



INTERLOCAL DATASHARE AGREEMENT

DSHS Agreement Number:
1391-70207

Washington Connection

This Agreement is by and between the State of Washington Department of Social and Health Services (DSHS) and the Contractor identified below, and is issued pursuant to the Interlocal Cooperation Act, chapter 39.34 RCW.

Program Contract Number: ---
Contractor Contract Number:

CONTRACTOR NAME		CONTRACTOR doing business as (DBA)	
Harborview Medical Center			
CONTRACTOR ADDRESS		WASHINGTON UNIFORM BUSINESS IDENTIFIER (UBI)	DSHS INDEX NUMBER
325 9th Avenue Internal Box 359760 Seattle, WA 98104-		578-037-394	1145
CONTRACTOR CONTACT	CONTRACTOR TELEPHONE	CONTRACTOR FAX	CONTRACTOR E-MAIL ADDRESS
Bonnie Conley	(206) 744-2229		conley@u.washington.edu
DSHS ADMINISTRATION	DSHS DIVISION	DSHS CONTRACT CODE	
Economic Services Administration	Community Services Division	3067DS-91	
DSHS CONTACT NAME AND TITLE		DSHS CONTACT ADDRESS	
Stephanie Hill Program Administrator		PO Box 45440 Olympia, WA 98504-5440	
DSHS CONTACT TELEPHONE	DSHS CONTACT FAX	DSHS CONTACT E-MAIL ADDRESS	
(360) 725-4666	(360) 725-4905	hillsr@dshs.wa.gov	
IS THE CONTRACTOR A SUBRECIPIENT FOR PURPOSES OF THIS CONTRACT?		CFDA NUMBER(S)	
No			
AGREEMENT START DATE	AGREEMENT END DATE	MAXIMUM AGREEMENT AMOUNT	
04/05/2013	03/31/2018	\$0.00	
EXHIBITS. The following Exhibits are attached and are incorporated into this Agreement by reference:			
<input checked="" type="checkbox"/> Data Security: Exhibit A – Data Security Requirements			
<input type="checkbox"/> Exhibits (specify):			
The terms and conditions of this Agreement are an integration and representation of the final, entire and exclusive understanding between the parties superseding and merging all previous agreements, writings, and communications, oral or otherwise regarding the subject matter of this Agreement, between the parties. The parties signing below represent they have read and understand this Agreement, and have the authority to execute this Agreement. This Agreement shall be binding on DSHS only upon signature by DSHS.			
CONTRACTOR SIGNATURE	PRINTED NAME AND TITLE	DATE SIGNED	
		4/4/13	
DSHS SIGNATURE	PRINTED NAME AND TITLE	DATE SIGNED	
	Ramona Bushnell, Contracts Officer DSHS/ESA/Community Services Division	4-4-13	

DSHS General Terms and Condition

1. **Definitions.** The words and phrases listed below, as used in this Contract, shall each have the following definitions:
- a. "Central Contract Services" means the DSHS central headquarters contracting office, or successor section or office.
 - b. "Confidential Information" or "Data" means information that is exempt from disclosure to the public or other unauthorized persons under RCW 42.56 or other federal or state laws. Confidential Information includes, but is not limited to, Personal Information.
 - c. "Contract" or "Agreement" means the entire written agreement between DSHS and the Contractor, including any Exhibits, documents, or materials incorporated by reference. The parties may execute this contract in multiple counterparts, each of which is deemed an original and all of which constitute only one agreement. E-mail or Facsimile transmission of a signed copy of this contract shall be the same as delivery of an original.
 - d. "Contracts Administrator" means the manager, or successor, of Central Contract Services or successor section or office.
 - e. "Contractor" means the individual or entity performing services pursuant to this Contract and includes the Contractor's owners, members, officers, directors, partners, employees, and/or agents, unless otherwise stated in this Contract. For purposes of any permitted Subcontract, "Contractor" includes any Subcontractor and its owners, members, officers, directors, partners, employees, and/or agents.
 - f. "Debarment" means an action taken by a Federal agency or official to exclude a person or business entity from participating in transactions involving certain federal funds.
 - g. "DSHS" or the "Department" means the state of Washington Department of Social and Health Services and its employees and authorized agents.
 - h. "Encrypt" means to encode Confidential Information into a format that can only be read by those possessing a "key"; a password, digital certificate or other mechanism available only to authorized users. Encryption must use a key length of at least 128 bits.
 - i. "Personal Information" means information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, Social Security Numbers, driver license numbers, other identifying numbers, and any financial identifiers.
 - j. "Physically Secure" means that access is restricted through physical means to authorized individuals only.
 - k. "Program Agreement" means an agreement between the Contractor and DSHS containing special terms and conditions, including a statement of work to be performed by the Contractor and payment to be made by DSHS.
 - l. "RCW" means the Revised Code of Washington. All references in this Contract to RCW chapters or sections shall include any successor, amended, or replacement statute. Pertinent RCW chapters can be accessed at <http://apps.leg.wa.gov/rcw/>.
 - m. "Regulation" means any federal, state, or local regulation, rule, or ordinance.

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- n. "Secured Area" means an area to which only authorized representatives of the entity possessing the Confidential Information have access. Secured Areas may include buildings, rooms or locked storage containers (such as a filing cabinet) within a room, as long as access to the Confidential Information is not available to unauthorized personnel.
- o. "Subcontract" means any separate agreement or contract between the Contractor and an individual or entity ("Subcontractor") to perform all or a portion of the duties and obligations that the Contractor is obligated to perform pursuant to this Contract.
- p. "Tracking" means a record keeping system that identifies when the sender begins delivery of Confidential Information to the authorized and intended recipient, and when the sender receives confirmation of delivery from the authorized and intended recipient of Confidential Information.
- q. "Trusted Systems" include only the following methods of physical delivery: (1) hand-delivery by a person authorized to have access to the Confidential Information with written acknowledgement of receipt; (2) United States Postal Service ("USPS") first class mail, or USPS delivery services that include Tracking, such as Certified Mail, Express Mail or Registered Mail; (3) commercial delivery services (e.g. FedEx, UPS, DHL) which offer tracking and receipt confirmation; and (4) the Washington State Campus mail system. For electronic transmission, the Washington State Governmental Network (SGN) is a Trusted System for communications within that Network.
- r. "WAC" means the Washington Administrative Code. All references in this Contract to WAC chapters or sections shall include any successor, amended, or replacement regulation. Pertinent WAC chapters or sections can be accessed at <http://apps.leg.wa.gov/wac/>.

2. **Amendment.** This Contract may only be modified by a written amendment signed by both parties. Only personnel authorized to bind each of the parties may sign an amendment.

3. **Assignment.** The Contractor shall not assign this Contract or any Program Agreement to a third party without the prior written consent of DSHS.

4. **Billing Limitations.**

- a. DSHS shall pay the Contractor only for authorized services provided in accordance with this Contract.
- b. DSHS shall not pay any claims for payment for services submitted more than twelve (12) months after the calendar month in which the services were performed.
- c. The Contractor shall not bill and DSHS shall not pay for services performed under this Contract, if the Contractor has charged or will charge another agency of the state of Washington or any other party for the same services.

5. **Compliance with Applicable Law.** At all times during the term of this Contract, the Contractor shall comply with all applicable federal, state, and local laws and regulations, including but not limited to, nondiscrimination laws and regulations.

6. **Confidentiality.**

- a. The Contractor shall not use, publish, transfer, sell or otherwise disclose any Confidential Information gained by reason of this Contract for any purpose that is not directly connected with Contractor's performance of the services contemplated hereunder, except:

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- (1) as provided by law; or,
 - (2) in the case of Personal Information, with the prior written consent of the person or personal representative of the person who is the subject of the Personal Information.
- b. The Contractor shall protect and maintain all Confidential Information gained by reason of this Contract against unauthorized use, access, disclosure, modification or loss. This duty requires the Contractor to employ reasonable security measures, which include restricting access to the Confidential Information by:
- (1) Allowing access only to staff that have an authorized business requirement to view the Confidential Information.
 - (2) Physically Securing any computers, documents, or other media containing the Confidential Information.
 - (3) Ensure the security of Confidential Information transmitted via fax (facsimile) by:
 - (a) Verifying the recipient phone number to prevent accidental transmittal of Confidential Information to unauthorized persons.
 - (b) Communicating with the intended recipient before transmission to ensure that the fax will be received only by an authorized person.
 - (c) Verifying after transmittal that the fax was received by the intended recipient.
 - (4) When transporting six (6) or more records containing Confidential Information, outside a Secured Area, do one or more of the following as appropriate:
 - (a) Use a Trusted System.
 - (b) Encrypt the Confidential Information, including:
 - i. Encrypting email and/or email attachments which contain the Confidential Information.
 - ii. Encrypting Confidential Information when it is stored on portable devices or media, including but not limited to laptop computers and flash memory devices.
- Note: If the DSHS Data Security Requirements Exhibit is attached to this contract, this item, 6.b.(4), is superseded by the language contained in the Exhibit.**
- (5) Send paper documents containing Confidential Information via a Trusted System.
 - (6) Following the requirements of the DSHS Data Security Requirements Exhibit, if attached to this contract.
- c. Upon request by DSHS, at the end of the Contract term, or when no longer needed, Confidential Information shall be returned to DSHS or Contractor shall certify in writing that they employed a DSHS approved method to destroy the information. Contractor may obtain information regarding approved destruction methods from the DSHS contact identified on the cover page of this Contract.
- d. Paper documents with Confidential Information may be recycled through a contracted firm, provided the contract with the recycler specifies that the confidentiality of information will be protected, and the information destroyed through the recycling process. Paper documents containing Confidential

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Information requiring special handling (e.g. protected health information) must be destroyed on-site through shredding, pulping, or incineration.

- e. Notification of Compromise or Potential Compromise. The compromise or potential compromise of Confidential Information must be reported to the DSHS Contact designated on the contract within one (1) business day of discovery. Contractor must also take actions to mitigate the risk of loss and comply with any notification or other requirements imposed by law or DSHS.
7. **Debarment Certification.** The Contractor, by signature to this Contract, certifies that the Contractor is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency from participating in transactions (Debarred). The Contractor also agrees to include the above requirement in any and all Subcontracts into which it enters. The Contractor shall immediately notify DSHS if, during the term of this Contract, Contractor becomes Debarred. DSHS may immediately terminate this Contract by providing Contractor written notice if Contractor becomes Debarred during the term hereof.
8. **Governing Law and Venue.** This Contract shall be construed and interpreted in accordance with the laws of the state of Washington and the venue of any action brought hereunder shall be in Superior Court for Thurston County.
9. **Independent Contractor.** The parties intend that an independent contractor relationship will be created by this Contract. The Contractor and his or her employees or agents performing under this Contract are not employees or agents of the Department. The Contractor, his or her employees, or agents performing under this Contract will not hold himself/herself out as, nor claim to be, an officer or employee of the Department by reason hereof, nor will the Contractor, his or her employees, or agent make any claim of right, privilege or benefit that would accrue to such officer or employee.
10. **Inspection.** The Contractor shall, at no cost, provide DSHS and the Office of the State Auditor with reasonable access to Contractor's place of business, Contractor's records, and DSHS client records, wherever located. These inspection rights are intended to allow DSHS and the Office of the State Auditor to monitor, audit, and evaluate the Contractor's performance and compliance with applicable laws, regulations, and these Contract terms. These inspection rights shall survive for six (6) years following this Contract's termination or expiration.
11. **Maintenance of Records.** The Contractor shall maintain records relating to this Contract and the performance of the services described herein. The records include, but are not limited to, accounting procedures and practices, which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Contract. All records and other material relevant to this Contract shall be retained for six (6) years after expiration or termination of this Contract.

Without agreeing that litigation or claims are legally authorized, if any litigation, claim, or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.
12. **Order of Precedence.** In the event of any inconsistency or conflict between the General Terms and Conditions and the Special Terms and Conditions of this Contract or any Program Agreement, the inconsistency or conflict shall be resolved by giving precedence to these General Terms and Conditions. Terms or conditions that are more restrictive, specific, or particular than those contained in the General Terms and Conditions shall not be construed as being inconsistent or in conflict.
13. **Severability.** If any term or condition of this Contract is held invalid by any court, the remainder of the Contract remains valid and in full force and effect.

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14. **Survivability.** The terms and conditions contained in this Contract or any Program Agreement which, by their sense and context, are intended to survive the expiration or termination of the particular agreement shall survive. Surviving terms include, but are not limited to: Billing Limitations; Confidentiality, Disputes; Indemnification and Hold Harmless, Inspection, Maintenance of Records, Notice of Overpayment, Ownership of Material, Termination for Default, Termination Procedure, and Treatment of Property.
15. **Termination Due to Change in Funding.** If the funds DSHS relied upon to establish this Contract or Program Agreement are withdrawn, reduced or limited, or if additional or modified conditions are placed on such funding, DSHS may immediately terminate this Contract by providing written notice to the Contractor. The termination shall be effective on the date specified in the termination notice.
16. **Waiver.** Waiver of any breach or default on any occasion shall not be deemed to be a waiver of any subsequent breach or default. Any waiver shall not be construed to be a modification of the terms and conditions of this Contract. Only the DSHS Contracts Administrator or designee has the authority to waive any term or condition of this Contract on behalf of DSHS.

Additional General Terms and Conditions – Interlocal Agreements:

17. **Disputes.** Disputes shall be determined by a Dispute Board. Each party to this Agreement shall appoint one member to the Dispute Board. The members so appointed shall jointly appoint an additional member to the Dispute Board. The Dispute Board shall review the facts, Agreement terms, and applicable statutes and rules and make a determination of the dispute. As an alternative to this process, either party may request intervention by the Governor, as provided by RCW 43.17.330, in which event the Governor's process shall control. Participation in either dispute process shall precede any judicial or quasi-judicial action and shall be the final administrative remedy available to the parties.
18. **Hold Harmless.**
 - a. The Contractor shall be responsible for and shall hold DSHS harmless from all claims, loss, liability, damages, or fines arising out of or relating to the Contractor's, or any Subcontractor's, performance or failure to perform this Agreement, or the acts or omissions of the Contractor or any Subcontractor. DSHS shall be responsible for and shall hold the Contractor harmless from all claims, loss, liability, damages, or fines arising out of or relating to DSHS' performance or failure to perform this Agreement.
 - b. The Contractor waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend, and hold harmless the State and its agencies, officials, agents, or employees.
19. **Ownership of Material.** Material created by the Contractor and paid for by DSHS as a part of this Contract shall be owned by DSHS and shall be "work made for hire" as defined by Title 17 USCA, Section 101. This material includes, but is not limited to: books; computer programs; documents; films; pamphlets; reports; sound reproductions; studies; surveys; tapes; and/or training materials. Material which the Contractor uses to perform the Contract but is not created for or paid for by DSHS is owned by the Contractor and is not "work made for hire"; however, DSHS shall have a perpetual license to use this material for DSHS internal purposes at no charge to DSHS, provided that such license shall be limited to the extent which the Contractor has a right to grant such a license.
20. **Subrecipients.**
 - a. General. If the Contractor is a subrecipient of federal awards as defined by Office of Management and Budget (OMB) Circular A-133 and this Agreement, the Contractor shall:

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- (1) Maintain records that identify, in its accounts, all federal awards received and expended and the federal programs under which they were received, by Catalog of Federal Domestic Assistance (CFDA) title and number, award number and year, name of the federal agency, and name of the pass-through entity;
 - (2) Maintain internal controls that provide reasonable assurance that the Contractor is managing federal awards in compliance with laws, regulations, and provisions of contracts or grant agreements that could have a material effect on each of its federal programs;
 - (3) Prepare appropriate financial statements, including a schedule of expenditures of federal awards;
 - (4) Incorporate OMB Circular A-133 audit requirements into all agreements between the Contractor and its Subcontractors who are subrecipients;
 - (5) Comply with any future amendments to OMB Circular A-133 and any successor or replacement Circular or regulation;
 - (6) Comply with the applicable requirements of either 2 CFR, Part 225 (OMB Circular A-87) or 2 CFR, Part 230 (OMB Circular A-122), and any successor or replacement Circular or regulation; and
 - (7) Comply with the Omnibus Crime Control and Safe streets Act of 1968, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, Title IX of the Education Amendments of 1972, The Age Discrimination Act of 1975, and The Department of Justice Non-Discrimination Regulations, 28 C.F.R. Part 42, Subparts C.D.E. and G, and 28 C.F.R. Part 35 and 39. (Go to www.ojp.usdoj.gov/ocr/ for additional information and access to the aforementioned Federal laws and regulations.)
- b. Single Audit Act Compliance. If the Contractor is a subrecipient and expends \$500,000 or more in federal awards from any and/or all sources in any fiscal year, the Contractor shall procure and pay for a single audit or a program-specific audit for that fiscal year. Upon completion of each audit, the Contractor shall:
- (1) Submit to the DSHS contact person the data collection form and reporting package specified in OMB Circular A-133, reports required by the program-specific audit guide (if applicable), and a copy of any management letters issued by the auditor;
 - (2) Follow-up and develop corrective action for all audit findings; in accordance with OMB Circular A-133, prepare a "Summary Schedule of Prior Audit Findings."
- c. Overpayments. If it is determined by DSHS, or during the course of a required audit, that the Contractor has been paid unallowable costs under this or any Program Agreement, DSHS may require the Contractor to reimburse DSHS in accordance with either 2 CFR, Part 225 (OMB Circular A-87) or 2 CFR, Part 230 (OMB Circular A-122).

21. Termination.

- a. Default. If for any cause, either party fails to fulfill its obligations under this Agreement in a timely and proper manner, or if either party violates any of the terms and conditions contained in this Agreement, then the aggrieved party will give the other party written notice of such failure or violation. The responsible party will be given 15 working days to correct the violation or failure. If the failure or violation is not corrected, this Agreement may be terminated immediately by written

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notice from the aggrieved party to the other party.

- b. Convenience. Either party may terminate this Interlocal Agreement for any other reason by providing 30 calendar days' written notice to the other party.
- c. Payment for Performance. If this Interlocal Agreement is terminated for any reason, DSHS shall only pay for performance rendered or costs incurred in accordance with the terms of this Agreement and prior to the effective date of termination.

22. Treatment of Client Property. Unless otherwise provided, the Contractor shall ensure that any adult client receiving services from the Contractor has unrestricted access to the client's personal property. The Contractor shall not interfere with any adult client's ownership, possession, or use of the client's property. The Contractor shall provide clients under age eighteen (18) with reasonable access to their personal property that is appropriate to the client's age, development, and needs. Upon termination of the Contract, the Contractor shall immediately release to the client and/or the client's guardian or custodian all of the client's personal property.

23. HIPAA Compliance.

a. Definitions.

- (1) "Business Associate" means the "Contractor", as used in this Contract and as defined in 45 CFR 160.103, who performs or assists in the performance of an activity for or on behalf of the Covered Entity that involves the use or disclosure of client protected health information (PHI). Any reference to Business Associate in this Contract includes Business Associate's employees, agents, officers, subcontractors, third party contractors, volunteers, or directors.
- (2) "Covered Entity" means DSHS, a Covered Entity as defined in 45 CFR 160.103.
- (3) "Designated Record Set" means a group of records maintained by or for a Covered Entity, that is: the medical and billing records about Individuals maintained by or for a covered health care provider; the enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or used in whole or part by or for the Covered Entity to make decisions about Individuals.
- (4) "Electronic Protected Health Information (EPHI)" means protected health information that is transmitted by electronic media or maintained in any medium described in the definition of electronic media at 45 CFR 162.103.
- (5) "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191.
- (6) "Individual(s)" means the person(s) who is the subject of PHI and includes a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).
- (7) "Minimum Necessary" means the least amount of PHI necessary to accomplish the purpose for which the PHI is needed.
- (8) "Protected Health Information (PHI)" means information created or received by Business Associate from or on behalf of Covered Entity that relates to the provision of health care to an Individual; the past, present, or future physical or mental health or condition of an Individual; or past, present, or future payment for provision of health care to an Individual. 45 CFR 160.103.

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PHI includes demographic information that identifies the Individual or about which there is reasonable basis to believe can be used to identify the Individual. 45 CFR 160.103. PHI is information transmitted or held in any form or medium. 45 CFR 160.103. PHI does not include education records covered by the Family Educational Rights and Privacy Act, as amended, 20 USCA 1232g(a)(4)(B)(iv).

- (9) "Use" includes the sharing, employment, application, utilization, examination, analysis, canonization or commingling of PHI with other information.
- b. Compliance. Business Associate shall perform all Contract duties, activities and tasks in compliance with HIPAA and its attendant regulations as promulgated by the U.S. Department of Health and Human Services, the Center for Medicare and Medicaid Services, the Office of the Inspector General, and the Office of Civil Rights.
- c. Use and Disclosure of PHI. Business Associate is limited to the following permitted and required uses or disclosures of DSHS client PHI:
- (1) Duty to Protect DSHS Client PHI. Business Associate shall protect PHI from, and shall establish appropriate safeguards to prevent, the unauthorized disclosure of PHI in accordance with the terms and conditions of this Contract and state and federal law, including any regulations governing the security of PHI and the transmission, storage or maintenance of electronic data that contains PHI, for as long as the PHI is within its possession and control, even after the termination or expiration of this Contract.
 - (2) Return of DSHS Client PHI. Business Associate shall, within ten (10) working days of termination or expiration of this Contract, in accordance with Contract Termination and Expiration Procedures, and at the discretion of Covered Entity, either return or destroy all PHI, including PHI in possession of third parties under contract to Business Associate. If return or destruction is infeasible, Business Associate shall protect such PHI and limit its further use and disclosure to those purposes that make return or destruction infeasible for as long as the PHI is within the Business Associate's possession and control, even after the termination or expiration of this Contract.
 - (3) Minimum Necessary Standard. Business Associate shall apply the HIPAA Minimum Necessary standard to any use or disclosure of DSHS client PHI necessary to achieve the purposes of this Contract. See, 45 CFR 164.514 (d)(2) through (d)(5).
 - (4) Disclosure as Part of the Provision of Services. Business Associate shall only use or disclose DSHS client PHI as required to perform the services specified in this Contract or as required by law, and shall not use or disclose such PHI in any manner inconsistent with the use and disclosure restrictions placed on the Covered Entity by HIPAA.
 - (5) Impermissible Use or Disclosure of DSHS client PHI. Business Associate shall report to DSHS in writing all uses or disclosures of PHI not provided for by this Contract within one (1) working day of becoming aware of the unauthorized use or disclosure of the PHI. Upon request by DSHS, Business Associate shall mitigate, to the extent practicable, any harmful effect resulting from the impermissible use or disclosure.
 - (6) Failure to Cure. If DSHS learns of a pattern or practice of the Business Associate that constitutes a violation of the Business Associate's obligations under the terms of this Contract and reasonable steps by DSHS do not end the violation, DSHS shall terminate this Contract. If termination is not feasible, DSHS will report the problem to the Secretary of the federal Department of Health and Human Services (Secretary).

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- (7) DSHS Notice of Requests for Disclosure. DSHS will notify Business Associate when DSHS client PHI is requested from DSHS that has been previously provided to Business Associate by DSHS. The parties will jointly determine whether Business Associate has received a duplicate request or if Business Associate has the original or sole copy of the PHI.
- (8) Consent to Audit. Business Associate shall give reasonable access to DSHS client PHI, records, books, documents, electronic data and/or all other business information received from, or created or received by Business Associate on behalf of DSHS, to the Secretary and/or to DSHS for use in determining DSHS' compliance with HIPAA privacy requirements.

d. Individual Rights.

(1) Accounting of Disclosures.

- (a) Business Associate shall document all disclosures of DSHS client PHI and information related to such disclosures.
- (b) Within ten (10) working days of a request from DSHS, Business Associate shall make available to DSHS the information in Business Associate's possession that is necessary for DSHS to respond in a timely manner to a request for an accounting of disclosures of DSHS client PHI. See, 45 C.F.R. 164.504 and 164.528.
- (c) At the request of DSHS, Business Associate shall respond, in a timely manner and in accordance with HIPAA, to requests by Individuals for an accounting of disclosures of PHI.
- (d) If any Individual asks Business Associate for an accounting of disclosures of DSHS client PHI, or for access to or amendment of PHI in a Designated Record Set, Business Associate shall within ten (10) working days forward the request to DSHS for response.
- (e) Business Associate's record keeping procedures shall be sufficient to respond to a request for an accounting under this section for the six (6) years prior to the date on which the accounting was requested except for disclosures that occurred prior to the HIPAA compliance date for the Covered Entity.

- (2) Amendment. If DSHS amends, in whole or in part, a record or PHI contained in an Individual's Designated Record Set and DSHS has previously provided the PHI or record that is the subject of the amendment to Business Associate, then DSHS will inform Business Associate of the amendment pursuant to 45 CFR 164.526 (c)(3).

- e. Third Party Agreements. Business Associate shall enter into a written contract, that contains the same terms, restrictions, and conditions as the HIPAA and HITECH Compliance provisions in this Contract, with any agent, subcontractor, independent contractor, or other third party that has access to the DSHS client PHI accessible to Business Associate under the terms of this Contract.

24. HITECH Compliance.

- a. The Health Information Technology for Economic and Clinical Health Act ("HITECH Act") was adopted as part of the American Recovery and Reinvestment Act of 2009. The HITECH Act and its implementing regulations impose new requirements on Business Associates with respect to privacy, security, and breach notification. These provisions of the HITECH Act and the regulations applicable to Business Associates are collectively referred to as the "HITECH Business Associate Provisions." The Contractor acknowledges and agrees that to the extent it is functioning as a Business Associate of DSHS, the Contractor will comply with the HITECH Business Associate

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Provisions and with the obligations of a Business Associate, as prescribed by HIPAA and the HITECH Act.

b. Breach Notification.

- (1) In the event of a breach of unsecured protected health information (PHI) or disclosure that compromises the privacy or integrity of PHI obtained from DSHS or involving DSHS clients, Business Associate will take all measures required by state or federal law. Business Associate will provide Covered Entity with a copy of its investigation results and other information requested by Covered Entity. Business Associate will report all PHI breaches to the Department of Health and Human Services, Office of Civil Rights (OCR) as required by 45 CFR Parts 160 and 164, and will also provide notification to the DSHS Privacy Officer that a report has been filed with OCR.
- (2) Business Associate will notify Covered Entity within one (1) business day by telephone and in writing of any acquisition, access, use or disclosure of PHI and/or EPHI not allowed by the provisions of this Agreement of which it becomes aware, and of any instance where the PHI is subpoenaed, copied or removed by anyone except an authorized representative of Covered Entity or the Business Associate. 45 CFR §§164.304, 164.314 (a)(2)(C), 164.504(e)(2)(ii)(C), and 164.400-414.
- (3) Business Associate will notify the DSHS Privacy Officer within one (1) business day by telephone or e-mail of any potential breach of security or privacy. Business Associate will follow telephone or e-mail notification with a faxed or other written explanation of the breach, to include the following: date and time of the breach, medium that contained the PHI, origination and destination of PHI, Business Associate unit and personnel associated with the breach, detailed description of PHI, anticipated mitigation steps, and the name, address, telephone number, fax number, and e-mail of the individual who is responsible for the mitigation. Business Associate will address communications to:

DSHS Privacy Officer
Washington State Department of Social and Health Services
1115 Washington Street SE
PO Box 45135
Olympia, WA 98504-5135
Telephone: 360-902-8278
Fax: 360-902-7855
E-mail: DSHSPrivacyOffcer@dshs.wa.gov

- (4) If Covered Entity determines that Business Associate or its agent(s) is responsible for a breach of unsecured PHI:
 - (a) necessitating notification of Individuals under 45 CFR § 164.404, Business Associate bears the responsibility and costs for notifying the affected Individuals and receiving and responding to those Individuals' questions or requests for additional information;
 - (b) necessitating notification of the media under 45 CFR § 164.406, Business Associate bears the responsibility and costs for notifying the media and receiving and responding to media questions or requests for additional information;
 - (c) necessitating notification of the Department of Health and Human Services (DHHS) Secretary under 45 CFR § 164.408, Business Associate bears the responsibility and costs for notifying the Secretary and receiving and responding to the Secretary's questions or

- requests for additional information; and
- (d) Covered Entity will take appropriate remedial measures up to termination of this contract.

Special Terms and Conditions

1. **Definitions Specific to Special Terms:** The words and phrases listed below, as used in this Contract, shall each have the following definitions:
 - a. "Applicant(s)" means individuals submitting an application, a renewal or reporting a change for benefits or services.
 - b. "Assisting Agency" means community or faith based organizations, tribal, city, or county municipalities who provide trained employees or volunteers to help applicants complete and submit online applications through Washington Connection. These agencies must sign a Data Share Agreement with DSHS and each employee and volunteer of the agency with access to Applicant information must complete a DSHS non-disclosure form. Any reference to Assisting Agency includes the Assisting Agency's employees, agents, officers, subcontractors, third party contractors, volunteers, or directors.
 - c. "Authorized Representative" means someone designated by the Applicant to talk with DSHS about his/her benefits. This individual is authorized to act on the Applicant's behalf for eligibility purposes.
 - d. "Data" means the information that is exchanged as described by this Agreement that is specifically protected by law which may impose penalties for wrongful disclosure. This includes protected health information under the HIPAA Privacy Rule.
 - e. "ESA" means Economic Services Administration.
 - f. "SAW" means SecureAccess Washington. SAW is a single sign-on application gateway created by Washington State's Department of Information Services to access government services accessible via the Internet.
 - g. "Washington Connection" means the web-based benefit portal that provides access to a broad array of federal, state and local services and benefits to address basic needs.
2. **Purpose** To allow an Assisting Agency to help Washington residents complete an online application to provide more effective access to available federal, state and local services through the Washington Connection benefit portal and carry out other activities designed to help them maintain eligibility. This agreement also includes contractors that submit paper applications to DSHS.
3. **Statement of Work** The Contractor shall provide the services and staff, and otherwise do all things necessary for or incidental to the performance of work, as set forth below:
 - a. The Assisting Agency listed on page one of this Data Share Agreement is the Contractor, and DSHS is the Data Provider in this agreement. In exchange for the receipt of information, the Contractor agrees to abide by the terms and conditions in this agreement.
 - (1) Anyone at the Contractor agency with access to Data will be required to read and complete a non-disclosure agreement annually. The Contractor must maintain these forms and make them available for inspection.
 - (2) When Contractors use Washington Connection for applications, DSHS will work with them to:
 - (a) Establish access to the DSHS Washington Connection and online application.

