



OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING

2051 KAEN ROAD | OREGON CITY, OR 97045

**Billy J. Williams**  
County Counsel

October 22, 2026

BCC Agenda Item: \_\_\_\_\_

Board of County Commissioners  
Clackamas County

**Scott C. Ciecko**  
**Amanda Keller**  
**Shawn Lillegren**  
**Jeffrey D. Munns**  
**Sarah Foreman**  
**Caleb Huegel**  
**Angela Hajihashemi**  
**M. Creston Rice**  
**Andrew Naylor**  
**Paul Matthias-Bennetch**  
Assistants

**Acceptance of Engagement of Arnold & Porter Kaye Scholer LLP for Joint Representation of Clackamas County, Clackamas County General County Employees Personal Option Plan, and Providence Health Plan Regarding Pending Litigation, *Barbara Simpson v. Providence Health Plan et al.* Total agreement cost yet to be determined since litigation pending. Funding, if any, through the County's Risk Fund. No County General Funds are involved.**

**Previous Board Action/Review:** Briefed at previous executive session

**Performance Clackamas:** Build public trust through good government

**Counsel Review:** Yes **Procurement Review:** N/A

**Contact Person:** Shawn Lillegren, Senior Assistant County Counsel

**Contact Phone:** 503-742-5393

### EXECUTIVE SUMMARY

This matter concerns a pending lawsuit filed by Barbara Simpson, a member of the General County Employees Personal Option Plan, who brings claims regarding the alleged denial of health insurance benefits. The law firm of Arnold & Porter Kaye Scholer LLP currently represents the Providence Health Plan and now proposes to jointly represent Clackamas County and the Clackamas County General County Employees Personal Option Plan.

### RECOMMENDATION

The Office of County Counsel recommends acceptance of the proposed joint engagement of Arnold & Porter Kaye Scholer LLP for representation in this matter, subject to the terms and conditions in the attached engagement letter.

Respectfully submitted,

Shawn Lillegren, Senior Assistant County Counsel

Attachment: Engagement Letter, Arnold & Porter Kaye Scholer LLP

October 8, 2026

**VIA E-MAIL**

Shawn Lillegren  
Senior Assistant County Counsel  
Office of County Counsel  
2051 Kaen Road  
Oregon City, OR 97045  
[SLillegren@clackamas.us](mailto:SLillegren@clackamas.us)

Re: Joint Confirmation of Engagement

Dear Mr. Lillegren:

This letter sets forth the terms and conditions under which Arnold & Porter Kaye Scholer LLP, a limited liability partnership organized under the laws of the State of Delaware (the “Firm” or “Arnold & Porter” or “we” or “us”), will provide advice and representation to Clackamas County and Clackamas County General County Employees Personal Oregon Plan (collectively, the “County” or “you”) in connection with the ongoing litigation, *Barbara Simpson v. Providence Health Plan et al.*, 26CV41858 (Cir. Ct. Multnomah County) (the “Joint Engagement Matter”). The Firm is already representing Providence Health Plan (“PHP”) in the Joint Engagement Matter.

The purpose of this letter is to set forth our mutual understanding as to the basis on which we will represent you with respect to this matter. This letter also discusses issues concerning our joint representation of you and PHP in the Joint Engagement Matter and PHP’s agreement to pay your legal services while the parties separately work to resolve responsibility for legal costs related to this matter. As explained below, the County and PHP presently disagree about which of them is ultimately responsible for the legal costs of, and for indemnifying the other in connection with, this matter, and the Firm is not representing either of you with respect to that indemnification dispute. For this reason, we have included signature blocks below for both you and PHP to each acknowledge your understanding on those issues. This letter is only applicable to the Joint Engagement

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Matter and does not affect the terms of other agreements that may be in place now or in the future between the Firm and PHP and will terminate upon completion of the Firm's work for you on the Joint Engagement Matter. Any future representation of you in matters beyond the Joint Engagement Matter, will be subject to an additional agreement between you and the Firm.

We understand that PHP has agreed to bear the legal costs and expenses in connection with the Firm's representation of you in the Joint Engagement Matter. Under Rule 1.8(f) of the Oregon Rules of Professional Conduct (the "Rules"), we can accept payment from PHP on your behalf only after we obtain your informed written consent to do so. Before agreeing to permit PHP to pay our fees and costs on your behalf, the Rules require us to explain the impact this payment arrangement could have on you. While your interests are aligned with those of PHP in the Joint Engagement Matter, one possible consequence of our receiving payment directly from PHP is that our loyalties could be divided between PHP and you. The Firm would not let the question of who pays fees interfere with its independence of judgment or the client-lawyer relationship and would protect your confidences as required by the Rules, subject to limits of joint representation described below. By signing below, you acknowledge that you have had the opportunity to consult with counsel other than the Firm, and consent to PHP paying the Firm's fees and costs incurred in providing its services to you. Arnold & Porter will charge PHP for professional services and expenses in connection with the Joint Engagement Matter and submit invoices to PHP in accordance with the agreed upon terms outlined in the separate Retainer Agreement between Arnold & Porter and Providence St. Joseph Health effective August 1, 2025. By signing below as well, PHP acknowledges its obligations to pay your fees and costs.

I. *Joint Representation.* Each of you understands that we will be undertaking a joint representation of you and PHP in connection with the Joint Engagement Matter. The joint representation is limited to the defense of the claims asserted by the plaintiff and does not include any claims or disputes between you and PHP. PHP and the County disagree about which of them is ultimately responsible for indemnification and defense costs in the Joint Engagement Matter. The Firm has, on behalf of PHP, sent the County a letter demanding indemnification, and the County disputes that demand, having sent its own letter demanding indemnification. Notwithstanding that disagreement, the parties have agreed to set the indemnification and defense-cost dispute aside for now so that the Firm may undertake this joint representation and coordinate the defense of the Joint Engagement Matter, and each of you agrees that this letter and the joint representation are entered into without prejudice to, and do not waive, modify, or resolve, any party's position on the indemnification and defense-cost dispute. The Firm is not representing either of you with respect to the indemnification and defense-cost dispute. If that dispute continues and is not

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resolved consensually (without involvement of the Firm), the Firm will not represent PHP against the County (or the County against PHP) on the indemnification issue, and in that event each of you would need to retain separate counsel to pursue or resolve it. Except as discussed herein regarding the indemnification and defense-cost dispute, at present it does not appear that any other conflicts of interest exist between you and PHP, you should be aware that in the future, conflicts of interest may arise if the interests of any one of you become inconsistent with any other of you, such as one of you may wish to assert claims or defenses against a co-defendant. We will endeavor to be alert to the potential for such conflicts, as should you. Should you believe that such conflicts have arisen, or are likely to arise, you should let us know. We will do the same. At that point, we will discuss the situation fully with you to determine whether we withdraw from our representation of any of you with respect to the Joint Engagement Matter.

Joint representation can involve risks, such as divided or at least shared attorney/client loyalties. Except as discussed herein regarding the indemnification and defense-cost dispute, we are not currently aware of any actual or reasonably foreseeable adverse effects of such divided or shared loyalty, it is possible that issues may arise as to which our representation of one of you may be materially limited by the Firm's representation of the other of you. You are also aware that the Firm represents PHP on other matters unrelated to the Joint Engagement Matter. In the event of a dispute or conflict, there is a risk that we may be disqualified from representing you absent written consent. We anticipate that if such a conflict or dispute were to arise, we would continue to represent PHP with respect to the Joint Engagement Matter.

The foregoing does not apply to the indemnification and defense-cost dispute between you and PHP described above. The Firm will not represent PHP against the County (or the County against PHP) on those indemnification and defense-cost issues, and if it continues to be disputed and is not resolved consensually, each of you will retain separate counsel to address it.

Pursuant to this "joint client" arrangement, we request your consent and agreement that anything any of you disclose to us relating to the Joint Engagement Matter may be disclosed to all of you. Because of this joint retention, in the event of a dispute between the two of you, the attorney/client privilege will not necessarily protect communications that have taken place between or among you and attorneys in the Firm. The joint representation would not, however, be expected to affect adversely the attorney/client privilege as to disputes between any of you and any third party other than you, and we and you hereby expressly acknowledge and agree that the joint representation does not constitute a waiver of the attorney/client privilege as to disputes between any of you and any third party other than you. Each of you acknowledges that, with respect to information

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that the Firm acquires during the representation of any of you in a matter other than the Joint Engagement Matter, none of you will have any right or expectation of access to or use of such information. And, of course, we will similarly hold your information in confidence.

In the event of a dispute or conflict, there is a risk that we may be disqualified from representing one or all of you absent written consent. We anticipate that if such a conflict or dispute were to arise, we would continue to represent PHP and the other defendant not in conflict with PHP with respect to the Joint Engagement Matter, notwithstanding any adversity between the interests of you.

Accordingly, we are now asking that each of you confirm that you (a) consent to our past, continued and future representation of you in connection with the Joint Engagement Matter and to our past, continued and future representation of each of you in connection with any and all other current and future matters to which any of you are parties; (b) agree not to assert any conflict of interest or to seek to disqualify us from representing any of you in the Joint Engagement Matter or in any other matter, notwithstanding any adversity that may develop; (c) consent to the disclosure of information that you have disclosed or may disclose to us to any of the other of you in connection with the Joint Engagement Matter (but not in connection with any other matter in which any of you is our client); and (d) except with respect to the indemnification and defense-cost dispute described above, agree that in the event any dispute or conflict arises between you in connection with the Joint Engagement Matter, we may, at our sole option (subject to our determination that doing so is consistent with our ethical obligations), either (i) continue to represent PHP, and the other defendant not in conflict with PHP, with respect to the Joint Engagement Matter and with respect to any litigation or arbitration or other adversarial proceeding between you arising from the Joint Engagement Matter, while you are in conflict with PHP retain other counsel, and that the defendant in conflict with PHP shall not object to (and hereby expressly consents to) such continued representation of PHP, and the other defendant not in conflict with PHP, with respect to the Joint Engagement Matter and with respect to any litigation or arbitration or other adversarial proceeding between you arising from the Joint Engagement Matter or (ii) withdraw from representing you with respect to any litigation or arbitration or other adversarial proceeding between you arising from the Joint Engagement Matter. By signing and returning to us a copy of this letter, you signify your informed consent to the foregoing matters.

Additionally, as you are aware, the Firm currently represents PHP in matters that are not related to this Joint Engagement Matter. The Firm does not believe that our professional judgment on behalf of you with respect to the Joint Engagement Matter will be or is likely to be adversely affected by our continuing to represent PHP in these unrelated

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matters. By executing this letter below, you consent to and waive any objection to the Firm's continued representation of PHP in these matters unrelated to this Joint Engagement Matter.

II. Waiver of Future Conflicts. Arnold & Porter is a national and international law firm that represents a diverse array of individuals, companies and other entities. In addition, a summary of our current practice areas and the industries in which we represent clients can be found on our web site at [www.arnoldporter.com](http://www.arnoldporter.com). Some of our current or future clients may have matters in conflict with you, your company or one or more of its parent, subsidiary or affiliated entities. Such matters could pose a variety of risks, direct or indirect, to your business, legal, financial or other interests. So that we are not unnecessarily conflicted from representing you or our other clients, we routinely ask clients for advance waivers of conflicts of interest in matters distinct from the matters on which we represent them. Thus, by accepting this letter, you agree that we will not be disqualified by reason of our representation of you from representing any client with interests adverse to you in litigation, transactions or other matters that are not substantially related to the matters on which we have been retained by you. You also acknowledge that with respect to information that the Firm acquires during the representation of other clients, you nor any other person or entity will have any right or expectation of access to or use of such information. And, of course, we will similarly hold your information and secrets in confidence.

The occasion might arise for us to consult regarding our engagement for you with our own counsel — our General Counsel or other firm lawyers — or with our own outside counsel at our expense. To the extent that we are addressing our own rights or responsibilities, a conflict of interest might be deemed to exist between us and you as to such consultation. Accordingly, a condition of this engagement is that you consent to such consultation occurring, and waive any claim of conflict of interest based on such consultation. You also acknowledge that such communications are protected by our own attorney/client privilege from disclosure to you.

In addition, this letter will confirm our understanding that, unless we reach an explicit understanding to the contrary, we are being engaged by, and will represent, you and not any other person or entity associated with you.

III. Electronic Data Communication, Use of Cloud Services and Privacy. The Firm may use reputable third-party service providers (including 'cloud' service providers such as Microsoft 365 or Google Cloud) to help us deliver efficient, cost-effective legal services, including where your confidential information may be stored on and accessed from cloud-

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based computer services located in a facility controlled by such providers. This may include document/information hosting, sharing, transfer, analysis, processing or storage.

In the course of the representation, the Firm may receive personal data from you relating to your employees, associates, and other information you provide to us. The Firm will use and process personal data in accordance with our Privacy Notice at [www.arnoldporter.com/en/footer/privacy-policy](http://www.arnoldporter.com/en/footer/privacy-policy). To the extent personal data is transferred from a jurisdiction that requires the use of model or standard contractual clauses as the legal basis for the transfer, the applicable clauses found in a link in our Privacy Notice apply.

IV. Artificial Intelligence. Client acknowledges and agrees that, in the course of providing legal services, Firm personnel may utilize artificial intelligence (“AI”) tools, including but not limited to large language models, to assist with legal research, drafting, analysis, and other related tasks. Such tools will be used solely under the supervision and professional judgment of Firm attorneys and in a manner consistent with applicable rules of professional conduct. Firm attorneys remain fully responsible for all work product and to ensure that any outputs from such tools are reviewed, verified, and tailored to Client’s specific legal matters. Client consents to such use and acknowledges the potential benefits and limitations of these technologies. Should our work include the use of AI tools or services, whether provided by the Firm or third-party vendors, then, in addition to any hourly billing based on the time we spend on your matters, we may charge certain per-unit or subscription amounts (for example, per document, per user, per minute, per transaction, or usage-based fees). Data or usage may be measured at peak monthly levels or another commercially reasonable metric. This pricing is aimed at allowing the Firm to recoup its costs of providing the services, including AI-related infrastructure, software licensing and usage fees, compute and storage, and technical support purchased or maintained by the Firm. However, these unit-based rates incorporate certain estimates and, subject to the variability of related costs and utilization of the service, the Firm may recognize a loss or a profit in providing the services. Our rates and charges are reviewed at least annually, usually in January of each year, and may be modified prospectively to reflect changes in cost structure, vendor pricing, utilization, market conditions, or other appropriate factors.

V. Conclusion of Representation. If, at any time we conclude that there are no active matters in which we are representing you, you will be considered a former, rather than a current, client of the firm, unless and until you ask us to perform additional services and we agree to perform them.

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You are free, of course, to terminate our services at any time. In addition to the reasons described in paragraph 4 above, we reserve the same right so long as our withdrawal can be accomplished without material adverse effect on your interests.

VI. Evidence Preservation and Retention of Records. During our representation of you, applicable law may result in your obligation to preserve and produce documents, information or other records, and while we may advise and assist you in this regard, the ultimate responsibility for this preservation and production lies with you. The Firm adopts policies from time to time concerning the retention or destruction of records relating to engagements by clients. When we complete a particular matter that you have assigned to us, we may destroy any records as we believe appropriate, absent a written agreement between us to the contrary. Subject to certain exceptions for particular types of materials, the current standard retention period is six years for paper files and twelve years for electronic files from the date that a matter is closed. If we are required by applicable law to retain records for a particular period of time, the applicable law will supersede this general rule. In referring to records in this paragraph, we include electronic and ‘hard copy’ records.

VII. Rates. Arnold & Porter has established the following rates that apply for professional services based on the time we spend on this matter:

|                 |                 |          |
|-----------------|-----------------|----------|
| Aaron Millstein | Partner         | \$844    |
| Jason Ross      | Partner         | \$884    |
| Amy Phan Taylor | Senior Attorney | \$688.50 |
| Nate King       | Associate       | \$616.50 |

Arnold & Porter will augment the team on an as needed basis to ensure appropriate staffing and efficiency.

VIII. Resolution of Disputes. Any dispute, claim or controversy (a “Dispute”) with you, including any third party you have agreed to pay the Firm to represent, and the Firm (including any of our partners, counsel, associates, employees, agents and representatives) arising out of or in any way relating to this agreement, any services we provide or our fees and costs for providing such services shall be determined by confidential, binding arbitration in Los Angeles, California before a panel of three neutral arbitrators. The arbitration shall be administered by JAMS pursuant to its Comprehensive Arbitration Rules and Procedures in force at the time the arbitration is commenced. The arbitrator shall decide any issue of the breach, termination, enforcement, interpretation or validity of this entire agreement, including the determination of the scope or applicability of the agreement to arbitrate. The parties adopt and agree to implement the JAMS Optional Arbitration

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Appeal Procedure (as it exists on the date of this agreement) with respect to any final arbitration award pursuant to this agreement. The language to be used in the arbitral proceedings will be English. Any court proceedings related to the arbitration shall take place in the state court (or federal court, if jurisdiction exists) located in Seattle, Washington. This clause shall not preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction.

By agreeing to this binding arbitration provision, the parties understand that they are waiving certain important rights and protections that otherwise may have been available if a Dispute were determined by a judicial action including, without limitation, the extent of available discovery, the right to a jury trial, the recovery of attorney fees and certain rights of appeal.

In any Dispute, other than one for which applicable law forbids it, the prevailing party shall recover its reasonable attorneys' fees and costs, except that the parties shall bear equally all costs and fees of JAMS and the arbitrator.

The parties shall maintain the confidential nature of the arbitration proceedings and the arbitration award, including the hearing, except as may be necessary to prepare for or conduct the arbitration hearing on the merits, or except as may be necessary in connection with a court application for a preliminary remedy, a judicial challenge to an award or its enforcement, or unless otherwise required by law or judicial decision. Each party agrees that it shall use its reasonable best efforts to cause its directors, officers, partners, associates, employees, affiliates and agents to abide by this confidentiality agreement.

This agreement and the rights of the parties hereunder shall be governed by and construed in accordance with the laws of Washington, exclusive of conflict or choice of law rules. The parties acknowledge that this agreement evidences a transaction involving interstate commerce and, notwithstanding the provision in the preceding sentence, any arbitration conducted pursuant to the terms of this agreement shall be governed by the Federal Arbitration Act, 9 U.S.C. §§1-16.

\* \* \* \*

If you have any questions about the matters described above, please let us know. This agreement contains important information about your rights, obligations and agreements with us, so we encourage you to consult independent counsel or any other advisor you wish about the information set forth above, including the conflict of interest waivers sought in this letter, the financial and other obligations that you are undertaking in this agreement, and the procedures for resolution of disputes.

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Once again, we appreciate the opportunity to work together.

Sincerely yours,

Arnold & Porter Kaye Scholer LLP



Aaron Millstein

*ACCEPTED AND AGREED TO:*

PROVIDENCE HEALTH PLAN

By:   
Jack Ross (Oct 8, 2026 13:53:42 PDT)

CLACKAMAS COUNTY AND CLACKAMAS COUNTY GENERAL COUNTY  
EMPLOYEES PERSONAL OREGON PLAN

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Attachment (Expenses Charged to Clients)

**EXPENSES CHARGED TO CLIENTS**  
**As of January 1, 2026**

| <b>CHARGES PAID TO THIRD PARTIES</b> |                               |                                                                                                                          |
|--------------------------------------|-------------------------------|--------------------------------------------------------------------------------------------------------------------------|
| <u>Disbursement Category</u>         | <u>Standard Client Charge</u> | <u>Description</u>                                                                                                       |
| Transportation Allowance             | cost                          | Taxi, Parking or Subway charge for employees who work in excess of 2 hours overtime                                      |
| Meal Allowance                       | cost                          | Meal reimbursement (not to exceed \$35 for staff) for meals incurred by employees who work in excess of 2 hours overtime |
| Other Computer Research              | cost                          | Excludes Lexis and Westlaw; includes PACER, Dun & Bradstreet, Courthouse News Service, etc.                              |
| Telephone                            | n/c                           | No charge                                                                                                                |
| Travel                               | cost                          | Costs of airfare, travel agency fees, meals, lodging, etc.                                                               |
| Local Transportation                 | cost                          | Costs of taxis, subways, etc.                                                                                            |
| Local Meals                          | cost                          | Costs of meals not incurred on travel status                                                                             |
| Outside Duplicating                  | cost                          | Costs of duplicating jobs sent to outside vendors                                                                        |
| Equipment & Furniture Rental         | cost                          | Only charged when preauthorized by client                                                                                |
| Postage                              | n/c                           | No charge                                                                                                                |
| Air Delivery Services                | cost                          | Includes Federal Express, DHL, etc.                                                                                      |
| Meetings & Functions                 | cost                          | Costs of meals and beverages provided at meetings                                                                        |
| Local Counsel/Outside Counsel        | cost                          | Cost of local/outside counsel fees and disbursements                                                                     |
| Arbitrators                          | cost                          | Costs of arbitration fees                                                                                                |
| Consulting Fees                      | cost                          | Costs of consultants, outside experts, etc.                                                                              |
| Depositions & Transcripts            | cost                          | Costs of depositions, transcripts, etc.                                                                                  |
| Filing Fees                          | cost                          | Costs of court and agency, filing fees                                                                                   |
| Third-Party Litigation Support       | cost                          | Costs of third-party case technology/e-discovery                                                                         |
| Witness Fees                         | cost                          | Costs of witness fees                                                                                                    |

**CHARGES FOR INTERNAL SERVICES**

| <u>Category</u>                       | <u>Standard Client Charge</u>                                                                                                                                                                                                                                                                                                                                                                                                                 |
|---------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Lexis and Westlaw Computer Research   | <p>Clients benefit from the Firm's favorable fee arrangements with Lexis and Westlaw.</p> <p>The Firm negotiates favorable rates for computerized Lexis and Westlaw research. The effective discount off the standard Lexis and Westlaw rates will, however, depend on actual usage. The Firm limits disbursements to the actual charges incurred on behalf of clients and applies discounts arising from the favorable negotiated rates.</p> |
| eDiscovery & Data Analytics ("eData") | Active workspace data hosting, data processing and document production charged at \$16.00 per GB per month, all inclusive. Workspaces classified as Repository (limited access) will be charged at 33% of the workspace size and workspaces classified as Cold Storage (inactive data storage) will be charged at 25% of the workspace size.                                                                                                  |
| Duplicating                           | <p>\$0.10 per copy – Black &amp; White</p> <p>\$0.75 per copy – Color</p> <p>Note: Pricing for individual duplicating jobs in excess of 25,000 prints may be individually negotiated</p>                                                                                                                                                                                                                                                      |
| Binding                               | No charge                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| Telecopy                              | No charge                                                                                                                                                                                                                                                                                                                                                                                                                                     |

# Joint Engagement Letter -Simpson v. Providence et al DRAFT REVISED

Final Audit Report

2026-10-08

|                 |                                              |
|-----------------|----------------------------------------------|
| Created:        | 2026-10-08                                   |
| By:             | Ray Zhang (Ray.Zhang@arnoldporter.com)       |
| Status:         | Signed                                       |
| Transaction ID: | CBJCHBCAABAAKQxkdeRkmfow4xvqbhV97nZ_MmZDITDv |

## "Joint Engagement Letter -Simpson v. Providence et al DRAFT REVISED" History

-  Document created by Ray Zhang (Ray.Zhang@arnoldporter.com)  
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-  Document emailed to jack.ross@providence.org for signature  
2026-10-08 - 8:05:30 PM GMT
-  Email viewed by jack.ross@providence.org  
2026-10-08 - 8:52:45 PM GMT- IP address: 104.47.58.254
-  Signer jack.ross@providence.org entered name at signing as Jack Ross  
2026-10-08 - 8:53:40 PM GMT- IP address: 170.173.72.33
-  Document e-signed by Jack Ross (jack.ross@providence.org)  
Signature Date: 2026-10-08 - 8:53:42 PM GMT - Time Source: server- IP address: 170,173,72,33 - Signature Appearance Selected: DRAW
-  Agreement completed.  
2026-10-08 - 8:53:42 PM GMT