign Here Signature of U.S. person ▶ _____	Date ▶ _____										
Sign Here Signature of U.S. person ▶ _____	Date ▶ _____													
General Instructions Section references are to the Internal Revenue Code unless otherwise noted. Purpose of Form A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA. Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to: 1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued), 2. Certify that you are not subject to backup withholding, or 3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.														
Note: If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9. Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are: • An individual who is a U.S. citizen or U.S. resident alien, • A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States, • An estate (other than a foreign estate), or • A domestic trust (as defined in Regulations section 301.7701-7). Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.														

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Form W-9 (Rev. 12-2011)

Page 2

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity.
- The U.S. grantor or other owner of a grantor trust and not the trust, and
- The U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

Foreign person. If you are a foreign person, do not use Form W-9. Instead, use the appropriate Form W-8 (see Publication 515, *Withholding of Tax on Nonresident Aliens and Foreign Entities*).

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 3 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception under paragraph 2 of the first protocol and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity not subject to backup withholding, give the requester the appropriate completed Form W-8. **What is backup withholding?** Persons making certain payments to you must under certain conditions withhold and pay to the IRS a percentage of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barrier exchange transactions, rents, royalties, nonemployee pay, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester.
2. You do not certify your TIN when required (see the Part II instructions on page 3 for details).
3. The IRS tells the requester that you furnished an incorrect TIN.
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See the instructions below and the separate instructions for the Requester of Form W-9.

Also see *Special rules for partnerships* on page 1.

Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account, for example, if the grantor of a grantor trust dies.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Name

If you are an individual, you must generally enter the name shown on your income tax return. However, if you have changed your last name, for instance, due to marriage without informing the Social Security Administration of the name change, enter your first name, the last name shown on your social security card, and your new last name.

If the account is in joint names, list first, and then circle, the name of the person or entity whose number you entered in Part I of the form.

Sole proprietor. Enter your individual name as shown on your income tax return on the "Name" line. You may enter your business, trade, or "doing business as" (DBA) name on the "Business name/disregarded entity name" line.

Partnership, C Corporation, or S Corporation. Enter the entity's name on the "Name" line and any business, trade, or "doing business as" (DBA) name on the "Business name/disregarded entity name" line.

Disregarded entity. Enter the owner's name on the "Name" line. The name of the entity entered on the "Name" line should never be a disregarded entity. The name on the "Name" line must be the name shown on the income tax return on which the income will be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a domestic owner, the domestic owner's name is required to be provided on the "Name" line. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on the "Business name/disregarded entity name" line. If the owner of the disregarded entity is a foreign person, you must complete an appropriate Form W-8.

Note. Check the appropriate box for the federal tax classification of the person whose name is entered on the "Name" line (individual/sole proprietor, Partnership, C Corporation, S Corporation, Trust/estate).

Limited Liability Company (LLC). If the person identified on the "Name" line is an LLC, check the "limited liability company" box only and enter the appropriate code for the tax classification in the space provided. If you are an LLC that is treated as a partnership for federal tax purposes, enter "P" for partnership. If you are an LLC that has filed a Form 9632 or a Form 2553 to be taxed as a corporation, enter "C" for C corporation or "S" for S corporation. If you are an LLC that is disregarded as an entity separate from its owner under Regulation section 301.7701-3 (except for employment and excise tax), do not check the LLC box unless the owner of the LLC (required to be identified on the "Name" line) is another LLC that is not disregarded for federal tax purposes. If the LLC is disregarded as an entity separate from its owner, enter the appropriate tax classification of the owner identified on the "Name" line.

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Other entities. Enter your business name as shown on required federal tax documents on the "Name" line. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on the "Business name/disregarded entity name" line.

Exempt Payee

If you are exempt from backup withholding, enter your name as described above and check the appropriate box for your status, then check the "Exempt payee" box in the line following the "Business name/disregarded entity name" line.

Generally, individuals (including sole proprietors) are not exempt from backup withholding. Corporations are exempt from backup withholding for certain payments, such as interest and dividends.

Note. If you are exempt from backup withholding, you should still complete this form to avoid possible erroneous backup withholding.

The following payees are exempt from backup withholding:

1. An organization exempt from tax under section 501(a), any IPA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(l)(2).
2. The United States or any of its agencies or instrumentalities.
3. A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities.
4. A foreign government or any of its political subdivisions, agencies, or instrumentalities, or
5. An international organization or any of its agencies or instrumentalities.

Other payees that may be exempt from backup withholding include:

6. A corporation.
7. A foreign central bank of issue.
8. A dealer in securities or commodities required to register in the United States, the District of Columbia, or a possession of the United States.
9. A futures commission merchant registered with the Commodity Futures Trading Commission.
10. A real estate investment trust.
11. An entity registered at all times during the tax year under the Investment Company Act of 1940.
12. A common trust fund operated by a bank under section 854(a).
13. A financial institution.
14. A middleman known in the investment community as a nominee or custodian, or
15. A trust exempt from tax under section 664 or described in section 4947.

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 15.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 9
Broker transactions	Exempt payees 1 through 5 and 7 through 13. Also, C corporations.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 5
Payments over \$600 required to be reported and direct sales over \$5,000	Generally, exempt payees 1 through 7 ¹

¹ See Form 1099-MISC, Miscellaneous Income, and its instructions.

² However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney, and payments for services paid by a federal executive agency.

Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-member LLC that is disregarded as an entity separate from its owner (see *Limited Liability Company (LLC)* on page 2), enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

Note. See the chart on page 4 for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local Social Security Administration office or get this form online at www.ssa.gov. You may also get the form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at www.irs.gov/businesses and clicking on Employer Identification Number (EIN) under Starting a Business. You can get Forms W-7 and SS-4 from the IRS by visiting irs.gov or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 30-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note. Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: A disregarded domestic entity that has a foreign owner must use the appropriate Form W-8.

Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if item 1, below, and items 4 and 5 on page 4 indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on the "Name" line must sign. Exempt payees, see *Exempt Payee* on page 3.

Signature requirements. Complete the certification as indicated in items 1 through 3, below, and items 4 and 5 on page 4.

1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983. You must give your correct TIN, but you do not have to sign the certification.

2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983. You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. Real estate transactions. You must sign the certification. You may cross out item 2 of the certification.

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4. **Other payments.** You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

5. **Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions.** You must give your correct TIN, but you do not have to sign the certification.

Note. If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

Secure Your Tax Records from Identity Theft

Identity theft occurs when someone uses your personal information such as your name, social security number (SSN), or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN.
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Publication 4535, Identity Theft Prevention and Victim Assistance.

Victims of identity theft who are experiencing economic harm or a system problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

Protect yourself from suspicious emails or phishing schemes. Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to phishing@irs.gov. You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration at 1-800-265-4484. You can forward suspicious emails to the Federal Trade Commission at: spam@ftc.gov or contact them at www.ftc.gov/idtheft or 1-877-IDTHEFT (1-877-438-4338).

Visit IRS.gov to learn more about identity theft and how to reduce your risk.

What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The person named on the account or, if contained funds, the first individual on the account
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor
4. a. The usual revocable savings trust (grantor is also trustee) b. So-called trust account that is not a trust or held trust under state law	The grantor-trustee The actual owner
5. Sole proprietorship or disregarded entity owned by an individual	The owner
6. Grantor trust (filed under Optional Form 1041 Filing Method 1 (see Regulation section 1.671-1(b)(2)(ii))	The grantor
For this type of account:	Give name and EIN of:
7. Disregarded entity not owned by an individual	The owner
8. A valid trust, estate, or pension trust	Legal entity
9. Corporation or LLC electing corporate status on Form 9632 or Form 2553	The corporation
10. Association, club, religious, charitable, educational, or other not-for-profit organization	The organization
11. Partnership or multi-member LLC	The partnership
12. A broker or registered nominee	The broker or nominee
13. Agreement with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or person) that receives agricultural program payments	The public entity
14. Grantor trust (filed under the Form 1041 Filing Method or the Optional Form 1040 Filing Method 2 (see Regulation section 1.671-1(b)(2)(ii))	The trust

1. A trust and estate give name of the trust or estate number you furnish. If only one person is a grantor, then an SSN, but people's number must be given.

2. Give the trust's name and furnish the trust's SSN.

3. You must show your individual name and you may add the word "partner" or "LLP" (also on the "Business name for partnership" column). You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

4. If you are sole owner of the trust, estate, or pension trust, do not furnish the TIN of the personal representative of the trust, estate, or pension trust. The information should be furnished to the IRS only if the trust, estate, or pension trust is a partnership or other entity.

Note. Donor information is on Form 990 or other document.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. prosecutors for use in enforcing their laws. The information also may be disclosed to other agencies under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.