

**CONTRACT FOR HUMAN SERVICES  
AGING AND LONG TERM CARE PROGRAM SERVICES**

This contract for Human Services (the Contract) is entered into by Kitsap County, a municipal corporation, having its principal offices at 614 Division Street, Port Orchard, Washington, 98366 (the County) and Bremerton Services Association dba Meals on Wheels Kitsap, having its principal office at 2817 Wheaton Way, Suite 208, Bremerton, WA 98310 (the Contractor).

**SECTION 1. EFFECTIVE DATE OF CONTRACT**

The Contract will become effective on January 1, 2025 and terminate on December 31, 2025. The Contract may be extended for additional consecutive terms at the mutual agreement of the parties, not to exceed a total of \$500,560. In no event will the Contract become effective unless and until it is approved and executed by the Kitsap County Board of County Commissioners or the Kitsap County Administrator.

**SECTION 2. SERVICES TO BE PROVIDED**

- 2.1 A description of the services to be performed by the Contractor is set forth in Attachment B: Statement of Work, which is attached to the Contract.
- 2.2 The Contractor agrees to provide its own labor and materials. Unless otherwise provided for in the Contract, no material, labor or facilities will be furnished by the County.
- 2.3 The Contractor will perform the work specified in the Contract according to standard industry practice.
- 2.4 The Contractor will complete its work in a timely manner and in accordance with the schedule agreed to by the parties.
- 2.5 The Contractor will confer with the County from time to time during the progress of the work. The Contractor will prepare and present status reports and other information that may be pertinent and necessary, or as may be requested by the County.

**SECTION 3. CONTRACT REPRESENTATIVES**

The County and the Contractor will each have a contract representative. A party may change its representative upon providing written notice to the other party. The parties' representatives are as follows:

**County's Contract Representative**

Stacey Smith, Administrator  
Kitsap County Division of Aging and Long Term Care  
614 Division Street, MS-5  
Port Orchard, WA 98366  
(360) 337-5624  
Email: [sasmith@co.kitsap.wa.us](mailto:sasmith@co.kitsap.wa.us)

**Contractor's Contract Representative**

Deborah Horn, Executive Director  
Bremerton Services Association (dba Meals on Wheels Kitsap)  
2817 Wheaton Way, Suite 208  
Bremerton, WA 98310  
(360) 377-8511  
Email: [director@mealsonwheelskitsap.org](mailto:director@mealsonwheelskitsap.org)

**SECTION 4. COMPENSATION**

- 4.1 A description of the compensation to be paid to the Contractor is set forth in Attachment C: Budget Summary, which is attached to the Contract.
- 4.2 The total amount payable under the Contract, by the County to the Contractor in no event will exceed \$500,560. Any cost incurred by the Contractor over and above the year-end sums set out in the budgets shall be at the Contractor's sole risk and expense.
- 4.3 Unless otherwise provided in the Contract, the Contractor may submit an invoice to the County once a month for payment of work actually completed to date. Contractor shall use the Department of Human Services Contractor Invoice Form, available from the County. Subject to the other provisions of the Contract, the County generally will pay such an invoice within 30 days of receiving it.
- 4.4 The County will submit payments for work performed to:  
  
Bremerton Services Association (dba Meals on Wheels Kitsap)  
2817 Wheaton Way, Suite 208  
Bremerton, WA 98310
- 4.5 The Contractor will be paid only for work expressly authorized in the Contract.
- 4.6 Payments shall not be construed as a waiver of the County's right to challenge the level of the Contractor's performance under this Contract, and to seek appropriate legal remedies.



- 4.7 The Contractor will not be entitled to payment for any services that were performed prior to the effective date of the Contract or after its termination unless a provision of the Contract expressly provides otherwise.
- 4.8 If the Contractor fails to perform any substantial obligation, and the failure has not been cured within 10 days following notice from the County, the County may, in its sole discretion and upon written notice to the Contractor, withhold all monies due the Contractor, without penalty, until such failure to perform is cured.
- 4.9 The Contractor shall pay no wages in excess of the usual and accustomed wages for personnel of similar background, qualifications and experience.
- 4.10 The Contractor shall pay no more than reasonable market value for equipment and/or supplies.
- 4.11 County shall not be liable for payment of any invoice submitted later than thirty (30) days after termination of this Contract.
- 4.12 The Contractor shall complete and submit the Local Match Certification Form with their final invoice as provided by County, as applicable. Final payment will not be made without the completed form.
- 4.13 The Contractor shall not charge or accept additional remuneration from any client or relative, friend, guardian, or attorney of the client, or any other person for services provided under this Contract other than those specifically permitted herein or as authorized in writing by County. In the event that this provision is violated, County shall have the right, but not a duty, to assert a claim against the Contractor on its own behalf and/or on behalf of the client.
- 4.14 In the event that it is determined that any funds are disbursed under the terms of this Contract which were in violation of the terms and conditions herein such sums shall be reimbursed to County upon written demand. Neither payment of any funds under the terms of this Contract, nor any other action of County or its agents or employees, prior to the discovery of the violation, shall constitute a waiver thereof.

## **SECTION 5. AMENDMENTS AND CHANGES IN WORK**

- 5.1 In the event of any errors or omissions by the Contractor in the performance of any work required under the Contract, the Contractor will make all necessary corrections without additional compensation. All work submitted by the Contractor will be certified and checked by the Contractor for errors and omissions. The Contractor will continue to be responsible for the accuracy of work even after the work is accepted by the County.
- 5.2 In order to be effective, any contract renewal, amendment or modification must be in writing, be signed by both parties and be attached to the Contract. Work

under a renewal, amendment or modification may not commence until the renewal, amendment or modification has been approved by the County and has become effective.

- 5.3 Either party may request that the Contract terms be renegotiated when circumstances, which were neither foreseen nor reasonably foreseeable by the parties at the time of contracting, arise during the period of performance of the Contract. Such circumstances must have a substantial and material impact upon the performance projected under this Contract, and must be outside the control of either party.
- 5.4 Any cumulative amount of transfers among the Approved Summary Budget(s) direct cost subject categories, which exceeds five percent (5%) of the total object category budget for any funding source, will require a contract amendment.

## **SECTION 6. HOLD HARMLESS AND INDEMNIFICATION**

To the fullest extent permitted by law, Contractor shall indemnify, defend and hold harmless the County and its elected and appointed officials, officers, employees and agents from and against all claims resulting from or arising out of the performance of the Contract, whether such claims arise from the acts, errors or omissions of Contractor, its subcontractors, third parties or the County, or anyone directly or indirectly employed by any of them or anyone for whose acts, errors or omissions any of them may be liable. "Claim" means any loss, claim, suit, action, liability, damage or expense of any kind or nature whatsoever, including but not limited to attorneys' fees and costs, attributable to personal or bodily injury, sickness, disease or death, or to injury to or destruction of property, including the loss of use resulting therefrom. Contractor's duty to indemnify, defend and hold harmless includes but is not limited to claims by Contractor's or any subcontractor's officers, employees or agents. Contractor's duty, however, does not extend to claims arising from the sole negligence or willful misconduct of the County or its elected or appointed officials, officers or employees. For the purposes of this indemnification provision, Contractor expressly waives its immunity under Title 51 of the Revised Code of Washington and acknowledges that this waiver was mutually negotiated by the parties. This indemnification provision shall survive the expiration or termination of the Contract.

## **SECTION 7. INSURANCE**

- 7.1 **Professional Legal Liability.** The Contractor, if it is a licensed professional, will maintain professional legal liability or professional errors and omissions coverage appropriate to the Contractor's profession. The coverage will have a limit of not less than \$1 million per occurrence. The coverage will apply to liability for a professional error, act or omission arising out of the Contractor's services under the Contract. The coverage will not exclude bodily injury or property damage. The coverage will not exclude hazards related to the work rendered as part of the Contract or within the scope of the Contractor's services under the Contract,

including testing, monitoring, measuring operations or laboratory analysis where such services are rendered under the Contract.

- 7.2 **Workers' Compensation and Employer Liability.** The Contractor will maintain workers' compensation insurance as required by Title 51, Revised Code of Washington, and will provide evidence of coverage to the Kitsap County Risk Management Division. If the Contract is for over \$50,000, then the Contractor will also maintain employer liability coverage with a limit of not less than \$1 million.

Any additional workers' compensation requirements can be found in Attachment A, Special Terms and Conditions.

- 7.3 **Commercial General Liability.** The Contractor will maintain commercial general liability coverage for bodily injury, personal injury and property damage, subject to a limit of not less than \$1 million per occurrence. The general aggregate limit will apply separately to the Contract and be no less than \$2 million. The Contractor will provide commercial general liability coverage that does not exclude any activity to be performed in fulfillment of the Contract. Specialized forms specific to the industry of the Contractor will be deemed equivalent provided coverage is no more restrictive than would be provided under a standard commercial general liability policy, including contractual liability coverage.

- 7.4 **Automobile Liability.** The Contractor will maintain automobile liability insurance as follows (check ONE of the following options):

☐ Not Applicable.

☒ The Contractor will maintain commercial automobile liability insurance with a limit of not less than \$1 million each accident combined bodily injury and property damage. The aggregate limit will be at least \$2 million. Coverage will include owned, hired and non-owned automobiles.

☐ The Contractor will maintain automobile liability insurance or equivalent form with a limit of not less than \$100,000 each accident combined bodily injury and property damage. The aggregate limit will be at least \$300,000. If a personal lines automobile liability policy is used to meet this requirement, it must include a business rider and must cover each vehicle to be used in the performance of the Contract and the certificates of insurance must evidence that these conditions have been met. If the Contractor will use non-owned vehicles in performance of the Contract, the coverage will include owned, hired and non-owned automobiles.

## 7.5 **Miscellaneous Insurance Provisions**

- A. The Contractor's liability insurance provision will be primary with respect to any insurance or self-insurance programs covering the County, its elected and appointed officers, officials, employees and agents.
- B. The Contractor's commercial general liability insurance and automobile liability insurance (if applicable) will include the County, its officers, officials, employees and agents as additional insureds with respect to performance of services.
- C. The Contractor's commercial general liability insurance and automobile liability insurance (if applicable) will contain no special limitations on the scope of protection afforded to the County as an additional insured.
- D. Any failure to comply with reporting provisions of the policies will not affect the coverage provided to the County, its officers, officials, employees or agents.
- E. The Contractor's insurance will apply separately to each insured against whom claim is made or suit is brought subject to the limits of the insurer's liability.
- F. The Contractor will include all subcontractors as insureds under its policies or will furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors will be subject to all of the requirements stated in these provisions.
- G. The insurance limits mandated for any insurance coverage required by the Contract are not intended to be an indication of exposure, nor are they limitations on indemnification.
- H. The Contractor will maintain all required policies in force from the time services commence until services are completed. Certificates, policies and endorsements scheduled to expire before completion of services will be renewed before expiration. If the Contractor's liability coverage is written as claims-made-policy, then the Contractor must evidence the purchase of an extended-reporting period or "tail" coverage for a three-year period after completion of the services.

#### **7.6 Verification of Coverage and Acceptability of Insurers.**

- A. The Contractor will place insurance with insurers licensed to do business in the State of Washington and having A.M. Best Company ratings of no less than A-VII, with the exception that excess and umbrella coverage used to meet the requirements for limits of liability or gaps in coverage need not be placed with insurers or re-insurers licensed in the State of Washington.
- B. The Contractor will furnish the County with properly executed certificates of insurance or a signed policy endorsement which will clearly evidence all

insurance required in this Section before work under this Contract shall commence. The certificate will, at a minimum, list limits of liability and coverage. The certificate will provide that the underlying insurance contract may not be canceled, or allowed to expire, except on 30-days' prior written notice to the County. Any certificate or endorsement limiting or negating the insurer's obligation to notify the County of cancellation or changes must be amended so as not to negate the intent of this provision.

- C. The Contractor will furnish the County with evidence that the additional-insured provision required above has been met. Acceptable forms of evidence are the endorsement pages of the policy showing the County as an additional insured, or a letter of self insurance from a public entity risk pool which waives the requirement.
- D. Certificates of insurance will show the certificate holder as Kitsap County and indicate "care of" the appropriate County office or department. The address of the certificate holder will be shown as the current address of the appropriate County office or department.
- E. The Contractor will request that the Washington State Department of Labor and Industries, Workers Compensation Representative, send verification to the County that the Contractor is currently paying workers' compensation.
- F. Evidence of such insurance, as required above, shall be provided to the County at the following address:

Stacey Smith, Administrator  
Kitsap County Division of Aging and Long Term Care  
614 Division Street, MS-5  
Port Orchard, WA 98366

Upon receipt, the Human Services Department will ensure submission of all insurance documentation to the Risk Management Division, Kitsap County Department of Administrative Services.

- G. Written notice of cancellation or change will be mailed to the County Risk Management Division as provided above.
- H. The Contractor or its broker will provide a copy of all insurance policies specified in the Contract upon request of the Kitsap County Risk Manager.

## **SECTION 8. TERMINATION**

- 8.1 The County may terminate the Contract in whole or in part whenever the County determines, in its sole discretion, that such termination is in the best interests of the County. The County may terminate the Contract upon giving the Contractor 10 days' written notice. In that event, the County will pay the Contractor for all



costs incurred by the Contractor in performing the Contract up to the date of such notice, subject to the other provisions of the Contract.

- 8.2 If funding for the underlying project or matter is withdrawn, reduced or limited in any way after the Contract is signed or becomes effective, the County may summarily terminate the Contract notwithstanding any other termination provision in the Contract. Termination under this provision will be effective upon the date specified in the written notice of termination sent by the County to the Contractor. No costs incurred after the effective date of termination will be paid.
- 8.3 If the Contractor breaches any of its obligations under the Contract, and fails to cure the breach within 10 days of written notice to do so by the County, the County may terminate the Contract. In that event, the County will pay the Contractor only for the costs of services accepted by the County. Upon such termination, the County, at its discretion, may obtain performance of the work elsewhere, and the Contractor will bear all costs and expenses incurred by the County in completing the work and all damages sustained by the County by reason of the Contractor's breach.

## **SECTION 9. ASSIGNMENT, DELEGATION AND SUBCONTRACTING**

- 9.1 The Contractor will perform under the Contract using only its bona fide employees or agents, and the obligations and duties of the Contractor under the Contract will not be assigned, delegated or subcontracted to any other person or firm without the prior express written consent of the County.
- 9.2 If permitted to use subcontractors, the Contractor is responsible for subcontractor compliance with applicable terms and conditions of this Contract and all applicable laws.
- 9.3 The Contractor warrants that it has not paid, nor has it agreed to pay, any company, person, partnership or firm, other than a bona fide employee working exclusively for the Contractor, any fee, commission percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of the Contract.

## **SECTION 10. INDEPENDENT CONTRACTOR**

- 10.1 The Contractor's services will be furnished by the Contractor as an independent contractor and not as an employee, agent or servant of the County. The Contractor will perform the services in strict accordance with the provisions of the Contract, but will be free from control or direction over the performance of the services.
- 10.2 At least one of the following applies: (a) the services to be provided are outside the usual course of business for which the services are performed; (b) the services to be provided will be performed outside all of the places of business of

the Contractor; or (c) the Contractor is responsible for the costs of the principal place of business from which the services will be performed.

- 10.3 The Contractor warrants that it either: (a) is customarily engaged in an independently established trade, occupation, profession or business of the same nature as that involved in the Contract; or (b) has a principal place of business for the business it is conducting that is eligible for a business deduction for federal income tax purposes.
- 10.4 The Contractor acknowledges or warrants that it: (a) is responsible for filing at the next applicable filing period a schedule of expenses with the Internal Revenue Service for the type of business the Contractor is conducting; (b) has established an account with the State of Washington Department of Revenue and any other applicable state agencies for the business the Contractor is conducting for the payment of all state taxes normally paid by employers and businesses; and (c) has registered for and received a unified business identifier number from the State of Washington.
- 10.5 The Contractor warrants that it maintains a separate set of books or records that reflect all items of income and expenses of the business that the Contractor is conducting.
- 10.6 The Contractor acknowledges that the entire compensation for the Contract is set forth in the compensation provisions of the Contract and that the Contractor is not entitled to any County benefits, including, but not limited to: vacation pay; holiday pay; sick leave pay; medical, dental or other insurance benefits; fringe benefits; or any other rights or privileges afforded to County employees or agents.
- 10.7 In the event that any of the Contractor's employees, agents, servants or subcontractors, carry on activities or conduct themselves in any manner which may either jeopardize the funding of this Contract or indicates that they are unfit to provide those services as set forth within, the Contractor shall be responsible for taking adequate measure to prevent said employee, agent or servant from performing or providing any such services.
- 10.8 The Contractor will hold harmless, indemnify and defend the County, its officers, officials, employees and agents from and against any loss or expense, including, but not limited to, settlements, judgments, set-offs, attorneys' fees or costs, incurred or suffered by reason of claims or demands arising in connection with the provisions of this Section.

## **SECTION 11. COMPLIANCE WITH LAWS**

- 11.1 The Contractor, its employees, assignees, delegates or subcontractors will not discriminate against any person in performance of any of its obligations under the

Contract on the basis of race, color, creed, religion, national origin, age, sex, sexual orientation, marital status, veteran status or the presence of disability.

11.2 The Contractor, its employees, assignees, delegates and subcontractors will comply with all applicable provisions of the Americans With Disabilities Act and all regulations interpreting and enforcing such act.

11.3 The Contractor and its subcontractors, employees, agents, assignees and representatives will comply with all applicable federal, state and local laws, rules and regulations, policies, and the 2024-2027 Area Plan in their performance under the Contract.

11.4 STATEMENT OF ASSURANCE

a) The Contractor shall follow those mandates pertinent to Area Agencies on Aging contained in the Older Americans Act (PL 89 73 as amended) and promulgated as rules and regulations in the Code of Federal Regulations (CFR), especially by assuring that:

- 1) preference shall be given to providing services to older individuals with the greatest economic or social needs;
- 2) outreach efforts shall be used that identify individuals eligible under the Older Americans Act, with special emphasis on low income minorities, limited English speaking and rural elderly, and such individuals shall be informed of the availability of such assistance; and
- 3) methods by which priority of services is determined are developed and published.

b) The Contractor shall comply with Omnibus Budget Reconciliation Act (OBRA) of 1990 Advance Directives, as amended, attached hereto as Attachment K.

11.5 Religious Activities.

If the Contractor is a faith-based or religious organization, it retains its independence and may continue to carry out its mission, including the definition, development, practice, and expression of its religious beliefs. Such a Contractor, however, may not use any funding provided under this Agreement to support or engage in any explicitly religious activities, including activities that involve overt religious content such as worship, religious instruction, or proselytization, nor may such a Contractor condition the provision of services provided pursuant to this Agreement upon a participant's engaging in any such explicitly religious activities.

11.6 Subcontractors must follow all rules outlined in the Revised Code of Washington (RCWs), Washington Administrative Code (WACs), Department of Social and Health Services Program Management Bulletins, and the Division of Aging Policy and Procedures.

## **SECTION 12. DOCUMENTATION AND OWNERSHIP OF MATERIALS**

- 12.1 The Contractor will maintain readily accessible records and documents sufficient to provide an audit trail needed by the County to identify the receipt and expenditure of funds under this Contract, and to keep on record all source documents, such as time and payroll records, mileage reports, supplies and material receipts, purchased equipment receipts, and other receipts for goods and services.
- 12.2 The Contractor will maintain property record cards and property identification tabs as may be directed by County codes and changes thereto. This applies only to property purchased from funds under this Contract specifically designated for such purposes. Ownership of equipment purchased with funds under this Contract so designated for purchase shall rest in the County and such equipment shall be so identified.
- 12.3 The Contractor will provide a detailed record of all sources of income for any programs it operates pursuant to this Contract, including state grants, fees, donations, federal funds and others funds outlined in this Contract, or any amendments or modifications to this Contract. Expenditure of all funds payable under this Contract must be in accordance with the attached Statement of Work.
- 12.4 All reports, drawings, plans, specifications, all forms of electronic media, and data and documents produced in the performance of the work under the Contract will be "works for hire" as defined by the U.S. Copyright Act of 1976 and will be owned by the County. Ownership includes the right to copyright, patent, and register, and the ability to transfer these rights.
- 12.5 All property and patent rights, including publication rights, and other documentation, including, machine-readable media, produced by the Contractor in connection with the work provided for under this Contract shall vest in the County and such materials will be provided to the County upon request.
- 12.6 An electronic copy of all word processing documents will be submitted to the County upon request or at the end of the job using the word processing program and version specified by the County.

## **SECTION 13. PATENT/COPYRIGHT INFRINGEMENT**

The Contractor will hold harmless, indemnify and defend the County, its officers, officials, employees and agents, from and against any claimed action, cause or demand brought against the County, where such action is based on the claim that information supplied by the Contractor or subcontractor infringes any patent or copyright. The Contractor will be notified promptly in writing by the County of any notice of such claim.

## **SECTION 14. DISPUTES**

Differences, disputes and disagreements between the Contractor and the County arising under or out of the Contract will be brought to the attention of the County at the earliest possible time so that the matter may be settled or other appropriate action promptly taken. Any dispute relating to the quality or acceptability of performance or compensation due the Contractor will be decided by the County's contract representative or designee. All rulings, orders, instructions and decisions of the County's contract representative will be final and conclusive.

## **SECTION 15. CONFIDENTIALITY**

The Contractor, its employees, subcontractors and their employees will maintain the confidentiality of all information provided by the County or acquired by the Contractor in performance of the Contract, except upon the prior express written consent of the County or an order entered by a court of competent jurisdiction. The Contractor will promptly give the County written notice of any judicial proceeding seeking disclosure of such information.

## **SECTION 16. CHOICE OF LAW, JURISDICTION AND VENUE**

- 16.1 The Contract will be construed as having been made and delivered within the State of Washington, and it is agreed by each party that the Contract will be governed by the laws of the State of Washington, both as to its interpretation and performance.
- 16.2 Any action at law, suit in equity or other judicial proceeding arising under or out of the Contract may be instituted and maintained only in a court of competent jurisdiction in Kitsap County, Washington.
- 16.3 If the Contractor is a federally recognized Indian tribe, the following provision applies: Each party hereby grants a limited waiver of sovereign immunity to suit solely with respect to claims made against it by the other party relating to, or arising under, this Contract. Each party hereby voluntarily consents to the personal jurisdiction of the Superior Court of the State of Washington, County of Kitsap, solely for this purpose.

## **SECTION 17. MISCELLANEOUS**

- 17.1 **Authority.** The Contractor certifies that it has the legal authority to apply for the funds covered under this Contract.
- 17.2 **No Waiver.** The parties agree that the excuse or forgiveness of performance, or waiver of any provisions of the Contract, does not constitute a waiver of such provision or future performance, or prejudice the right of the waiving party to enforce any of the provisions of the Contract at a later time.



- 17.3 **Remedies.** All remedies provided for in this Contract will be construed as cumulative and will be in addition to any other remedies provided by law.
- 17.4 **Tax Payments.** The Contractor will pay all applicable federal, state and local taxes, fees (including licensing fees) and other amounts.
- 17.5 **Conflict of Interest.** The Contractor will avoid organizational conflicts of interest or the appearance of a conflict of interest in disbursing contract funds for any purpose and in the conduct of procurement activities. The Contractor will ensure that its subcontractors, employees, agents or representatives avoid conflicts of interest or the appearance of a conflict of interest in disbursing contract funds for any purpose and in the conduct of procurement activities.
- 17.6 **Personnel Removal.** The Contractor agrees to remove immediately any of its subcontractors, employees, agents or representative from assignment to perform services under the Contract upon receipt of a written request to do so from the County's contract representative or designee.
- 17.7 **Records Inspection and Retention.** The County may, at reasonable times, inspect the books and records of the Contractor relating to the performance of the Contract. The Contractor will retain for audit purposes all Contract-related records for at least six (6) years after termination of the Contract.
- 17.8 **Audit Requirements**

Independent Audits will be submitted annually to the Kitsap County Department of Human Services in the following manner:

The Contractor shall acquire a financial audit by an independent auditing firm to determine at a minimum the fiscal integrity of the financial transaction and reports of the Contractor. Copies of the audit and management letter shall be submitted to Kitsap County Department of Human Services within 9 months of the end of the Contractor's fiscal year.

The Contractor shall provide an independent audit of the entire organization which:

- A. Is performed by an independent Certified Public Accountant, the Washington State Auditor's Office, or another entity, which the County and Contractor mutually agree will produce an audit which meets the requirements described in items B and C below.
- B. Provides statements consistent with the guidelines of AICPA SOP 78-10, Reporting for Other Non-Profit Organizations.

- C. Is performed in accordance with generally accepted auditing standards and with Federal Standards for Audit of Governmental Organizations, Programs, Activities and Functions, and meeting all requirements of OMB Circular A-133, as applicable for agencies receiving federal funding in the amount of \$750,000 or more during their fiscal year.
- D. The Contractor shall submit two (2) copies of the audit and the management letter directly to the County immediately upon completion. The audit must be accompanied by documentation indicating the Contractor's Board of Directors has reviewed the audit.

17.9 **Publication.** The Contractor will not publish any results of the works performed under this Contract without the advance written permission of the County.

17.10 **County Review.** The County may, at reasonable times, review and monitor the financial and service components of the program as established by the Contractor by whatever means are deemed expedient by the Board of County Commissioners, or its respective delegates. Such review may include, but is not limited to, with reasonable notice, on-site inspection by County agents or employees, and the inspection of all records or other materials which the County deems pertinent to the Contract and its performance, except those deemed confidential by law.

The Contractor agrees to cooperate with County in the evaluation of the Contractor's project(s) and to make available all information required by any such evaluation process. The Contractor shall implement in a timely manner (within 30 days) any corrective actions identified in the final evaluation report. Address more urgent responses in the time required by AAA.

17.11 **Successors and Assigns.** The County, to the extent permitted by law, and the Contractor each bind themselves, their partners, successors, executors, administrators and assigns to the other party to the Contract and to the partners, successors, administrators and assigns of such other party in respect to all covenants to the Contract.

17.12 **Severability.** If a court of competent jurisdiction holds any provision of the Contract to be illegal, invalid or unenforceable, in whole or in part, the validity of the remaining provisions will not be affected and the parties' rights and obligations will be construed and enforced as if the Contract did not contain the particular provision held to be invalid. If any provision of the Contract conflicts with any statutory provision of the State of Washington, the provision will be deemed inoperative to the extent of the conflict or modified to conform to statutory requirements.

#### 17.13 **Definitions**

The words and phrases listed below, as used in this Contract, shall each have the following definitions:

- A. "HITECH" means the Health Information Technology for Economic and Clinical Health Act of 2009. Also referred to as the "HITECH Business Associate Provisions"
- B. "Nonexpendable Personal Property" shall mean any single item with a purchase price of \$100 or more and a life expectancy of more than twelve months

17.14 **Attachments.** The parties acknowledge that the following attachments, which are attached to this Contract, are expressly incorporated by this reference:

Attachment A-1: Special Terms and Conditions  
Attachment A-2: Medicaid Special Terms and Conditions  
Attachment B: Statement of Work  
Attachment C: Budget Summary/Estimated Expenditures  
Attachment D: Interlocal Agreements (D-1: State Federal, D-2: Older Americans Act)  
Attachment E: Data Share and Security Requirements  
Attachment F: Contractor Agreement on Nondisclosure of Confidential Information  
Attachment G: Certification Regarding Debarment, Suspension, and Other Responsibility Matters  
Attachment H: Certification Regarding Lobbying  
Attachment I: Assurance of Compliance Rehabilitation Act  
Attachment J: Assurance of Compliance Civil Rights Acts  
Attachment K: Assurance of Compliance Omnibus Budget Reconciliation  
Attachment L: Contractor Signature Page  
Attachment M: Kitsap Audit Form

In the event of an inconsistency between these General Terms and Conditions and the attachments, precedence shall be given in the following order: (1) General Terms and Conditions; (2) Special Terms and Conditions; (3) Statement of Work; (4) Budget Summary/Estimated Expenditures; (5) Data Share and Security Requirements.

- 17.15 **Whole Agreement.** The parties acknowledge that the Contract is the complete expression of their agreement regarding the subject matter of the Contract. Any oral or written representations or understandings not incorporated in the Contract are specifically excluded.
- 17.16 **Notices.** Any notice will be effective if personally served upon the other party or if mailed by registered or certified mail, return receipt requested, to the addresses set out in the contract representatives provision of the Contract. Notice may also be given by facsimile with the original to follow by regular mail. Notice will be deemed to be given three days following the date of mailing, or immediately if personally served. For service by facsimile, service will be effective at the beginning of the next working day.

- 17.17 **Prevailing Wage.** Contractor shall comply with the prevailing wage requirements of chapter 39.12 RCW and WAC 296-127, specifically including RCW 39.12.020 and WAC 296-127-023 (Building Service Maintenance), if applicable. Contractor shall pay not less than the prevailing rate of per diem wages to its employees and shall provide documentation to the County of its compliance with prevailing wage laws and regulations. A copy of such prevailing rates of wage statement shall be posted by the Contractor in a location readily visible to workers at the job site or as provided in RCW 39.12.020

For contracts greater than \$2,500, a "Statement of Intent to Pay Prevailing Wages: (hereinafter "Statement of Intent") must be submitted to and approved by the State Department of Labor and Industries prior to beginning work by the Contractor. If the Contract is more than \$10,000, the Statement of Intent shall include the Contractor's registration number, the prevailing wage for each classification of workers, and an estimate of the number of workers in each classification. An "Affidavit of Wages Paid" must be submitted to and approved by the State Department of Labor and Industries by the Contractor prior to release of the retained percentage. Copies of these documents shall be provided to the County prior to any payment being made to the Contractor. The fee for each of these documents shall be paid by the Contractor.

For contracts \$2,500 or less, the Contractor may submit the Statement of Intent to the County directly without the approval by the Washington State Department of Labor & Industries. Upon final acceptance of the work, the Contractor will submit an "Affidavit of Wages Paid" to the County.

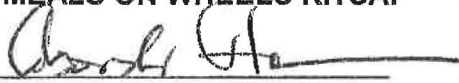
The Statement of Intent and Affidavit of Wages Paid must be submitted on forms approved by the Department of Labor and Industries. Contractors must file weekly certified payroll reports for all prevailing wage jobs (regardless of project amount) and submit them directly to L&I.

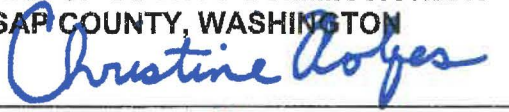
- 17.18 **Russian Government Contact and/ or Investments.** Contractor shall abide by the requirements of Governor Jay Inslee's Directive 22-03 and all subsequent amendments. The Contractor, by signature to this Contract, certifies that the Contractor is not presently an agency of the Russian government, an entity which is Russian-state owned to any extent, or an entity sanctioned by the United States government in response to Russia's invasion of Ukraine. The Contractor also agrees to include the above certification in any and all Subcontracts into which it enters. The Contractor shall immediately notify DSHS if, during the term of this Contract, Contractor does not comply with this certification. DSHS may immediately terminate this Contract by providing Contractor written notice if Contractor does not comply with this certification during the term hereof.

Dated this 19<sup>th</sup> day of December, 2024


Dated this 13 day of January 2025

**BREMERTON SERVICES ASSOCIATION BOARD OF COUNTY COMMISSIONERS  
DBA MEALS ON WHEELS KITSAP KITSAP COUNTY, WASHINGTON**

  
Deborah Horn, Executive Director

  
Christine Rolfes, Chair

  
Oran Root, Commissioner

  
Katherine T. Walters, Commissioner

ATTEST:

  
Dana Daniels, Clerk of the Board





## **ATTACHMENT A-1: SPECIAL TERMS AND CONDITIONS**

This delivery of services to the elderly is pursuant to: the Older Americans Act of 1965, as Amended, and/or State of Washington Senior Citizens Services Act of 1976, as Amended; and the Kitsap County Division of Aging and Long Term Care Area Plan for Aging Services.

The Contractor agrees to abide by the terms of RCW Chapters 74.08, 74.34, 74.36, 74.38, and 74.41 and any rules and regulations promulgated thereunder. All activities conducted under this Contract shall be in accordance with Federal and State regulations as referenced in the Aging and Long Term Support Administration Policies and Procedures for Area Agency on Aging operations. Contractor shall provide those services and staff, and otherwise do all things necessary for or incidental to the performance of work, as set forth in the approved Special Terms and Conditions, Statement of Work and within the Budget which are attached to the Contract and incorporated by this reference. A description of the services to be performed by the Contractor is set forth in Attachment B: Statement of Work.

County shall provide for ongoing technical assistance to the Contractor providing services under this Contract. Such technical assistance shall be provided onsite, by telephone, through written communication, and/or via group training sessions.

County shall distribute, in a timely manner, to the Contractor relevant information, changes in policy, technical assistance, and information issues received from the Aging and Long Term Support Administration.

### **PROGRAM INCOME**

Program income shall be used by the Contractor in accordance with the Department of Health and Human Services, Administration of Grants, Federal Regulations, Title 45, Part 92, Section 25. Costs borne by the program income may be used to satisfy cost sharing or matching requirements (45 C.F.R. § 25 (g) (3)).

### **CONTRIBUTIONS FOR SERVICES FUNDED UNDER THE OLDER AMERICANS ACT**

#### **1. THE CONTRACTOR MUST:**

- a) Provide each older person with a free and voluntary opportunity to contribute to the cost of the service;
- b) Protect the privacy of each older person with respect to his or her contribution;
- c) Establish appropriate procedures to safeguard and account for all contributions; and
- d) Use all contributions to expand the services of the project(s) under this Contract. Nutrition service providers must use all contributions to increase the number of meals served.

## 2. CONTRIBUTION SCHEDULES

Each Contractor may develop a suggested contribution schedule for services provided under this Contract. In developing a contribution schedule the provider must consider the income ranges of older persons in the community and the provider's other sources of income.

## 3. INABILITY TO CONTRIBUTE

The Contractor receiving Older Americans Act funds under this Contract may not deny any older person a service because the older person will not or cannot contribute to the cost of the service.

## 4. CONTRIBUTIONS AS PROGRAM INCOME

Contributions made by older persons are considered program income.

## REPORTING REQUIREMENTS

### 1. INSPECTION, MAINTENANCE OF RECORDS

- A. The Contractor shall provide County financial, program, and other reports at the intervals and in the formats required by County. The Contractor's failure to submit required reports in a timely manner may result in County's withholding payment of Reimbursement Requests submitted for reimbursement of funds related to the delinquent report(s).

County requires the Contractor to comply with the requirements of the computerized client tracking system used by County. As may be required by County, client demographic data, service history and/or reports shall be submitted to County in any or all of the following formats:

- i. Hard copy
- ii. Electronic media as may be specified by County
- iii. Encrypted Email

If a computerized report format is required, the Contractor will be provided the necessary software and training on its use. Units of service for each client must be reported monthly, with each client identified by name or County assigned client number, and birth date. County will provide technical assistance as necessitated by the reporting requirements. Data required or procedures for client tracking may change periodically.

- B. Subcontractors providing service on a firm fixed price basis shall provide semi-annual cost reports reflecting the total cost picture (including revenues) for the Project. These shall be in addition to the service reports required as a basis for reimbursement.

- C. Pursuant to 42 CFR 455.105(b), within 35 days of the date on a request by the Secretary of the U.S. Department of Health and Human Services, DSHS or County, Contractor must submit full and complete information related to Contractor's business transactions that include:
  - i. The ownership of any subcontractor with whom the Contractor has had business transactions totaling more than \$25,000 during the 12-month period ending on the date of the request; and
  - ii. Any significant business transactions between the Contractor and any wholly owned supplier, or between the Contractor and any subcontractor, during the 5-year period ending on the date of the request.
- D. Failure to comply with requests made under this term may result in denial of payments until the requested information is disclosed. See 42. CFR 455.105(c).
- E. The Contractor is required to respond to State or Federal audit requests for records or documentation, within the timeframe provided by the requestor. The Contractor must provide all records requested to either State or Federal agency staff or their designees.

## ATTACHMENT A-2: MEDICAID SPECIAL TERMS AND CONDITIONS

### 1. **Additional Client Rights.**

- a. In compliance with Title VI of the Civil Rights Act of 1964, and under RCW 2.42.010, RCW 2.43.010, RCW 74.04.025, and RCW 49.60.010, the Contractor is responsible to provide or arrange for language services to clients with Limited English Proficient (LEP). The Contractor shall ensure their staff working with Clients with LEP can effectively communicate with them. When communicating in writing, the Contractor shall ensure that DSHS Clients have access to documents translated into the Client's primary language. The Contractor must not discriminate against individuals with LEP.
- b. In compliance with the Americans with Disabilities Act (ADA) of 1990, under RCW 2.42.010 and RCW 49.60.010, the Contractor is responsible to provide or arrange for language services when working with a DSHS Client who is deaf, deaf-blind, or hard of hearing. The Contractor must provide language assistance services at no cost to Clients who are deaf, deaf-blind, or hard of hearing. The Contractor must not discriminate against individuals with any disability.

### 2. **Duty to Report Suspected Abuse, Abandonment, Neglect or Financial Exploitation.** The Contractor and its employees must immediately report all instances of suspected abandonment, abuse, financial exploitation or neglect of a vulnerable adult under RCW 74.34.035 or a child under RCW 26.44.030. The report shall be made to the Department's current state abuse hotline, 1-866-363-4276 (END-HARM). The Contractor must also report all suspected instances to the Client's case manager. If the notice to the Client's case manager was verbal then it must be followed by written notification within 48 hours. Further, when required by RCW 74.34.035, the Contractor and the Contractor's employees must immediately make a report to the appropriate law enforcement agency.

### 3. **Significant Change in Client's Condition.** The Contractor agrees to report any significant change in the Client's condition within twenty-four (24) hours to the Case Manager identified in the Client's current service plan.

### 4. **Death of Clients.** The Contractor shall report all deaths of DSHS Clients receiving services under this Contract to the Client's Case Manager within twenty-four (24) hours of finding out about the death. In addition, the Contractor shall provide written notification of the Client's death to the Client's Case Manager within seven (7) days.

### 5. **Provider Screenings.**

- a. The State must ensure the Department does not pay federal funds to excluded persons or entities. States are also required to check for the death of an individual provider, agency owner or authorized official prior to

contracting. The required ownership and control information for individuals with ownership interest of five percent (5%) or more, officers and managing employees will be obtained from the Medicaid Provider Disclosure Statement and checked against all required federal exclusion lists, and the Social Security Death Master List, prior to finalizing a contract.

- b. The Contractor will report any change in ownership, managing employees, and/or those with a controlling interest to the Department within thirty-five (35) days of such a change so that these individuals can be screened against the required federal exclusion lists as well as the Social Security Death Master List. For detailed instructions, please refer to the Medicaid Provider Disclosure Statement.

## **6. Duty to Disclose Business Transactions.**

- a. Under 42 CFR §455.104, the Contractor is required to provide disclosures from individuals with ownership interest, managing employees, and those with a controlling interest. The State must obtain certain disclosures from providers and complete screenings to ensure the State does not pay federal funds to excluded person or entities. Contractor must complete and submit a Medicaid Provider Disclosure Statement, DSHS Form 27-094. According to 42 CFR 455.104(c) (1), disclosures must be provided:
  - 1) When the prospective Contractor submits their initial application;
  - 2) When the prospective Contractor signs the contract;
  - 3) Upon request of the Department at contract revalidation/renewal;
  - 4) Within thirty-five (35) days after any change in ownership of the Contractor entity.
- b. Failure to submit the requested information may cause the Department to refuse to enter into an agreement or contract with the Contractor or to terminate existing agreements. The State will recover any payments made to a disclosing entity that fails to disclose ownership or control information, as required by 42 CFR 455.104.
- c. Under 42 CFR §455.105(b), within thirty-five (35) days of the date of a request by the Secretary of the U.S. Department of Health and Human Services or DSHS, Contractor must submit full and complete information related to Contractor's business transactions that include:
  - 1) The ownership of any subcontractor with whom the Contractor has had business transactions totaling more than \$25,000 during the twelve (12) month period ending on the date of the request; and
  - 2) Any significant business transactions between the Contractor and any wholly owned supplier, or between the Contractor and any



subcontractor, during the five (5) year period ending on the date of the request.

- d. Failure to comply with requests made under this term may result in denial of payments until the requested information is disclosed. See 42 CFR §455.105(c).

**7. Background Check.** The signatory for this Contract agrees to undergo and successfully complete a DSHS criminal history background check conducted by DSHS or the AAA every two years, and as required under RCW 43.20A.710, and RCW 43.43.830 through 43.43.842. If the Contractor has owners, employees or volunteers who may have unsupervised access to Clients in the course of performing the work under this Contract, the Contractor shall require those owners, employees or volunteers to successfully complete a criminal history background check prior to any unsupervised access and at least every two years thereafter. The Contractor must maintain documentation of successful completion of required background checks.

**8. False Claims Act Education Compliance.** Federal law requires any entity receiving annual Medicaid payments of five (5) million or more to provide education regarding federal and state false claims laws for all of its employees, contractors and/or agents. If Contractor receives at least five (5) million or more in annual Medicaid payments under one or more provider identification number(s), the Contractor is required to establish and adopt written policies for all employees, including management, and any contractor or agent of the entity, including detailed information about both the federal and state False Claims Acts and other applicable provisions of Section 1902(a)(68) of the Social Security Act. The law requires the following:

Contractor must establish written policies to include detailed information about the False Claims Act, including references to the Washington State False Claims Act;

- a. Policies regarding the handling and protection of whistleblowers;
- b. Policies and procedures for detecting and preventing fraud, waste, and abuse;
- c. Policies and procedures must be included in an existing employee handbook or policy manual, but there is no requirement to create an employee handbook if none already exists.

**9. Bribes and Kickbacks.** Federal law stipulates that Medicaid participants be offered free choice among qualified providers, therefore any exclusive relationship between the Contractor and any other Medicaid Service is prohibited.

**10. State or Federal Audit Requests.** The Contractor is required to respond to

State or Federal audit requests for records or documentation, within the timeframe provided by the requestor. The Contractor must provide all records requested to either State or Federal agency staff or their designees.

- 11. Drug-Free Workplace.** The Contractor agrees he or she and all employees or volunteers shall not use or be under the influence of alcohol, marijuana, illegal drugs, and/or any substances that impact the Contractor's ability to perform duties under this Contract.
- 12. Execution and Waiver.** This Contract shall be binding on DSHS only upon signature by DSHS with an Authorized Countersignature. Only the Contracting Officer or the Contracting Officer's designee has authority to waive any provision of this Contract on behalf of DSHS.

## ATTACHMENT B: STATEMENT OF WORK

### SENIOR NUTRITION PROGRAM BREMERTON SERVICES ASSOCIATION dba MEALS ON WHEELS KITSAP CONTRACT YEAR: JANUARY 1, 2025 - DECEMBER 31, 2025

#### General Statement of Work

#### I. Congregate Nutrition, Home Delivered Nutrition, Nutrition Education and Medicaid Services Home Delivered Meals - Statement Of Work

The Contractor shall provide Home Delivered and Congregate Nutrition Services to Kitsap County residents age 60 or over and otherwise eligible for the program, or who are COPEs recipients as defined, and in the manner prescribed by the Congregate and Home Delivered Nutrition Program Guidelines and Senior Nutrition Program Standards and Management Bulletins published by the Aging and Long-Term Support Administration (AL TSA) of the Washington State Department of Social and Health Services (DSHS), the most recent Bremerton Services Association (BSA) Senior Nutrition Program Proposal or as amended, and according to the terms and conditions as specified in the Statement of Work.

*While COVID-19 response flexibilities are in place as determined ALTSA policy, home delivered meals and congregate meals may be provided according to ALTSA policy and Management Bulletins.*

#### Congregate Meals, also referred to as senior community dining sites:

<u>Site</u>	<u>Projected days a week</u>
Waterfront Park Community Center, Bainbridge Island	5
Hostmark Apartments, Poulsbo	1 (meal pick-up)
Silverdale Community Church, Silverdale	1 (meal pick-up)
Pinewood Manor Apartments, E. Bremerton	5
Bremerton Senior Center, Manette	2
Conifer Ridge Apartments, Port Orchard	1 (meal pick-up)
Burley Community Hall, Burley	3
Fil-Am Community Center, Bremerton*	<u>1 day a month</u>

*Due to COVID-19 response and staff shortages, site locations and days of week may be altered.*

Alternative congregate meals may be picked up for carry-out, or delivered to homes of eligible program participants, as flexibilities provided through ALTSA Management bulletins allow.

Congregate Meal Sites shall be open to all eligible persons on a reservation basis. Reservations will be taken at the meal sites or can be made by calling the Contractor's office. In the event participant demand exceeds program capacity, the Contractor shall negotiate a method of determining who should receive service with the County.

Hot, pre-plated meals shall be provided to all congregate participants at onsite community dining locations. Except for the Asian/Pacific meal site, meals shall be prepared in a central kitchen and packed in bulk to the sites. The contractor may change days meals that are served at Congregate Meal sites and shall notify Kitsap County Aging and Long Term Care of schedule changes at least 7 days prior to proposed change.

\* Asian/Pacific Islander meal site, Bremerton - A Memorandum of Agreement between the Filipino American Association of Kitsap (Fil-Am) and BSA shall be in effect. This agreement stipulates the responsibilities of each party with regard to the operation of the Asian/Pacific meal site, including the provision of periodic cost reports to be utilized by the Contractor as justification for reimbursement. The Asian/Pacific meal site will purchase and serve meals from an approved local restaurant.

#### **Home Delivered Meals:**

Hot pre-plated meals shall be available for daily delivery to participant's homes Monday through Friday within the greater Bremerton area. Frozen meals shall be available for delivery in bulk quantities to participant's homes, county-wide, Monday through Friday. Meals shall be provided as authorized for each participant. Generally, one meal shall be provided per day, with exceptions possible upon appropriate authorization on a case-by-case basis.

Hot meals will be delivered within 24 hours (Monday through Friday) of receipt of appropriate referral. Other meals will be delivered on the day a congregate site is operating in the participant's area of the county except that in cases of immediate need, other arrangements will be made for delivery within 24 hours of receipt of the referral. All meals will be prepared in a central kitchen and transported to the participants' homes by Meals on Wheels Kitsap staff or volunteers.

All participants shall receive an assessment and meet eligibility requirements. Initial Home Delivered Meals assessments shall remain a function of Senior Information & Assistance. The Contractor shall complete subsequent reassessments as per requirements.

*Due to COVID-19 response, eligibility and assesment requirements may differ according to flexibilities provided thorough ALTSA Management bulletins.*

## **Assessment**

Senior Information & Assistance shall perform the initial Home Delivered Meals assessments. Contractor shall refer all Home Delivered clients to Senior I&A within seven (7) days of the start of service. Subsequent Home Delivered Meals reassessments shall be performed by the Contractor as per requirements for the length of time the client receives Home Delivered Meals services.

## **Eligibility**

Home Delivered clients shall meet eligibility requirements as follows:

Persons age 60 and older who:

- A. Are unable to prepare meals for themselves because of:
  - (1) A disabling condition, such as limited physical mobility, cognitive or psychological impairment, sight impairment; or
  - (2) Lack of knowledge or skills to select and prepare nourishing and well balanced meals; or
  - (3) Lack of means to obtain or prepare nourishing meals; or
  - (4) Lack of incentive to prepare and eat a meal alone; and
- B. Do not have an informal support system able or willing to adequately meet their nutritional needs; and
- C. Meets vulnerability criteria; A person is considered vulnerable if s/he:
  - (1) Is unable to perform one or more activities of daily living (ADL's) or instrumental activities of daily living (IADL's) as defined in the ALTSA Senior Nutrition Program Standards or
  - (2) Has a behavioral or mental health condition that could result in premature institutionalization, or is unable to provide for his/her own health and safety due to cognitive, behavioral, psychological/emotional conditions which inhibit decision-making and threaten the ability to remain independent.
- D. Are homebound. Homebound is defined as typically unable to leave home unassisted, and for whom leaving home takes considerable and taxing effort. The homebound person may leave home for medical treatment or short, infrequent absences for non-medical reasons; and
- E. Lacks an informal support system, i.e. has no family, friends, neighbors or others who are both willing and able to perform the service(s) needed or the informal support system needs to be temporarily or permanently supplemented.

## **Ensure Plus Liquid Meals**

Those seniors who are unable to consume or digest a regular meal due to a medical condition may be provided with "Ensure Plus" nutrition supplement upon authorization by an appropriate health professional, i.e. physician Or Registered Dietician Nutritionist (RDN). In addition, as authorized by the client's physician or RDN, Ensure Plus may also be provided as a supplement for those clients who require additional nutritional support. This includes clients served through the Family Caregiver Support Program. Individuals served through Family Caregiver Support Program shall be reimbursed through Respite line item.

Clients may be provided Ensure Plus in full-case lots. The maximum quantity to be provided to an individual client at any one time shall be two cases. The Contractor shall monitor the quantity of Ensure Plus provided to a client, to ensure that the quantity of goods issued does not exceed 60 cans for a 30-day period, including quantities obtained as Congregate "Ensure Plus."

All clients receiving Ensure Plus shall be assessed for Home Delivered Meals. Where indicated and with the client's permission, clients receiving Ensure Plus shall be referred to Senior Information & Assistance for screening for information, referral and assistance.

### **Shelf-Stable Meals**

For emergency use, a package of 3-5 shelf-stable meals may be provided to participants to be reconstituted when disaster or inclement weather disrupts normal meal delivery.

Shelf-stable meals shall be provided to home delivered, congregate and/or dually-enrolled clients under the following guidelines:

- A. All shelf-stable meals meet the 1/3 RDA requirement to qualify as an approved meal; and
- B. Shelf-stable meals and associated supplies are funded from sources other than County grants or client contributions; and
- C. Clients and caregivers shall be instructed that the purpose of shelf-stable meals shall be for use only during an emergency situation when the client's normal source of nutritional services is unavailable; and
- D. Shelf-stable meals shall not be provided to any person other than the registered client or his/her caregiver for use by the client; and
- E. In the event that insufficient supplies are available to provide all Home Delivered and Congregate clients with adequate shelf-stable meals, available supplies shall be distributed to those clients determined to be at greatest nutritional risk during emergency interruption of their regular nutritional service.

### **Dual Program Enrollment**

Clients who meet the eligibility requirements for Home Delivered Meals, but are occasionally able to attend a Congregate Meal Site, may be dually enrolled in both programs.

Dual enrollment is intended, and shall be used, only for those clients for whom an occasional outing has been identified as important to the improvement and/or maintenance of functional abilities.

Eligibility determination for dually enrolled status will be based upon the client's lowest level of functional ability, assuming these capabilities vary significantly from day to day.



Dually enrolled clients may attend a congregate site as little as one time every other week and then be provided up to twelve additional meals to take home on the same day. These meals may be frozen, Ensure Plus or additional congregate meals. Additional congregate meals shall be counted as "regular Congregate meals", Ensure Plus as "Congregate Ensure Plus," and frozen as "Congregate other."

Ensure Plus and/or frozen meals shall be made available for dually enrolled clients in any quantity from a one-day supply (two cans of Ensure Plus, or one frozen meal) up to the maximum of twelve days supply (24 cans of Ensure Plus or 12 frozen meals).

**Nutrition Education:**

Nutrition Education shall be overseen by a Registered Dietician Nutritionist (RDN) and available to participants in both segments of the program in a manner determined by the Contractor and approved by the County. However, priority shall be given to providing dietary advice to participants with identified dietary limitations.

**Nutritional/Diabetes Risk Assessments:**

Contractor will conduct Nutritional/Diabetes Risk Assessments for homebound and Congregate Meal Site participants in accordance with the Federal Older Americans Act Performance System (OAAPS) program reporting. Assessments shall be performed under the direction of a Registered Dietitian Nutritionist. The County shall supply assessment forms.

The number of participants determined to be at high risk must be included in the data submitted to the County. A participant is defined as high risk if they score comparable to six (6) or higher on the nutritional risk assessment.

**Medicaid Programs-Community Options Program Entry System (COPES),  
Medicaid Alternative Care (MAC) and Tailored Supports for Older Adults (TSOA)  
Home Delivered Meals:**

Home Delivered Meals (hot or frozen) may be provided to participants who are currently eligible and receiving Medicaid-funded services through COPES, MAC or TSOA. The participant's DSHS or County case manager shall authorize services. A maximum of seven (7) meals per week may be provided. Client donations shall not be solicited or accepted from participants in these programs.

Medicaid-funded Home Delivered Meals services shall be exempt from the regular Home Delivered Meals assessment and reassessment requirement. Service authorization shall be documented in ProviderOne.

Medicaid-funded Home Delivered meals shall be prepared in accordance with the Home Delivered Meals Program Standards promulgated by Aging and Long Term Support Administration of the Department of Social and Health Services, currently, or as revised.

Reimbursement directly to BSA by the State of Washington for Medicaid-funded meals shall be on a firm, fixed price basis, and shall be limited to a per-meal maximum of \$8.50 per meal or the rate established through ALTSA policy or Management Bulletin. Claims for reimbursement shall be submitted through ProviderOne.

The non-Medicaid rate for Home Delivered Meals is \$6.80.

**Rate justification for increased maximum rate shall be submitted to the County annually.**

**General Administration:**

- A. Congregate or dually enrolled clients shall not receive more than twelve days of meals to carry out from a meal site. It is expected that dually enrolled clients will be participating at the Congregate Meal Site on the days that additional meals are sent out with the client. The Congregate Meal Site shall not be used as a pick-up point only.
- B. Ensure Plus and/or Home Delivered Meals may be provided to any otherwise eligible person residing in a community based setting.  
Community based setting is defined as:
  - (1) The client's house or apartment, owned or rented; or
  - (2) The home of a family member, friend or caregiver (except Adult Family Homes); or
  - (3) A senior apartment, subsidized or non-subsidized.

Persons wishing to receive Ensure Plus and/or Home Delivered Meals who reside in a setting licensed by the State Department of Health as an Adult Family Home or Boarding Home (CCFs, retirement centers, etc.) may be considered for services on an individual case basis.

Requests shall be addressed to:  
Stacey Smith, Administrator  
Division of Aging and Long Term Care  
614 Division St. MS-5  
Port Orchard, WA 98366  
Or via fax (360) 337-5746

- C. The Contractor shall coordinate with Senior Information and Assistance on any revisions to the working agreement with the Senior Information and Assistance office regarding Home Delivered Meals and Ensure Plus nutrition supplement services. The County must approve any changes to the working agreement.
- D. In the event participant demand exceeds program capacity, the Contractor shall negotiate a method with the County on establishing priorities regarding service delivery throughout the contract period.
- E. For tracking purposes, the following categories shall apply:

Congregate - (as provided to either a Congregate or dually enrolled client):

Congregate regular - pre-plated congregate meal(s) consumed on site; site-packaged congregate meals sent home from the site.

Congregate other - frozen meal(s) sent home from the site; shelf-stable meals sent home from the site.

Congregate Ensure Plus - Ensure Plus consumed on site or sent home.

Home Delivered - (as provided to either a Home Delivered or dually enrolled client):

Home Delivered Hot - hot packaged meal(s) delivered to home.

Home Delivered Frozen - frozen packaged meal(s) delivered to home; shelf-stable meals delivered to the home.

Home Delivered Ensure Plus -Ensure Plus delivered to home or picked up at BSA offices. This includes the Family Caregiver Support Program.

- F. The Contractor shall maintain and continue to implement written Procurement Procedures, in compliance with 45 CFR, in support of the purchase of catering goods and services (BARS line 31) for activities performed under this agreement.

**Client Characteristics:**

Sufficient outreach must be conducted to assure the service is made known and available to all segments of the population in need. Of the total annual number of persons served by the program, priority will be given to individuals with the following characteristics:

- A. Persons with incomes at or below 40% of State Median Income
- B. Persons age 75 or more
- C. Minority Persons
- D. Persons who live alone
- E. Persons with limited ability to speak English

**Project Performance Standards:**

The Contractor shall provide at least the following levels of service for the period from January 1, 2025 through June 30, 2025:

- A. State Senior Nutrition
  - 1) Consumable Supplies (HDM bags and congregate supplies) to maximum expenditure of \$8,945.
  - 2) Home Delivered Expansion meals 2,600 to at least 200 participants.

The Contractor shall provide at least the following levels of service for the period from January 1, 2025 through December 31, 2025:

- A. 26,000 Congregate Meals or alternative meals:
- B. Home Delivered Meals:
  - (1) 38,000 Hot or Frozen delivered meals
  - (2) 5,000 Ensure Plus liquid meals
- C. 125 hours of nutrition education and dietary counseling for 3,000 Nutrition Program participants.

- D. Community Options Program Entry System (COPES) and Medicaid Transformation Project (MTP) Medicaid-funded services projected number of meals is an additional 17,700 meals.
- F. Medicaid services for home delivered meals are authorized by case management staff and are paid through the DSHS ProviderOne system directly to BSA for the COPES, and MTP-Tailored Supports for Older Adults (TSOA) and Medicaid Alternative Care (MAC) programs.
- G. Family Caregiver Support Meals, as authorized by Division case manager, up to a maximum expenditure of \$13,000.
- H. Senior Farmers Market Nutrition Program Services
  - (1) Electronic benefits cards distribution and nutrition education for eligible seniors based on funding availability.
  - (2) 50 home delivered produce bags for eligible seniors.

**Reporting Requirements:**

The Contractor shall complete data reporting processes through the Community Living Connections (CLC) online database to meet Division and ALTSA mandatory reporting requirements by no later than the tenth (10th) day of the month for services provided the previous month for all non-Medicaid services.

Technical assistance, training and licensing support will be provided through the Division, in coordination with the Contractor.

Medicaid home delivered meal services authorized by case management staff and paid to BSA by the State of Washington, DSHS, ProviderOne system must also be reported as number of meals served on a monthly basis to the Division.

**II. Senior Farmers Market Nutrition Project (SFMNP) - Statement of Work**

The Contractor Shall operate a Senior Farmers Market Nutrition Program in accordance with the Purpose, Service Delivery, Requirements and Definitions sections, as described in this statement of work and as promulgated by Aging and Long Term Support Administration of the Department of Social & Health Services, currently or as revised.

**Purpose:**

The purpose of the Seniors Farmers Market Nutrition Program is to:

1. Provide resources in the form of fresh, nutritious, unprepared, locally grown fruits, vegetables, and herbs from farmers' markets, roadside stands and community supported agriculture programs to low-income seniors;
2. Domestic consumption of agricultural commodities by expanding or aiding in the expansion of domestic increase the farmers' markets, and community supported agriculture programs; and
3. Develop or aid in the development of new and additional farmers' markets, roadside stands, and community supported agriculture programs.

**Service Delivery:**

Services shall be delivered through one or more of the following models:

1. The BSA Meals on Wheels Kitsap program (Contractor) will purchase local produce and deliver it, through the existing Home Delivered Meals program, to the homes of frail, homebound seniors;
2. Seniors will purchase produce directly from farmers' markets or roadside stands using the electronic benefits card they receive from the SFMNP; and
3. Farmers or volunteers may deliver local produce to congregate meal sites, and/or low-income senior housing buildings for pick-up by eligible seniors within available funding and program service options.

### **Requirements:**

#### **Recipient Eligibility**

The Contractor shall ensure that the recipients are low-income seniors, i.e., age 60 and older, or 55 and older if Native American/Alaska Native, with income at or below 185% of the Federal Poverty Level. Eligibility will be certified by recipient signature (e.g., on a program sign up list or individual application or personal information form) or knowledge of current eligibility for another means-tested program with the same or lower income criteria (e.g., low-income housing, SSI, COPES, etc.)

#### **Farmers/Farmers Market/Roadside Stand/ Community Supported Agriculture Program (CSA) Eligibility**

The Contractor shall purchase eligible foods from a farmer, farmers' market, roadside stand, or CSA only if they meet the criteria as defined in the **Definitions**, included in this Statement of Work. The Contractor shall obtain from the seller a signed certification, using an approved form, that the seller meets these criteria.

#### **Local Coordination**

The Contractor shall coordinate service development and service delivery with the County, the local farmers' market association(s) and other interested parties as may be identified during the operation of the program.

The Contractor shall maintain an outreach program as necessary to assure the services are known and available to all eligible segments of the population. The outreach activities shall include advertising, articles in local and senior newspapers; in-person presentations to senior centers and meal sites; and signage to be posted by authorized sellers for easy identification by program recipients.

#### **Electronic Benefits Card Issuance**

The Contractor agrees to use the ALTSA-developed forms and processes to determine program eligibility and issue individual SFMNP participant benefits through electronic benefits cards.

The Contractor shall ensure that benefits are redeemed only by authorized farmers, farmers markets, roadside stands, and/or community supported agriculture programs and only for eligible foods; no cash change is issued; eligible produce purchased must equal an amount not less than the value of the benefit on the electronic benefits card; and no State or local taxes will be collected on purchases of food with the card.

Electronic Benefits cards issued by ALTSA shall be distributed and redeemed according to current or revised standards.

### **Nutrition Education**

The Contractor shall provide nutrition education to program participants, either by direct distribution of approved nutrition, food handling/storage, or recipe information, or through an agreement with another approved participating organization.

Nutrition education materials may include recipes and nutrient values specific to the produce provided; general nutrition information as it relates to health and disease management; and other information on preparation and storage of foods, and other relevant information.

### **Reporting Requirements:**

The Contractor shall submit a final program report, due no later than November 15, 2025, reflecting all program activity for the SFMNP season, typically from June 1, 2025 through October 31, 2025, or as otherwise directed by the Division based on report requirements from ALTSA. The program report must include or as otherwise revised:

1. The number of Authorized Farmers/Outlets in Kitsap County. (Farmers, farmers' markets, roadside stands, community supported agriculture programs that participated);
2. The total number of clients served;
3. Brief summary of program activities, including nutrition education;
4. Statements of problems, challenges, successes, publicity received, etc.; and
5. Clients Served through Bulk Purchase of Produce;
6. A list of Certified Sellers/CSAs that were used to purchase bulk produce, if applicable, and;
7. The total number of undistributed SFMNP benefit cards and the number separated by:
  - Cards remaining from initial card inventory
  - Cards remaining from the replacement card inventory.

### **Definitions:**

***Authorized Farmers' Market*** means a farmers' market that is approved through Department of Health and is able to process electronic benefits cards in accordance with the USDA and state requirements.



**Electronic Benefits Card** means a negotiable financial instrument by which benefits are transferred to program recipients. Electronic Benefits Cards must be distributed and redeemed as per current or revised standards.

**Community Supported Agriculture Program** means a program under which a farmer grows food for a group of shareholders (or subscribers) who pledge to buy a portion of the farmer's crop that season.

**Eligible Foods** means fresh, nutritious, unprepared, locally grown fruits, vegetables, and herbs for human consumption. Eligible foods may not be processed or prepared beyond their natural state except for usual harvesting and cleaning processes. Only fresh, unprocessed fruits, vegetables and fresh-cut herbs may be provided under this program. Dried fruits or vegetables, such as prunes (dried plums), raisins (dried grapes), sun-dried tomatoes or dried chili peppers are not considered eligible foods. Potted fruit or vegetable plants, potted or dried herbs, wild rice, nuts of any kind (even raw), honey, maple syrup, cider, and molasses are also not allowed.

**Farmer** means an individual or business that grows a portion of the produce that they sell to representatives of local SFMNP, either directly or through farmers' markets, roadside stands, and community supported agriculture programs, but does not include an individual who exclusively sells produce grown by someone else, such as wholesale distributors.

**Farmers' Market** means an association of at least five local farmers who assemble at a defined location for the purpose of selling their produce directly to consumers.

**Locally Grown** means grown within the borders of Washington State or in an adjacent county of Idaho or Oregon.

**Nutrition Education** means individual or group education sessions and the provision of information and educational materials designed to improve health status, achieve positive change in dietary habits, and emphasize relationships between nutrition and health, all in keeping with the individual's personal, cultural, and socio-economic preferences.

**Recipient** means a person who meets the age and income eligibility limits of the program and who receives eligible foods through the program.

**Roadside Stand** means a location at which a single, individual farmer sells his/her produce directly to consumers.

#### **Senior Farmers Market Nutrition Program (SFMNP) Funding**

Initial funding authorized for the Senior Farmer's Market Nutrition Program is projected at \$6,500 and is dependent upon final allocation made by USDA and DSHS/ALTSA to the County. Funds for electronic benefits cards are not reimbursed through the County payment system and therefore are not included in this dollar amount.

### **III. State and Federal Family Caregiver Support Nutrition Services - Statement of Work**

The Senior Nutrition Program Standards and Management Bulletins published by the Aging and Long Term Support Administration of the Washington State Department of Social and Health Services shall apply to these meals. In addition, guidelines for the State Family Caregiver Support Program and the National Family Caregiver Support Services under the legislative authority of Title III, Part E of the Older Americans Act, as amended in 2000 (Public Law 106-501), currently issued or as revised shall apply.

Under this section of this agreement (1) the Senior Information and Assistance (Sr. I&A) and Family Caregiver Support Program unit of the County shall fully assess and refer clients for hot, frozen and liquid meals as a supplemental service; (2) no specific Contractor outreach activities shall be required; (3) the rate of reimbursement for these meals shall be \$6.80 per meal or as otherwise negotiated or established by ALTSA policy or Management Bulletin; and (4) the specific amount of services will be authorized by Senior I & A/Family Caregiver Support Program staff.

### **III. Line Item Budget Reporting**

The Contractor shall submit a line-item budget no later than January 31, 2025.

### **ATTACHMENT C: BUDGET SUMMARY**

Payment for services under this Contract shall be through either a firm fixed price, fee for service, unit cost rate or reimbursement of actual costs. Invoices shall be submitted by the Contractor no later than the tenth (10<sup>th</sup>) day of the month for services provided the previous month.

In addition to other grant funds awarded under this Contract, Nutrition Services Incentive Program (NSIP) cash may be made available to the Contractor for the purchase of food to be used in the Senior Nutrition Project. Because the USDA unit rate no longer applies, the Division is allocating NSIP funds within the Division grant. No match is required for NSIP. Requirements for the distribution and use of NSIP cash under Title IIIC of the OAA are unchanged. Criteria for counting meals for NSIP funding remains the same under the reauthorized OAA Title III C meals programs. Additionally, as per former USDA requirements, the Contractor must maintain documentation of purchase of United State agricultural commodities and other foods of U.S. origin in sufficient quantities to equal or exceed the amount of NSIP funds awarded. NSIP funds must be used to expand meal services to older adults.

Client contributions may be reviewed on a schedule to be mutually determined by the parties to this agreement. At any such periodic review, during which, in the opinion of the County, the revenues from client contributions are less than that which was anticipated for the year-to-date proportional share of the project year, the County shall, at its option: (1) allocate additional revenue; (2) amend the Statement of Work to reduce the project performance standards; or, (3) adjust both revenue and performance standards. It is the mutual intent of the parties to maintain essential nutritional services, within the constraints of available funds.

Federal funds shall not exceed 85% of the total project cost. Therefore, anticipated federal funds divided by 0.85 will yield the minimum total effort, and the required match is the difference between the anticipated federal amount and the minimum total effort. If the actual total project expense is greater than this amount, that difference is described as funds/support "in addition to match." If the actual expense is less than the minimum effort projected, the federal funds claimable will be reduced to 85% of the new total. Contractor must show that the match requirement has been satisfied each month as calculated on the reimbursement form.

This Agreement is funded in part by federal sources in excess of \$25,000 catalogued under CFDA #93.045 (Title III-C), 93.052 (Title III-E), 93.053 (NSIP), (USDA) Senior Nutrition Farmers' Market Program, state sources under the Senior Citizen Services Act (SCSA) and Family Caregiver Support Program (FCSP) funds. Maximum consideration for purposes of this Contract period shall be \$500,560.

Reimbursement of audit expenses shall be in accordance with Part III, Subpart B (4) of this Agreement, "Allowable Costs."

Funds awarded to the Contractor under this Contract are contingent upon the ability of the Contractor to spend the funds according to the Budget as attached as Attachment C shall be a rate of spending of the funds during the period of the terms of the Contract that shall be in a manner as defined in this Contract for both parties. PROVIDED, if Contractor fails to meet the quarterly spending projections as per Attachment C the total amount of the award may be reduced by an amount not to exceed the difference between the quarterly spending projections and the actual spending rate for the period.

Unearned funds from one project period will not be carried over into any succeeding period but will be redistributed to the program contractors according to a formula developed by County. If the cost of the project exceeds the projected quarterly expenditures as per Attachment C: Budget, the Contractor shall take action to reduce such excess cost in a manner mutually agreed upon by County and Contractor.

#### ALLOWABLE COSTS

In order to be allowable, County must approve costs. The following procedures govern approval of these costs:

a) **INDIRECT COSTS**

When costs are treated as indirect costs, acceptance of the costs as part of the indirect cost rate or cost allocation plan shall constitute approval.

b) **DIRECT COSTS**

- 1) When costs are treated as direct costs, they shall be approved in advance.
- 2) If costs are specified in a budget, approval of the budget shall constitute approval of the costs.
- 3) If costs are not specified in a budget or there is no approved budget, the Contractor shall obtain specific prior approval in writing.

c) **WAIVER OF REQUIREMENT**

County may conditionally waive the requirement for its approval of direct costs. Such conditional waiver shall apply only to the requirement for approval. If, upon audit or otherwise, it is determined that the costs do not meet other requirements or tests for allow ability specified by the applicable cost principles, such as reasonableness and necessity, the costs may be disallowed and the Contractor shall be fully responsible for any such direct costs incurred.

The Contractor shall bill COVID-19 funds under separate COVID contract(s) with the County's Aging and Long-Term Care Division before billing standard OAA and NSIP funding, when applicable.

## Budget Table

Program/Funding Source	Total	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
<b>Congregate Meals</b>	<b>193,188</b>	<b>48,047</b>	<b>49,047</b>	<b>48,047</b>	<b>48,047</b>
III C-1	179,914	44,978	44,978	44,979	44,979
SCSA	1,000	0	1,000	0	0
NSIP	12,274	3,069	3,069	3,068	3,068
<b>Home Delivered Meals</b>	<b>255,369</b>	<b>63,342</b>	<b>65,342</b>	<b>63,343</b>	<b>63,342</b>
III C-2	230,846	57,711	57,711	57,712	57,712
SCSA	2,000	0	2,000	0	0
NSIP	22,523	5,631	5,631	5,631	5,630
<b>Nutrition Education</b>	<b>4,000</b>	<b>1,000</b>	<b>1,000</b>	<b>1,000</b>	<b>1,000</b>
III C-1	2,000	500	500	500	500
III C-2	2,000	500	500	500	500
<b>State Senior Nutrition (Spend before June 30)</b>	<b>8,945</b>	<b>2,236</b>	<b>2,236</b>	<b>2,236</b>	<b>2,237</b>
<b>Family Caregiver Meals</b>	<b>13,000</b>	<b>3,250</b>	<b>3,250</b>	<b>3,250</b>	<b>3,250</b>
SFCSP	13,000	3,250	3,250	3,250	3,250
<b>Senior Farmers Market Program</b>	<b>6,500</b>	<b>0</b>	<b>1,000</b>	<b>5,500</b>	<b>0</b>
State	6,500	0	1,000	5,500	0
Federal	0	0	0	0	0
<b>Home Delivered Meals Expansion</b>	<b>19,558</b>	<b>9,779</b>	<b>9,779</b>	<b>0</b>	<b>0</b>
State SB 5736 (Spend Jan - June 30)	19,558	9,779	9,779	0	0
<b>Total</b>	<b>500,560</b>	<b>127,654</b>	<b>131,654</b>	<b>123,376</b>	<b>117,876</b>
<b>Match</b>	<b>73,193</b>	<b>18,298</b>	<b>18,298</b>	<b>18,299</b>	<b>18,298</b>
III C (15% required)	73,193	18,298	18,298	18,299	18,298
<b>Total Project</b>	<b>573,753</b>	<b>145,952</b>	<b>149,952</b>	<b>141,675</b>	<b>136,174</b>

Funding Source	CFDA #	Amount
III C-1	93.045	181,914
III C-2	93.045	232,846
NSIP	93.053	34,797

Any cumulative amount of transfers among the Approved Summary Budget(s) direct cost subject categories, which exceeds five percent (5%) of the total object category budget for any funding source, will require a contract amendment.



**ATTACHMENT D-1: INTERLOCAL AGREEMENT AAA AGREEMENT STATE/ FEDERAL** [DSHS Agreement #2469-57069 Effective July 1, 2024- June 30, 2025]. Any subcontract for the Kitsap County Area Agency on Aging is subject to the provisions of the applicable Interlocal Agreement between the Department of Social and Health Services and the Area Agency on Aging, unless otherwise provided for in the contract between the Kitsap County Area Agency on Aging and the Contractor. When referencing the applicable Interlocal Agreement in relation to the subcontract, the Kitsap County Area Agency on Aging replaces DSHS and subcontractor replaces AAA.

#### **AAA General Terms And Conditions**

1. **Amendment.** This Agreement, or any term or condition, may be modified only by a written amendment signed by both parties. Only personnel authorized to bind each of the parties shall sign an amendment.
2. **Assignment.** Except as otherwise provided herein, the AAA shall not assign rights or obligations derived from this Agreement to a third party without the prior, written consent of the DSHS Contracts Administrator and the written assumption of the AAA's obligations by the third party.
3. **Client Abuse.** The AAA shall report all instances of suspected client abuse to DSHS, in accordance with RCW 74.34.
4. **Client Grievance.** The AAA shall establish a system through which applicants for and recipients of services under the approved area plans may present grievances about the activities of the AAA or any subcontractor(s) related to service delivery. Clients receiving Medicaid funded services must be informed of their right to a fair hearing regarding service eligibility specified in WAC 388-02 and under the provisions of the Administrative Procedures Act, Chapter 34.05 RCW.
5. **Compliance with Applicable Law.** At all times during the term of this Agreement, the AAA and DSHS shall comply with all applicable federal, state, and local laws, regulations, and rules, including but not limited to, nondiscrimination laws and regulations.
6. **Confidentiality.** The parties shall use Personal Information and other confidential information gained by reason of this Agreement only for the purpose of this Agreement. DSHS and the AAA shall not otherwise disclose, transfer, or sell any such information to any other party, except as provided by law or, in the case of Personal Information except as provided by law or with the prior written consent of the person to whom the Personal Information pertains. The parties shall maintain the confidentiality of all Personal Information and other confidential information gained by reason of this Agreement and shall return or certify the destruction of such information if requested in writing by the party to the Agreement that provided the information.
7. **AAA Certification Regarding Ethics.** By signing this Agreement, the AAA certifies that the AAA is in compliance with Chapter 42.23 RCW and shall comply with Chapter 42.23 RCW throughout the term of this Agreement.
8. **Debarment Certification.** The AAA, by signature to this Agreement, certifies that the AAA is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this Agreement by any Federal department or agency. The AAA also agrees to include the above requirement in all subcontracts into which it enters, resulting directly from the AAA's duty to provide services under this Agreement.
9. **Disputes.** In the event of a dispute between the AAA and DSHS, every effort shall be made to resolve the dispute informally and at the lowest level. If a dispute cannot be resolved informally, the AAA shall present their grievance in writing to the Assistant Secretary for Aging and Long-Term Support Administration. The Assistant Secretary shall review the facts, contract terms and applicable statutes and rules and make a determination of the dispute. If the dispute remains unresolved after the Assistant Secretary's determination, either party may request intervention by the Secretary of DSHS, in which event the Secretary's process shall control. The Secretary will make a determination within 45 days. Participation in this dispute process shall precede any judicial or quasi-judicial action and shall be the final administrative remedy available to the parties. However, if the Secretary's determination is not made within 45 days, either party may proceed with judicial or quasi-judicial action without awaiting the Secretary's determination.
10. **Drug-Free Workplace.** The AAA shall maintain a work place free from alcohol and drug abuse.

### AAA General Terms And Conditions

11. **Entire Agreement.** This Agreement including all documents attached to or incorporated by reference, contain all the terms and conditions agreed upon by the parties. No other understandings or representations, oral or otherwise, regarding the subject matter of this Agreement, shall be deemed to exist or bind the parties.
12. **Governing Law and Venue.** The laws of the State of Washington govern this Agreement. In the event of a lawsuit by the AAA against DSHS involving this Agreement, venue shall be proper only in Thurston County, Washington. In the event of a lawsuit by DSHS against a County AAA involving this Agreement, venue shall be proper only as provided in RCW 36.01.050.
13. **Independent Status.** Except as otherwise provided in Paragraph 26 herein below, for purposes of this Agreement, the AAA acknowledges that the AAA is not an officer, employee, or agent of DSHS or the State of Washington. The AAA shall not hold out itself or any of its employees as, nor claim status as, an officer, employee, or agent of DSHS or the State of Washington. The AAA shall not claim for itself or its employees any rights, privileges, or benefits, which would accrue to an employee of the State of Washington. The AAA shall indemnify and hold harmless DSHS from all obligations to pay or withhold federal or state taxes or contributions on behalf of the AAA or the AAA's employees.
14. **Inspection.** Either party may request reasonable access to the other party's records and place of business for the limited purpose of monitoring, auditing, and evaluating the other party's compliance with this Agreement, and applicable laws and regulations. During the term of this Agreement and for one (1) year following termination or expiration of this Agreement, the parties shall, upon receiving reasonable written notice, provide the other party with access to its place of business and to its records which are relevant to its compliance with this Agreement and applicable laws and regulations. This provision shall not be construed to give either party access to the other party's records and place of business for any other purpose. Nothing herein shall be construed to authorize either party to possess or copy records of the other party.
15. **Insurance.** DSHS certifies that it is self-insured under the State's self-insurance liability program, as provided by RCW 4.92.130, and shall pay for losses for which it is found liable. The AAA certifies that it is self-insured, is a member of a risk pool, or maintains the types and amounts of insurance identified below and shall, prior to the execution of this Agreement by DSHS, provide certificates of insurance to that effect to the DSHS contact on page one of this Agreement.

Commercial General Liability Insurance (CGL) – to include coverage for bodily injury, property damage, and contractual liability, with the following minimum limits: Each Occurrence - \$1,000,000; General Aggregate - \$2,000,000. The policy shall include liability arising out of premises, operations, independent contractors, products-completed operations, personal injury, advertising injury, and liability assumed under an insured contract. The State of Washington, DSHS, its elected and appointed officials, agents, and employees shall be named as additional insureds.

16. **Maintenance of Records.** During the term of this Agreement and for six (6) years following termination or expiration of this Agreement, both parties shall maintain records sufficient to:
  - a. Document performance of all acts required by law, regulation, or this Agreement;
  - b. Demonstrate accounting procedures, practices, and records that sufficiently and properly document the AAA's invoices to DSHS and all expenditures made by the AAA to perform as required by this Agreement.

For the same period, the AAA shall maintain records sufficient to substantiate the AAA's statement of its organization's structure, tax status, capabilities, and performance.

### AAA General Terms And Conditions

17. **Medicaid Fraud Control Unit (MFCU).** As required by federal regulations, the Health Care Authority, the Department of Social and Health Services, and any contractors or subcontractors, shall promptly comply with all MFCU requests for records or information. Records and information includes, but is not limited to, records on micro-fiche, film, scanned or imaged documents, narratives, computer data, hard copy files, verbal information, or any other information the MFCU determines may be useful in carrying out its responsibilities.
18. **Order of Precedence.** In the event of an inconsistency in this Agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence, in the following order, to:
- a. Applicable federal CFR, CMS Waivers and Medicaid State Plan;
  - b. State of Washington statutes and regulations;
  - c. ALTSA Management Bulletins and policy manuals;
  - d. This Agreement; and
  - e. The AAA's Area Plan.
19. **Ownership of Client Assets.** The AAA shall ensure that any client for whom the AAA or Subcontractor is providing services under this Agreement shall have unrestricted access to the client's personal property. For purposes of this paragraph, client's personal property does not pertain to client records. The AAA or Subcontractor shall not interfere with the client's ownership, possession, or use of such property. Upon termination of this Agreement, the AAA or Subcontractor shall immediately release to the client and/or DSHS all of the client's personal property.
20. **Ownership of Material.** Material created by the AAA and paid for by DSHS as a part of this Agreement 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 AAA uses to perform this Agreement but is not created for or paid for by DSHS is owned by the AAA and is not "work made for hire"; however, DSHS shall have a license of perpetual duration to use, modify, and distribute this material at no charge to DSHS, provided that such license shall be limited to the extent which the AAA has a right to grant such a license.
21. **Ownership of Real Property, Equipment and Supplies Purchased by the AAA.** Title to all property, equipment and supplies purchased by the AAA with funds from this Agreement shall vest in the AAA. When real property, or equipment with a per unit fair market value over \$5000, is no longer needed for the purpose of carrying out this Agreement, or this Agreement is terminated or expired and will not be renewed, the AAA shall request disposition instructions from DSHS. If the per unit fair market value of equipment is under \$5000, the AAA may retain, sell, or dispose of it with no further obligation. Proceeds from the sale or lease of property that was purchased with revenue accrued under the Case Management/Nursing Services unit rate must be expended in Medicaid TXIX or Aging Network programs.

When supplies with a total aggregate fair market value over \$5000 are no longer needed for the purpose of carrying out this Agreement, or this Agreement is terminated or expired and will not be renewed, the AAA shall request disposition instructions from DSHS. If the total aggregate fair market value of equipment is under \$5000, the AAA may retain, sell, or dispose of it with no further obligation.

Disposition and maintenance of property shall be in accordance with 45 CFR Parts 92 and 74.

### AAA General Terms And Conditions

- 22. Ownership of Real Property, Equipment and Supplies Purchased by DSHS.** Title to property, equipment and supplies purchased by DSHS and provided to the AAA to carry out the activities of this Agreement shall remain with DSHS. When real property, equipment or supplies are no longer needed for the purpose of carrying out this Agreement, or this Agreement is terminated or expired and will not be renewed, the AAA shall request disposition instructions from DSHS.

Disposition and maintenance of property shall be in accordance with 45 CFR Parts 92 and 74.

- 23. Responsibility.** Each party to this Agreement shall be responsible for the negligence of its officers, employees, and agents in the performance of this Agreement. No party to this Agreement shall be responsible for the acts and/or omissions of entities or individuals not party to this Agreement. DSHS and the AAA shall cooperate in the defense of tort lawsuits, when possible. Both parties agree and understand that this provision may not be feasible in all circumstances. DSHS and the AAA agree to notify the attorneys of record in any tort lawsuit where both are parties if either DSHS or the AAA enters into settlement negotiations. It is understood that the notice shall occur prior to any negotiations, or as soon as possible, and the notice may be either written or oral.

- 24. Restrictions Against Lobbying.** The AAA certifies to the best of its knowledge and belief that no federal appropriated funds have been paid or will be paid, by or on behalf of the AAA, to any person for influencing or attempting to influence an officer or employee of a federal agency, a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.

If any funds other than federal appropriated funds have or will be paid for the purposes stated above, the AAA must file a disclosure form in accordance with 45 CFR Section 93.110.

The AAA shall include a clause in all subcontracts restricting subcontractors from lobbying in accordance with this section and requiring subcontractors to certify and disclose accordingly.

- 25. Severability.** The provisions of this Agreement are severable. If any court holds any provision of this Agreement, including any provision of any document incorporated by reference, invalid, that invalidity shall not affect the other provisions this Agreement.

**26. Subcontracting.**

- a. The AAA may, without further notice to DSHS; subcontract for those services specifically defined in the Area Plan submitted to and approved by DSHS, except subcontracts with for-profit entities must have prior DSHS approval.
- b. The AAA must obtain prior written approval from DSHS to subcontract for services not specifically defined in the approved Area Plan.
- c. Any subcontracts shall be in writing and the AAA shall be responsible to ensure that all terms, conditions, assurances and certifications set forth in this Agreement are included in any and all client services Subcontracts unless an exception to including a particular term or terms has been approved in advance by DSHS.
- d. Subcontractors are prohibited from subcontracting for direct client services without the prior written approval from the AAA.
- e. When the nature of the service the subcontractor is to provide requires a certification, license or

### AAA General Terms And Conditions

approval, the AAA may only subcontract with such contractors that have and agree to maintain the appropriate license, certification or accrediting requirements/standards.

- f. In any contract or subcontract awarded to or by the AAA in which the authority to determine service recipient eligibility is delegated to the AAA or to a subcontractor, such contract or subcontract shall include a provision acceptable to DSHS that specifies how client eligibility will be determined and how service applicants and recipients will be informed of their right to a fair hearing in case of denial or termination of a service, or failure to act upon a request for services with reasonable promptness.
- g. If DSHS, the AAA, and a subcontractor of the AAA are found by a jury or trier of fact to be jointly and severally liable for damages rising from any act or omission from the contract, then DSHS shall be responsible for its proportionate share, and the AAA shall be responsible for its proportionate share. Should the subcontractor be unable to satisfy its joint and several liability, DSHS and the AAA shall share in the subcontractor's unsatisfied proportionate share in direct proportion to the respective percentage of their fault as found by the jury or trier of fact. Nothing in this term shall be construed as creating a right or remedy of any kind or nature in any person or party other than DSHS and the AAA. This term shall not apply in the event of a settlement by either DSHS or the AAA.
- h. Any subcontract shall designate subcontractor as AAA's Business Associate, as defined by HIPAA, and shall include provisions as required by HIPAA for Business Associate contract. AAA shall ensure that all client records and other PHI in possession of subcontractor are returned to AAA at the termination or expiration of the subcontract.

#### **27. Subrecipients.**

- a. General. If the AAA is a subrecipient of federal awards as defined by 2 CFR Part 200 and this Agreement, the AAA shall:
  - (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 AAA 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 2 CFR Part 200, Subpart F audit requirements into all agreements between the Contractor and its Subcontractors who are subrecipients;
  - (5) Comply with the applicable requirements of 2 CFR Part 200, including any future amendments to 2 CFR Part 200, and any successor or replacement Office of Management and Budget (OMB) Circular or regulation; and
  - (6) 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



## AAA General Terms And Conditions

<https://oip.gov/about/offices/ocr.htm> for additional information and access to the aforementioned Federal laws and regulations.)

- b. **Single Audit Act Compliance.** If the AAA is a subrecipient and expends \$750,000 or more in federal awards from all sources in any fiscal year, the AAA shall procure and pay for a single audit or a program-specific audit for that fiscal year. Upon completion of each audit, the AAA shall:
    - (1) Submit to the DSHS contact person the data collection form and reporting package specified in 2 CFR Part 200, Subpart F, 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 2 CFR Part 200, Subpart F; prepare a "Summary Schedule of Prior Audit Findings" reporting the status of all audit findings included in the prior audit's schedule of findings and questioned costs.
  - c. **Overpayments.** If it is determined by DSHS, or during the course of the required audit, that the AAA has been paid unallowable costs under this Agreement, DSHS may require the AAA to reimburse DSHS in accordance with 2 CFR Part 200.
    - (1) For any identified overpayment involving a subcontract between the AAA and a tribe, DSHS agrees it will not seek reimbursement from the AAA, if the identified overpayment was not due to any failure by the AAA.
- 28. Survivability.** The terms and conditions contained in this Agreement, which by their sense and context, are intended to survive the expiration of the particular agreement shall survive. Surviving terms include, but are not limited to: Confidentiality, Disputes, Inspection, Maintenance of Records, Ownership of Material, Responsibility, Termination for Default, Termination Procedure, and Title to Property.
- 29. Contract Renegotiation, Suspension, or 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, after the effective date of this contract but prior to the normal completion of this Contract or Program Agreement:
- a. The Contract or Program Agreement may be renegotiated under the revised funding conditions.
  - b. At DSHS's discretion, DSHS may give notice to the AAA to suspend performance when DSHS determines that there is reasonable likelihood that the funding insufficiency may be resolved in a timeframe that would allow Contractor's performance to be resumed prior to the normal completion date of this contract.
    - (1) During the period of suspension of performance, each party will inform the other of any conditions that may reasonably affect the potential for resumption of performance.
    - (2) When DSHS determines that the funding insufficiency is resolved, it will give Contractor written notice to resume performance. Upon the receipt of this notice, Contractor will provide written notice to DSHS informing DSHS whether it can resume performance and, if so, the date of resumption. For purposes of this subsection, "written notice" may include email.
    - (3) If the AAA's proposed resumption date is not acceptable to DSHS and an acceptable date cannot be negotiated, DSHS may terminate the contract by giving written notice to Contractor. The parties agree that the Contract will be terminated retroactive to the date of the notice of suspension. DSHS shall be liable only for payment in accordance with the terms of this



## AAA General Terms And Conditions

Contract for services rendered prior to the retroactive date of termination.

- c. DSHS may immediately terminate this Contract by providing written notice to the AAA. The termination shall be effective on the date specified in the termination notice. DSHS shall be liable only for payment in accordance with the terms of this Contract for services rendered prior to the effective date of termination. No penalty shall accrue to DSHS in the event the termination option in this section is exercised.

**30. Termination for Convenience.** The Contracts Administrator may terminate this Agreement or any in whole or in part for convenience by giving the AAA at least thirty (30) calendar days' written notice. The AAA may terminate this Agreement for convenience by giving DSHS at least thirty (30) calendar days' written notice addressed to: Central Contract Services, PO Box 45811, Olympia, Washington 98504-5811.

**31. Termination for Default.**

- a. The Contracts Administrator may terminate this Agreement for default, in whole or in part, by written notice to the AAA, if DSHS has a reasonable basis to believe that the AAA has:

- (1) Failed to meet or maintain any requirement for contracting with DSHS;
- (2) Failed to perform under any provision of this Agreement;
- (3) Violated any law, regulation, rule, or ordinance applicable to this Agreement; and/or
- (4) Otherwise breached any provision or condition of this Agreement.

- b. Before the Contracts Administrator may terminate this Agreement for default, DSHS shall provide the AAA with written notice of the AAA's noncompliance with the agreement and provide the AAA a reasonable opportunity to correct the AAA's noncompliance. If the AAA does not correct the AAA's noncompliance within the period of time specified in the written notice of noncompliance, the Contracts Administrator may then terminate the agreement. The Contracts Administrator may terminate the agreement for default without such written notice and without opportunity for correction if DSHS has a reasonable basis to believe that a client's health or safety is in jeopardy.

- c. The AAA may terminate this Agreement for default, in whole or in part, by written notice to DSHS, if the AAA has a reasonable basis to believe that DSHS has:

- (1) Failed to meet or maintain any requirement for contracting with the AAA;
- (2) Failed to perform under any provision of this Agreement;
- (3) Violated any law, regulation, rule, or ordinance applicable to this Agreement; and/or
- (4) Otherwise breached any provision or condition of this Agreement.

- d. Before the AAA may terminate this Agreement for default, the AAA shall provide DSHS with written notice of DSHS' noncompliance with the Agreement and provide DSHS a reasonable opportunity to correct DSHS' noncompliance. If DSHS does not correct DSHS' noncompliance within the period of time specified in the written notice of noncompliance, the AAA may then terminate the Agreement.

**32. Termination Procedure.** The following provisions apply in the event this Agreement is terminated:

### AAA General Terms And Conditions

- a. The AAA shall cease to perform any services required by this Agreement as of the effective date of termination and shall comply with all reasonable instructions contained in the notice of termination which are related to the transfer of clients, distribution of property, and termination of services.
  - b. The AAA shall promptly deliver to the DSHS contact person (or to his or her successor) listed on the first page this Agreement, all DSHS assets (property) in the AAA's possession, including any material created under this Agreement. Upon failure to return DSHS property within ten (10) working days of the Agreement termination, the AAA shall be charged with all reasonable costs of recovery, including transportation. The AAA shall take reasonable steps to protect and preserve any property of DSHS that is in the possession of the AAA pending return to DSHS.
  - c. DSHS shall be liable for and shall pay for only those services authorized and provided through the effective date of termination. DSHS may pay an amount mutually agreed by the parties for partially completed work and services, if work products are useful to or usable by DSHS.
  - d. If the Contracts Administrator terminates this Agreement for default, DSHS may withhold a sum from the final payment to the AAA that DSHS determines is necessary to protect DSHS against loss or additional liability. DSHS shall be entitled to all remedies available at law, in equity, or under this Agreement. If it is later determined that the AAA was not in default, or if the AAA terminated this Agreement for default, the AAA shall be entitled to all remedies available at law, in equity, or under this Agreement.
33. **Treatment of Client Property.** Unless otherwise provided in the applicable Agreement, the AAA shall ensure that any adult client receiving services from the AAA under this Agreement has unrestricted access to the client's personal property. The AAA shall not interfere with any adult client's ownership, possession, or use of the client's property. The AAA 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 or completion of this Agreement, the AAA shall promptly release to the client and/or the client's guardian or custodian all of the client's personal property. This section does not prohibit the AAA from implementing such lawful and reasonable policies, procedures and practices as the AAA deems necessary for safe, appropriate, and effective service delivery (for example, appropriately restricting clients' access to, or possession or use of, lawful or unlawful weapons and drugs).
34. **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 Agreement unless amended as set forth in Section 1, Amendment. Only the Contracts Administrator or designee has the authority to waive any term or condition of this Agreement on behalf of DSHS.

### HIPAA Compliance

Preamble: This section of the Contract is the Business Associate Agreement as required by HIPAA.

### 35. Definitions

- a. "Business Associate," as used in this Contract, means the "Contractor" and generally has the same meaning as the term "business associate" at 45 CFR 160.103. Any reference to Business Associate in this Contract includes Business Associate's employees, agents, officers, Subcontractors, third party contractors, volunteers, or directors.
- b. "Business Associate Agreement" means this HIPAA Compliance section of the Contract and includes the Business Associate provisions required by the U.S. Department of Health and Human

### AAA General Terms And Conditions

Services, Office for Civil Rights.

- c. "Breach" means the acquisition, access, use, or disclosure of Protected Health Information in a manner not permitted under the HIPAA Privacy Rule which compromises the security or privacy of the Protected Health Information, with the exclusions and exceptions listed in 45 CFR 164.402.
- d. "Covered Entity" means DSHS, a Covered Entity as defined at 45 CFR 160.103, in its conduct of covered functions by its health care components.
- e. "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.
- f. "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 160.103.
- g. "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, as modified by the American Recovery and Reinvestment Act of 2009 ("ARRA"), Sec. 13400 – 13424, H.R. 1 (2009) (HITECH Act).
- h. "HIPAA Rules" means the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Parts 160 and Part 164.
- i. "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).
- j. "Minimum Necessary" means the least amount of PHI necessary to accomplish the purpose for which the PHI is needed.
- k. "Protected Health Information (PHI)" means individually identifiable health information created, received, maintained or transmitted by Business Associate on behalf of a health care component of the 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 the past, present, or future payment for provision of health care to an Individual. 45 CFR 160.103. 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 and includes EPHI. 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) or employment records held by a Covered Entity in its role as employer.
- l. "Security Incident" means the attempted or successful unauthorized access, use, disclosure, modification or destruction of information or interference with system operations in an information system.
- m. "Subcontractor" as used in this HIPAA Compliance section of the Contract (in addition to its definition in the General Terms and Conditions) means a Business Associate that creates, receives, maintains, or transmits Protected Health Information on behalf of another Business Associate.
- n. "Use" includes the sharing, employment, application, utilization, examination, or analysis, of PHI within an entity that maintains such information.

### AAA General Terms And Conditions

36. **Compliance.** Business Associate shall perform all Contract duties, activities and tasks in compliance with HIPAA, the HIPAA Rules, and all attendant regulations as promulgated by the U.S. Department of Health and Human Services, Office of Civil Rights.
37. **Use and Disclosure of PHI.** Business Associate is limited to the following permitted and required uses or disclosures of PHI:
- a. **Duty to Protect PHI.** Business Associate shall protect PHI from, and shall use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 (Security Standards for the Protection of Electronic Protected Health Information) with respect to EPHI, to prevent the unauthorized Use or disclosure of PHI other than as provided for in this Contract or as required by law, for as long as the PHI is within its possession and control, even after the termination or expiration of this Contract.
  - b. **Minimum Necessary Standard.** Business Associate shall apply the HIPAA Minimum Necessary standard to any Use or disclosure of PHI necessary to achieve the purposes of this Contract. See 45 CFR 164.514 (d)(2) through (d)(5).
  - c. **Disclosure as Part of the Provision of Services.** Business Associate shall only Use or disclose PHI as necessary to perform the services specified in this Contract or as required by law, and shall not Use or disclose such PHI in any manner that would violate Subpart E of 45 CFR Part 164 (Privacy of Individually Identifiable Health Information) if done by Covered Entity, except for the specific uses and disclosures set forth below.
  - d. **Use for Proper Management and Administration.** Business Associate may Use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.
  - e. **Disclosure for Proper Management and Administration.** Business Associate may disclose PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of the Business Associate, provided the disclosures are required by law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that the information will remain confidential and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been Breached.
  - f. **Impermissible Use or Disclosure of PHI.** Business Associate shall report to DSHS in writing all Uses or disclosures of PHI not provided for by this Contract within one (1) business day of becoming aware of the unauthorized Use or disclosure of PHI, including Breaches of unsecured PHI as required at 45 CFR 164.410 (Notification by a Business Associate), as well as any Security Incident of which it becomes aware. Upon request by DSHS, Business Associate shall mitigate, to the extent practicable, any harmful effect resulting from the impermissible Use or disclosure.
  - g. **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 feasible. In addition, If Business Associate learns of a pattern or practice of its Subcontractors that constitutes a violation of the Business Associate's obligations under the terms of their contract and reasonable steps by the Business Associate do not end the violation, Business Associate shall terminate the Subcontract, if feasible.
  - h. **Termination for Cause.** Business Associate authorizes immediate termination of this Contract by DSHS, if DSHS determines that Business Associate has violated a material term of this Business

### AAA General Terms And Conditions

Associate Agreement. DSHS may, at its sole option, offer Business Associate an opportunity to cure a violation of this Business Associate Agreement before exercising a termination for cause.

- i. Consent to Audit. Business Associate shall give reasonable access to PHI, its internal practices, 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 of DHHS and/or to DSHS for use in determining compliance with HIPAA privacy requirements.
- j. Obligations of Business Associate Upon Expiration or Termination. Upon expiration or termination of this Contract for any reason, with respect to PHI received from DSHS, or created, maintained, or received by Business Associate, or any Subcontractors, on behalf of DSHS, Business Associate shall:
  - (1) Retain only that PHI which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities;
  - (2) Return to DSHS or destroy the remaining PHI that the Business Associate or any Subcontractors still maintain in any form;
  - (3) Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 (Security Standards for the Protection of Electronic Protected Health Information) with respect to Electronic Protected Health Information to prevent Use or disclosure of the PHI, other than as provided for in this Section, for as long as Business Associate or any Subcontractors retain the PHI;
  - (4) Not Use or disclose the PHI retained by Business Associate or any Subcontractors other than for the purposes for which such PHI was retained and subject to the same conditions set out in the "Use and Disclosure of PHI" section of this Contract which applied prior to termination; and
  - (5) Return to DSHS or destroy the PHI retained by Business Associate, or any Subcontractors, when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities.
- k. Survival. The obligations of the Business Associate under this section shall survive the termination or expiration of this Contract.

#### 38. Individual Rights.

- a. Accounting of Disclosures.
  - (1) Business Associate shall document all disclosures, except those disclosures that are exempt under 45 CFR 164.528, of PHI and information related to such disclosures.
  - (2) Within ten (10) business 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 PHI by the Business Associate. See 45 CFR 164.504(e)(2)(ii)(G) and 164.528(b)(1).
  - (3) At the request of DSHS or in response to a request made directly to the Business Associate by an Individual, Business Associate shall respond, in a timely manner and in accordance with HIPAA and the HIPAA Rules, to requests by Individuals for an accounting of disclosures of PHI.
  - (4) Business Associate record keeping procedures shall be sufficient to respond to a request for an

### AAA General Terms And Conditions

accounting under this section for the six (6) years prior to the date on which the accounting was requested.

b. Access

- (1) Business Associate shall make available PHI that it holds that is part of a Designated Record Set when requested by DSHS or the Individual as necessary to satisfy DSHS's obligations under 45 CFR 164.524 (Access of Individuals to Protected Health Information).
- (2) When the request is made by the Individual to the Business Associate or if DSHS asks the Business Associate to respond to a request, the Business Associate shall comply with requirements in 45 CFR 164.524 (Access of Individuals to Protected Health Information) on form, time and manner of access. When the request is made by DSHS, the Business Associate shall provide the records to DSHS within ten (10) business days.

c. Amendment.

- (1) 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) (Amendment of Protected Health Information).
- (2) Business Associate shall make any amendments to PHI in a Designated Record Set as directed by DSHS or as necessary to satisfy DSHS's obligations under 45 CFR 164.526 (Amendment of Protected Health Information).

- 39. Subcontracts and other Third Party Agreements.** In accordance with 45 CFR 164.502(e)(1)(ii), 164.504(e)(1)(i), and 164.308(b)(2), Business Associate shall ensure that any agents, Subcontractors, independent contractors or other third parties that create, receive, maintain, or transmit PHI on Business Associate's behalf, enter into a written contract that contains the same terms, restrictions, requirements, and conditions as the HIPAA compliance provisions in this Contract with respect to such PHI. The same provisions must also be included in any contracts by a Business Associate's Subcontractor with its own business associates as required by 45 CFR 164.314(a)(2)(b) and 164.504(e)(5) .
- 40. Obligations.** To the extent the Business Associate is to carry out one or more of DSHS's obligation(s) under Subpart E of 45 CFR Part 164 (Privacy of Individually Identifiable Health Information), Business Associate shall comply with all requirements that would apply to DSHS in the performance of such obligation(s).
- 41. Liability.** Within ten (10) business days, Business Associate must notify DSHS of any complaint, enforcement or compliance action initiated by the Office for Civil Rights based on an allegation of violation of the HIPAA Rules and must inform DSHS of the outcome of that action. Business Associate bears all responsibility for any penalties, fines or sanctions imposed against the Business Associate for violations of the HIPAA Rules and for any imposed against its Subcontractors or agents for which it is found liable.
- 42. Breach Notification.**
- a. In the event of a Breach of unsecured PHI or disclosure that compromises the privacy or security of PHI obtained from DSHS or involving DSHS clients, Business Associate will take all measures required by state or federal law.

### **AAA General Terms And Conditions**

- b. Business Associate will notify DSHS within one (1) business day by telephone and in writing of any acquisition, access, Use or disclosure of PHI not allowed by the provisions of this Contract or not authorized by HIPAA Rules or required by law of which it becomes aware which potentially compromises the security or privacy of the Protected Health Information as defined in 45 CFR 164.402 (Definitions).
- c. Business Associate will notify the DSHS Contact shown on the cover page of this Contract within one (1) business day by telephone or e-mail of any potential Breach of security or privacy of PHI by the Business Associate or its Subcontractors or agents. 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, date Breach was discovered, location and nature of the PHI, type of Breach, origination and destination of PHI, Business Associate unit and personnel associated with the Breach, detailed description of the Breach, anticipated mitigation steps, and the name, address, telephone number, fax number, and e-mail of the individual who is responsible as the primary point of contact. Business Associate will address communications to the DSHS Contact. Business Associate will coordinate and cooperate with DSHS to provide a copy of its investigation and other information requested by DSHS, including advance copies of any notifications required for DSHS review before disseminating and verification of the dates notifications were sent.
- d. If DSHS determines that Business Associate or its Subcontractor(s) or agent(s) is responsible for a Breach of unsecured PHI:
  - (1) requiring notification of Individuals under 45 CFR § 164.404 (Notification to Individuals), 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;
  - (2) requiring notification of the media under 45 CFR § 164.406 (Notification to the media), Business Associate bears the responsibility and costs for notifying the media and receiving and responding to media questions or requests for additional information;
  - (3) requiring notification of the U.S. Department of Health and Human Services Secretary under 45 CFR § 164.408 (Notification to the Secretary), 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
  - (4) DSHS will take appropriate remedial measures up to termination of this Contract.

#### **43. Miscellaneous Provisions.**

- a. Regulatory References. A reference in this Contract to a section in the HIPAA Rules means the section as in effect or amended.
- b. Interpretation. Any ambiguity in this Contract shall be interpreted to permit compliance with the HIPAA Rules.



## Special Terms and Conditions

### 1. Definitions.

- a. "AAA" or "Contractor" shall mean the Area Agency on Aging that is a party to this agreement, and includes the AAA's officers, directors, trustees, employees and/or agents unless otherwise stated in this Agreement. For purposes of this Agreement, the AAA or agent shall not be considered an employee of DS
- b. "Agreement" means this Agreement, including all documents attached or incorporated by reference.
- c. "Allocable costs" are those costs which are chargeable or assignable to a particular cost objective in accordance with the relative benefits received by those costs.
- d. "Allowable costs" are those costs necessary and reasonable for proper and efficient performance of this Agreement and in conformance with this Agreement. Allowable costs under federal awards to local or tribal governments must be in conformance with Office of Management and Budget (OMB) Circular A-87, Cost Principles for State, Local and Indian Tribal Governments; allowable costs under federal awards to non-profit organizations must be in conformance with OMB Circular A-122, Cost Principles for Non-Profit Organizations.
- e. "Area Plan" means the document submitted by the AAA to DSHS for approval every four years, with updates every two years, which sets forth goals, measurable objectives, outcomes, units of service, and identifies the planning, coordination, administration, social services and evaluation of activities to be undertaken by the AAA to carry out the purposes of the Older Americans Act, the Social Security Act, the Senior Citizens Services Act, or any other statute for which the AAA receives funds.
- f. "Assignment" means the act of transferring to another the rights and obligations under this Agreement.
- g. "Business Associate" means a Business Associate 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 protected health information (PHI). Any reference to Business Associate under this Agreement includes Business Associate's employees, agents, officers, subcontractors, third party contractor's, volunteers, or directors.
- h. "CFR" means Code of Federal Regulations. All references in this Agreement to the CFR shall include any successor, amended, or replacement regulation.
- i. "Client" means an individual that is eligible for or receiving services provided by the AAA in connection with this Agreement.
- j. "Covered Entity" means DSHS, a Covered Entity as defined in 45 CFR 160.103.
- k. "Contracts Administrator" means the manager, or successor, of Central Contract Services or successor section or office.
- l. "Debarment" means an action taken by a Federal official to exclude a person or business entity from participating in transactions involving certain federal funds.

### Special Terms and Conditions

- m. "Designated Record Set" means a group of records maintained by or for the Covered Entity that is the medical and billing records about the individuals or the enrollment, payment, claims adjudication, and case or medical management records, used in whole or part by or for the Covered Entity to make decisions about individuals.
- n. "DSHS" or "the Department" means the state of Washington Department of Social and Health Services and its employees and authorized agents.
- o. "Equipment" means tangible, nonexpendable, personal property having a useful life of more than one year and an acquisition cost of \$5000 or more per unit.
- p. "HIPAA" means the Health Information Portability and Accountability Act of 1996, as codified at 42 USCA 1320d-d8.
- q. "Individual" means the person who is the subject of PHI and includes a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).
- r. "Older Americans Act" refers to P.L. 106-501, 106th Congress, and any subsequent amendments or replacement statutes thereto.
- s. "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.
- t. "PHI" means protected health information and is 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 and 14. 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, maintained, or stored in any form or medium. 45 CFR 164.501. PHI does not include education records covered by the Family Educational Right and Privacy Act, as amended, 20 USCA 1232g(a)(4)(b)(iv).
- u. "RCW" means the Revised Code of Washington. All references in this Agreement to RCW chapters or sections shall include any successor, amended, or replacement statute. Pertinent RCW chapters can be accessed at <http://slc.leg.wa.gov/>.
- v. "Real Property" means land, including land improvements, structures, and appurtenances thereto, excluding movable machinery and equipment.
- w. "Regulation" means any federal, state, or local regulation, rule, or ordinance.
- x. "Subcontract" means any separate agreement or contract between the AAA 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 Agreement.
- y. "Subcontractor" means an individual or entity (including its officers, directors, trustees, employees, and/or agents) with whom the AAA contracts to provide services that are specifically defined in the Area Plan or are otherwise approved by DSHS in accordance with this Agreement.
- z. "Subrecipient" means a non-federal entity that expends federal awards received from a pass-

## Special Terms and Conditions

through entity to carry out a federal program, but does not include an individual that is a beneficiary of such a program. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency.

- aa. "Supplies" means all tangible personal property other than equipment as defined herein.
- bb. "WAC" means the Washington Administrative Code. All references in this Agreement to WAC chapters or sections shall include any successor, amended, or replacement regulation. Pertinent WAC chapters or sections can be accessed at <http://slc.leg.wa.gov/>.
- cc. "Unique Entity Identifier (UEI)" means a unique number assigned to all entities (public and private companies, individuals, institutions, or organizations) who register to do business with the federal government.

2. **Statement of Work.** The AAA shall provide the services and staff, and otherwise do all things necessary for or incidental to the performance of work, as set forth in the attached Statement of Work (Exhibit A).
3. **Consideration.** Total consideration payable to the AAA for satisfactory performance of the work under this Agreement is a maximum of **\$5,063,924**, including any and all expenses and shall be based on the attached Exhibit B, Budget.
4. **Billing and Payment.**

- a. **Billing.** The AAA shall submit invoices using State Form A-19 Invoice Voucher, or such other form as designated by DSHS. Consideration for services rendered shall be payable upon receipt and acceptance of properly completed invoices which shall be submitted to DSHS by the AAA not more often than monthly.

Except for costs associated with Case Management and Nursing Services for MPC, COPES, MNIW, and Chore clients, DSHS will pay to the AAA all allowable and allocable costs incurred as evidenced by proper invoice in accordance with the ADSA approved AAA Cost Allocation Plan, Budget (Exhibit B), and Section 3, Consideration, of this Agreement. The invoice shall describe and document to DSHS' satisfaction, the work performed, activities accomplished, progress of the project, and fees.

- b. **Payment.** Payment for **Medicaid Case Management and Nursing Services**, including Medicaid State plan, Waiver, Roads to Community Living (RCL), and state-funded Chore clients will be based on a monthly rate of **\$246.13** from DSHS Allocated Title XIX/Chore funding per month for each in-home agency personal care or in-home individual provider authorized case authorized by the AAA each month.

DSHS and the AAA recognize that each are balancing multiple changing factors that could negatively impact both caseload ratios—a few examples would be (1) staff turnover, (2) high volume of case transfers and (3) statewide Paid Medical Leave Program. The AAA may present good cause reasons and supporting data why they were not able to reach the statewide caseload ratio and their plan to reach their target ~~each~~ in the next quarter.—

As the legislature has funded all AAAs to staff on average a maximum of 75 clients to each clinical staff, in SFY25, beginning July 1, 2024, the CM/NS Unit Rate payment may, at DSHS' discretion, be adjusted monthly if the contractually obligated caseload ratio of clients to clinical (Case Management/Nursing staff) exceeds 75:1.

## Special Terms and Conditions

Payment for **Core Services Contract Management** for Medicaid State Plan, Waiver, Roads to Community Living (RCL)/WA Roads, and state-funded Chore clients will be based on a monthly rate of **\$14.75** from DSHS Allocated Title XIX/Chore funding per month for each in-home agency personal care or in-home individual provider case authorized to the AAA each month. In addition, a percentage of in-home cases authorized with a service, but no personal care, will be paid at the full unit rate.

The average monthly projection of such cases over the course of this Agreement is **1,146**. The AAA will be paid for the number of actual cases authorized each month according to the payment schedule above.

If the AAA is referred and serves a WA Roads or GOSH case that is not otherwise counted in the caseload above, payment will be based on the same monthly rates as above. These cases will be considered in the clinical caseload ratio.

If ADS or Pierce meet their quarterly targeted net growth of New Freedom cases as described in section 1.g of Exhibit A Statement of Work, they will receive a Unit Rate enhancement of 5% for all New Freedom client cases billed during that quarter. This funding will not be reflected in the contract budget or maximum consideration

Payment shall be considered timely if made by DSHS within thirty (30) days after receipt and acceptance by DSHS of the properly completed invoices. Payment shall be sent to the address designated by the AAA on page one (1) of this Agreement. DSHS may, at its sole discretion, withhold payment claimed by the AAA for services rendered if AAA fails to satisfactorily comply with any term or condition of this Agreement.

DSHS shall not make any payments in advance or anticipation of the delivery of services to be provided pursuant to this Agreement. Unless otherwise specified in this Agreement, DSHS shall not pay any claims for payment for services submitted more than 6 months after completion of the contract period. The AAA shall not bill DSHS for services performed under this Agreement, and DSHS shall not pay the AAA, if the AAA has charged or will charge the State of Washington or any other party under any other contract or agreement for the same services.

- c. **Local Matching Funds:** The AAA may spend qualifying local funds on TXIX in-home case management and use it to collect additional federal matching funds. The amount of Senior Citizens Services Act (SCSA) funding budgeted for TXIX in-home case management in the previous state fiscal year may be carried forward into this contract and inflated by the consumer price index (CPI) used in the caseload ratio adjustment factor as matching funds to draw down additional federal match. The CPI is 4.3% in SFY25. Any additional requests for SCSA or other local fund sources to be matched must be approved by ALTSA and may require additional FTE to be purchased with these funds. A new clinical ratio or case handling ratio will be negotiated with ALTSA to draw down additional matching funds per the local matching funds schedule. If additional SCSA is proposed as a local match source, the AAA will report any impacts of reallocating SCSA funding when making the request to ALTSA.
- d. **Local Matching Funds schedule:** The AAA may increase the TXIX Requested Match as an add-on for the unit rate for each authorized in-home agency personal care case, in-home individual provider, no personal care, and New Freedom case accepted by the AAA each month per the schedule below. ALTSA may waive the Ratio buydown requirement if it is not met.



### Special Terms and Conditions

If Clinical Ratio is 1:	Then State/Local	Fed Match

- e. The AAA shall complete and submit the attached Local Match Certification Form (Exhibit C) with their final billing. Final payment will not be made without the completed form.
- f. **PACE.** Payment of **\$381.74** per client per year for annual assessment services, including significant change and interim assessment/s as needed, for in-home client participants of the Program of All-Inclusive Care for the Elderly (PACE). Participating AAAs (Pierce County ALTC, ALTCEW and Snohomish County LTCA AAA only) can only receive reimbursement once in a twelve-month period.
5. **Confidentiality.** In addition to General Terms and Conditions Confidentiality language, the AAA or its Subcontractors may disclose information to each other, to DSHS, or to appropriate authorities, for purposes directly connected with the services provided to the client. This includes, but is not limited to, determining eligibility, providing services, and participation in disputes, fair hearings, or audits. The AAA and its Subcontractors shall disclose information for research, statistical, monitoring and evaluation purposes conducted by appropriate federal agencies and DSHS.
6. **Amendment Clause Exception.** The only exception to the General Term and Condition Amendment clause (clause 1.) is when an amendment must be processed to distribute federal funds to the Contractor and the funds must be obligated in a Short Timeframe. Short Timeframe means the Contractor is unable to follow their standard contract execution procedures in order to timely obligate the federal funds. By execution of this Contract, the Contractor prospectively agrees to the terms of the federal fund distribution amendment, which shall be limited to only adding funds to the Contractor's Budget. The Contractor's designated point-of-contact shall also email DSHS its acceptance of the amendment no later than the amendment start date.
7. **Duty to Disclose Business Transactions.**
  - a. Pursuant to 42 CFR 455.105(b), within 35 days of the date on a request by the Secretary of the U.S. Department of Health and Human Services or DSHS, Contractor must submit full and complete information related to Contractor's business transactions that include:
    - (1) The ownership of any subcontractor with whom the Contractor has had business transactions totaling more than \$25,000 during the 12-month period ending on the date of the request; and
    - (2) Any significant business transactions between the Contractor and any wholly owned supplier, or between the Contractor and any subcontractor, during the 5-year period ending on the date of the request.
  - b. Failure to comply with requests made under this term may result in denial of payments until the requested information is disclosed. See 42 CFR 455.105(c).
8. **State or Federal Audit Requests.** The contractor is required to respond to State or Federal audit

### **Special Terms and Conditions**

requests for records or documentation, within the timeframe provided by the requestor. The Contractor must provide all records requested to either State or Federal agency staff or their designees.

9. **Sovereign Immunity – Colville and Yakama only.** Nothing whatsoever in this Agreement constitutes or shall be construed as a waiver of the Indian Nation's sovereign immunity.

## Special Terms and Conditions

### Exhibit A, Statement of Work

The AAA shall provide the following services, as specified in the AAA's current area plan, either directly or through administrative oversight or subcontractors. The AAA shall comply with all applicable state and federal statute and rules, including but not limited to the United States Code, the Code of Federal Regulations, the Revised Code of Washington, the Washington Administrative Code, Federal HCBS Waivers and Medicaid State Plan, and any and all DSHS/ALTSA standards, guidelines, policy manuals, and management bulletins, including management bulletins that grant or remove temporary COVID-19 flexibilities.

If a proposed change or combination of changes in any DSHS/ALTSA standard, guideline, policy manual and/or management bulletin after the commencement of this agreement creates a new and material impact, to the extent possible and as quickly as possible DSHS will consult with the AAA or its professional association to identify potential impacts and when possible, identify how to mitigate impacts within available funding.

1. **Title XIX Medicaid, CFDA No. 93.778 and State-Funded Chore**, Payment for Medicaid Case Management, Nursing Services, New Freedom Eligibility Determination/Consultation Services, and Core Services Contract Management is based on the number of cases authorized per month, multiplied by the AAAs approved rate per case month. Any core revenues accrued through the unit rates must be used in Aging and Long-Term Support Administration Medicaid-funded long-term supports and services (LTSS), the Department's integration of care efforts or implementation of Evidence Based Practices (EBP) in Home & Community Based Services (HCBS), or in support of services that may divert or delay individuals from utilizing Medicaid LTSS. AAAs must report their TXIX Medicaid cumulative ending balance and annual expenditures for Case Management/Nursing Services and Core Services Contract Management to ALTSA at their fiscal year-end close.
  - a. Core Services Contract Management. The AAA will manage subcontracts with qualified providers of agency personal care and PERS services for Medicaid/Chore clients and Developmental Disabilities Administration (DDA) Medicaid clients. For ALTSA clients only, contracts managed by the AAA also include State Plan and Waiver contracts under 1915(c), 1915(k) Community First Choice, and RCL/WA Roads used to support individuals moving to or maintaining community settings. These service types are listed in the Long-Term Care Manual by program. All contract management shall comply with the contract management requirements set forth in Chapter 6 of the Policies and Procedures for Area Agency on Aging Operations and Management Bulletins.
  - b. Adult Day Services Program Compliance. The AAA shall contract with and conduct initial and ongoing program compliance reviews for Title XIX contracted Adult Day Care and Adult Day Health programs in accordance with all applicable regulations in chapter 388-71 WAC and chapter 388-106 WAC. The AAA shall conduct a complete review of each contracted center at least once every twelve months to ensure adequate performance and regulatory compliance with Adult Day Services WAC. These activities are included in the Core Service Contract Management unit rate.
  - c. Nursing Services. The AAA will provide directly or through contracts, access to licensed medical expertise for AAA Medicaid clients in accordance with Chapter 24 of Long-Term Care Manual, including the capacity to make home visits, conduct case manager, client and caregiver consultation, file reviews and to respond to emergency needs. Nursing Services will be in compliance with chapter 74.34 RCW, chapter 74.39 RCW, Chapter 74.39A RCW, and all applicable regulations in chapter 388-71 WAC and chapter 388-106 WAC.

Olympic, Southwest, Southeast, Eastern, LMT and Central AAAs only: The AAA may provide



## Special Terms and Conditions

contracted nursing services for ALTSA clients and/or DDA clients in accordance with Chapter 24 of the Long-Term Care Manual. Contracted Nursing for DDA will also adhere to DDA Policy 9.13 Skin Observation Protocol.

The AAA will provide administrative oversight and program development for Nursing Services for Medicaid clients in its Planning and Service Area (PSA). Such activities include monitoring performance and activities to implement DSHS policies, and preparation of reports as required by DSHS/ALTSA or local requirements, subcontract development and monitoring, service planning and system development.

- d. Case Management. The AAA shall provide Case Management for Community First Choice, Medicaid Personal Care, CFC/COPES Waiver, RCL, and Chore clients receiving services in their own homes as described in the Long-Term Care Manual, and in compliance with chapter 74.34 RCW, chapter 74.39 RCW, chapter 74.39A RCW, and all applicable regulations in chapter 388-71 WAC, chapter 388-106 WAC, and chapter 246-335 WAC.

The AAA will plan to maintain no more than a maximum average ratio of Medicaid/Chore/WA Roads clients to Clinical (Case Manager/Nursing) FTE, as defined by DSHS/ALTSA in the Special Terms & Conditions Billing and Payment Section (4.b), in its service area as a whole. The clinical caseload ratio may vary at sublevels within its service area based on the AAAs management decisions on caseload distribution or other factors. The amount of Senior Citizen Services Act and other local funds used as match for federal Medicaid funding may be negotiated.

The AAA will provide administrative oversight and program development for Case Management for Medicaid, WA Roads and Chore clients in its area. Such activities include monitoring performance, activities to implement DSHS policies, preparation of reports as required by DSHS/ALTSA or local requirements, subcontract development and monitoring, service planning and system development.

- e. Front Door (ADS/Seattle King County AAA only). Asian Counseling and Referral Service (ACRS) and Chinese Information and Service Center (CISC) are authorized to complete initial in-home assessments for identified ethnic populations with reimbursements not to exceed \$984.65 each client. Per Budget (Exhibit B) line .49, funding is provided for these "front door" assessments completed by ACRS and CISC. The full appropriation for these front door activities must be passed on to ACRS and CISC via subcontracts between the AAA and those Agencies.

ADS/Seattle King County AAA is authorized to complete initial in-home assessments for individuals who identify as Muckleshoot tribal members. Funding is provided for up to 20 initial assessments with reimbursements not to exceed \$1,035.05 each client.

- f. Laptop Replacement Schedule. The AAA shall establish a laptop replacement schedule to assure each assessor has an operational laptop that meets minimum specifications needed for the Comprehensive Assessment Reporting Evaluation (CARE) tool. The laptop replacement schedule must ensure that equipment is sufficient to operate the state's mandated applications.
- g. Community Living Connections/Information and Assistance Medicaid Administrative Claiming. The AAA may choose to claim Federal Financial Participation (FFP) for information and assistance activities related to assisting individuals to access Medicaid, as described in the *Community Living Connections* Program Standards or any successor program standards, including the required administrative oversight. Prior to claiming FFP, approval must be received from the Community Living Connections program manager per the requirements of MB H23-072.

- h. Medicaid New Freedom (NF) (Pierce and ADS of Seattle/King County AAAs only). The AAA will

## Special Terms and Conditions

provide Eligibility Determination and Care Consultation Services (CCS) for AAA Medicaid participants who choose NF in accordance with Chapter 27 of the Long-Term Care Manual and all applicable regulations in chapter 388-71 WAC and chapter 388-106 WAC.

New Freedom staff and participants will be part of the required clinical ratio calculation, as defined by DSHS/ALTSA in the Special Terms & Considerations Billing and Payment Section (4.b). New Freedom budget authorizations to the FMS will validate active client case management status for any month that client is active and personal care is not authorized.

The AAA must ensure all Case Managers actively educate clients or their representatives at Annual or Significant Change assessments about their choice of programs to achieve a net growth that includes conversions of existing clients, new clients from HCS, and clients exiting the program. ADS' target will be a net growth curve of 35 cases per quarter. Pierce's target will be a net growth curve of 15 cases per quarter. When these targets are achieved, the AAA will receive an additional Unit Rate enhancement of 5% for all NF clients billed during that quarter.

The AAA will provide administrative oversight and program development for CCS for NF in its service area. Such activities include monitoring performance, activities to implement DSHS policies, and preparation of reports as required by DSHS/ALTSA or local requirements.

- i. 1519 Outcome and Performance Measures: The following outcomes and performance measures are incorporated into this Contract, as required by RCWs 70.320.040 and 74.39A.090:

(1) Outcome: Health/Wellness

Performance Measures

- Adults' Access to Preventative/Ambulatory Care
- Alcohol/Drug Treatment Penetration
- Mental Health Treatment Penetration

(2) Outcome: Stable housing in community/Quality of Life

Performance Measure

- Home and Community-Based Long Term Services and Supports Use

(3) Outcome: Reductions in costs and utilization/ Quality of Life

Performance Measure

- Emergency Department Visits

(4) Outcome: Reduction in Avoidable Hospitalizations

Performance Measure

- Plan All-Cause Readmission Rate

When planning or delivering services under ALTSA contracts, the AAA will take these outcomes and performance measures into account. Outcome and performance measure data will be gathered by DSHS and publicly reported at the Health Care Authority's Regional Service Area population level. DSHS will make AAA population level data for analysis available to the AAA at least annually.

2. **Washington Roads**, The AAA shall provide Case Management for individuals living in subsidized housing that has been coordinated through ALTSA regardless of whether they are currently eligible for

### Special Terms and Conditions

or receiving waiver/state plan home and community-based services. Case management shall be provided in accordance with MB H13-072 and Chapters 5a, 5b and 30d of the LTC Manual, which includes contact by AAA staff within 14 days of receiving the case and monthly thereafter. If there is an immediate need, the AAA staff assigned must respond to the need promptly. The AAA staff shall follow all assessment timelines, including doing an annual assessment. Washington Roads clients not already counted as State Plan or Waiver clients will be included in the AAA clinical ratios as described in the Special Terms and Conditions in Billing and Payment Section b.

3. **Senior Citizens Services Act (SCSA)**, The AAA shall provide services in accordance with chapter 74.38 RCW and all applicable regulations in chapter 388-71 WAC and chapter 388-106 WAC. SCSA funds are designed to restore individuals to, or maintain them at, the level of independent living they can attain. These alternative services and forms of care should be designed to both complement the present forms of institutional care and create a system whereby appropriate services can be rendered according to the care needs of an individual.
4. **State Family Caregiver Support Program (SFCSP)**, The AAAs shall provide SFCSP services in accordance with Chapter 17a of the Long-Term Care Manual and in accordance with chapter 74.41 RCW and all applicable regulations in chapter 388-71 WAC, WAC 388-106-1200 to 1230, 388-78A-2202 -2208 and 388-97-1880. The AAA shall provide a multi-faceted system of support services including Information and Assistance, Case Coordination, Support Groups, Training/Consultation, Counseling, Respite Care and Supplemental Services to respond to the needs of family and other unpaid caregivers who provide care to adults (18 years and over) who have a functional disability. The exception to this rule would be Colville and Yakama Nation AAA who may be limited in funding to provide all the core FCSP services. The evidence-based, Tailored Caregiver Assessment and Referral system (TCARE®) is utilized and required to screen, assess, and consult with family caregivers to develop an individualized care plan to help provide the right services to meet the unmet needs at the right time. All TCARE® users must be licensed.

For Respite Services, both in-home and out-of-home respite care provider agencies shall be available (except where certain types of providers are unavailable) and provided on an hourly basis. Respite care workers shall be trained according to the DSHS/ALTSA training requirements for the level of care provided (e.g., home care; adult day services, etc.). Respite care staff can be authorized to provide the supervision, companionship, personal care, and/or nursing care services usually provided by the primary caregiver of the adult care recipient. Services appropriate to the needs of individuals with dementia illnesses shall also be provided.

The AAA is responsible for staff inputting FCSP units of services, caregiver demographic data and TCARE® screens, assessments, and care plans into the GetCare reporting system.

- a. Memory Care & Wellness Services (MCWS) (ADS of Seattle/King County AAAs only): MCWS is a supervised daytime program for individuals with dementia and their family caregivers. MCWS offers a blend of health, social and family caregiver supports – it is defined, and requirements are specified in the MCWS Standards of Care, (updated 2019).

AAAs that offer MCWS will work collaboratively with DSHS/ALTSA and providers in implementing strategies that ensure fidelity to MCWS requirements and promote sustainability of the program. Participating AAAs will ensure program requirements are incorporated into contracts with adult day services providers choosing to provide the MCWS.

- b. MCWS Program Requirements: Program requirements include (1) MCWS Standards of Care (2019) and (2) the integral Exercise for Mobility, previously known as EnhanceMobility, exercise intervention [and any subsequent updates of both (1) and (2)]. Participating AAAs will also work

## Special Terms and Conditions

with DSHS/ALTSA to develop and implement strategies that promote fidelity to the MCWS Standards of Care to measure compliance with standards, including incorporation of the MCWS Monitoring Tool (updated 2019) into adult day services monitoring visits with MCWS providers. The AAA will also use the MCWS Readiness Tool for with any sites that are new contractors for the MCWS program to assess capacity and needed improvements prior to contracting. The MCWS Standards of Care and MCWS Monitoring Tool and materials, and MCWS Readiness Tool are available on the DSHS/ALTSA Intranet site, in the TCARE Online Resources page. <http://intra.altsa.dshs.wa.gov/tcare/memory.htm>

- c. **MCWS Program Funds:** Funds were targeted specifically for MCWS within the Family Caregiver Support Program to support an ongoing program for eligible family caregivers a minimum of two days per week. As this funding was intended to supplement existing FCSP allotments to MCWS, the target numbers to be served and the budget is built with the assumption that each month MCWS-specific funding will pay half and FCSP will pay half of the cost of MCWS each month.
- d. **MCWS Proposed Targets and Funding:** Each AAA will submit to DSHS/ALTSA proposed target numbers for the remainder of FY 2025 (caregiver/care receiver dyads) for MCWS by January 31, 2025, along with the semi-annual report detailed in the final paragraph of this MCWS section. This proposal will reflect the total number of dyads to be served with the combined MCWS-specific and FCSP funding and take into account what has been learned over the last year about average days of utilization per month/year per caregiver, and anticipated program income/participation.

For SFY 2025, DSHS/ALTSA will allocate the same amount of MCWS funding to King as was allocated for SFY 2024: \$82,447.

- e. **MCWS Tracking Expenditures and Reporting:** The SFCSP BARS includes a line for billing to the MCWS line; this line is used by King only. -

To ensure optimal use of this funding, progress towards target numbers and expenditures will be assessed once the 1<sup>st</sup> quarter report with a due date of October 31, 2024, is received. In addition, the semi-annual reports covering the periods (July - December 2024 due January 31, 2025 (with data as of December 31, 2024) and January – June 2025; due July 30, 2025) are required and should include the same information detailed above for the 1<sup>st</sup> quarter report.

- 5. **Kinship Caregivers Support Program (KCSP),** The AAA shall operate a Kinship Caregivers Support Program (KCSP), as authorized by the 2004 State Legislature, to provide financial support to grandparents and relatives who are the primary caregivers to children ages 18 and under who do not have an open case through the Department of Children, Youth and Families. The KCSP funds are available one-time per year (the intervention cannot last more than three months, exception to policy for a fourth month is permitted). Funding is provided for items and services (see [MB H22-067](#) and LTC Chapter 17b—~~Revised~~ Policies for the Kinship Caregivers Support Program) to benefit of the children living with eligible relatives. The AAA is responsible for handling and approving the KCSP Exception to Policy (ETP) situations.

AAAs are responsible to ensure that when purchasing goods/services or one-time set-up fees/deposits on behalf of an eligible kinship caregiver, documentation within the client file must include: client's name, confirmation that the purchase is consistent with needs identified by caregiver, item/service is consistent with program requirements, a description of the goods and services including purchase price, and proof that the goods were purchased, goods or services received and the costs verified. Caregivers must sign an agreement acknowledging that funding may only be used for authorized items/services and their related responsibilities. Those kinship caregivers experiencing the most urgent/emergency needs have the highest priority. Program administration is limited to ten



## Special Terms and Conditions

percent (10%) of the KCSP allocation. Another fifteen percent (15%) of the AAA's KCSP allocation may be spent on service delivery costs associated with activities such as outreach, screening, authorizing services, etc. The AAA is responsible for having staff utilize the CLC GetCare data reporting system to input clients, their demographics and service utilization. Annually, each October, the AAA is responsible for submitting a minimum of two case examples along with a list of unmet needs to the DSHS/ALTSA Kinship Program Manager.

6. **Kinship Navigator Program (KNP)**, Kinship Navigator services were initially authorized by the 2005 State Legislature and as of 2023 is available in all AAAs. Kinship Navigators provide information and assistance functions, along with supportive listening to grandparents and other relatives of all ages who are raising relatives' children or planning to do so. They educate and connect grandparents and relatives (kinship caregivers over the age of 18) to community resources, such as health, financial, legal assistance, support groups, training, and urgently needed goods and services and explain how to apply for federal and state benefits. The Navigators provide follow-up with kinship caregivers as needed and develop collaborative working relationships with agencies and groups working with kinship caregivers. Navigators help educate the community, including services providers and organizations about the needs of kinship care families and available resources and services to them. Hard to reach kinship care families (geographically isolated and ethnic communities) should receive special outreach attention. Kinship navigators pro-actively mediate with state agency staff and/or service providers to make sure individual caregivers receive services they are eligible to receive. Support will be given to kinship caregivers to establish or maintain greater resiliency and long-term stability needed to keep children out of the foster care system and to better care for themselves. (Support may also be provided to kinship families involved with the formal child welfare system to help sustain child placement with relative caregivers.) Ten percent of the AAA KNP allocation is limited to general administration. Modest food costs are permitted only in conjunction with the provision of information and resource meetings, trainings, or conferences. The AAA is responsible for having staff utilize the CLC/Get Care reporting system to input their client data, and service utilization.

Policy for KNP is in the LTC Manual Chapter 17c.

**Tribal Kinship Navigator Program (TKN)** was funded through state legislature in 2017. Eight tribes originally applied and were selected to participate. Currently, seven tribes are running TKN program. They include Yakama, Colville, Port Gamble S'Klallam, Quileute, Lummi, Samish, and Makah. Policy for TKN are in the LTC Manual Chapter 17c.

### **Kinship Navigator EBP Pilot (LMT, Pierce, SE ALTC)**

In 2018, ALTSA partnered with DCYF and UW to conduct a federally funded research project evaluating a case management model of service delivery by Kinship Navigators to kinship families. As part of the research project, ALTSA partnered with three AAA's PSA 5, 6 & 9 to test a kinship navigator case management service delivery option for kinship caregivers. Washington State is approaching its sixth year of researching this case management model of the KNP funded by a grant from the Family First Prevention Services Act (FFPSA). It takes more time for the Navigators to deliver this case management model, thus requiring additional funds to provide these services.

The case management model includes an intake with a needs assessment, goal setting, referrals, and support. Follow-ups are conducted three and six months after the intake with additional goal support as needed. These case management services must be provided to clients before future reimbursement occurs. Reimbursement is only possible during an open case management cycle including non-federal dollars spent on families and time spent on support. The Title IV-E Prevention Clearinghouse prioritizes programs or services that are in active use.

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The legislature has allocated funds for SFY25 for each of the three pilot AAAs (PSA 5, 6 & 9) to support the case management model while we await an evidence-based status. All three case management pilot sites have current KNP programs. The sites will also share funding in SFY25 for continuation of kinship support groups. This money should be treated as pass through. The pilot sites will be able to use this money for staffing, travel, equipment, or any other activity to support the continuation of the case management model being used. The pilot sites will provide the AAA monthly reports on open case management client participation, time spent with clients, and nonfederal dollars used for goods and services on their behalf. This information will also be submitted into the GetCare data base system and planned to be used to draw down new federal funds.

7. **Senior Drug Education Program**, In accordance with RCW 74.09.660, the AAAs shall provide services to inform and train persons sixty-five (65) years of age and older in the safe and appropriate use of prescription and non-prescription medications.

The AAA will be responsible for compiling and submitting data on a monthly or quarterly basis. Options for submitting program data include:

E-mailing the ALTSA Senior Drug Education Program Template to the Community Living Connections Program Manager; or

Direct entry of data (service recording) into the CLC Get-Care reporting systems. (Senior Drug Education events can be entered into the Event Manager Tool in CLC GetCare at the discretion of the AAA.)

Funds appropriated for the Senior Drug Education Program must adhere to the amounts set forth in the Budget, Exhibit B, and in the AAA's approved Senior Drug Education Program.

8. **Senior Farmers Market Nutrition Program (SFMNP)**, The AAA shall operate a Senior Farmers Market Nutrition Program as authorized by the Legislature and USDA in accordance with 7 CFR 249, chapter 246-780 WAC Farmers Market Nutrition Program and DSHS/ALTSA program instructions.
9. **Agency Worker Health Insurance (AWHI) for Non-Medicaid Services**, For services provided by contracted home care agencies (HCAs) for Family Caregiver Support Program (FCSP) Respite and Non-core personal care/chore programs, Area Agencies on Aging (AAAs) will pay HCAs for each service hour provided under these programs for AWHI at the calculated parity equivalent amount determined by the Rate Setting Board for individual providers. AAAs will bill DSHS/ALTSA for the same per instructions received through Management Bulletin(s). This pass-through funding will not be reflected in the contract budget or impact the maximum consideration.
10. **Caregiver Training Tuition for Non-Medicaid Services**, For services provided by contracted home care agencies (HCAs) for Family Caregiver Support Program (FCSP) Respite and non-Core personal care/chore programs, Area Agencies on Aging (AAAs) will pay HCAs for each hour provided under these programs for training tuition at the calculated parity equivalent amount determined by DSHS as documented for the Rate Setting Board for individual providers. AAAs will bill DSHS/ALTSA for the training tuition per instructions received through Management Bulletin(s). This pass-through funding will not be reflected in the contract budget or impact the maximum consideration.
11. **Volunteer Services (Northwest Regional Council AAA only)**, Services shall be provided in accordance with all applicable regulations in WAC 388-106-0660 through 0675.

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12. **Home Delivered Meal (HDM) Expansion,** The AAA will continue to serve expanding HDM services to new or underserved populations or areas within their Planning Service Area (PSA) for SB5736 (Session Law 2017). The AAA will enter all HDM service data in CLC GetCare for reporting purposes. This funding should be considered pass through to providers.
13. **Senior Nutrition Services,** Senior Nutrition Services is ongoing State General Funds that may be used in any Senior Nutrition program area (Congregate Nutrition, Home Delivered Meals, Nutrition Education, or Senior Farmers Market Nutrition Program). Funds may be used for outreach for senior nutrition services or innovative grocery or emergency meal programs. These funds may also be used to match federal sources such as OAA. For SFY25, one time funding for senior nutrition programs was awarded and may be expended on new and existing AAA nutrition programs aimed at reducing food insecurity.
14. **Program of All-Inclusive Care for the Elderly (PACE) (Pierce County Aging & Disability Services, Aging and Long-Term Care of Eastern Washington, and Snohomish County Aging and Disability Services Area Agencies on Aging (AAAs) only),** The AAA will provide assessment services for PACE to determine either eligibility or ongoing eligibility for participants choosing PACE in accordance with Chapter 22 of the Long-Term Care Manual. PACE staff will not be part of the TXIX clinical ratio and will track time completing assessment services for PACE separately from other work duties. The PACE is an innovative program providing frail individuals aged 55 and older comprehensive medical and social services coordinated and provided by an interdisciplinary team of professionals in a community-based center and in their homes, helping program participants delay or avoid long-term nursing home care. Case management services for PACE are provided by the PACE provider.
15. **Care Transitions,** The Area Agency on Aging (AAA) shall provide staffing to support transitions of care from acute care hospitals and community-based setting, and report data in biannual reports to the Aging and Long-Term Support Administration (AL TSA) Program Manager and in the GetCare reporting system.



## Special Terms and Conditions

## Exhibit C

### Funds Match Certification

(This form must be submitted with final contract billing.)

I, \_\_\_\_\_, certify that local funds and/or in-kind items  
PRINT NAME

\_\_\_\_\_ were provided in the amount of \$ \_\_\_\_\_  
TYPE AND SOURCE OF PRIVATE / LOCAL FUNDS / ITEMS

\_\_\_\_\_ were provided in the amount of \$ \_\_\_\_\_  
TYPE AND SOURCE OF NON-PROFIT FUNDS / ITEMS

\_\_\_\_\_ were provided in the amount of \$ \_\_\_\_\_  
TYPE AND SOURCE OF FEDERAL FUNDS / ITEMS

and were used to match funds paid during the time period of \_\_\_\_\_ through \_\_\_\_\_ for

TYPE OF SERVICE/CONTRACT

NAME OF ENTITY	
NAME OF AUTHORIZED AGENT	CONTRACT / VENDOR NUMBER
AUTHORIZED REPRESENTATIVE'S SIGNATURE DATE	TITLE OR POSITION
PRINTED NAME OF AUTHORIZED REPRESENTATIVE	TELEPHONE NUMBER

#### Instructions

Name: Printed name of the entity's agent authorized to complete certification form.

Type and source of funds: The type and source of funds used. Please break out different types of funding sources. Not all funding sources will be necessary to complete each certification. In-kind sources need specific identification showing who donated the item(s) (e.g., volunteers, building use, etc.).

Dollar amount: Dollars that were used to match funds paid during the time period. Dollars reported must agree with amount on the final billing.

Time frame: Period of time the services were provided.

Type of service/contract: Services eligible for matching.

Name of entity: Name of entity that is providing the funding match.

Name of authorized agent: Name of agent, if different than "name of entity" above, that is authorized to act on behalf of entity.

Contract/vendor number: The contract or vendor number of the entity.

Authorized representative's signature: The signature of the entity authorized representative.

Date: Date when form was completed.

### **Special Terms and Conditions**

Title or position:

Title or position of entity authorized representative

Printed name:

Printed name of authorized representative.

Telephone number:

Telephone number of authorized representative. Include the area code.

**FUND MATCH CERTIFICATION DSHS  
06-155 (REV. 02/2015)**

**ATTACHMENT D-2: INTERLOCAL AGREEMENT OLDER AMERICANS ACT**  
 [DSHS Agreement #2469-52924] Effective January 1, 2024 – September 30, 2025. Any subcontract for the Kitsap County Area Agency on Aging is subject to the provisions of the applicable Interlocal Agreement between the Department of Social and Health Services and the Area Agency on Aging, unless otherwise provided for in the contract between the Kitsap County Area Agency on Aging and the Contractor. When referencing the applicable Interlocal Agreement in relation to the subcontract, the Kitsap County Area Agency on Aging replaces DSHS and subcontractor replaces AAA.

**AAA General Terms and Conditions**

1. **Amendment.** This Agreement, or any term or condition, may be modified only by a written amendment signed by both parties. Only personnel authorized to bind each of the parties shall sign an amendment.
2. **Assignment.** Except as otherwise provided herein, the AAA shall not assign rights or obligations derived from this Agreement to a third party without the prior, written consent of the DSHS Contracts Administrator and the written assumption of the AAA's obligations by the third party.
3. **Client Abuse.** The AAA shall report all instances of suspected client abuse to DSHS, in accordance with RCW 74.34.
4. **Client Grievance.** The AAA shall establish a system through which applicants for and recipients of services under the approved area plans may present grievances about the activities of the AAA or any subcontractor(s) related to service delivery. Clients receiving Medicaid funded services must be informed of their right to a fair hearing regarding service eligibility specified in WAC 388-02 and under the provisions of the Administrative Procedures Act, Chapter 34.05 RCW.
5. **Compliance with Applicable Law.** At all times during the term of this Agreement, the AAA and DSHS shall comply with all applicable federal, state, and local laws, regulations, and rules, including but not limited to, nondiscrimination laws and regulations.
6. **Confidentiality.** The parties shall use Personal Information and other confidential information gained by reason of this Agreement only for the purpose of this Agreement. DSHS and the AAA shall not otherwise disclose, transfer, or sell any such information to any other party, except as provided by law or, in the case of Personal Information except as provided by law or with the prior written consent of the person to whom the Personal Information pertains. The parties shall maintain the confidentiality of all Personal Information and other confidential information gained by reason of this Agreement and shall return or certify the destruction of such information if requested in writing by the party to the Agreement that provided the information.
7. **AAA Certification Regarding Ethics.** By signing this Agreement, the AAA certifies that the AAA is in compliance with Chapter 42.23 RCW and shall comply with Chapter 42.23 RCW throughout the term of this Agreement.
8. **Debarment Certification.** The AAA, by signature to this Agreement, certifies that the AAA is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this Agreement by any Federal department or agency. The AAA also agrees to include the above requirement in all subcontracts into which it enters, resulting directly from the AAA's duty to provide services under this Agreement.
9. **Disputes.** In the event of a dispute between the AAA and DSHS, every effort shall be made to resolve the dispute informally and at the lowest level. If a dispute cannot be resolved informally, the AAA shall present their grievance in writing to the Assistant Secretary for Aging and Long-Term Support Administration. The Assistant Secretary shall review the facts, contract terms and applicable statutes and rules and make a determination of the dispute. If the dispute remains unresolved after the Assistant Secretary's determination, either party may request intervention by the Secretary of DSHS, in which event the Secretary's process shall control. The Secretary will make a determination within 45 days. Participation in this dispute process shall precede any judicial or quasi-judicial action and shall be the final administrative remedy available to the parties. However, if the Secretary's determination is not made within 45 days, either party may proceed with judicial or quasi-judicial action without awaiting the Secretary's determination.
10. **Drug-Free Workplace.** The AAA shall maintain a work place free from alcohol and drug abuse.

### AAA General Terms and Conditions

11. **Entire Agreement.** This Agreement including all documents attached to or incorporated by reference, contain all the terms and conditions agreed upon by the parties. No other understandings or representations, oral or otherwise, regarding the subject matter of this Agreement, shall be deemed to exist or bind the parties.
12. **Governing Law and Venue.** The laws of the State of Washington govern this Agreement. In the event of a lawsuit by the AAA against DSHS involving this Agreement, venue shall be proper only in Thurston County, Washington. In the event of a lawsuit by DSHS against a County AAA involving this Agreement, venue shall be proper only as provided in RCW 36.01.050.
13. **Independent Status.** Except as otherwise provided in Paragraph 26 herein below, for purposes of this Agreement, the AAA acknowledges that the AAA is not an officer, employee, or agent of DSHS or the State of Washington. The AAA shall not hold out itself or any of its employees as, nor claim status as, an officer, employee, or agent of DSHS or the State of Washington. The AAA shall not claim for itself or its employees any rights, privileges, or benefits, which would accrue to an employee of the State of Washington. The AAA shall indemnify and hold harmless DSHS from all obligations to pay or withhold federal or state taxes or contributions on behalf of the AAA or the AAA's employees.
14. **Inspection.** Either party may request reasonable access to the other party's records and place of business for the limited purpose of monitoring, auditing, and evaluating the other party's compliance with this Agreement, and applicable laws and regulations. During the term of this Agreement and for one (1) year following termination or expiration of this Agreement, the parties shall, upon receiving reasonable written notice, provide the other party with access to its place of business and to its records which are relevant to its compliance with this Agreement and applicable laws and regulations. This provision shall not be construed to give either party access to the other party's records and place of business for any other purpose. Nothing herein shall be construed to authorize either party to possess or copy records of the other party.
15. **Insurance.** DSHS certifies that it is self-insured under the State's self-insurance liability program, as provided by RCW 4.92.130, and shall pay for losses for which it is found liable. The AAA certifies that it is self-insured, is a member of a risk pool, or maintains the types and amounts of insurance identified below and shall, prior to the execution of this Agreement by DSHS, provide certificates of insurance to that effect to the DSHS contact on page one of this Agreement.

Commercial General Liability Insurance (CGL) – to include coverage for bodily injury, property damage, and contractual liability, with the following minimum limits: Each Occurrence - \$1,000,000; General Aggregate - \$2,000,000. The policy shall include liability arising out of premises, operations, independent contractors, products-completed operations, personal injury, advertising injury, and liability assumed under an insured contract. The State of Washington, DSHS, its elected and appointed officials, agents, and employees shall be named as additional insureds.

16. **Maintenance of Records.** During the term of this Agreement and for six (6) years following termination or expiration of this Agreement, both parties shall maintain records sufficient to:
  - a. Document performance of all acts required by law, regulation, or this Agreement;
  - b. Demonstrate accounting procedures, practices, and records that sufficiently and properly document the AAA's invoices to DSHS and all expenditures made by the AAA to perform as required by this Agreement.

For the same period, the AAA shall maintain records sufficient to substantiate the AAA's statement of its organization's structure, tax status, capabilities, and performance.

### AAA General Terms and Conditions

17. **Medicaid Fraud Control Unit (MFCU).** As required by federal regulations, the Health Care Authority, the Department of Social and Health Services, and any contractors or subcontractors, shall promptly comply with all MFCU requests for records or information. Records and information includes, but is not limited to, records on micro-fiche, film, scanned or imaged documents, narratives, computer data, hard copy files, verbal information, or any other information the MFCU determines may be useful in carrying out its responsibilities.
18. **Order of Precedence.** In the event of an inconsistency in this Agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence, in the following order, to:
- a. Applicable federal CFR, CMS Waivers and Medicaid State Plan;
  - b. State of Washington statutes and regulations;
  - c. AL TSA Management Bulletins and policy manuals;
  - d. This Agreement; and
  - e. The AAA's Area Plan.
19. **Ownership of Client Assets.** The AAA shall ensure that any client for whom the AAA or Subcontractor is providing services under this Agreement shall have unrestricted access to the client's personal property. For purposes of this paragraph, client's personal property does not pertain to client records. The AAA or Subcontractor shall not interfere with the client's ownership, possession, or use of such property. Upon termination of this Agreement, the AAA or Subcontractor shall immediately release to the client and/or DSHS all of the client's personal property.
20. **Ownership of Material.** Material created by the AAA and paid for by DSHS as a part of this Agreement 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 AAA uses to perform this Agreement but is not created for or paid for by DSHS is owned by the AAA and is not "work made for hire"; however, DSHS shall have a license of perpetual duration to use, modify, and distribute this material at no charge to DSHS, provided that such license shall be limited to the extent which the AAA has a right to grant such a license.
21. **Ownership of Real Property, Equipment and Supplies Purchased by the AAA.** Title to all property, equipment and supplies purchased by the AAA with funds from this Agreement shall vest in the AAA. When real property, or equipment with a per unit fair market value over \$5000, is no longer needed for the purpose of carrying out this Agreement, or this Agreement is terminated or expired and will not be renewed, the AAA shall request disposition instructions from DSHS. If the per unit fair market value of equipment is under \$5000, the AAA may retain, sell, or dispose of it with no further obligation. Proceeds from the sale or lease of property that was purchased with revenue accrued under the Case Management/Nursing Services unit rate must be expended in Medicaid TXIX or Aging Network programs.

When supplies with a total aggregate fair market value over \$5000 are no longer needed for the purpose of carrying out this Agreement, or this Agreement is terminated or expired and will not be renewed, the AAA shall request disposition instructions from DSHS. If the total aggregate fair market value of equipment is under \$5000, the AAA may retain, sell, or dispose of it with no further obligation.

Disposition and maintenance of property shall be in accordance with 45 CFR Parts 92 and 74.

### AAA General Terms and Conditions

22. **Ownership of Real Property, Equipment and Supplies Purchased by DSHS.** Title to property, equipment and supplies purchased by DSHS and provided to the AAA to carry out the activities of this Agreement shall remain with DSHS. When real property, equipment or supplies are no longer needed for the purpose of carrying out this Agreement, or this Agreement is terminated or expired and will not be renewed, the AAA shall request disposition instructions from DSHS.

Disposition and maintenance of property shall be in accordance with 45 CFR Parts 92 and 74.

23. **Responsibility.** Each party to this Agreement shall be responsible for the negligence of its officers, employees, and agents in the performance of this Agreement. No party to this Agreement shall be responsible for the acts and/or omissions of entities or individuals not party to this Agreement. DSHS and the AAA shall cooperate in the defense of tort lawsuits, when possible. Both parties agree and understand that this provision may not be feasible in all circumstances. DSHS and the AAA agree to notify the attorneys of record in any tort lawsuit where both are parties if either DSHS or the AAA enters into settlement negotiations. It is understood that the notice shall occur prior to any negotiations, or as soon as possible, and the notice may be either written or oral.

24. **Restrictions Against Lobbying.** The AAA certifies to the best of its knowledge and belief that no federal appropriated funds have been paid or will be paid, by or on behalf of the AAA, to any person for influencing or attempting to influence an officer or employee of a federal agency, a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.

If any funds other than federal appropriated funds have or will be paid for the purposes stated above, the AAA must file a disclosure form in accordance with 45 CFR Section 93.110.

The AAA shall include a clause in all subcontracts restricting subcontractors from lobbying in accordance with this section and requiring subcontractors to certify and disclose accordingly.

25. **Severability.** The provisions of this Agreement are severable. If any court holds any provision of this Agreement, including any provision of any document incorporated by reference, invalid, that invalidity shall not affect the other provisions this Agreement.

26. **Subcontracting.**

- a. The AAA may, without further notice to DSHS; subcontract for those services specifically defined in the Area Plan submitted to and approved by DSHS, except subcontracts with for-profit entities must have prior DSHS approval.
- b. The AAA must obtain prior written approval from DSHS to subcontract for services not specifically defined in the approved Area Plan.
- c. Any subcontracts shall be in writing and the AAA shall be responsible to ensure that all terms, conditions, assurances and certifications set forth in this Agreement are included in any and all client services Subcontracts unless an exception to including a particular term or terms has been approved in advance by DSHS.
- d. Subcontractors are prohibited from subcontracting for direct client services without the prior written approval from the AAA.
- e. When the nature of the service the subcontractor is to provide requires a certification, license or



### AAA General Terms and Conditions

approval, the AAA may only subcontract with such contractors that have and agree to maintain the appropriate license, certification or accrediting requirements/standards.

- f. In any contract or subcontract awarded to or by the AAA in which the authority to determine service recipient eligibility is delegated to the AAA or to a subcontractor, such contract or subcontract shall include a provision acceptable to DSHS that specifies how client eligibility will be determined and how service applicants and recipients will be informed of their right to a fair hearing in case of denial or termination of a service, or failure to act upon a request for services with reasonable promptness.
- g. If DSHS, the AAA, and a subcontractor of the AAA are found by a jury or trier of fact to be jointly and severally liable for damages rising from any act or omission from the contract, then DSHS shall be responsible for its proportionate share, and the AAA shall be responsible for its proportionate share. Should the subcontractor be unable to satisfy its joint and several liability, DSHS and the AAA shall share in the subcontractor's unsatisfied proportionate share in direct proportion to the respective percentage of their fault as found by the jury or trier of fact. Nothing in this term shall be construed as creating a right or remedy of any kind or nature in any person or party other than DSHS and the AAA. This term shall not apply in the event of a settlement by either DSHS or the AAA.
- h. Any subcontract shall designate subcontractor as AAA's Business Associate, as defined by HIPAA, and shall include provisions as required by HIPAA for Business Associate contract. AAA shall ensure that all client records and other PHI in possession of subcontractor are returned to AAA at the termination or expiration of the subcontract.

#### 27. Subrecipients.

- a. General. If the AAA is a subrecipient of federal awards as defined by 2 CFR Part 200 and this Agreement, the AAA shall:
  - (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 AAA 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 2 CFR Part 200, Subpart F audit requirements into all agreements between the Contractor and its Subcontractors who are subrecipients;
  - (5) Comply with the applicable requirements of 2 CFR Part 200, including any future amendments to 2 CFR Part 200, and any successor or replacement Office of Management and Budget (OMB) Circular or regulation; and
  - (6) 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

### AAA General Terms and Conditions

<https://ojp.gov/about/offices/ocr.htm> for additional information and access to the aforementioned Federal laws and regulations.)

- b. **Single Audit Act Compliance.** If the AAA is a subrecipient and expends \$750,000 or more in federal awards from all sources in any fiscal year, the AAA shall procure and pay for a single audit or a program-specific audit for that fiscal year. Upon completion of each audit, the AAA shall:
    - (1) Submit to the DSHS contact person the data collection form and reporting package specified in 2 CFR Part 200, Subpart F, 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 2 CFR Part 200, Subpart F; prepare a "Summary Schedule of Prior Audit Findings" reporting the status of all audit findings included in the prior audit's schedule of findings and questioned costs.
  - c. **Overpayments.** If it is determined by DSHS, or during the course of the required audit, that the AAA has been paid unallowable costs under this Agreement, DSHS may require the AAA to reimburse DSHS in accordance with 2 CFR Part 200.
    - (1) For any identified overpayment involving a subcontract between the AAA and a tribe, DSHS agrees it will not seek reimbursement from the AAA, if the identified overpayment was not due to any failure by the AAA.
- 28. Survivability.** The terms and conditions contained in this Agreement, which by their sense and context, are intended to survive the expiration of the particular agreement shall survive. Surviving terms include, but are not limited to: Confidentiality, Disputes, Inspection, Maintenance of Records, Ownership of Material, Responsibility, Termination for Default, Termination Procedure, and Title to Property.
- 29. Contract Renegotiation, Suspension, or 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, after the effective date of this contract but prior to the normal completion of this Contract or Program Agreement:
- a. The Contract or Program Agreement may be renegotiated under the revised funding conditions.
  - b. At DSHS's discretion, DSHS may give notice to the AAA to suspend performance when DSHS determines that there is reasonable likelihood that the funding insufficiency may be resolved in a timeframe that would allow Contractor's performance to be resumed prior to the normal completion date of this contract.
    - (1) During the period of suspension of performance, each party will inform the other of any conditions that may reasonably affect the potential for resumption of performance.
    - (2) When DSHS determines that the funding insufficiency is resolved, it will give Contractor written notice to resume performance. Upon the receipt of this notice, Contractor will provide written notice to DSHS informing DSHS whether it can resume performance and, if so, the date of resumption. For purposes of this subsection, "written notice" may include email.
    - (3) If the AAA's proposed resumption date is not acceptable to DSHS and an acceptable date cannot be negotiated, DSHS may terminate the contract by giving written notice to Contractor. The parties agree that the Contract will be terminated retroactive to the date of the notice of suspension. DSHS shall be liable only for payment in accordance with the terms of this

### AAA General Terms and Conditions

Contract for services rendered prior to the retroactive date of termination.

- c. DSHS may immediately terminate this Contract by providing written notice to the AAA. The termination shall be effective on the date specified in the termination notice. DSHS shall be liable only for payment in accordance with the terms of this Contract for services rendered prior to the effective date of termination. No penalty shall accrue to DSHS in the event the termination option in this section is exercised.

**30. Termination for Convenience.** The Contracts Administrator may terminate this Agreement or any in whole or in part for convenience by giving the AAA at least thirty (30) calendar days' written notice. The AAA may terminate this Agreement for convenience by giving DSHS at least thirty (30) calendar days' written notice addressed to: Central Contract Services, PO Box 45811, Olympia, Washington 98504-5811.

**31. Termination for Default.**

- a. The Contracts Administrator may terminate this Agreement for default, in whole or in part, by written notice to the AAA, if DSHS has a reasonable basis to believe that the AAA has:
  - (1) Failed to meet or maintain any requirement for contracting with DSHS;
  - (2) Failed to perform under any provision of this Agreement;
  - (3) Violated any law, regulation, rule, or ordinance applicable to this Agreement; and/or
  - (4) Otherwise breached any provision or condition of this Agreement.
- b. Before the Contracts Administrator may terminate this Agreement for default, DSHS shall provide the AAA with written notice of the AAA's noncompliance with the agreement and provide the AAA a reasonable opportunity to correct the AAA's noncompliance. If the AAA does not correct the AAA's noncompliance within the period of time specified in the written notice of noncompliance, the Contracts Administrator may then terminate the agreement. The Contracts Administrator may terminate the agreement for default without such written notice and without opportunity for correction if DSHS has a reasonable basis to believe that a client's health or safety is in jeopardy.
- c. The AAA may terminate this Agreement for default, in whole or in part, by written notice to DSHS, if the AAA has a reasonable basis to believe that DSHS has:
  - (1) Failed to meet or maintain any requirement for contracting with the AAA;
  - (2) Failed to perform under any provision of this Agreement;
  - (3) Violated any law, regulation, rule, or ordinance applicable to this Agreement; and/or
  - (4) Otherwise breached any provision or condition of this Agreement.
- d. Before the AAA may terminate this Agreement for default, the AAA shall provide DSHS with written notice of DSHS' noncompliance with the Agreement and provide DSHS a reasonable opportunity to correct DSHS' noncompliance. If DSHS does not correct DSHS' noncompliance within the period of time specified in the written notice of noncompliance, the AAA may then terminate the Agreement.

**32. Termination Procedure.** The following provisions apply in the event this Agreement is terminated:

### AAA General Terms and Conditions

- a. The AAA shall cease to perform any services required by this Agreement as of the effective date of termination and shall comply with all reasonable instructions contained in the notice of termination which are related to the transfer of clients, distribution of property, and termination of services.
  - b. The AAA shall promptly deliver to the DSHS contact person (or to his or her successor) listed on the first page this Agreement, all DSHS assets (property) in the AAA's possession, including any material created under this Agreement. Upon failure to return DSHS property within ten (10) working days of the Agreement termination, the AAA shall be charged with all reasonable costs of recovery, including transportation. The AAA shall take reasonable steps to protect and preserve any property of DSHS that is in the possession of the AAA pending return to DSHS.
  - c. DSHS shall be liable for and shall pay for only those services authorized and provided through the effective date of termination. DSHS may pay an amount mutually agreed by the parties for partially completed work and services, if work products are useful to or usable by DSHS.
  - d. If the Contracts Administrator terminates this Agreement for default, DSHS may withhold a sum from the final payment to the AAA that DSHS determines is necessary to protect DSHS against loss or additional liability. DSHS shall be entitled to all remedies available at law, in equity, or under this Agreement. If it is later determined that the AAA was not in default, or if the AAA terminated this Agreement for default, the AAA shall be entitled to all remedies available at law, in equity, or under this Agreement.
- 33. Treatment of Client Property.** Unless otherwise provided in the applicable Agreement, the AAA shall ensure that any adult client receiving services from the AAA under this Agreement has unrestricted access to the client's personal property. The AAA shall not interfere with any adult client's ownership, possession, or use of the client's property. The AAA 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 or completion of this Agreement, the AAA shall promptly release to the client and/or the client's guardian or custodian all of the client's personal property. This section does not prohibit the AAA from implementing such lawful and reasonable policies, procedures and practices as the AAA deems necessary for safe, appropriate, and effective service delivery (for example, appropriately restricting clients' access to, or possession or use of, lawful or unlawful weapons and drugs).
- 34. 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 Agreement unless amended as set forth in Section 1, Amendment. Only the Contracts Administrator or designee has the authority to waive any term or condition of this Agreement on behalf of DSHS.

### HIPAA Compliance

Preamble: This section of the Contract is the Business Associate Agreement as required by HIPAA.

### 35. Definitions

- a. "Business Associate," as used in this Contract, means the "Contractor" and generally has the same meaning as the term "business associate" at 45 CFR 160.103. Any reference to Business Associate in this Contract includes Business Associate's employees, agents, officers, Subcontractors, third party contractors, volunteers, or directors.
- b. "Business Associate Agreement" means this HIPAA Compliance section of the Contract and

### AAA General Terms and Conditions

includes the Business Associate provisions required by the U.S. Department of Health and Human Services, Office for Civil Rights.

- c. "Breach" means the acquisition, access, use, or disclosure of Protected Health Information in a manner not permitted under the HIPAA Privacy Rule which compromises the security or privacy of the Protected Health Information, with the exclusions and exceptions listed in 45 CFR 164.402.
- d. "Covered Entity" means DSHS, a Covered Entity as defined at 45 CFR 160.103, in its conduct of covered functions by its health care components.
- e. "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.
- f. "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 160.103.
- g. "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, as modified by the American Recovery and Reinvestment Act of 2009 ("ARRA"), Sec. 13400 – 13424, H.R. 1 (2009) (HITECH Act).
- h. "HIPAA Rules" means the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Parts 160 and Part 164.
- i. "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).
- j. "Minimum Necessary" means the least amount of PHI necessary to accomplish the purpose for which the PHI is needed.
- k. "Protected Health Information (PHI)" means individually identifiable health information created, received, maintained or transmitted by Business Associate on behalf of a health care component of the 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 the past, present, or future payment for provision of health care to an Individual. 45 CFR 160.103. 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 and includes EPHI. 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) or employment records held by a Covered Entity in its role as employer.
- l. "Security Incident" means the attempted or successful unauthorized access, use, disclosure, modification or destruction of information or interference with system operations in an information system.
- m. "Subcontractor" as used in this HIPAA Compliance section of the Contract (in addition to its definition in the General Terms and Conditions) means a Business Associate that creates, receives, maintains, or transmits Protected Health Information on behalf of another Business Associate.
- n. "Use" includes the sharing, employment, application, utilization, examination, or analysis, of PHI



### AAA General Terms and Conditions

within an entity that maintains such information.

- 36. Compliance.** Business Associate shall perform all Contract duties, activities and tasks in compliance with HIPAA, the HIPAA Rules, and all attendant regulations as promulgated by the U.S. Department of Health and Human Services, Office of Civil Rights.
- 37. Use and Disclosure of PHI.** Business Associate is limited to the following permitted and required uses or disclosures of PHI:
- a. **Duty to Protect PHI.** Business Associate shall protect PHI from, and shall use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 (Security Standards for the Protection of Electronic Protected Health Information) with respect to EPHI, to prevent the unauthorized Use or disclosure of PHI other than as provided for in this Contract or as required by law, for as long as the PHI is within its possession and control, even after the termination or expiration of this Contract.
  - b. **Minimum Necessary Standard.** Business Associate shall apply the HIPAA Minimum Necessary standard to any Use or disclosure of PHI necessary to achieve the purposes of this Contract. See 45 CFR 164.514 (d)(2) through (d)(5).
  - c. **Disclosure as Part of the Provision of Services.** Business Associate shall only Use or disclose PHI as necessary to perform the services specified in this Contract or as required by law, and shall not Use or disclose such PHI in any manner that would violate Subpart E of 45 CFR Part 164 (Privacy of Individually Identifiable Health Information) if done by Covered Entity, except for the specific uses and disclosures set forth below.
  - d. **Use for Proper Management and Administration.** Business Associate may Use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.
  - e. **Disclosure for Proper Management and Administration.** Business Associate may disclose PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of the Business Associate, provided the disclosures are required by law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that the information will remain confidential and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been Breached.
  - f. **Impermissible Use or Disclosure of PHI.** Business Associate shall report to DSHS in writing all Uses or disclosures of PHI not provided for by this Contract within one (1) business day of becoming aware of the unauthorized Use or disclosure of PHI, including Breaches of unsecured PHI as required at 45 CFR 164.410 (Notification by a Business Associate), as well as any Security Incident of which it becomes aware. Upon request by DSHS, Business Associate shall mitigate, to the extent practicable, any harmful effect resulting from the impermissible Use or disclosure.
  - g. **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 feasible. In addition, If Business Associate learns of a pattern or practice of its Subcontractors that constitutes a violation of the Business Associate's obligations under the terms of their contract and reasonable steps by the Business Associate do not end the violation, Business Associate shall terminate the Subcontract, if feasible.



### AAA General Terms and Conditions

- h. Termination for Cause. Business Associate authorizes immediate termination of this Contract by DSHS, if DSHS determines that Business Associate has violated a material term of this Business Associate Agreement. DSHS may, at its sole option, offer Business Associate an opportunity to cure a violation of this Business Associate Agreement before exercising a termination for cause.
- i. Consent to Audit. Business Associate shall give reasonable access to PHI, its internal practices, 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 of DHHS and/or to DSHS for use in determining compliance with HIPAA privacy requirements.
- j. Obligations of Business Associate Upon Expiration or Termination. Upon expiration or termination of this Contract for any reason, with respect to PHI received from DSHS, or created, maintained, or received by Business Associate, or any Subcontractors, on behalf of DSHS, Business Associate shall:
  - (1) Retain only that PHI which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities;
  - (2) Return to DSHS or destroy the remaining PHI that the Business Associate or any Subcontractors still maintain in any form;
  - (3) Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 (Security Standards for the Protection of Electronic Protected Health Information) with respect to Electronic Protected Health Information to prevent Use or disclosure of the PHI, other than as provided for in this Section, for as long as Business Associate or any Subcontractors retain the PHI;
  - (4) Not Use or disclose the PHI retained by Business Associate or any Subcontractors other than for the purposes for which such PHI was retained and subject to the same conditions set out in the "Use and Disclosure of PHI" section of this Contract which applied prior to termination; and
  - (5) Return to DSHS or destroy the PHI retained by Business Associate, or any Subcontractors, when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities.
- k. Survival. The obligations of the Business Associate under this section shall survive the termination or expiration of this Contract.

### 38. Individual Rights.

- a. Accounting of Disclosures.
  - (1) Business Associate shall document all disclosures, except those disclosures that are exempt under 45 CFR 164.528, of PHI and information related to such disclosures.
  - (2) Within ten (10) business 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 PHI by the Business Associate. See 45 CFR 164.504(e)(2)(ii)(G) and 164.528(b)(1).
  - (3) At the request of DSHS or in response to a request made directly to the Business Associate by an Individual, Business Associate shall respond, in a timely manner and in accordance with HIPAA and the HIPAA Rules, to requests by Individuals for an accounting of disclosures of PHI.

### AAA General Terms and Conditions

- (4) Business Associate 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.

#### b. Access

- (1) Business Associate shall make available PHI that it holds that is part of a Designated Record Set when requested by DSHS or the Individual as necessary to satisfy DSHS's obligations under 45 CFR 164.524 (Access of Individuals to Protected Health Information).
- (2) When the request is made by the Individual to the Business Associate or if DSHS asks the Business Associate to respond to a request, the Business Associate shall comply with requirements in 45 CFR 164.524 (Access of Individuals to Protected Health Information) on form, time and manner of access. When the request is made by DSHS, the Business Associate shall provide the records to DSHS within ten (10) business days.

#### c. Amendment.

- (1) 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) (Amendment of Protected Health Information).
- (2) Business Associate shall make any amendments to PHI in a Designated Record Set as directed by DSHS or as necessary to satisfy DSHS's obligations under 45 CFR 164.526 (Amendment of Protected Health Information).

**39. Subcontracts and other Third Party Agreements.** In accordance with 45 CFR 164.502(e)(1)(ii), 164.504(e)(1)(i), and 164.308(b)(2), Business Associate shall ensure that any agents, Subcontractors, independent contractors or other third parties that create, receive, maintain, or transmit PHI on Business Associate's behalf, enter into a written contract that contains the same terms, restrictions, requirements, and conditions as the HIPAA compliance provisions in this Contract with respect to such PHI. The same provisions must also be included in any contracts by a Business Associate's Subcontractor with its own business associates as required by 45 CFR 164.314(a)(2)(b) and 164.504(e)(5) .

**40. Obligations.** To the extent the Business Associate is to carry out one or more of DSHS's obligation(s) under Subpart E of 45 CFR Part 164 (Privacy of Individually Identifiable Health Information), Business Associate shall comply with all requirements that would apply to DSHS in the performance of such obligation(s).

**41. Liability.** Within ten (10) business days, Business Associate must notify DSHS of any complaint, enforcement or compliance action initiated by the Office for Civil Rights based on an allegation of violation of the HIPAA Rules and must inform DSHS of the outcome of that action. Business Associate bears all responsibility for any penalties, fines or sanctions imposed against the Business Associate for violations of the HIPAA Rules and for any imposed against its Subcontractors or agents for which it is found liable.

#### **42. Breach Notification.**

- a. In the event of a Breach of unsecured PHI or disclosure that compromises the privacy or security of PHI obtained from DSHS or involving DSHS clients, Business Associate will take all measures required by state or federal law.

### AAA General Terms and Conditions

- b. Business Associate will notify DSHS within one (1) business day by telephone and in writing of any acquisition, access, Use or disclosure of PHI not allowed by the provisions of this Contract or not authorized by HIPAA Rules or required by law of which it becomes aware which potentially compromises the security or privacy of the Protected Health Information as defined in 45 CFR 164.402 (Definitions).
- c. Business Associate will notify the DSHS Contact shown on the cover page of this Contract within one (1) business day by telephone or e-mail of any potential Breach of security or privacy of PHI by the Business Associate or its Subcontractors or agents. 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, date Breach was discovered, location and nature of the PHI, type of Breach, origination and destination of PHI, Business Associate unit and personnel associated with the Breach, detailed description of the Breach, anticipated mitigation steps, and the name, address, telephone number, fax number, and e-mail of the individual who is responsible as the primary point of contact. Business Associate will address communications to the DSHS Contact. Business Associate will coordinate and cooperate with DSHS to provide a copy of its investigation and other information requested by DSHS, including advance copies of any notifications required for DSHS review before disseminating and verification of the dates notifications were sent.
- d. If DSHS determines that Business Associate or its Subcontractor(s) or agent(s) is responsible for a Breach of unsecured PHI:
  - (1) requiring notification of Individuals under 45 CFR § 164.404 (Notification to Individuals), 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;
  - (2) requiring notification of the media under 45 CFR § 164.406 (Notification to the media), Business Associate bears the responsibility and costs for notifying the media and receiving and responding to media questions or requests for additional information;
  - (3) requiring notification of the U.S. Department of Health and Human Services Secretary under 45 CFR § 164.408 (Notification to the Secretary), 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
  - (4) DSHS will take appropriate remedial measures up to termination of this Contract.

#### 43. Miscellaneous Provisions.

- a. **Regulatory References.** A reference in this Contract to a section in the HIPAA Rules means the section as in effect or amended.
- b. **Interpretation.** Any ambiguity in this Contract shall be interpreted to permit compliance with the HIPAA Rules.

## Special Terms and Conditions

### 1. Definitions.

- a. "AAA" or "Contractor" shall mean the Area Agency on Aging that is a party to this agreement, and includes the AAA's officers, directors, trustees, employees and/or agents unless otherwise stated in this Agreement. For purposes of this Agreement, the AAA or agent shall not be considered an employee of DSHS
- b. "Agreement" means this Agreement, including all documents attached or incorporated by reference.
- c. "Allocable costs" are those costs which are chargeable or assignable to a particular cost objective in accordance with the relative benefits received by those costs.
- d. "Allowable costs" are those costs necessary and reasonable for proper and efficient performance of this Agreement and in conformance with this Agreement. Allowable costs under federal awards to local or tribal governments must be in conformance with Office of Management and Budget (OMB) Circular A-87, Cost Principles for State, Local and Indian Tribal Governments; allowable costs under federal awards to non-profit organizations must be in conformance with OMB Circular A-122, Cost Principles for Non-Profit Organizations.
- e. "Area Plan" means the document submitted by the AAA to DSHS for approval every four years, with updates every two years, which sets forth goals, measurable objectives, outcomes, units of service, and identifies the planning, coordination, administration, social services and evaluation of activities to be undertaken by the AAA to carry out the purposes of the Older Americans Act, the Social Security Act, the Senior Citizens Services Act, or any other statute for which the AAA receives funds.
- f. "Assignment" means the act of transferring to another the rights and obligations under this Agreement.
- g. "Business Associate" means a Business Associate 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 protected health information (PHI). Any reference to Business Associate under this Agreement includes Business Associate's employees, agents, officers, subcontractors, third party contractor's, volunteers, or directors.
- h. "CFR" means Code of Federal Regulations. All references in this Agreement to the CFR shall include any successor, amended, or replacement regulation.
- i. "Client" means an individual that is eligible for or receiving services provided by the AAA in connection with this Agreement.
- j. "Covered Entity" means DSHS, a Covered Entity as defined in 45 CFR 160.103.
- k. "Contracts Administrator" means the manager, or successor, of Central Contract Services or successor section or office.
- l. "Debarment" means an action taken by a Federal official to exclude a person or business entity from participating in transactions involving certain federal funds.
- m. "Designated Record Set" means a group of records maintained by or for the Covered Entity that is the medical and billing records about the individuals or the enrollment, payment, claims adjudication, and case or medical management records, used in whole or part by or for the Covered Entity to make decisions about individuals.

### Special Terms and Conditions

- n. "DSHS" or "the Department" means the state of Washington Department of Social and Health Services and its employees and authorized agents.
- o. "Equipment" means tangible, nonexpendable, personal property having a useful life of more than one year and an acquisition cost of \$5000 or more per unit.
- p. "HIPAA" means the Health Information Portability and Accountability Act of 1996, as codified at 42 USCA 1320d-d8.
- q. "Individual" means the person who is the subject of PHI and includes a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).
- r. "Older Americans Act" refers to P.L. 106-501, 106th Congress, and any subsequent amendments or replacement statutes thereto.
- s. "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.
- t. "PHI" means protected health information and is 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 and 14. 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, maintained, or stored in any form or medium. 45 CFR 164.501. PHI does not include education records covered by the Family Educational Right and Privacy Act, as amended, 20 USCA 1232g(a)(4)(b)(iv).
- u. "RCW" means the Revised Code of Washington. All references in this Agreement to RCW chapters or sections shall include any successor, amended, or replacement statute. Pertinent RCW chapters can be accessed at <http://slc.leg.wa.gov/>.
- v. "Real Property" means land, including land improvements, structures, and appurtenances thereto, excluding movable machinery and equipment.
- w. "Regulation" means any federal, state, or local regulation, rule, or ordinance.
- x. "Subcontract" means any separate agreement or contract between the AAA 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 Agreement.
- y. "Subcontractor" means an individual or entity (including its officers, directors, trustees, employees, and/or agents) with whom the AAA contracts to provide services that are specifically defined in the Area Plan or are otherwise approved by DSHS in accordance with this Agreement.
- z. "Subrecipient" means a non-federal entity that expends federal awards received from a pass-through entity to carry out a federal program, but does not include an individual that is a beneficiary of such a program. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency.
- aa. "Supplies" means all tangible personal property other than equipment as defined herein.



### Special Terms and Conditions

bb. "WAC" means the Washington Administrative Code. All references in this Agreement to WAC chapters or sections shall include any successor, amended, or replacement regulation. Pertinent WAC chapters or sections can be accessed at <http://slc.leg.wa.gov/>.

cc. "Unique Entity Identifier (UEI)" means a unique number assigned to all entities (public and private companies, individuals, institutions, or organizations) who register to do business with the federal government.

2. **Statement of Work.** The AAA shall perform the services as set forth in the attached Statement of Work (Exhibit A).
3. **Billing Procedure.** DSHS shall pay to the AAA all allowable and allocable costs incurred as evidenced by proper invoice by the AAA submitted to DSHS on a monthly basis in accordance with the Budget (Exhibit B), which is attached hereto and incorporated herein. The AAA shall request payment using forms as designated by DSHS.
4. **Payment.** DSHS shall pay the AAA upon acceptance by DSHS of properly-completed invoices and approval of required reports. DSHS shall pay the AAA an amount not to exceed the maximum consideration specified on Page 1 of this Agreement for the satisfactory performance of all work set forth in the Statement of Work. If this Agreement is terminated, DSHS shall only pay for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

If the AAA claims and is reimbursed for costs under this Agreement which DSHS later finds were claimed in error or not allowable costs under the terms of this Agreement, DSHS shall recover those costs and the AAA shall fully cooperate during the recovery.

DSHS shall not make any payments in advance or anticipation of the delivery of services to be provided pursuant to this Agreement. Unless otherwise specified in this Agreement, DSHS shall not pay any claims for payment for services submitted more than forty-five (45) days after completion of the contract period. The AAA shall not bill DSHS for services performed under this Agreement, and DSHS shall not pay the AAA, if the AAA has charged or will charge the State of Washington or any other party under any other contract or agreement for the same services.

**The AAA shall complete and submit the attached Local Match Certification Form (Exhibit C) with their final billing. Final payment will not be made without the completed form.**

5. **Confidentiality.** In addition to General Terms and Conditions Confidentiality language, the AAA or its Subcontractors may disclose information to each other, to DSHS, or to appropriate authorities, for purposes directly connected with the services provided to the client. This includes, but is not limited to, determining eligibility, providing services, and participation in disputes, fair hearings or audits. The AAA and its Subcontractors shall disclose information for research, statistical, monitoring and evaluation purposes conducted by appropriate federal agencies and DSHS.
6. **Unique Entity Identifier (UEI).** In accordance with the Federal Funding Accountability and Transparency Act (FFATA, Public Law 109-282) implemented on October 1, 2010, the Contractor must provide their UEI Number for this Agreement. The Contractor's UEI Number is LD6MNJ62JQD1. If the UEI Number changes, the Contractor must immediately notify the DSHS Contact listed on Page 1 of this Agreement and provide the correct UEI Number.
7. **Amendment Clause Exception.** The only exception to the General Term and Condition Amendment clause (clause 1.) is when an amendment must be processed to distribute federal funds to the



### Special Terms and Conditions

Contractor and the funds must be obligated in a Short Timeframe. Short Timeframe means the Contractor is unable to follow their standard contract execution procedures in order to timely obligate the federal funds. By execution of this Contract, the Contractor prospectively agrees to the terms of the federal fund distribution amendment, which shall be limited to only adding funds to the Contractor's Budget. The Contractor's designated point-of-contact shall also email DSHS its acceptance of the amendment prior to final signing of the amendment.

8. **Background Checks.** The AAA shall ensure that hiring practices for staff who will have unsupervised access to clients are in accordance with RCW 43.20A.710.
9. **Grant requirements.** Contractor shall adhere to the following in carrying out requirements of this Contract:
  - a. **CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS (SEP 2013)**
    - (1) This contract and employees working on this contract will be subject to the whistleblower rights and remedies in the pilot program on Contractor employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239) and FAR 3.908.
    - (2) The Contractor shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712, as described in section 3.908 of the Federal Acquisition Regulation.
    - (3) The Contractor shall insert the substance of this clause, including this paragraph (c), in all subcontracts over the simplified acquisition threshold of \$150,000 as described in 48 CFR 2.101.
  - b. Recognize any same-sex marriage legally entered into in a U.S. jurisdiction that recognizes their marriage, including one of the 50 states, the District of Columbia or a U.S. territory, or in a foreign country so long as that marriage would also be recognized by a U.S. jurisdiction. This applies regardless of whether or not the couple resides in a jurisdiction that recognizes same-sex marriage. However, this does not apply to registered domestic partnerships, civil unions or similar formal relationships recognized under the law of the jurisdiction of celebration as something other than a marriage. Accordingly, recipients must review and revise, as needed, any policies and procedures which interpret or apply Federal statutory or regulatory references to such terms as "marriage," "spouse," "family," "household member" or similar references to familial relationships to reflect inclusion of same-sex spouse and marriages. Any similar familial terminology references in HHS statutes, regulations, or policy transmittals will be interpreted to include same-sex spouses and marriages legally entered into as described herein. **United States v. Windsor, 133 S.Ct. 2675 (June 26, 2013); section 3 of the Defense of Marriage Act, codified at 1 USC §7.**
10. **Grant Award Documents.** Exhibit D, Grant Award Documents, will be sent separately once received from the Administration of Community Living and incorporated herein with no contract amendment needed.
11. **Area Plan.** The Contractor will work with ALTSA to answer and resolve any CY23 Area Plan budget (January) and 7.01 planning questions/revisions within one month of receipt of questions from ALTSA.
12. **Sovereign Immunity – Colville and Yakama only.** Nothing whatsoever in this Agreement constitutes or shall be construed as a waiver of the Indian Nation's sovereign immunity.

## Special Terms and Conditions

### 13. Duty to Disclose Business Transactions.

- a. Pursuant to 42 CFR 455.105(b), within 35 days of the date on a request by the Secretary of the U.S. Department of Health and Human Services or DSHS, Contractor must submit full and complete information related to Contractor's business transactions that include:
  - (1) The ownership of any subcontractor with whom the Contractor has had business transactions totaling more than \$25,000 during the 12-month period ending on the date of the request; and
  - (2) Any significant business transactions between the Contractor and any wholly owned supplier, or between the Contractor and any subcontractor, during the 5-year period ending on the date of the request.
- b. Failure to comply with requests made under this term may result in denial of payments until the requested information is disclosed. See 42 CFR 455.105(c).

### 14. State or Federal Audit Requests.

The contractor is required to respond to State or Federal audit requests for records or documentation, within the timeframe provided by the requestor. The Contractor must provide all records requested to either State or Federal agency staff or their designees.

## **Special Terms and Conditions**

### **Exhibit A, Statement of Work**

The AAA shall comply with the Older Americans Act, (Public Law 106-501), the Policies and Procedures for Area Agency on Aging Operations Manual, the Aging Network Program Guidelines and Standards, the DSHS Aging and Long-Term Support Administration (ALTSA) Long Term Care Manual, Management Bulletins and all other applicable state and federal laws and regulations, in carrying out the following obligations under this Agreement:

1. **Area Plan.** The AAA shall continue to implement their DSHS approved area plan in accordance with DSHS guidelines. The area plan shall provide for a comprehensive and coordinated community-based system of services for older individuals living in the AAA planning and service area, in accordance with the requirements and assurances in the Older Americans Act. A budget supporting the area plan services, goals and objectives shall be developed and submitted to DSHS/ALTSA annually for the period January 1 – December 31.
2. **Services provided by the AAA.** The AAA shall provide services according to its approved Area Plan and the Older Americans Act to target populations in its planning and service area.
3. **Sub-recipient Requirements.** As a sub-recipient of federal funds from the Department of Health and Human Services, the AAA shall comply with federal grant sub-recipient requirements contained in 45 CFR 92.

## Special Terms and Conditions

### Exhibit C



## Funds Match Certification

(This form must be submitted with final contract billing.)

I, \_\_\_\_\_ certify that local funds and/or in-kind items  
PRINT NAME

\_\_\_\_\_ were provided in the amount of \$ \_\_\_\_\_  
TYPE AND SOURCE OF PRIVATE / LOCAL FUNDS / ITEMS

\_\_\_\_\_ were provided in the amount of \$ \_\_\_\_\_  
TYPE AND SOURCE OF NON-PROFIT FUNDS / ITEMS

\_\_\_\_\_ were provided in the amount of \$ \_\_\_\_\_  
TYPE AND SOURCE OF FEDERAL FUNDS / ITEMS

and were used to match funds paid during the time period of \_\_\_\_\_ through \_\_\_\_\_ for

TYPE OF SERVICE/CONTRACT

NAME OF ENTITY	
NAME OF AUTHORIZED AGENT	CONTRACT / VENDOR NUMBER
AUTHORIZED REPRESENTATIVE'S SIGNATURE DATE	TITLE OR POSITION
PRINTED NAME OF AUTHORIZED REPRESENTATIVE	TELEPHONE NUMBER

### Instructions

Name: Printed name of the entity's agent authorized to complete certification form.

Type and source of funds: The type and source of funds used. Please break out different types of funding sources. Not all funding sources will be necessary to complete each certification. In-kind sources need specific identification showing who donated the item(s) (e.g., volunteers, building use, etc.).

Dollar amount: Dollars that were used to match funds paid during the time period. Dollars reported must agree with amount on the final billing.

Time frame: Period of time the services were provided.

Type of service/contract: Services eligible for matching.

Name of entity: Name of entity that is providing the funding match.

Name of authorized agent: Name of agent, if different than "name of entity" above, that is authorized to act on behalf of entity.

Contract/vendor number: The contract or vendor number of the entity.

Authorized representative's signature: The signature of the entity authorized representative.

### **Special Terms and Conditions**

Date: Date when form was completed.  
Title or position: Title or position of entity authorized representative  
Printed name: Printed name of authorized representative.  
Telephone number: Telephone number of authorized representative. Include the area code.

## **ATTACHMENT E: DATA SHARE AND SECURITY REQUIREMENTS**

[DSHS Agreement #2469-50777] Effective January 1, 2024 – December 31, 2025. Any subcontract for the Kitsap County Area Agency on Aging is subject to the provisions of the applicable Interlocal Data Share Agreement between the Department of Social and Health Services and the Area Agency on Aging, unless otherwise provided for in the contract between the Kitsap County Area Agency on Aging and the Contractor. When referencing the applicable Interlocal Data Share Agreement in relation to the subcontract, the Kitsap County Area Agency on Aging replaces DSHS and subcontractor replaces AAA.

### **AAA General Terms and Conditions**

1. **Amendment.** This Agreement, or any term or condition, may be modified only by a written amendment signed by both parties. Only personnel authorized to bind each of the parties shall sign an amendment.
2. **Assignment.** Except as otherwise provided herein, the AAA shall not assign rights or obligations derived from this Agreement to a third party without the prior, written consent of the DSHS Contracts Administrator and the written assumption of the AAA's obligations by the third party.
3. **Compliance with Applicable Law and Washington State Requirements.**
  - a. **Applicable Law.** At all times during the term of this Agreement, the AAA and DSHS shall comply with all applicable federal, state, and local laws, regulations, and rules, including but not limited to, nondiscrimination laws and regulations.
  - b. **Certification Regarding Russian Government Contracts and/or Investments.** Contractor shall abide by the requirements of Governor Jay Inslee's Directive 22-03 and all subsequent amendments. The Contractor, by signature to this Contract, certifies that the Contractor is not presently an agency of the Russian government, an entity which is Russian-state owned to any extent, or an entity sanctioned by the United States government in response to Russia's invasion of Ukraine. The Contractor also agrees to include the above certification in any and all Subcontracts into which it enters. The Contractor shall immediately notify DSHS if, during the term of this Contract, Contractor does not comply with this certification. DSHS may immediately terminate this Contract by providing Contractor written notice if Contractor does not comply with this certification during the term hereof.
4. **Confidentiality.** The parties shall use Personal Information and other confidential information gained by reason of this Agreement only for the purpose of this Agreement. DSHS and the AAA shall not disclose, transfer, or sell any such information to any other party, except as provided by law or, in the case of Personal Information except as provided by law or with the prior written consent of the person to whom the Personal Information pertains. The parties shall maintain the confidentiality of all Personal Information and other confidential information gained by reason of this Agreement and shall return or certify the destruction of such information if allowed by law and requested in writing by the party to the Agreement that provided the information.
5. **AAA Certification Regarding Ethics.** By signing this Agreement, the AAA certifies that the AAA is in compliance with Chapter 42.23 RCW and shall comply with Chapter 42.23 RCW throughout the term of this Agreement.
6. **Debarment Certification.** The AAA, by signature to this Agreement, certifies that the AAA is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this Agreement by any Federal department or agency. The AAA also agrees to include the above requirement in all subcontracts into which it enters, resulting directly from the AAA's duty to provide services under this Agreement.
7. **E-Signature and Records.** An electronic signature or electronic record of this Contract or any other ancillary agreement shall be deemed to have the same legal effect as delivery of an original executed copy of this Contract or such other ancillary agreement for all purposes.
8. **Disputes.** In the event of a dispute between the AAA and DSHS, every effort shall be made to resolve the dispute informally and at the lowest level. If a dispute cannot be resolved informally, the AAA shall present their grievance in writing to the Assistant Secretary for Aging and Long-Term Support Administration. The Assistant Secretary shall review the facts, contract terms and applicable statutes



### AAA General Terms and Conditions

and rules and make a determination of the dispute. If the dispute remains unresolved after the Assistant Secretary's determination, either party may request intervention by the Secretary of DSHS, in which event the Secretary's process shall control. The Secretary will make a determination within 45 days. Participation in this dispute process shall precede any judicial or quasi-judicial action and shall be the final administrative remedy available to the parties. However, if the Secretary's determination is not made within 45 days, either party may proceed with judicial or quasi-judicial action without awaiting the Secretary's determination.

9. **Drug-Free Workplace.** The AAA shall maintain a work place free from alcohol and drug abuse.
10. **Entire Agreement.** This Agreement including all documents attached to or incorporated by reference, contain all the terms and conditions agreed upon by the parties. No other understandings or representations, oral or otherwise, regarding the subject matter of this Agreement, shall be deemed to exist or bind the parties.
11. **Governing Law and Venue.** The laws of the State of Washington govern this Agreement. In the event of a lawsuit by the AAA against DSHS involving this Agreement, venue shall be proper only in Thurston County, Washington. In the event of a lawsuit by DSHS against a County AAA involving this Agreement, venue shall be proper only as provided in RCW 36.01.050.
12. **Independent Status.** Except as otherwise provided in Paragraph 24 herein below, for purposes of this Agreement, the AAA acknowledges that the AAA is not an officer, employee, or agent of DSHS or the State of Washington. The AAA shall not hold out itself or any of its employees as, nor claim status as, an officer, employee, or agent of DSHS or the State of Washington. The AAA shall not claim for itself or its employees any rights, privileges, or benefits, which would accrue to an employee of the State of Washington. The AAA shall indemnify and hold harmless DSHS from all obligations to pay or withhold federal or state taxes or contributions on behalf of the AAA or the AAA's employees.
13. **Inspection.** Either party may request reasonable access to the other party's records and place of business for the limited purpose of monitoring, auditing, and evaluating the other party's compliance with this Agreement, and applicable laws and regulations. During the term of this Agreement and for one (1) year following termination or expiration of this Agreement, the parties shall, upon receiving reasonable written notice, provide the other party with access to its place of business and to its records which are relevant to its compliance with this Agreement and applicable laws and regulations. This provision shall not be construed to give either party access to the other party's records and place of business for any other purpose. Nothing herein shall be construed to authorize either party to possess or copy records of the other party.
14. **Insurance.** DSHS certifies that it is self-insured under the State's self-insurance liability program, as provided by RCW 4.92.130, and shall pay for losses for which it is found liable. The AAA certifies that it is self-insured, is a member of a risk pool, or maintains the types and amounts of insurance identified below and shall, prior to the execution of this Agreement by DSHS, provide certificates of insurance to that effect to the DSHS contact on page one of this Agreement.

Commercial General Liability Insurance (CGL) – to include coverage for bodily injury, property damage, and contractual liability, with the following minimum limits: Each Occurrence - \$1,000,000; General Aggregate - \$2,000,000. The policy shall include liability arising out of premises, operations, independent contractors, products-completed operations, personal injury, advertising injury, and liability assumed under an insured contract. The State of Washington, DSHS, its elected and appointed officials, agents, and employees shall be named as additional insureds.

15. **Maintenance of Records.** During the term of this Agreement and for six (6) years following termination

### AAA General Terms and Conditions

or expiration of this Agreement, both parties shall maintain records sufficient to:

- a. Document performance of all acts required by law, regulation, or this Agreement;
- b. Demonstrate accounting procedures, practices, and records that sufficiently and properly document the AAA's invoices to DSHS and all expenditures made by the AAA to perform as required by this Agreement.

For the same period, the AAA shall maintain records sufficient to substantiate the AAA's statement of its organization's structure, tax status, capabilities, and performance.

16. **Medicaid Fraud Control Unit (MFCU).** As required by federal regulations, the Health Care Authority, the Department of Social and Health Services, and any contractors or subcontractors, shall promptly comply with all MFCU requests for records or information. Records and information includes, but is not limited to, records on micro-fiche, film, scanned or imaged documents, narratives, computer data, hard copy files, verbal information, or any other information the MFCU determines may be useful in carrying out its responsibilities.
17. **Order of Precedence.** In the event of an inconsistency in this Agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence, in the following order, to:
  - a. Applicable federal CFR, CMS Waivers and Medicaid State Plan;
  - b. State of Washington statutes and regulations;
  - c. AL TSA Management Bulletins and policy manuals;
  - d. This Agreement; and
  - e. The AAA's Area Plan.
18. **Ownership of Client Assets.** The AAA shall ensure that any client for whom the AAA or Subcontractor is providing services under this Agreement shall have unrestricted access to the client's personal property. The AAA or Subcontractor shall not interfere with the client's ownership, possession, or use of such property. Upon termination of this Agreement, the AAA or Subcontractor shall immediately release to the client and/or DSHS all of the client's personal property.
19. **Ownership of Material.** Material created by the AAA and paid for by DSHS as a part of this Agreement 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 AAA uses to perform this Agreement but is not created for or paid for by DSHS is owned by the AAA 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 AAA has a right to grant such a license.
20. **Ownership of Real Property, Equipment and Supplies Purchased by the AAA.** Title to all property, equipment and supplies purchased by the AAA with funds from this Agreement shall vest in the AAA. When real property, or equipment with a per unit fair market value over \$5000, is no longer needed for the purpose of carrying out this Agreement, or this Agreement is terminated or expired and will not be renewed, the AAA shall request disposition instructions from DSHS. If the per unit fair market value of equipment is under \$5000, the AAA may retain, sell, or dispose of it with no further obligation.

### AAA General Terms and Conditions

When supplies with a total aggregate fair market value over \$5000 are no longer needed for the purpose of carrying out this Agreement, or this Agreement is terminated or expired and will not be renewed, the AAA shall request disposition instructions from DSHS. If the total aggregate fair market value of equipment is under \$5000, the AAA may retain, sell, or dispose of it with no further obligation.

Disposition and maintenance of property shall be in accordance with 45 CFR Parts 92 and 74.

21. **Ownership of Real Property, Equipment and Supplies Purchased by DSHS.** Title to property, equipment and supplies purchased by DSHS and provided to the AAA to carry out the activities of this Agreement shall remain with DSHS. When real property, equipment or supplies are no longer needed for the purpose of carrying out this Agreement, or this Agreement is terminated or expired and will not be renewed, the AAA shall request disposition instructions from DSHS.

Disposition and maintenance of property shall be in accordance with 45 CFR Parts 92 and 74.

22. **Responsibility.** Each party to this Agreement shall be responsible for the negligence of its officers, employees, and agents in the performance of this Agreement. No party to this Agreement shall be responsible for the acts and/or omissions of entities or individuals not party to this Agreement. DSHS and the AAA shall cooperate in the defense of tort lawsuits, when possible. Both parties agree and understand that this provision may not be feasible in all circumstances. DSHS and the AAA agree to notify the attorneys of record in any tort lawsuit where both are parties if either DSHS or the AAA enters into settlement negotiations. It is understood that the notice shall occur prior to any negotiations, or as soon as possible, and the notice may be either written or oral.

23. **Restrictions Against Lobbying.** The AAA certifies to the best of its knowledge and belief that no federal appropriated funds have been paid or will be paid, by or on behalf of the AAA, to any person for influencing or attempting to influence an officer or employee of a federal agency, a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.

If any funds other than federal appropriated funds have or will be paid for the purposes stated above, the AAA must file a disclosure form in accordance with 45 CFR Section 93.110.

The AAA shall include a clause in all subcontracts restricting subcontractors from lobbying in accordance with this section and requiring subcontractors to certify and disclose accordingly.

24. **Severability.** The provisions of this Agreement are severable. If any court holds any provision of this Agreement, including any provision of any document incorporated by reference, invalid, that invalidity shall not affect the other provisions this Agreement.

25. **Subcontracting.**

- a. The AAA may, without further notice to DSHS, subcontract for those services specifically defined in the Area Plan submitted to and approved by DSHS, except subcontracts with for-profit entities must have prior DSHS approval.
- b. The AAA must obtain prior written approval from DSHS to subcontract for services not specifically defined in the approved Area Plan.
- c. Any subcontracts shall be in writing and the AAA shall be responsible to ensure that all terms,

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conditions, assurances and certifications set forth in this Agreement are included in any and all client services Subcontracts unless an exception to including a particular term or terms has been approved in advance by DSHS.

- d. Subcontractors are prohibited from subcontracting for direct client services without the prior written approval from DSHS.
- e. When the nature of the service the subcontractor is to provide requires a certification, license or approval, the AAA may only subcontract with such contractors that have and agree to maintain the appropriate license, certification or accrediting requirements/standards.
- f. In any contract or subcontract awarded to or by the AAA in which the authority to determine service recipient eligibility is delegated to the AAA or to a subcontractor, such contract or subcontract shall include a provision acceptable to DSHS that specifies how client eligibility will be determined and how service applicants and recipients will be informed of their right to a fair hearing in case of denial or termination of a service, or failure to act upon a request for services with reasonable promptness.
- g. If DSHS, the AAA, and a subcontractor of the AAA are found by a jury or trier of fact to be jointly and severally liable for damages arising from any act or omission from the contract, then DSHS shall be responsible for its proportionate share, and the AAA shall be responsible for its proportionate share. Should the subcontractor be unable to satisfy its joint and several liability, DSHS and the AAA shall share in the subcontractor's unsatisfied proportionate share in direct proportion to the respective percentage of their fault as found by the jury or trier of fact. Nothing in this term shall be construed as creating a right or remedy of any kind or nature in any person or party other than DSHS and the AAA. This term shall not apply in the event of a settlement by either DSHS or the AAA.
- h. Any subcontract shall designate subcontractor as AAA's Business Associate, as defined by HIPAA, and shall include provisions as required by HIPAA for Business Associate contract. AAA shall ensure that all client records and other PHI in possession of subcontractor are returned to AAA at the termination or expiration of the subcontract.

### 26. Subrecipients.

- (1) General. If the AAA is a subrecipient of federal awards as defined by 2 CFR Part 200 and this Agreement, the AAA shall:
- (2) Maintain records that identify, in its accounts, all federal awards received and expended and the federal programs under which they were received, by Assistance Listing Number (ALN) and title, award number and year, name of the federal agency, and name of the pass-through entity;
- (3) Maintain internal controls that provide reasonable assurance that the AAA 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;
- (4) Prepare appropriate financial statements, including a schedule of expenditures of federal awards;
- (5) Incorporate 2 CFR Part 200, Subpart F audit requirements into all agreements between the Contractor and its Subcontractors who are subrecipients;
- (6) Comply with the applicable requirements of 2 CFR Part 200, including any future amendments

## AAA General Terms and Conditions

to 2 CFR Part 200, and any successor or replacement Office of Management and Budget (OMB) 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/](http://www.ojp.usdoj.gov/ocr/) for additional information and access to the aforementioned Federal laws and regulations.)
  - b. Single Audit Act Compliance. If the AAA is a subrecipient and expends \$750,000 or more in federal awards from all sources in any fiscal year, the AAA shall procure and pay for a single audit or a program-specific audit for that fiscal year. Upon completion of each audit, the AAA shall:
    - (1) Submit to the DSHS contact person the data collection form and reporting package specified in 2 CFR Part 200, Subpart F, 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 2 CFR Part 200, Subpart F; prepare a "Summary Schedule of Prior Audit Findings" reporting the status of all audit findings included in the prior audit's schedule of findings and questioned costs.
  - c. Overpayments. If it is determined by DSHS, or during the course of the required audit, that the AAA has been paid unallowable costs under this Agreement, DSHS may require the AAA to reimburse DSHS in accordance with 2 CFR Part 200.
    - (1) For any identified overpayment involving a subcontract between the AAA and a tribe, DSHS agrees it will not seek reimbursement from the AAA, if the identified overpayment was not due to any failure by the AAA.
- 27. Survivability.** The terms and conditions contained in this Agreement, which by their sense and context, are intended to survive the expiration of the particular agreement shall survive. Surviving terms include, but are not limited to: Confidentiality, Disputes, Inspection, Maintenance of Records, Ownership of Material, Responsibility, Termination for Default, and Termination Procedure.
- 28. Contract Renegotiation, Suspension, or 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, after the effective date of this contract but prior to the normal completion of this Contract or Program Agreement:
- a. The Contract or Program Agreement may be renegotiated under the revised funding conditions.
  - b. At DSHS's discretion, DSHS may give notice to the AAA to suspend performance when DSHS determines that there is reasonable likelihood that the funding insufficiency may be resolved in a timeframe that would allow Contractor's performance to be resumed prior to the normal completion date of this contract.
    - (1) During the period of suspension of performance, each party will inform the other of any conditions that may reasonably affect the potential for resumption of performance.
    - (2) When DSHS determines that the funding insufficiency is resolved, it will give Contractor written notice to resume performance. Upon the receipt of this notice, Contractor will provide written

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notice to DSHS informing DSHS whether it can resume performance and, if so, the date of resumption. For purposes of this subsection, "written notice" may include email.

- (3) If the AAA's proposed resumption date is not acceptable to DSHS and an acceptable date cannot be negotiated, DSHS may terminate the contract by giving written notice to Contractor. The parties agree that the Contract will be terminated retroactive to the date of the notice of suspension. DSHS shall be liable only for payment in accordance with the terms of this Contract for services rendered prior to the retroactive date of termination.
  - c. DSHS may immediately terminate this Contract by providing written notice to the AAA. The termination shall be effective on the date specified in the termination notice. DSHS shall be liable only for payment in accordance with the terms of this Contract for services rendered prior to the effective date of termination. No penalty shall accrue to DSHS in the event the termination option in this section is exercised.
- 29. Termination for Convenience.** The Contracts Administrator may terminate this Agreement or any in whole or in part for convenience by giving the AAA at least thirty (30) calendar days' written notice. The AAA may terminate this Agreement for convenience by giving DSHS at least thirty (30) calendar days' written notice addressed to: Central Contract Services, PO Box 45811, Olympia, Washington 98504-5811.
- 30. Termination for Default.**
  - a. The Contracts Administrator may terminate this Agreement for default, in whole or in part, by written notice to the AAA, if DSHS has a reasonable basis to believe that the AAA has:
    - (1) Failed to meet or maintain any requirement for contracting with DSHS;
    - (2) Failed to perform under any provision of this Agreement;
    - (3) Violated any law, regulation, rule, or ordinance applicable to this Agreement; and/or
    - (4) Otherwise breached any provision or condition of this Agreement.
  - b. Before the Contracts Administrator may terminate this Agreement for default, DSHS shall provide the AAA with written notice of the AAA's noncompliance with the agreement and provide the AAA a reasonable opportunity to correct the AAA's noncompliance. If the AAA does not correct the AAA's noncompliance within the period of time specified in the written notice of noncompliance, the Contracts Administrator may then terminate the agreement. The Contracts Administrator may terminate the agreement for default without such written notice and without opportunity for correction if DSHS has a reasonable basis to believe that a client's health or safety is in jeopardy.
  - c. The AAA may terminate this Agreement for default, in whole or in part, by written notice to DSHS, if the AAA has a reasonable basis to believe that DSHS has:
    - (1) Failed to meet or maintain any requirement for contracting with the AAA;
    - (2) Failed to perform under any provision of this Agreement;
    - (3) Violated any law, regulation, rule, or ordinance applicable to this Agreement; and/or
    - (4) Otherwise breached any provision or condition of this Agreement.



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- d. Before the AAA may terminate this Agreement for default, the AAA shall provide DSHS with written notice of DSHS' noncompliance with the Agreement and provide DSHS a reasonable opportunity to correct DSHS' noncompliance. If DSHS does not correct DSHS' noncompliance within the period of time specified in the written notice of noncompliance, the AAA may then terminate the Agreement.

**31. Termination Procedure.** The following provisions apply in the event this Agreement is terminated:

- a. The AAA shall cease to perform any services required by this Agreement as of the effective date of termination and shall comply with all reasonable instructions contained in the notice of termination which are related to the transfer of clients, distribution of property, and termination of services.
- b. The AAA shall promptly deliver to the DSHS contact person (or to his or her successor) listed on the first page of this Agreement, all DSHS assets (property) in the AAA's possession, including any material created under this Agreement. Upon failure to return DSHS property within ten (10) working days of the Agreement termination, the AAA shall be charged with all reasonable costs of recovery, including transportation. The AAA shall take reasonable steps protect and preserve any property of DSHS that is in the possession of the AAA pending return to DSHS.
- c. DSHS shall be liable for and shall pay for only those services authorized and provided through the effective date of termination. DSHS may pay an amount mutually agreed by the parties for partially completed work and services, if work products are useful to or usable by DSHS.
- d. If the Contracts Administrator terminates this Agreement for default, DSHS may withhold a sum from the final payment to the AAA that DSHS determines is necessary to protect DSHS against loss or additional liability. DSHS shall be entitled to all remedies available at law, in equity, or under this Agreement. If it is later determined that the AAA was not in default, or if the AAA terminated this Agreement for default, the AAA shall be entitled to all remedies available at law, in equity, or under this Agreement.

**32. 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 Agreement unless amended as set forth in Section 1, Amendment. Only the Contracts Administrator or designee has the authority to waive any term or condition of this Agreement on behalf of DSHS.

### HIPAA Compliance

Preamble: This section of the Contract is the Business Associate Agreement as required by HIPAA.

**33. Definitions**

- a. "Business Associate," as used in this Contract, means the "Contractor" and generally has the same meaning as the term "business associate" at 45 CFR 160.103. Any reference to Business Associate in this Contract includes Business Associate's employees, agents, officers, Subcontractors, third party contractors, volunteers, or directors.
- b. "Business Associate Agreement" means this HIPAA Compliance section of the Contract and includes the Business Associate provisions required by the U.S. Department of Health and Human Services, Office for Civil Rights.
- c. "Breach" means the acquisition, access, use, or disclosure of Protected Health Information in a

### AAA General Terms and Conditions

manner not permitted under the HIPAA Privacy Rule which compromises the security or privacy of the Protected Health Information, with the exclusions and exceptions listed in 45 CFR 164.402.

- d. "Covered Entity" means DSHS, a Covered Entity as defined at 45 CFR 160.103, in its conduct of covered functions by its health care components.
- e. "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.
- f. "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 160.103.
- g. "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, as modified by the American Recovery and Reinvestment Act of 2009 ("ARRA"), Sec. 13400 – 13424, H.R. 1 (2009) (HITECH Act).
- h. "HIPAA Rules" means the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Parts 160 and Part 164.
- i. "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).
- j. "Minimum Necessary" means the least amount of PHI necessary to accomplish the purpose for which the PHI is needed.
- k. "Protected Health Information (PHI)" means individually identifiable health information created, received, maintained or transmitted by Business Associate on behalf of a health care component of the 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 the past, present, or future payment for provision of health care to an Individual. 45 CFR 160.103. 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 and includes EPHI. 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) or employment records held by a Covered Entity in its role as employer.
- l. "Security Incident" means the attempted or successful unauthorized access, use, disclosure, modification or destruction of information or interference with system operations in an information system.
- m. "Subcontractor" as used in this HIPAA Compliance section of the Contract (in addition to its definition in the General Terms and Conditions) means a Business Associate that creates, receives, maintains, or transmits Protected Health Information on behalf of another Business Associate.
- n. "Use" includes the sharing, employment, application, utilization, examination, or analysis, of PHI within an entity that maintains such information.

**34. Compliance.** Business Associate shall perform all Contract duties, activities and tasks in compliance

### AAA General Terms and Conditions

with HIPAA, the HIPAA Rules, and all attendant regulations as promulgated by the U.S. Department of Health and Human Services, Office of Civil Rights.

**35. Use and Disclosure of PHI.** Business Associate is limited to the following permitted and required uses or disclosures of PHI:

- a. **Duty to Protect PHI.** Business Associate shall protect PHI from, and shall use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 (Security Standards for the Protection of Electronic Protected Health Information) with respect to EPHI, to prevent the unauthorized Use or disclosure of PHI other than as provided for in this Contract or as required by law, for as long as the PHI is within its possession and control, even after the termination or expiration of this Contract.
- b. **Minimum Necessary Standard.** Business Associate shall apply the HIPAA Minimum Necessary standard to any Use or disclosure of PHI necessary to achieve the purposes of this Contract. See 45 CFR 164.514 (d)(2) through (d)(5).
- c. **Disclosure as Part of the Provision of Services.** Business Associate shall only Use or disclose PHI as necessary to perform the services specified in this Contract or as required by law, and shall not Use or disclose such PHI in any manner that would violate Subpart E of 45 CFR Part 164 (Privacy of Individually Identifiable Health Information) if done by Covered Entity, except for the specific uses and disclosures set forth below.
- d. **Use for Proper Management and Administration.** Business Associate may Use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.
- e. **Disclosure for Proper Management and Administration.** Business Associate may disclose PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of the Business Associate, provided the disclosures are required by law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that the information will remain confidential and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been Breached.
- f. **Impermissible Use or Disclosure of PHI.** Business Associate shall report to DSHS in writing all Uses or disclosures of PHI not provided for by this Contract within one (1) business day of becoming aware of the unauthorized Use or disclosure of PHI, including Breaches of unsecured PHI as required at 45 CFR 164.410 (Notification by a Business Associate), as well as any Security Incident of which it becomes aware. Upon request by DSHS, Business Associate shall mitigate, to the extent practicable, any harmful effect resulting from the impermissible Use or disclosure.
- g. **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 feasible. In addition, If Business Associate learns of a pattern or practice of its Subcontractors that constitutes a violation of the Business Associate's obligations under the terms of their contract and reasonable steps by the Business Associate do not end the violation, Business Associate shall terminate the Subcontract, if feasible.
- h. **Termination for Cause.** Business Associate authorizes immediate termination of this Contract by DSHS, if DSHS determines that Business Associate has violated a material term of this Business

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Associate Agreement. DSHS may, at its sole option, offer Business Associate an opportunity to cure a violation of this Business Associate Agreement before exercising a termination for cause.

- i. Consent to Audit. Business Associate shall give reasonable access to PHI, its internal practices, 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 of DHHS and/or to DSHS for use in determining compliance with HIPAA privacy requirements.
- j. Obligations of Business Associate Upon Expiration or Termination. Upon expiration or termination of this Contract for any reason, with respect to PHI received from DSHS, or created, maintained, or received by Business Associate, or any Subcontractors, on behalf of DSHS, Business Associate shall:
  - (1) Retain only that PHI which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities;
  - (2) Return to DSHS or destroy the remaining PHI that the Business Associate or any Subcontractors still maintain in any form;
  - (3) Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 (Security Standards for the Protection of Electronic Protected Health Information) with respect to Electronic Protected Health Information to prevent Use or disclosure of the PHI, other than as provided for in this Section, for as long as Business Associate or any Subcontractors retain the PHI;
  - (4) Not Use or disclose the PHI retained by Business Associate or any Subcontractors other than for the purposes for which such PHI was retained and subject to the same conditions set out in the "Use and Disclosure of PHI" section of this Contract which applied prior to termination; and
  - (5) Return to DSHS or destroy the PHI retained by Business Associate, or any Subcontractors, when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities.
- k. Survival. The obligations of the Business Associate under this section shall survive the termination or expiration of this Contract.

#### 36. Individual Rights.

##### a. Accounting of Disclosures.

- (1) Business Associate shall document all disclosures, except those disclosures that are exempt under 45 CFR 164.528, of PHI and information related to such disclosures.
- (2) Within ten (10) business 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 PHI by the Business Associate. See 45 CFR 164.504(e)(2)(ii)(G) and 164.528(b)(1).
- (3) At the request of DSHS or in response to a request made directly to the Business Associate by an Individual, Business Associate shall respond, in a timely manner and in accordance with HIPAA and the HIPAA Rules, to requests by Individuals for an accounting of disclosures of PHI.

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- (4) Business Associate 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.

#### b. Access

- (1) Business Associate shall make available PHI that it holds that is part of a Designated Record Set when requested by DSHS or the Individual as necessary to satisfy DSHS's obligations under 45 CFR 164.524 (Access of Individuals to Protected Health Information).
- (2) When the request is made by the Individual to the Business Associate or if DSHS asks the Business Associate to respond to a request, the Business Associate shall comply with requirements in 45 CFR 164.524 (Access of Individuals to Protected Health Information) on form, time and manner of access. When the request is made by DSHS, the Business Associate shall provide the records to DSHS within ten (10) business days.

#### c. Amendment.

- (1) 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) (Amendment of Protected Health Information).
- (2) Business Associate shall make any amendments to PHI in a Designated Record Set as directed by DSHS or as necessary to satisfy DSHS's obligations under 45 CFR 164.526 (Amendment of Protected Health Information).

37. **Subcontracts and other Third Party Agreements.** In accordance with 45 CFR 164.502(e)(1)(ii), 164.504(e)(1)(i), and 164.308(b)(2), Business Associate shall ensure that any agents, Subcontractors, independent contractors or other third parties that create, receive, maintain, or transmit PHI on Business Associate's behalf, enter into a written contract that contains the same terms, restrictions, requirements, and conditions as the HIPAA compliance provisions in this Contract with respect to such PHI. The same provisions must also be included in any contracts by a Business Associate's Subcontractor with its own business associates as required by 45 CFR 164.314(a)(2)(b) and 164.504(e)(5).
38. **Obligations.** To the extent the Business Associate is to carry out one or more of DSHS's obligation(s) under Subpart E of 45 CFR Part 164 (Privacy of Individually Identifiable Health Information), Business Associate shall comply with all requirements that would apply to DSHS in the performance of such obligation(s).
39. **Liability.** Within ten (10) business days, Business Associate must notify DSHS of any complaint, enforcement or compliance action initiated by the Office for Civil Rights based on an allegation of violation of the HIPAA Rules and must inform DSHS of the outcome of that action. Business Associate bears all responsibility for any penalties, fines or sanctions imposed against the Business Associate for violations of the HIPAA Rules and for any imposed against its Subcontractors or agents for which it is found liable.
40. **Breach Notification.**
  - a. In the event of a Breach of unsecured PHI or disclosure that compromises the privacy or security of PHI obtained from DSHS or involving DSHS clients, Business Associate will take all measures

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required by state or federal law.

- b. Business Associate will notify DSHS within one (1) business day by telephone and in writing of any acquisition, access, Use or disclosure of PHI not allowed by the provisions of this Contract or not authorized by HIPAA Rules or required by law of which it becomes aware which potentially compromises the security or privacy of the Protected Health Information as defined in 45 CFR 164.402 (Definitions).
- c. Business Associate will notify the DSHS Contact shown on the cover page of this Contract within one (1) business day by telephone or e-mail of any potential Breach of security or privacy of PHI by the Business Associate or its Subcontractors or agents. 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, date Breach was discovered, location and nature of the PHI, type of Breach, origination and destination of PHI, Business Associate unit and personnel associated with the Breach, detailed description of the Breach, anticipated mitigation steps, and the name, address, telephone number, fax number, and e-mail of the individual who is responsible as the primary point of contact. Business Associate will address communications to the DSHS Contact. Business Associate will coordinate and cooperate with DSHS to provide a copy of its investigation and other information requested by DSHS, including advance copies of any notifications required for DSHS review before disseminating and verification of the dates notifications were sent.
- d. If DSHS determines that Business Associate or its Subcontractor(s) or agent(s) is responsible for a Breach of unsecured PHI:
  - (1) requiring notification of Individuals under 45 CFR § 164.404 (Notification to Individuals), 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;
  - (2) requiring notification of the media under 45 CFR § 164.406 (Notification to the media), Business Associate bears the responsibility and costs for notifying the media and receiving and responding to media questions or requests for additional information;
  - (3) requiring notification of the U.S. Department of Health and Human Services Secretary under 45 CFR § 164.408 (Notification to the Secretary), 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
  - (4) DSHS will take appropriate remedial measures up to termination of this Contract.

#### **41. Miscellaneous Provisions.**

- a. **Regulatory References.** A reference in this Contract to a section in the HIPAA Rules means the section as in effect or amended.
- b. **Interpretation.** Any ambiguity in this Contract shall be interpreted to permit compliance with the HIPAA Rules.



## Special Terms and Conditions

### 1. Definitions.

- a. "Area Agency on Aging" or "AAA" or "Contractor" means a party to this Agreement, and includes the AAA's officers, directors, trustees, employees and/or agents unless otherwise stated in this Agreement. For purposes of this Agreement, the AAA or agent shall not be considered an employee of DSHS.
- b. "Agency Contracts Database" or "ACD" is used to access, produce and manage contracts and contract information.
- c. "Automated Client Eligibility System" or "ACES" is a tool for determining eligibility, issuing benefits, management support, and sharing of data between agencies.
- d. "Agreement" means this Agreement, including all documents attached or incorporated by reference.
- e. "Area Plan" means the document submitted by the AAA to DSHS for approval every four years, with updates every two years, which sets forth goals, measurable objectives, outcomes, units of service, and identifies the planning, coordination, administration, social services and evaluation of activities to be undertaken by the AAA to carry out the purposes of the Older Americans Act, the Social Security Act, the Senior Citizens Services Act, or any other statute for which the AAA receives funds.
- f. "Authorizer" A representative appointed by the AAA to assure users AAA level and ALTSA level access requests are processed using the Secure Access Request Form 17-226. Authorizers assure users meet attestation, training and other system access requirements. They assure paperwork is processed in accordance with MB's, instructions, and data share agreement requirements. Authorizers manage AAA level access requirement locally establishing profiles and user level permissions. Authorizers are the first point of contact when issues occur for users and route issues to local IT or escalate to ALTSA as needed. AAA Authorizers are responsible for keeping track of their pool of employee IDs, for applicable systems.
- g. "Automated Client Eligibility System (ACES)" Online is a tool for public assistance eligibility determination, issuing benefits, management support, and sharing of data between agencies to include client demographics.
- h. "ADSA Reporting" is now referred to as DDA/HCS Reporting and interfaces with reporting services to provide a subset of information to case management or supervisor level data for individual AAA offices.
- i. "Background Check System" or "BGC" means a system that provides background check information on clients, vendors and staff to meet DSHS requirements where appropriate.
- j. "Barcode" is a client server system that manages workflow and document images. Twenty major component subsystems include childcare eligibility and social service case management. Provides programmed and ad hoc access to ACES, eJAS, and native Barco.
- k. "CITRIX" is a method to access DSHS resources for staff on the DSHS network working from a remote location. CITRIX is allowed on personal devices to remote into a DSHS computer in network and other virtual desktop environment applications.
- l. "Community Living Connections" or "CLC" means Washington State's name for its No-Wrong Door access network of Area Agencies on Aging and their state, regional and local partners.
- m. "CLC-GetCare" means a version of RTZ's GetCare product modified to support Washington State's Community Living Connections. It is used for managing programs funded by the Older Americans

## Special Terms and Conditions

Act, CMS, state general fund, local resources, and federal grants, including Medicaid Alternative Care (MAC) and Tailored Supports for Older Adults (TSOA). It also supports the CLC public website with a consumer portal and a resource directory. CLC/GetCare System is used in order to manage, record, and report service provision and utilization, demographics, resource directory, consumer website information and to access TCARE screening, assessment, and care planning tools.

- n. "Client" means an individual who is eligible for or receiving services provided by the AAA in connection with this Agreement.
- o. "Client Registry" or "CReg" is a secure web-based application centralizing client information and providing a single location to support client service research. Client Registry is used to provide high-level demographic information and service history for AAA case management staff from multiple DSHS administrations. Client Registry (CReg) is managed by DSHS Technology Security Division (TSD).
- p. "Code of Federal Regulations" or "CFR" means all references in this Agreement to the CFR shall include any successor, amended, or replacement regulation.
- q. "Community Living Connections" or "CLC" means Washington state's name for its No-Wrong Door access network of Area Agencies on Aging and their state, regional and local partners.
- r. "Comprehensive Assessment and Reporting Evaluation" or "CARE" is the tool used by case managers to document a client's functional ability, determine eligibility for long-term care services, evaluate what and how much assistance a Client will receive, and develop a plan of care. CARE interfaces to the Consumer Direct Caregiver Network of WA (CDWA), and the legacy Tailored Caregiver Assessment and Referral (TCARE) system and their reporting systems for demographic, assessment, and service plan information.
- s. "Contracts Administrator" means the manager, or successor, of Central Contract Services or successor section or office.
- t. "DDA/HCS Reporting" interfaces with reporting services to provide a subset of information to case management or supervisor level data for individual AAA offices.
- u. "Disclosure" means the release, transfer, provision of, access to, or divulging in any other manner of information outside the entity holding the information.
- v. "Document Management Service (DMS)" means an automated subsystem of Barcode that uses imaging technology and document assignments to manage client documents and workflow.
- w. "Department of Social and Health Services" or "DSHS" means the state of Washington Department of Social and Health Services and its employees and authorized agents.
- x. "Economic Services Administration" or "ESA" is an administration under the Department of Social and Health Services.
- y. "Equipment" means tangible, nonexpendable, personal property having a useful life of more than one year and an acquisition cost of \$5000 or more per unit.
- z. "Health Information Portability and Accountability Act of 1996" or "HIPAA" means as codified at 42 USCA 1320d-d8.
- aa. "Individual" means the person who is the subject of PHI and includes a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).

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- bb. "Medicaid Management Information System" or "MMIS" means an integrated group of procedures and computer processing operations (subsystems) developed at the general design level to meet principal objectives, and it is associated with ProviderOne.
- cc. "Older Americans Act" or "OAA" refers to P.L. 106-501, 106th Congress, and any subsequent amendments or replacement statutes thereto.
- dd. "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.
- ee. "Personal Health Information" or "PHI" means protected health information and is 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 and 14. 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, maintained, or stored in any form or medium. 45 CFR 164.501. PHI does not include education records covered by the Family Educational Right and Privacy Act, as amended, 20 USCA 1232g(a)(4)(b)(iv).
- ff. "Predictive Risk Intelligence System" or "PRISM" is a secure web-based application accessed through Secure Access Washington for care coordination. A separate Data Share Agreement with the AAA governs use and requirements.
- gg. "ProviderOne" is a Medicaid Management Information System" or "MMIS" is for service providers and staff to view authorization, payment, scheduling and client service data. It interfaces between ACES and the HCA. Uses the info to authorize payment from medical providers, generate reports, and obtain federal funding.
- hh. "Quality Assurance Monitor" or "QA Monitor" is used to assess the assessor or do supervisory reviews. Quality Assurance monitoring ensures that all services promote health, safety, and self-determination for all participants. Identifies efficient and effective practices in services delivery and ensures federal and state assurances are met.
- ii. "Real Property" means land, including land improvements, structures, and appurtenances thereto, excluding movable machinery and equipment.
- jj. "Regulation" means any federal, state, or local regulation, rule, or ordinance.
- kk. "Revised Code of Washington" or "RCW" means all references in this Agreement to RCW chapters or sections shall include any successor, amended, or replacement statute. Pertinent RCW chapters can be accessed at <http://slc.leg.wa.gov/>.
- ll. "SecureAccess Washington" or "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.
- mm. "Social Service Payment System" or "SSPS" is used for payment data history.
- nn. "Subcontract" means any separate agreement or contract between the AAA 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 Agreement.

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- oo. "Subcontractor" means an individual or entity (including its officers, directors, trustees, employees, and/or agents) with whom the AAA contracts to provide services that are specifically defined in the Area Plan or are otherwise approved by DSHS in accordance with this Agreement.
- pp. "Subrecipient" means a non-federal entity that expends federal awards received from a pass-through entity to carry out a federal program, but does not include an individual that is a beneficiary of such a program. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency.
- qq. "Supplies" means all tangible personal property other than equipment as defined herein.
- rr. Tailored Caregiver Assessment and Referral (TCARE)" is a caregiver assessment and referral protocol designed to assist care managers who work with family caregivers who care for their older adult relatives.
- ss. "Use" means, with respect to individually identifiable health information, the sharing, employment, application, utilization, examination, or analysis of such information within an entity that maintains such information.
- tt. "User" means the AAA employee who has registered or approved access to a system listed in this Agreement.
- uu. "Virtual Private Networking" or "VPN" is a method for AAAs not on the DSHS network to access DSHS applications and internal resources.
- vv. "Washington Administrative Code" or "WAC" is all references in this Agreement to WAC chapters or sections which shall include any successor, amended, or replacement regulation. Pertinent WAC chapters or sections can be accessed at <http://slc.leg.wa.gov/>.

**2. Statement of Work.** The AAA shall perform the services as set forth below and in accordance with Exhibit A, Data Security Requirements:

- a. **Authority to Access Data.** RCW 74.39A.090 mandates that DSHS contract with Area Agencies on Aging (AAA's) to provide case management services to individuals receiving Title XIX personal care services and to reassess and reauthorize these individuals for Title XIX personal care services or other home and community services as defined by this statute. In order to effectively administer these DSHS services, the AAA's must have access to client data, and to certain DSHS information systems.
- b. **Systems Access and Method of Access.** The AAA may access or may request permission to access the following:

(1) System Access

- (a) By submitting AAA DSHS / HCA System Access Request (SAR) Form 17-226

- i. ALTSA Level

- (A) ACES Online

- (B) ProviderOne – View Only

- (C) IPOne (AAA retain access until the IP contracts are fully transitioned to CDWA)

- (D) CReg

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(E) PRISM

(F) VPN

ii. ALTSA Level – Requiring DSHS Active Directory

(A) ALTSA Data Mart – CARE

(B) ALTSA Data Mart – P1/AFRS

(C) WaCareRpt Database

iii. AAA Level

(A) ACD – Agency Contracts Database

(B) DDA/HCS Reporting

(C) BarCode (DMS)

(D) BCS – Background Check

(E) CARE Production + Practice

(F) CARE Web Production + Practice

(G) CLC/GetCare

(H) QA Monitor

(b) Aging and Long-Term Support Administration (ALTSA) and Developmental Disabilities Administration (DDA) SharePoint sites.

(c) DSHS' Internal Forms Picker Site.

(d) "LC" Washington State Learning Center (WSLC) Trainings with monetary cost are prohibited unless AAA has created their own account. The number of AAA staff with access will be negotiated with DSHS and may require a separate account for billing individual licenses.

(2) Method of Access

(a) The AAA shall access these systems through the State Government Network (SGN), the Inter-Governmental Network (IGN), SecureAccess Washington (SAW), or through a DSHS approved method of secure access.

(b) The AAA agrees to follow the DSHS IT Security Policy Manual (Section 4.2.3.1, S1) that covers unique user IDs and security elements of constructing safe passwords and protecting them from unauthorized disclosure.

**3. Access and Disclosure information.** The AAA shall not disclose the contents of any Client records, files, papers and communications except as necessary for the administration of programs to provide services to clients as required by law.

a. The AAA shall limit access to client data to the AAA and any subcontractor staff whose duties specifically require access to such data in the performance of their assigned duties. AAA or subcontractor staff shall not access any individual client data for personal purposes. Clients shall

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only be permitted to access their own data.

- b. The AAA shall ensure each employee signs the Contractor Agreement on Nondisclosure of Confidential Information form, attached as Exhibit C, provided by the Department to acknowledge the data access requirements prior to DSHS granting access. Access will be given only to data necessary to the performance of this Agreement. The AAA shall retain the original Nondisclosure form on file. The AAA shall have the form available for DSHS review upon request.
- c. The AAA must provide an annual written reminder of the Nondisclosure requirements to all employees with access to the data to remind them of the limitations, use or publishing of data. The AAA shall retain documentation of such reminder on file for monitoring purposes.
- d. The AAA shall not use or disclose any information concerning any DSHS client for any purpose not directly connected with the administration of the AAA's responsibilities under this Agreement except by prior written consent of the DSHS client, his/her attorney, parent or guardian.
- e. The AAA or its service provider may disclose information to each other or to DSHS for purposes directly connected with the administration of their programs. This includes, but is not limited to, determining eligibility, providing services, and participation in an audit. The AAA and its service providers shall disclose information for authorized research, statistical, monitoring and evaluation purposes conducted by appropriate federal agencies and DSHS. DSHS must authorize in writing the disclosure of this information to any other party not identified in this section.
- f. The AAA staff shall not link the data with personal data or individually identifiable data from any other source nor re-disclose the data unless specifically authorized in this Agreement or by the prior written consent of DSHS.
- g. The AAA shall notify each system Administrator within five business days when a User leaves employment or otherwise no longer requires system access. Upon notification, the system Administrator will deactivate the User ID and terminate access to the applicable application(s). The AAA shall confirm the need for continued access for each User of the ACD on a quarterly basis.
- h. The AAA shall ensure that only registered system Users access and use the systems in this Agreement, use only their own User ID and password to access the systems and do not allow employees who are not registered to borrow a User ID or password to access any systems.
- i. Access to systems may be continuously tracked and monitored. DSHS reserves the right at any time to conduct audits of systems access and use, and to investigate possible violations of this Agreement and/or violations of federal and state laws and regulations governing access to protected health information.

4. **Dissemination to Staff.** Prior to making information available to new staff and annually thereafter, the AAA shall ensure that staff accessing the Personal Information or PHI under this Agreement are trained in HIPAA use and disclosure of PHI requirements and understand:

a. Confidentiality of Client Data

- (1) Client data is confidential and is protected by various state and federal laws. The basis for this protection is the individual's right to privacy as outlined in the HIPPA Privacy Rule- 45 CFR 160 to 45 CFR 164.
- (2) Personal Information means demographic and financial information about a particular individual that is obtained through one or more sources (such as name, address, SSN, and phone numbers). RCW 42.56.210 lists the information that is exempted from public inspection and copying.



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### b. Use of Client Data

- (1) Client data may be used only for purposes of these contracted services, directly related to providing services to the client or for the operation of aging and long-term care programs.
- (2) Any personal use of client information is strictly prohibited.
- (3) Access to data must be limited to those staff whose duties specifically require access to such data in the performance of their assigned duties.

### c. Disclosure of Information

- (1) Client information may be provided to the client, client's authorized guardian, or a client-authorized 3rd party per WAC 388-01, and the Long-Term Care Manual.
- (2) Client information may be disclosed to other individuals or agencies only for purposes of administering DSHS programs, within regulatory constraints for each data type
- (3) Questions related to disclosure are to be directed to the Home and Community Programs Public Disclosure Coordinator.
- (4) Any disclosure of information contrary to this section is unauthorized and is subject to penalties identified in law.

## 5. Security of Data

- a. The AAA shall take reasonable precautions to secure against unauthorized physical and electronic access to data, which shall be protected in a manner that prevents unauthorized persons, including the general public, from retrieving data by means of computer, remote terminal, or other means. The AAA shall take due care to ensure AAA and its subcontractors protect said data from unauthorized physical and electronic access. The AAA is authorized to store data on portable devices and media. The data will be stored on computers with security systems that require individual user IDs and hardened passwords. Only persons who have signed the *Contractor Agreement on Nondisclosure of Confidential Information form* covering this data share agreement will be able to access the data that Washington State shares with the AAA under this Agreement.
- b. The AAA shall ensure disks and/or documents generated in printed form from the electronic file are properly returned, destroyed or shredded when no longer needed so unauthorized individuals cannot access client information. Data destroyed shall include all copies of any data sets in possession after the data has been used for the purpose specified herein or within 30 days of the date of termination and certify such destruction to DSHS. DSHS shall be responsible for destroying the returned documents to ensure confidentiality is maintained. The Data provided by DSHS will remain the property of DSHS and will be promptly destroyed as allowed by law and when the AAA and its subcontractors have completed the work for which the information was required, as fully described by Exhibit A Data Security Requirements.
- c. The AAA shall protect information according to state and federal laws including the following incorporated by reference:
  - (1) Privacy Act 1974 5 USC subsection 552a;
  - (2) Chapter 40.14 RCW Preservation and Destruction of Public Records;
  - (3) Chapter 74.04 RCW General Provisions – Administration;

### **Special Terms and Conditions**

- (4) Chapter 42.56.210 RCW Certain Personal & Other Records Exempt;
- (5) 45 CFR 205.50 provides for Safeguarding information for the financial assistance Programs and identifies limitations to disclosure of said information; and,
- (6) Public Law 99-508 (18 USC section 2510et. Seq. Electronic Communications Privacy Act of 1986) Part A of Title IV of the Social Security Act authorizes disclosure of client information and provides for safeguards, which restrict the use or disclosure of information concerning applicants or recipients to purposes directly connected with administration of the program.

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### Exhibit A – Data Security Requirements

1. **Definitions.** The words and phrases listed below, as used in this Exhibit, shall each have the following definitions:
  - a. "AES" means the Advanced Encryption Standard, a specification of Federal Information Processing Standards Publications for the encryption of electronic data issued by the National Institute of Standards and Technology (<http://nvlpubs.nist.gov/nistpubs/FIPS/NIST.FIPS.197.pdf>).
  - b. "Authorized Users(s)" means an individual or individuals with a business need to access DSHS Confidential Information, and who has or have been authorized to do so.
  - c. "Business Associate Agreement" means an agreement between DSHS and a contractor who is receiving Data covered under the Privacy and Security Rules of the Health Insurance Portability and Accountability Act of 1996. The agreement establishes permitted and required uses and disclosures of protected health information (PHI) in accordance with HIPAA requirements and provides obligations for business associates to safeguard the information.
  - d. "Category 4 Data" is data that is confidential and requires special handling due to statutes or regulations that require especially strict protection of the data and from which especially serious consequences may arise in the event of any compromise of such data. Data classified as Category 4 includes but is not limited to data protected by: the Health Insurance Portability and Accountability Act (HIPAA), Pub. L. 104-191 as amended by the Health Information Technology for Economic and Clinical Health Act of 2009 (HITECH), 45 CFR Parts 160 and 164; the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. §1232g; 34 CFR Part 99; Internal Revenue Service Publication 1075 (<https://www.irs.gov/pub/irs-pdf/p1075.pdf>); Substance Abuse and Mental Health Services Administration regulations on Confidentiality of Alcohol and Drug Abuse Patient Records, 42 CFR Part 2; and/or Criminal Justice Information Services, 28 CFR Part 20.
  - e. "Cloud" means data storage on servers hosted by an entity other than the Contractor and on a network outside the control of the Contractor. Physical storage of data in the cloud typically spans multiple servers and often multiple locations. Cloud storage can be divided between consumer grade storage for personal files and enterprise grade for companies and governmental entities. Examples of consumer grade storage would include iTunes, Dropbox, Box.com, and many other entities. Enterprise cloud vendors include Microsoft Azure, Amazon Web Services, and Rackspace.
  - f. "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 256 bits for symmetric keys, or 2048 bits for asymmetric keys. When a symmetric key is used, the Advanced Encryption Standard (AES) must be used if available.
  - g. "FedRAMP" means the Federal Risk and Authorization Management Program (see [www.fedramp.gov](http://www.fedramp.gov)), which is an assessment and authorization process that federal government agencies have been directed to use to ensure security is in place when accessing Cloud computing products and services.
  - h. "Hardened Password" means a string of at least eight characters containing at least three of the following four character classes: Uppercase alphabetic, lowercase alphabetic, numeral, and special characters such as an asterisk, ampersand, or exclamation point.
  - i. "Mobile Device" means a computing device, typically smaller than a notebook, which runs a mobile operating system, such as iOS, Android, or Windows Phone. Mobile Devices include smart phones, most tablets, and other form factors.

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- j. "Multi-factor Authentication" means controlling access to computers and other IT resources by requiring two or more pieces of evidence that the user is who they claim to be. These pieces of evidence consist of something the user knows, such as a password or PIN; something the user has such as a key card, smart card, or physical token; and something the user is, a biometric identifier such as a fingerprint, facial scan, or retinal scan. "PIN" means a personal identification number, a series of numbers which act as a password for a device. Since PINs are typically only four to six characters, PINs are usually used in conjunction with another factor of authentication, such as a fingerprint.
  - k. "Portable Device" means any computing device with a small form factor, designed to be transported from place to place. Portable devices are primarily battery powered devices with base computing resources in the form of a processor, memory, storage, and network access. Examples include, but are not limited to, mobile phones, tablets, and laptops. Mobile Device is a subset of Portable Device.
  - l. "Portable Media" means any machine readable media that may routinely be stored or moved independently of computing devices. Examples include magnetic tapes, optical discs (CDs or DVDs), flash memory (thumb drive) devices, external hard drives, and internal hard drives that have been removed from a computing device.
  - m. "Secure Area" means an area to which only authorized representatives of the entity possessing the Confidential Information have access, and access is controlled through use of a key, card key, combination lock, or comparable mechanism. Secure Areas may include buildings, rooms or locked storage containers (such as a filing cabinet or desk drawer) within a room, as long as access to the Confidential Information is not available to unauthorized personnel. In otherwise Secure Areas, such as an office with restricted access, the Data must be secured in such a way as to prevent access by non-authorized staff such as janitorial or facility security staff, when authorized Contractor staff are not present to ensure that non-authorized staff cannot access it.
  - n. "Trusted Network" means a network operated and maintained by the Contractor, which includes security controls sufficient to protect DSHS Data on that network. Controls would include a firewall between any other networks, access control lists on networking devices such as routers and switches, and other such mechanisms which protect the confidentiality, integrity, and availability of the Data.
  - o. "Unique User ID" means a string of characters that identifies a specific user and which, in conjunction with a password, passphrase or other mechanism, authenticates a user to an information system.
2. **Authority.** The security requirements described in this document reflect the applicable requirements of Standard 141.10 (<https://ocio.wa.gov/policies>) of the Office of the Chief Information Officer for the state of Washington, and of the DSHS Information Security Policy and Standards Manual. Reference material related to these requirements can be found here: <https://www.dshs.wa.gov/ffa/keeping-dshs-client-information-private-and-secure>, which is a site developed by the DSHS Information Security Office and hosted by DSHS Central Contracts and Legal Services.
3. **Administrative Controls.** The Contractor must have the following controls in place:
- a. A documented security policy governing the secure use of its computer network and systems, and which defines sanctions that may be applied to Contractor staff for violating that policy.
  - b. If the Data shared under this agreement is classified as Category 4, the Contractor must be aware of and compliant with the applicable legal or regulatory requirements for that Category 4 Data.
  - c. If Confidential Information shared under this agreement is classified as Category 4, the Contractor

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must have a documented risk assessment for the system(s) housing the Category 4 Data.

4. **Authorization, Authentication, and Access.** In order to ensure that access to the Data is limited to authorized staff, the Contractor must:
- a. Have documented policies and procedures governing access to systems with the shared Data.
  - b. Restrict access through administrative, physical, and technical controls to authorized staff.
  - c. Ensure that user accounts are unique and that any given user account logon ID and password combination is known only to the one employee to whom that account is assigned. For purposes of non-repudiation, it must always be possible to determine which employee performed a given action on a system housing the Data based solely on the logon ID used to perform the action.
  - d. Ensure that only authorized users are capable of accessing the Data.
  - e. Ensure that an employee's access to the Data is removed immediately:
    - (1) Upon suspected compromise of the user credentials.
    - (2) When their employment, or the contract under which the Data is made available to them, is terminated.
    - (3) When they no longer need access to the Data to fulfill the requirements of the contract.
  - f. Have a process to periodically review and verify that only authorized users have access to systems containing DSHS Confidential Information.
  - g. When accessing the Data from within the Contractor's network (the Data stays within the Contractor's network at all times), enforce password and logon requirements for users within the Contractor's network, including:
    - (1) A minimum length of 8 characters, and containing at least three of the following character classes: uppercase letters, lowercase letters, numerals, and special characters such as an asterisk, ampersand, or exclamation point.
    - (2) That a password does not contain a user's name, logon ID, or any form of their full name.
    - (3) That a password does not consist of a single dictionary word. A password may be formed as a passphrase which consists of multiple dictionary words.
    - (4) That passwords are significantly different from the previous four passwords. Passwords that increment by simply adding a number are not considered significantly different.
  - h. When accessing Confidential Information from an external location (the Data will traverse the Internet or otherwise travel outside the Contractor's network), mitigate risk and enforce password and logon requirements for users by employing measures including:
    - (1) Ensuring mitigations applied to the system don't allow end-user modification.
    - (2) Not allowing the use of dial-up connections.
    - (3) Using industry standard protocols and solutions for remote access. Examples would include RADIUS and Citrix.

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- (4) Encrypting all remote access traffic from the external workstation to Trusted Network or to a component within the Trusted Network. The traffic must be encrypted at all times while traversing any network, including the Internet, which is not a Trusted Network.
  - (5) Ensuring that the remote access system prompts for re-authentication or performs automated session termination after no more than 30 minutes of inactivity.
  - (6) Ensuring use of Multi-factor Authentication to connect from the external end point to the internal end point.
  - i. Passwords or PIN codes may meet a lesser standard if used in conjunction with another authentication mechanism, such as a biometric (fingerprint, face recognition, iris scan) or token (software, hardware, smart card, etc.) in that case:
    - (1) The PIN or password must be at least 5 letters or numbers when used in conjunction with at least one other authentication factor
    - (2) Must not be comprised of all the same letter or number (11111, 22222, aaaaa, would not be acceptable)
    - (3) Must not contain a "run" of three or more consecutive numbers (12398, 98743 would not be acceptable)
  - j. If the contract specifically allows for the storage of Confidential Information on a Mobile Device, passcodes used on the device must:
    - (1) Be a minimum of six alphanumeric characters.
    - (2) Contain at least three unique character classes (upper case, lower case, letter, number).
    - (3) Not contain more than a three consecutive character run. Passcodes consisting of 12345, or abcd12 would not be acceptable.
  - k. Render the device unusable after a maximum of 10 failed logon attempts.
5. **Protection of Data.** The Contractor agrees to store Data on one or more of the following media and protect the Data as described:
- a. **Hard disk drives.** For Data stored on local workstation hard disks, access to the Data will be restricted to Authorized User(s) by requiring logon to the local workstation using a Unique User ID and Hardened Password or other authentication mechanisms which provide equal or greater security, such as biometrics or smart cards.
  - b. **Network server disks.** For Data stored on hard disks mounted on network servers and made available through shared folders, access to the Data will be restricted to Authorized Users through the use of access control lists which will grant access only after the Authorized User has authenticated to the network using a Unique User ID and Hardened Password or other authentication mechanisms which provide equal or greater security, such as biometrics or smart cards. Data on disks mounted to such servers must be located in an area which is accessible only to authorized personnel, with access controlled through use of a key, card key, combination lock, or comparable mechanism.

For DSHS Confidential Information stored on these disks, deleting unneeded Data is sufficient as long as the disks remain in a Secure Area and otherwise meet the requirements listed in the above



## Special Terms and Conditions

paragraph. Destruction of the Data, as outlined below in Section 8 Data Disposition, may be deferred until the disks are retired, replaced, or otherwise taken out of the Secure Area.

- c. **Optical discs (CDs or DVDs) in local workstation optical disc drives.** Data provided by DSHS on optical discs which will be used in local workstation optical disc drives and which will not be transported out of a Secure Area. When not in use for the contracted purpose, such discs must be Stored in a Secure Area. Workstations which access DSHS Data on optical discs must be located in an area which is accessible only to authorized personnel, with access controlled through use of a key, card key, combination lock, or comparable mechanism.
- d. **Optical discs (CDs or DVDs) in drives or jukeboxes attached to servers.** Data provided by DSHS on optical discs which will be attached to network servers and which will not be transported out of a Secure Area. Access to Data on these discs will be restricted to Authorized Users through the use of access control lists which will grant access only after the Authorized User has authenticated to the network using a Unique User ID and Hardened Password or other authentication mechanisms which provide equal or greater security, such as biometrics or smart cards. Data on discs attached to such servers must be located in an area which is accessible only to authorized personnel, with access controlled through use of a key, card key, combination lock, or comparable mechanism.
- e. **Paper documents.** Any paper records must be protected by storing the records in a Secure Area which is only accessible to authorized personnel. When not in use, such records must be stored in a Secure Area.
- f. **Remote Access.** Access to and use of the Data over the State Governmental Network (SGN) or Secure Access Washington (SAW) will be controlled by DSHS staff who will issue authentication credentials (e.g. a Unique User ID and Hardened Password) to Authorized Users on Contractor's staff. Contractor will notify DSHS staff immediately whenever an Authorized User in possession of such credentials is terminated or otherwise leaves the employ of the Contractor, and whenever an Authorized User's duties change such that the Authorized User no longer requires access to perform work for this Contract.
- g. **Data storage on portable devices or media.**
  - (1) Except where otherwise specified herein, DSHS Data shall not be stored by the Contractor on portable devices or media unless specifically authorized within the terms and conditions of the Contract. If so authorized, the Data shall be given the following protections:
    - (a) Encrypt the Data.
    - (b) Control access to devices with a Unique User ID and Hardened Password or stronger authentication method such as a physical token or biometrics.
    - (c) Manually lock devices whenever they are left unattended and set devices to lock automatically after a period of inactivity, if this feature is available. Maximum period of inactivity is 20 minutes.
    - (d) Apply administrative and physical security controls to Portable Devices and Portable Media by:
      - i. Keeping them in a Secure Area when not in use,
      - ii. Using check-in/check-out procedures when they are shared, and
      - iii. Taking frequent inventories.

## Special Terms and Conditions

- (2) When being transported outside of a Secure Area, Portable Devices and Portable Media with DSHS Confidential Information must be under the physical control of Contractor staff with authorization to access the Data, even if the Data is encrypted.

### h. Data stored for backup purposes.

- (1) DSHS Confidential Information may be stored on Portable Media as part of a Contractor's existing, documented backup process for business continuity or disaster recovery purposes. Such storage is authorized until such time as that media would be reused during the course of normal backup operations. If backup media is retired while DSHS Confidential Information still exists upon it, such media will be destroyed at that time in accordance with the disposition requirements below in Section 8 *Data Disposition*.
- (2) Data may be stored on non-portable media (e.g. Storage Area Network drives, virtual media, etc.) as part of a Contractor's existing, documented backup process for business continuity or disaster recovery purposes. If so, such media will be protected as otherwise described in this exhibit. If this media is retired while DSHS Confidential Information still exists upon it, the data will be destroyed at that time in accordance with the disposition requirements below in Section 8 *Data Disposition*.

### i. Cloud storage. DSHS Confidential Information requires protections equal to or greater than those specified elsewhere within this exhibit. Cloud storage of Data is problematic as neither DSHS nor the Contractor has control of the environment in which the Data is stored. For this reason:

- (1) DSHS Data will not be stored in any consumer grade Cloud solution, unless all of the following conditions are met:
  - (a) Contractor has written procedures in place governing use of the Cloud storage and Contractor attests in writing that all such procedures will be uniformly followed.
  - (b) The Data will be Encrypted while within the Contractor network.
  - (c) The Data will remain Encrypted during transmission to the Cloud.
  - (d) The Data will remain Encrypted at all times while residing within the Cloud storage solution.
  - (e) The Contractor will possess a decryption key for the Data, and the decryption key will be possessed only by the Contractor and/or DSHS.
  - (f) The Data will not be downloaded to non-authorized systems, meaning systems that are not on either the DSHS or Contractor networks.
  - (g) The Data will not be decrypted until downloaded onto a computer within the control of an Authorized User and within either the DSHS or Contractor's network.
- (2) Data will not be stored on an Enterprise Cloud storage solution unless either:
  - (a) The Cloud storage provider is treated as any other Sub-Contractor, and agrees in writing to all of the requirements within this exhibit; or,
  - (b) The Cloud storage solution used is FedRAMP certified.
- (3) If the Data includes protected health information covered by the Health Insurance Portability and Accountability Act (HIPAA), the Cloud provider must sign a Business Associate Agreement prior to Data being stored in their Cloud solution.

## Special Terms and Conditions

6. **System Protection.** To prevent compromise of systems which contain DSHS Data or through which that Data passes:
- a. Systems containing DSHS Data must have all security patches or hotfixes applied within 3 months of being made available.
  - b. The Contractor will have a method of ensuring that the requisite patches and hotfixes have been applied within the required timeframes.
  - c. Systems containing DSHS Data shall have an Anti-Malware application, if available, installed.
  - d. Anti-Malware software shall be kept up to date. The product, its anti-virus engine, and any malware database the system uses, will be no more than one update behind current.
7. **Data Segregation.**
- a. DSHS Data must be segregated or otherwise distinguishable from non-DSHS data. This is to ensure that when no longer needed by the Contractor, all DSHS Data can be identified for return or destruction. It also aids in determining whether DSHS Data has or may have been compromised in the event of a security breach. As such, one or more of the following methods will be used for data segregation.
    - (1) DSHS Data will be kept on media (e.g. hard disk, optical disc, tape, etc.) which will contain no non-DSHS Data. And/or,
    - (2) DSHS Data will be stored in a logical container on electronic media, such as a partition or folder dedicated to DSHS Data. And/or,
    - (3) DSHS Data will be stored in a database which will contain no non-DSHS data. And/or,
    - (4) DSHS Data will be stored within a database and will be distinguishable from non-DSHS data by the value of a specific field or fields within database records.
    - (5) When stored as physical paper documents, DSHS Data will be physically segregated from non-DSHS data in a drawer, folder, or other container.
  - b. When it is not feasible or practical to segregate DSHS Data from non-DSHS data, then both the DSHS Data and the non-DSHS data with which it is commingled must be protected as described in this exhibit.
8. **Data Disposition.** When the contracted work has been completed or when the Data is no longer needed, except as noted above in Section 5.b, Data shall be returned to DSHS or destroyed. Media on which Data may be stored and associated acceptable methods of destruction are as follows:

<b>Data stored on:</b>	<b>Will be destroyed by:</b>
Server or workstation hard disks, or  Removable media (e.g. floppies, USB flash drives, portable hard disks) excluding optical discs	Using a "wipe" utility which will overwrite the Data at least three (3) times using either random or single character data, or  Degaussing sufficiently to ensure that the Data cannot be reconstructed, or  Physically destroying the disk

### Special Terms and Conditions

Paper documents with sensitive or Confidential Information	Recycling through a contracted firm, provided the contract with the recycler assures that the confidentiality of Data will be protected.
Paper documents containing Confidential Information requiring special handling (e.g. protected health information)	On-site shredding, pulping, or incineration
Optical discs (e.g. CDs or DVDs)	Incineration, shredding, or completely defacing the readable surface with a coarse abrasive
Magnetic tape	Degaussing, incinerating or crosscut shredding

9. **Notification of Compromise or Potential Compromise.** The compromise or potential compromise of DSHS shared Data must be reported to the DSHS Contact designated in the Contract within one (1) business day of discovery. If no DSHS Contact is designated in the Contract, then the notification must be reported to the DSHS Privacy Officer at [dshsprivacyofficer@dshs.wa.gov](mailto:dshsprivacyofficer@dshs.wa.gov). Contractor must also take actions to mitigate the risk of loss and comply with any notification or other requirements imposed by law or DSHS.
10. **Data shared with Subcontractors.** If DSHS Data provided under this Contract is to be shared with a subcontractor, the Contract with the subcontractor must include all of the data security provisions within this Contract and within any amendments, attachments, or exhibits within this Contract. If the Contractor cannot protect the Data as articulated within this Contract, then the contract with the subcontractor must be submitted to the DSHS Contact specified for this contract for review and approval.

## Exhibit B



# AAA DSHS / HCA Systems Access Request



### AAA Adding Users

An Area Agency on Aging (AAA) may request access to various systems for its employees or contractors (AAA Users) under its Data Share Agreements (DSA) with DSHS and HCA. This Systems Access Request (SAR) form must be signed by the AAA Authorizer and AAA User then sent to the ALTSA SUA Coordinator via secure email at: [hcsaaarequest@dshs.wa.gov](mailto:hcsaaarequest@dshs.wa.gov).

### AAA Removing Users

The AAA Authorizer must also notify the DSHS ALTSA SUA Coordinator using the SAR form within five (5) business days whenever an employee (AAA User) with access rights leaves employment or has a change of duties such that the employee no longer requires access. If the removal of access is emergent, please include that information with the request.

### AAA Subcontractors Adding Users

If access is being requested by an AAA subcontractor, the subcontractor must send the SAR form to the AAA via secure email, who will then send it to the ALTSA SUA Coordinator via secure email at [hcsaaarequest@dshs.wa.gov](mailto:hcsaaarequest@dshs.wa.gov). The ALTSA SUA Coordinator will accept the completed SAR form only from the AAA, not the subcontractor.

### AAA Subcontractors Removing Users

The AAA subcontractor must also use the SAR form to provide notice to the AAA within five (5) business days whenever a subcontractor employee (AAA User) with access rights leaves employment or has a change of duties such that the employee no longer requires access. If the removal of access is emergent, please include that information with the request.

**DSHS and HCA will grant / remove the appropriate access permissions to the AAA User.**

<b>REQUEST TYPE</b> <input type="checkbox"/> New user access <input type="checkbox"/> Update user access <input type="checkbox"/> Remove user access <input type="checkbox"/> Change user name	<b>REQUESTING ORGANIZATION AND MAILING ADDRESS</b>  	<b>DATE RECEIVED</b>  
		<b>USER'S CARE ID (IF APPLICABLE)</b>  
<b>SYSTEMS ACCESS REQUESTED THROUGH ALTSA</b> <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> VPN *  <input type="checkbox"/> ACES Online  <input type="checkbox"/> IPOne – Remove Only         </div> <div> <input type="checkbox"/> ALTSA Data Mart – CARE  <input type="checkbox"/> ALTSA Data Mart – P1 / AFRS  <input type="checkbox"/> WaCareRpt Database         </div> <div> <input type="checkbox"/> PRISM *  <input type="checkbox"/> Client Registry *         </div> </div>		
<b>SYSTEMS ACCESS REQUEST SET UP AT AAA LEVEL</b> <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> CARE Web Production + Practice  <input type="checkbox"/> Barcode Select one.  <input type="checkbox"/> ProviderOne View Only**         </div> <div> <input type="checkbox"/> ADSA Reporting  <input type="checkbox"/> CLC / GetCare  <input type="checkbox"/> ACD – Select one.         </div> <div> <input type="checkbox"/> QA Monitor  <input type="checkbox"/> BCS – Background Check         </div> </div>		
<b>AAA / Subcontractor User Information</b>		
<b>LAST NAME</b> 	<b>FIRST NAME</b> 	<b>MIDDLE INITIAL</b> 
<b>ID NUMBER***</b> 	<b>PHONE NUMBER (AREA CODE)</b> 	<b>USER'S EMAIL ADDRESS****</b> 
<b>TITLE</b> 		<b>PRIOR NAME (CHANGE NAME REQUEST)</b> 
<b>AAA / SUBCONTRACTOR OFFICE</b> 		<b>ACCESS JUSTIFICATION</b> 
<p>* Please include required forms (see instructions) in addition to the 17-226.          ** For ProviderOne, please fill out the separate Non-HCA Employee Access Request form and send it as a separate request.          *** <b>Required:</b> The ID Number is assigned by the AAA Authorizer.          **** No generic email addresses (e.g. Hotmail, Gmail, Yahoo, etc.)</p>		
<b>Protected Data Access Authorization</b> <p>The HIPAA Security rule states that every employee that needs access to electronic Protected Health Information (ePHI) receives authorization from an appropriate authority and that the need for this access based on job function or responsibility is documented. I, the undersigned AAA Authorizer, verify that the individual for whom this access is being requested (AAA User) has a business need to access this data, has completed the required HIPAA training and the annual IT Security training and has signed the required AAA User Agreement on System Usage and Non-Disclosure of Confidential Information included with this Access Request. This AAA User's access to this information is appropriate under the HIPAA Information Access Management standard. In addition, this employee has been instructed on 42 Code of Federal Regulations (CFR) Part 2 that governs the use of alcohol and drug abuse information and is aware that this type of data must be used only in accordance with these regulations. I have also ensured that the necessary steps have been taken to validate the AAA User's identity before approving access to confidential and protected information.</p>		
<b>Authorizing Signature</b>		
<b>AAA AUTHORIZER'S SIGNATURE</b> 	<b>DATE</b> 	<b>PRINTED NAME</b> 
		<b>EMAIL ADDRESS</b> 

## Exhibit B

### AAA User Agreement on System Usage and Non-disclosure of Confidential Information

Your AAA has entered into Data Share Agreement(s) with the state of Washington Department of Social and Health Services (DSHS) and Health Care Authority (HCA) that will allow you access to data and records that are deemed Confidential Information as defined below. Prior to accessing this Confidential Information you must sign this AAA User Agreement System Usage and Non-Disclosure of Confidential Information (Agreement).

#### Confidential Information

"Confidential Information" means information that is exempt from disclosure to the public or other unauthorized persons under Chapter 42.56 RCW or other federal or state laws. Confidential Information includes, but is not limited to, Protected Health Information and Personal Information.

"Protected Health Information" means information 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 the past, present or future payment for provision of health care to an individual and includes demographic information that identifies the individual or can be used to identify the individual.

"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, credit card numbers, any other identifying numbers, and any financial identifiers.

#### Regulatory Requirements and Penalties

State laws (including, but not limited to, RCW 74.04.060, RCW 74.34.095, and RCW 70.02.020) and federal regulations (including, but not limited to, HIPAA Privacy and Security Rules, 45 CFR Part 160 and Part 164; Confidentiality of Alcohol and Drug Abuse Patient Records, 42 CFR, Part 2; and Safeguarding Information on Applicants and Beneficiaries, 42 CFR Part 431, Subpart F) prohibit unauthorized access, use, or disclosure of Confidential Information. Violation of these laws may result in criminal or civil penalties or fines.

#### AAA User Assurance of Confidentiality

In consideration for DSHS and HCA granting me access to the PRISM, ProviderOne, or other systems and the Confidential Information in those systems, I agree that I:

- 1) Will access, use, and disclose Confidential Information only in accordance with the terms of this Agreement and consistent with applicable statutes, regulations, and policies.
- 2) Have an authorized business requirement to access and use DSHS or HCA systems and view DSHS or HCA Confidential Information.
- 3) Will not use or disclose any Confidential Information gained by reason of this Agreement for any commercial or personal purpose, research or any other purpose that is not directly connected with client care coordination and quality improvement.
- 4) Will not use my access to look up or view information about family members, friends, the relatives or friends of other employees, or any persons who are not directly related to my assigned job duties.
- 5) Will not discuss Confidential Information in public spaces in a manner in which unauthorized individuals could overhear and will not discuss Confidential Information with unauthorized individuals, including spouses, domestic partners, family members, or friends.
- 6) Will protect all Confidential Information against unauthorized use, access, disclosure, or loss by employing reasonable security measures, including physically securing any computers, documents, or other media containing Confidential Information and viewing Confidential Information only on secure workstations in non-public areas.
- 7) Will not make copies of Confidential Information or print system screens unless necessary to perform my assigned job duties and will not transfer any Confidential Information to a portable electronic device or medium, or remove Confidential Information on a portable device or medium from facility premises, unless the information is encrypted and I have obtained prior permission from my supervisor.
- 8) Will access, use or disclose only the "minimum necessary" Confidential Information required to perform my assigned job duties.
- 9) Will protect my DSHS and HCA systems User ID and password and not share them with anyone or allow others to use any DSHS or HCA system logged in as me.
- 10) Will not distribute, transfer, or otherwise share any DSHS software with anyone.
- 11) Will forward any requests that I may receive to disclose Confidential Information to my supervisor for resolution and will immediately inform my supervisor of any actual or potential security breaches involving Confidential Information, or of any access to or use of Confidential Information by unauthorized users.
- 12) Understand at any time, DSHS or HCA may audit, investigate, monitor, access, and disclose information about my use of the systems and that my intentional or unintentional violation of the terms of this Agreement may result in revocation of privileges to access the systems, disciplinary actions against me, or possible civil or criminal penalties or fines.
- 13) Understand that my assurance of confidentiality and these requirements will continue and do not cease at the time I terminate my relationship with my employer.

#### Signature

AAA / SUBCONTRACTOR USER'S SIGNATURE      DATE

AAA USER'S PRINTED NAME



## Exhibit B

### AAA Systems Access Request Instructions

**Please submit requests individually.**

The AAA DSHS / HCA Systems Access Request form is for use by AAA entities from outside and within the DSHS domain (DSHS firewall). AAA entities have different procedures to request the majority of their needed system access but will use the form for those systems requiring a set up or approval by HCS, DDA, or MSD. AAA entities will also use this form when staff transfer between agencies or to terminate access when employees leave employment.

#### Request Type

- Check one of the options (New, Update, Remove, or Name change). **Removal must be submitted within five (5) days of exit.**
  - New user – The user has been approved for access to one of the programs listed and has no previous requests submitted.
  - Update user – User has access to one or more of the systems listed but an additional access is needed. Only mark the box next to the additional item.
  - Remove user – Mark each of the boxes for which access is to be removed.
  - Change user name – Use to update the user name due to a change. For ProviderOne this will result in the termination of the prior account and a new account created.

#### Requesting Organization and Mailing Address

- Enter the user's office name and address (subcontractors enter their organization name and address).

#### System Access Requested Sections

- Check the box next to each system requested and attach any additional documentation required for the program. If you need a copy of the VPN form, please contact ALTSA.
- ALTSA Data Mart. Access is specific to each data source. If both data sources are needed, both boxes must be selected.
- Applications in the AAA section (Barcode, DDA / HCS Reporting, CARE, QA Monitor) are created at the AAA office. A signed copy of the 17-226 form must be submitted to [hcsaaarequest@dshs.wa.gov](mailto:hcsaaarequest@dshs.wa.gov) via secured email before the account(s) can be created.
  - **Note:** The PRISM and Client Registry boxes should be checked if the new staff member will be eligible for access. An extra step of user and ethics training will be required for all PRISM and Client Registry users and must be completed prior to system access.
  - Barcode field can be one of the following options: All Case Managers, CM Supervisor, Clerical, Clerical Supervisor, Intern, Admin Hearing Coordinator, Barcode Specialist, CM JRP or AAA IT.
  - ACD – Contracts Database can be one of the following options: 4 – Sign Contracts; 5 – Create Contracts; or 9 – Approve Contracts.
  - ProviderOne – Fill out the HCA Non-Employee Access Request form and submit it separately to the ALTSA SUA Coordinator. HCS Non-Employee forms submitted by Colville, King, Kitsap, Pierce, Snohomish, and Yakima should be submitted using secure email or MFT (managed file transfer).

#### AAA User Information

- Enter the user information as indicated.
- The AAA Authorizer will assign an ID number from the list provided by the ALTSA SUA Coordinator.
  - Form will be rejected if this field is left blank.
- Under AAA Office enter the AAA Authorizer's regional office.

#### Access Justification

- Enter reason access is needed such as Case Management and Coordination, Nursing Coordination, Oversight and Supervision, Determination of Eligibility.

#### Authorizing Signature

- AAA Authorizer – the authorizer will be verified by the ALTSA SUA Coordinator.  
**Note:** AAA Authorizer signature guarantees that the staff member who is asking for access is eligible for the systems access requested.

#### Non-Disclosure of Confidential Information

- Ensure that the AAA staff member has read the AAA User Agreement on System Usage and Non-disclosure of Confidential Information on the second page of the AAA Systems Access Request form.
- Enter the requesting user's name and have them sign and date the agreement.

**Once completed, scan both sides of the form and email to [hcsaaarequest@dshs.wa.gov](mailto:hcsaaarequest@dshs.wa.gov) using secure email. Do not email forms directly to ALTSA Helpdesk or ALTSA Helpdesk staff.**

**Exhibit B**  
**AAA Systems Access Request**  
**Frequently Asked Questions (FAQ)**

**Why was my form rejected?**

- Missing information:
  - The Employee ID field is left blank
  - Barcode or ACD profile selection is missing
- Incorrect information:
  - Email address is invalid (e.g. emailing credentials results in a bounce-back or is an Outlook.com, Gmail, etc. address)
  - Employee ID is already in use – check your spreadsheet and ensure the EID hasn't been used before
- Form is not signed.
  - Ensure both the AAA Authorizer and AAA User have signed in the appropriate fields
- VPN request form is missing from the request.

**ATTACHMENT F:  
CONTRACTOR AGREEMENT ON NONDISCLOSURE OF CONFIDENTIAL INFORMATION**

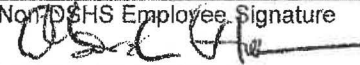
**This form shall be signed by each agency paid and un-paid staff that interact with this service contract.**



**Agreement on Nondisclosure of  
Confidential Information – Non Employee**

This form is for contractors and other non-DSHS employees.

Confidential Information
<p>"Confidential Information" means information that is exempt from disclosure to the public or other unauthorized persons under Chapter 42.56 RCW or other federal or state laws. Confidential Information includes, but is not limited to, protected health information as defined by the federal rules adopted to implement the Health Insurance Portability and Accountability Act of 1996, 42 USC §1320d (HIPAA), and Personal Information.</p> <p>"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 or as otherwise identified in RCW 42.56.230.</p>
Regulatory Requirements and Penalties
<p>State laws applicable to Department programs (including RCW 74.04.060, Chapter 13.50 RCW; and Chapter 70.02 RCW) and federal regulations (including Federal Tax laws - 26 USC ss.7213, 7213A, 7431; Federal laws for protection of National Directory of New Hires (NDNH) information received from the Office of Child Support Enforcement (OCSE) 42 USC § 653 (l); Administrative procedures for individual records- 5 USC § 552a (i); HIPAA Privacy and Security Rules, the Social Security Act, and chemical dependency rules at 42 CFR, Part 2) prohibit unauthorized access, use, or disclosure of confidential information. Civil penalties for violations of HIPAA Privacy and Security Rules may be imposed up to \$50,000 per violation for a total of up to \$1,500,000 for violations of each requirement during a calendar year. Criminal penalties may total up to \$250,000 and ten years imprisonment.</p>
Regulatory Requirements and Penalties
<p>In consideration for the Department of Social and Health Services (DSHS) granting me access to DSHS property, systems, and Confidential Information, I agree that I:</p> <ol style="list-style-type: none"><li>1. Will not access, use, publish, transfer, sell or otherwise disclose any Confidential Information gained by reason of this agreement for any purpose that is not directly connected with the performance of the contracted services except as allowed by law.</li><li>2. Will protect and maintain all Confidential Information gained by reason of this agreement against unauthorized use, access, disclosure, modification or loss.</li><li>3. Will employ reasonable security measures, including restricting access to Confidential Information by physically securing any computers, documents, or other media containing Confidential Information.</li><li>4. Have an authorized business requirement to access and use DSHS systems or property, and view its data and Confidential Information if necessary.</li><li>5. Will access, use and/or disclose only the "minimum necessary" Confidential Information required to perform my assigned job duties.</li></ol>

Regulatory Requirements and Penalties (continued)		
<p>6. Will not share DSHS system passwords with anyone or allow others to use the DSHS systems logged in as me.</p> <p>7. Will not distribute, transfer, or otherwise share any DSHS software with anyone.</p> <p>8. Understand the penalties and sanctions associated with unauthorized access or disclosure of Confidential Information.</p> <p>9. Understand that it is my responsibility to report any and all suspected unauthorized access, loss, disclosure, or theft of confidential information, and that I am to forward any requests for access to such information to my supervisor or DSHS contact.</p> <p>10. Understand that my assurance of confidentiality and these requirements do not cease at the time I terminate my relationship with my employer or DSHS.</p>		
Regulatory Requirements and Penalties		
<p>This form will be read and signed by each non-DSHS employee who has access to Confidential information, and updated at least annually. Provide the non-DSHS employee signor with a copy of this Agreement and retain the original of each signed form on file for a minimum of six years.</p>		
Signature		
Print / Type Name Deborah Horn	Non-DSHS Employee Signature 	Date 12/19/2024

**ATTACHMENT G:  
CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER  
RESPONSIBILITY MATTERS**

**Primary Covered Transactions 45 CFR 76**

1. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principles:
  - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;
  - b. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connections with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statement, or receiving stolen property;
  - c. Are not presently indicted for or otherwise criminally or civilly charges by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1.b. of this certification; and
  - d. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
2. Where the prospective primary participants are unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

This Certification is executed by the person(s) signing below who warrant they have authority to execute this Certification.

**CONTRACTOR:**

Name: Deborah Horn  
Title: Executive Director  
DATE: 12/19/2024

## ATTACHMENT H: CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and believe, that:

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

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Bremerton Services Association dba  
Contractor Organization Meals on Wheels Kitsap



12/19/2024

Signature of Certifying Official

Date



**ATTACHMENT I: ASSURANCE OF COMPLIANCE REHABILITATION ACT**  
**AGING AND LONG TERM SUPPORT ADMINISTRATION**  
**ASSURANCE OF COMPLIANCE WITH SECTION 504 OF THE**  
**REHABILITATION ACT OF 1973, AS AMENDED**

The undersigned (hereinafter called the "recipient") HEREBY AGREES THAT it will comply with section 504 of the Rehabilitation Act of 1973, PL 93-112, as amended (29 U.S.C. 794), all requirements imposed by the applicable Department of Health and Human Services (HHS) regulation (45 CFR Part 84), including (PL 101-336) Americans With Disabilities Act, (28 CFR Part 35) Nondiscrimination on the Basis of Disability in State and Local Government Services, and all guidelines and interpretations issued pursuant thereto.

Pursuant to § 84.5(a) of the regulation 45 CFR 84.5(a), the recipient gives this Assurance in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts (except procurement contracts and contracts of insurance or guaranty), property, discounts, or other Federal financial assistance extended by the Department of Health, Education, and Welfare after the date of this Assurance, including payments or other assistance made after such date on applications for Federal financial assistance that were approved before such date. The recipient recognizes and agrees that such Federal financial assistance will be extended in reliance on the representations and agreements made in this Assurance and that the United States will have the right to enforce this Assurance through lawful means. This Assurance is binding on the recipient, its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign this Assurance on behalf of the recipient.

This Assurance obligates the recipient for the period during which Federal financial assistance is extended to it by the Department of Health and Human Services or, where the assistance is in the form of real or personal property, for the period provided for in § 84.5(b) of the regulation 45 CFR 84.5(b).

The recipient: (Check "a" or "b")

- a. ☒ employs fewer than fifteen persons;  
b. ☐ employs fifteen or more persons and, pursuant to § 84.7(a) of the regulation 45 CFR 84.7(a), has designated the following person(s) to coordinate its efforts to comply with the HHS regulation:

Name of Designee(s) -- Type or Print

Bremerton Serving Association dba  
Meals on wheels Kitsap

Name of Recipient, Type or Print

2817 Wheaton Way Ste 208  
Bremerton, WA 98310

Street Address or P.O. Box, City, State, Zip

I certify that the above information is complete and correct to the best of my knowledge.

Wanda Smith Executive Director

Signature and Title of Authorized Official

**ATTACHMENT J: ASSURANCE OF COMPLIANCE CIVIL RIGHTS ACTS**

ASSURANCE OF COMPLIANCE WITH THE DEPARTMENT OF  
HEALTH, EDUCATION, AND WELFARE REGULATION UNDER  
TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Bremerton Services Association dba Meals on Wheels  
(Name of Applicant) Kitsap

HEREBY AGREES THAT it will comply with Title VI of the Civil Rights Act of 1964 (PL 88-352) and all requirements imposed by or pursuant to the Regulation of the Department of Health and Human Services (45 CFR Part 80) issued pursuant to that title, to the end that, in accordance with Title VI of that Act and the Regulation, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Applicant receives Federal financial assistance from the Department; and HEREBY GIVES ASSURANCE THAT it will immediately take any measures necessary to effectuate this CONTRACT.

If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the Applicant by the Department, this assurance shall obligate the Applicant, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is so provided, this assurance shall obligate the Applicant for the period during which it retains ownership or possession of the property. In all other cases, this assurance shall obligate the Applicant for the period during which the Federal financial assistance is extended to it by the Department.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to the Applicant by the Department including installment payments after such date on account of applications for Federal financial assistance which were approved before such date. The Applicant recognizes and agrees that such Federal financial assistance will be extended in reliance on the representations and agreements made in this assurance, and that the United States shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the Applicant, its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Applicant.

Dated 12/19/2024

By Deborah Horn Colonel

(President, Chairman of Board, or comparable authorized official)

2817 Wheaton Way Ste 208  
(Applicant's mailing address)

Bremerton, WA 98310

**ATTACHMENT K:  
ASSURANCE OF COMPLIANCE OMNIBUS BUDGET RECONCILIATION**

**AGING AND LONG TERM SUPPORT ADMINISTRATION  
ASSURANCE OF COMPLIANCE WITH OMNIBUS BUDGET RECONCILIATION  
(OBRA) ACT OF 1990 - ADVANCE DIRECTIVES, AS AMENDED**

The undersigned (hereafter called the "Applicant") hereby agrees that it will comply with the OBRA of 1990 (Public Law 101-508) as amended and all requirements imposed by the applicable Department of Health and Human Services (HHS) regulation (42 USC Section 1396a), and all guidelines and interpretations issued pursuant thereto. This act requires all service providers, participating in Medicaid, maintain written policies and procedures concerning "Advance Directives." (WAC 388-501-0125 gives further details.)

If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the Applicant by the Department, this assurance shall obligate the Applicant, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is so provided, this assurance shall obligate the Applicant for the period during which it retains ownership or possession of the property. In all other cases, this assurance shall obligate the Applicant for the period during which the Federal financial assistance is extended to it by the Department.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to the Applicant by the Department including installment payments after such date on account of applications for Federal financial assistance which were approved before such date. The Applicant recognizes and agrees that such Federal financial assistance will be extended in reliance on the representations and agreements made in this assurance, and that the United States shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the Applicant, its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Applicant.

Dated 12/19/2024

Bremerton Services Association dba  
(Applicant) Meals on wheels Kitsap

By [Signature] (President, Chairman of Board, or  
comparable authorized official)

2817 Wheaton Way Ste 208  
(Applicant's mailing address)  
Bremerton, WA 98310

## ATTACHMENT L: AUTHORIZED SIGNATURE PAGE



Division of Aging & Long Term Care

### SIGNATURE AUTHORIZATION FORM

This signature Authorization Form shall be retained on file by Kitsap County Division of Aging & Long Term Care and shall remain in effect until a new one is submitted by the Subcontractor.

#### SUBCONTRACTOR NAME AND ADDRESS

*Bremerton Services Association  
dba Meals on Wheels Kitsap*

#### CONTRACT NUMBER

*KC-039-25*

#### PROJECT NAME

#### I. CONTRACTS & AMENDMENTS

This is to certify that the following named persons are authorized to enter into contract and/or contract amendments on behalf of the Subcontractor and their specimen signatures are genuine.

##### TYPED NAME & TITLE

1. *Deborah Horn  
Executive Director*

2. \_\_\_\_\_

3. \_\_\_\_\_

##### SIGNATURE

1. *Deborah Horn*

2. \_\_\_\_\_

3. \_\_\_\_\_

#### II. VOUCHERS

This is to certify that the following named persons are authorized to sign and submit reimbursement vouchers on behalf of the Subcontractor and their specimen signatures are genuine.

##### TYPED NAME & TITLE

1. *Deborah Horn  
Executive Director*

2. \_\_\_\_\_

3. \_\_\_\_\_

##### SIGNATURE

1. *Deborah Horn*

2. \_\_\_\_\_

3. \_\_\_\_\_

#### EFFECTIVE DATE OF AUTHORIZATION

*12 / 19 / 2024*  
month day year

#### AUTHORIZED BY:

*Deborah Horn*  
Signature

*Deborah Horn*

Typed name and title

*Executive Director*

# ATTACHMENT M: KITSAP AUDIT FORM



## Department of Human Services

Doug Washburn  
Director

KITSAP COUNTY  
DEPARTMENT OF HUMAN  
SERVICES

Sonyia Miles  
Deputy Director  
Phone: 360.337.4839

Keeha Anderson - Evans  
Office Supervisor  
Phone: 360.337.7185 x 3530

Developmental Disabilities  
Kelly Onest, Coordinator  
Phone: 360.337.4624

Behavioral Health  
Jolene Kron, Administrator  
Phone: 360.337.4832

Mental Health/Chemical  
Dependency/Therapeutic Court  
Hannah Shockley, Coordinator  
Phone: 360.337.4827

110+ Affordable Housing  
Joel Warren, Coordinator  
Email: jwarren@kitsap.gov

Practical Services  
William Basler, Program  
Specialist  
Phone: 360.337.4457

Substance Abuse Prevention/  
Treatment and Youth Services  
Laura Hyde, Coordinator  
Phone: 360.337.4872  
Substance Abuse Prevention  
Deanne Jackson, Prevention  
Coalition Coordinator  
Phone: 360.337.4878

Aging & Long-Term Care  
Senior Information &  
Assistance  
Givens Community Center  
1026 Sidney Avenue, Suite 105  
Port Orchard, WA 98366  
Phone: 360.337.5700  
1.800.562.6418  
Fax: 360.337.5746  
Stacey Smith, Administrator  
Phone: 360.337.5624

Community Development  
Block Grant  
Norm Olicka Government  
Center  
345 6<sup>th</sup> Street, Suite 400  
Bremerton, WA 98337  
Fax: 360.337.4609  
Bonnie Tufts, Coordinator  
Phone: 360.337.4606

Housing and Homelessness  
Carl Borg, Program Manager  
Phone: 360.337.7286

Kitsap Recovery Center  
Outpatient Services:  
1026 Sidney Road  
Port Orchard, WA 98366  
Inpatient and Detox Services:  
661 Taylor Street  
Port Orchard, WA 98366  
Fax: 360.377.7027  
Keith Winfield, Clinical  
Manager  
Phone: 360.337.5640

Workforce Development  
3120 NW Randall Way  
Silverdale, WA 98383  
William Dowling, Acting  
Director  
Phone: 253.370.1136

Veterans Assistance  
Richard Becker, Coordinator  
Phone: 360.337.4811

### Verification of Federal Funds

Agency: \_\_\_\_\_ Director: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

☐ I did not perform a \*2 CFR 200.331. single or program specific audit because

\_\_\_\_\_ received less than \$750,000 in Federal Funds for the  
Name of the Agency

fiscal year ending \_\_\_\_\_.

☐ I performed a \*2 CFR 200.331. single or program specific audit because

\_\_\_\_\_ received \$750,000 or more in Federal Funds for the  
Name of the Agency

fiscal year ending \_\_\_\_\_.

Print Name \_\_\_\_\_ Signature \_\_\_\_\_

Agency Performing Audit \_\_\_\_\_ Date \_\_\_\_\_

\*Subpart F of 2 CFR part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, as per 2 CFR 200.331. A subrecipient that expends \$750,000 or more in Federal awards during the their fiscal year must have a single or program-specific audit conducted for that year in accordance with the provisions of Subpart F, Audit Requirements. 2 CFR 200.331. Audit Form, updated 9/23/22



507 Austin Street • 514 Division Street, MS-23 • Port Orchard, Washington 98366-4676  
Main Line 360.337.7185 • FAX 360.337.5721  
From: Oalla 253.851.4147 • Bainbridge Island 206.842.2061



ACORD™

## CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

11/27/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer any rights to the certificate holder in lieu of such endorsement(s).

PRODUCER <b>Propel Insurance</b> 1201 Pacific Avenue; Suite 1000 COM Small Business Tacoma, WA 98402-4321	CONTACT NAME: <b>Deidra Cohn</b>	
	PHONE (A/C, No, Ext): <b>800 499-0933</b>	FAX (A/C, No): <b>866 577-1326</b>
	E-MAIL ADDRESS: <b>Deidra.Cohn@propelinsurance.com</b>	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A : <b>Philadelphia Indemnity Ins Company</b>	<b>18058</b>
INSURED <b>Bremerton Services Association</b> <b>dba: Meals on Wheels Kitsap</b> <b>2817 Wheaton Way #208</b> <b>Bremerton, WA 98310</b>	INSURER B :	
	INSURER C :	
	INSURER D :	
	INSURER E :	
	INSURER F :	


COVERAGES	CERTIFICATE NUMBER:	REVISION NUMBER:
-----------	---------------------	------------------

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			PHPK2613976	12/01/2024	12/01/2025	EACH OCCURRENCE \$ <b>1,000,000</b> DAMAGE TO RENTED PREMISES (Ea occurrence) \$ <b>100,000</b> MED EXP (Any one person) \$ <b>5,000</b> PERSONAL & ADV INJURY \$ <b>1,000,000</b> GENERAL AGGREGATE \$ <b>3,000,000</b> PRODUCTS - COMP/OP AGG \$ <b>3,000,000</b> \$
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input checked="" type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			PHPK2613976	12/01/2024	12/01/2025	COMBINED SINGLE LIMIT (Ea accident) \$ <b>1,000,000</b> BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ <b>10000</b>			18044451	12/01/2024	12/01/2025	EACH OCCURRENCE \$ <b>1,000,000</b> AGGREGATE \$ <b>1,000,000</b> \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input checked="" type="checkbox"/> Y <input checked="" type="checkbox"/> N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	PHPK2613976 WA Stop Gap	12/01/2024	12/01/2025	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.I. EACH ACCIDENT \$ <b>1,000,000</b> E.I. DISEASE - EA EMPLOYEE \$ <b>1,000,000</b> E.I. DISEASE - POLICY LIMIT \$ <b>1,000,000</b>

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

**KITSAP COUNTY, ITS OFFICERS, ELECTED OFFICIALS, AGENTS, EMPLOYEES AND VOLUNTEERS at the following address:**  
**614 Division St MS-1, Port Orchard, WA 98366; Additional Insured Status applies per attached form(s).**

<b>CERTIFICATE HOLDER</b>  <b>Kitsap County</b> <b>county of kitsap, It's officers, Elected official agents, employees And volunteers</b> <b>614 Division St MS-1</b> <b>Port Orchard, WA 98366-4676</b>	<b>CANCELLATION</b>  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE 



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**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****GENERAL LIABILITY DELUXE ENDORSEMENT:  
HUMAN SERVICES**

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE**

It is understood and agreed that the following extensions only apply in the event that no other specific coverage for the indicated loss exposure is provided under this policy. If such specific coverage applies, the terms, conditions and limits of that coverage are the sole and exclusive coverage applicable under this policy, unless otherwise noted on this endorsement. The following is a summary of the Limits of Insurance and additional coverages provided by this endorsement. For complete details on specific coverages, consult the policy contract wording.

<b>Coverage Applicable</b>	<b>Limit of Insurance</b>	<b>Page #</b>
Extended Property Damage	Included	2
Limited Rental Lease Agreement Contractual Liability	\$50,000 limit	2
Non-Owned Watercraft	Less than 58 feet	2
Damage to Property You Own, Rent, or Occupy	\$30,000 limit	2
Damage to Premises Rented to You	\$1,000,000	3
HIPAA	Clarification	4
Medical Payments	\$20,000	5
Medical Payments – Extended Reporting Period	3 years	5
Athletic Activities	Amended	5
Supplementary Payments – Bail Bonds	\$5,000	5
Supplementary Payment – Loss of Earnings	\$1,000 per day	5
Employee Indemnification Defense Coverage	\$25,000	5
Key and Lock Replacement – Janitorial Services Client Coverage	\$10,000 limit	6
Additional Insured – Newly Acquired Time Period	Amended	6
Additional Insured – Medical Directors and Administrators	Included	7
Additional Insured – Managers and Supervisors (with Fellow Employee Coverage)	Included	7
Additional Insured – Broadened Named Insured	Included	7
Additional Insured – Funding Source	Included	7
Additional Insured – Home Care Providers	Included	7
Additional Insured – Managers, Landlords, or Lessors of Premises	Included	7
Additional Insured – Lessor of Leased Equipment	Included	7
Additional Insured – Grantor of Permits	Included	8
Additional Insured – Vendor	Included	8
Additional Insured – Franchisor	Included	9
Additional Insured – When Required by Contract	Included	9
Additional Insured – Owners, Lessees, or Contractors	Included	9
Additional Insured – State or Political Subdivisions	Included	10

Duties in the Event of Occurrence, Claim or Suit	Included	10
Unintentional Failure to Disclose Hazards	Included	10
Transfer of Rights of Recovery Against Others To Us	Clarification	10
Liberalization	Included	11
Bodily Injury – includes Mental Anguish	Included	11
Personal and Advertising Injury – includes Abuse of Process, Discrimination	Included	11

#### A. Extended Property Damage

##### SECTION I – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE

**LIABILITY**, Subsection 2. **Exclusions**, Paragraph a. is deleted in its entirety and replaced by the following:

##### a. Expected or Intended Injury

“Bodily injury” or property damage” expected or intended from the standpoint of the insured.  
This exclusion does not apply to “bodily injury” or “property damage” resulting from the use of reasonable force to protect persons or property.

#### B. Limited Rental Lease Agreement Contractual Liability

##### SECTION I – COVERAGES, COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE

**LIABILITY**, Subsection 2. **Exclusions**, Paragraph b. **Contractual Liability** is amended to include the following:

- (3) Based on the named insured’s request at the time of claim, we agree to indemnify the named insured for their liability assumed in a contract or agreement regarding the rental or lease of a premises on behalf of their client, up to \$50,000. This coverage extension only applies to rental lease agreements. This coverage is excess over any renter’s liability insurance of the client.

#### C. Non-Owned Watercraft

##### SECTION I – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE

**LIABILITY**, Subsection 2. **Exclusions**, Paragraph g. (2) is deleted in its entirety and replaced by the following:

- (2) A watercraft you do not own that is:
  - (a) Less than 58 feet long; and
  - (b) Not being used to carry persons or property for a charge;

This provision applies to any person, who with your consent, either uses or is responsible for the use of a watercraft. This insurance is excess over any other valid and collectible insurance available to the insured whether primary, excess or contingent.

#### D. Damage to Property You Own, Rent or Occupy

##### SECTION I – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE

**LIABILITY**, Subsection **2. Exclusions**, Paragraph **j. Damage to Property**, Item **(1)** is deleted in its entirety and replaced with the following:

- (1) Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property, unless the damage to property is caused by your client, up to a \$30,000 limit. A client is defined as a person under your direct care and supervision.

**E. Damage to Premises Rented to You**

1. If damage by fire to premises rented to you is not otherwise excluded from this Coverage Part, the word "fire" is changed to "fire, lightning, explosion, smoke, or leakage from automatic fire protective systems" where it appears in:

- a. The last paragraph of **SECTION I – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY**, Subsection **2. Exclusions**; is deleted in its entirety and replaced by the following:

Exclusions **c.** through **n.** do not apply to damage by fire, lightning, explosion, smoke, or leakage from automatic fire protective systems to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in **SECTION III – LIMITS OF INSURANCE**.

- b. **SECTION III – LIMITS OF INSURANCE**, Paragraph 6. is deleted in its entirety and replaced by the following:

Subject to Paragraph 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage A for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, lightning, explosion, smoke, or leakage from automatic fire protective systems while rented to you or temporarily occupied by you with permission of the owner.

- c. **SECTION V – DEFINITIONS**, Paragraph 9.a., is deleted in its entirety and replaced by the following:

A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire, lightning, explosion, smoke, or leakage from automatic fire protective systems to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";

2. **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**, Subsection **4. Other Insurance**, Paragraph **b. Excess Insurance**, **(1) (a) (ii)** is deleted in its entirety and replaced by the following:

That is insurance for fire, lightning, explosion, smoke, or leakage from automatic fire protective systems for premises rented to you or temporarily occupied by you with permission of the owner;

3. The Damage To Premises Rented To You Limit section of the Declarations is amended to the greater of:

- a. \$1,000,000; or
- b. The amount shown in the Declarations as the Damage to Premises Rented to You Limit.

This is the most we will pay for all damage proximately caused by the same event, whether such damage results from fire, lightning, explosion, smoke, or leaks from automatic fire protective systems or any combination thereof.

## F. HIPAA

**SECTION I – COVERAGES, COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY**, is amended as follows:

1. Paragraph 1. **Insuring Agreement** is amended to include the following:

We will pay those sums that the insured becomes legally obligated to pay as damages because of a “violation(s)” of the Health Insurance Portability and Accountability Act (HIPAA). We have the right and the duty to defend the insured against any “suit,” “investigation,” or “civil proceeding” seeking these damages. However, we will have no duty to defend the insured against any “suit” seeking damages, “investigation,” or “civil proceeding” to which this insurance does not apply.

2. Paragraph 2. **Exclusions** is amended to include the following additional exclusions:

This insurance does not apply to:

- a. **Intentional, Willful, or Deliberate Violations**

Any willful, intentional, or deliberate “violation(s)” by any insured.

- b. **Criminal Acts**

Any “violation” which results in any criminal penalties under the HIPAA.

- c. **Other Remedies**

Any remedy other than monetary damages for penalties assessed.

- d. **Compliance Reviews or Audits**

Any compliance reviews by the Department of Health and Human Services.

3. **SECTION V – DEFINITIONS** is amended to include the following additional definitions:

- a. “Civil proceeding” means an action by the Department of Health and Human Services (HHS) arising out of “violations.”
- b. “Investigation” means an examination of an actual or alleged “violation(s)” by HHS. However, “investigation” does not include a Compliance Review.
- c. “Violation” means the actual or alleged failure to comply with the regulations included in the HIPAA.

**G. Medical Payments – Limit Increased to \$20,000, Extended Reporting Period**

If **COVERAGE C MEDICAL PAYMENTS** is not otherwise excluded from this Coverage Part:

1. The Medical Expense Limit is changed subject to all of the terms of **SECTION III - LIMITS OF INSURANCE** to the greater of:
  - a. \$20,000; or
  - b. The Medical Expense Limit shown in the Declarations of this Coverage Part.
2. **SECTION I – COVERAGES, COVERAGE C MEDICAL PAYMENTS**, Subsection 1. **Insuring Agreement**, a. (3) (b) is deleted in its entirety and replaced by the following:

(b) The expenses are incurred and reported to us within three years of the date of the accident.

**H. Athletic Activities**

**SECTION I – COVERAGES, COVERAGE C MEDICAL PAYMENTS**, Subsection 2. **Exclusions**, Paragraph e. **Athletic Activities** is deleted in its entirety and replaced with the following:

**e. Athletic Activities**

To a person injured while taking part in athletics.

**I. Supplementary Payments**

**SECTION I – COVERAGES, SUPPLEMENTARY PAYMENTS - COVERAGE A AND B** are amended as follows:

1. **b.** is deleted in its entirety and replaced by the following:

1. **b.** Up to \$5000 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these.

1.**d.** is deleted in its entirety and replaced by the following:

1. **d.** All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$1,000 a day because of time off from work.

**J. Employee Indemnification Defense Coverage**

**SECTION I – COVERAGES, SUPPLEMENTARY PAYMENTS – COVERAGES A AND B** the following is added:

We will pay, on your behalf, defense costs incurred by an "employee" in a criminal proceeding occurring in the course of employment.

The most we will pay for any "employee" who is alleged to be directly involved in a criminal proceeding is \$25,000 regardless of the numbers of "employees," claims or "suits" brought or persons or organizations making claims or bringing "suits."



**K. Key and Lock Replacement – Janitorial Services Client Coverage**

**SECTION I – COVERAGES, SUPPLEMENTARY PAYMENTS – COVERAGES A AND B** is amended to include the following:

We will pay for the cost to replace keys and locks at the “clients” premises due to theft or other loss to keys entrusted to you by your “client,” up to a \$10,000 limit per occurrence and \$10,000 policy aggregate.

We will not pay for loss or damage resulting from theft or any other dishonest or criminal act that you or any of your partners, members, officers, “employees”, “managers”, directors, trustees, authorized representatives or any one to whom you entrust the keys of a “client” for any purpose commit, whether acting alone or in collusion with other persons.

The following, when used on this coverage, are defined as follows:

**a.** “Client” means an individual, company or organization with whom you have a written contract or work order for your services for a described premises and have billed for your services.

**b.** “Employee” means:

**(1)** Any natural person:

**(a)** While in your service or for 30 days after termination of service;

**(b)** Who you compensate directly by salary, wages or commissions; and

**(c)** Who you have the right to direct and control while performing services for you; or

**(2)** Any natural person who is furnished temporarily to you:

**(a)** To substitute for a permanent “employee” as defined in Paragraph **(1)** above, who is on leave; or

**(b)** To meet seasonal or short-term workload conditions;

while that person is subject to your direction and control and performing services for you.

**(3)** “Employee” does not mean:

**(a)** Any agent, broker, person leased to you by a labor leasing firm, factor, commission merchant, consignee, independent contractor or representative of the same general character; or

**(b)** Any “manager,” director or trustee except while performing acts coming within the scope of the usual duties of an “employee.”

**c.** “Manager” means a person serving in a directorial capacity for a limited liability company.

**L. Additional Insureds**

**SECTION II – WHO IS AN INSURED** is amended as follows:

**1.** If coverage for newly acquired or formed organizations is not otherwise excluded from this

Coverage Part, Paragraph 3.a. is deleted in its entirety and replaced by the following:

- a. Coverage under this provision is afforded until the end of the policy period.
- 2. Each of the following is also an insured:
  - a. **Medical Directors and Administrators** – Your medical directors and administrators, but only while acting within the scope of and during the course of their duties as such. Such duties do not include the furnishing or failure to furnish professional services of any physician or psychiatrist in the treatment of a patient.
  - b. **Managers and Supervisors** – Your managers and supervisors are also insureds, but only with respect to their duties as your managers and supervisors. Managers and supervisors who are your “employees” are also insureds for “bodily injury” to a co-“employee” while in the course of his or her employment by you or performing duties related to the conduct of your business.

This provision does not change Item 2.a.(1)(a) as it applies to managers of a limited liability company.

- c. **Broadened Named Insured** – Any organization and subsidiary thereof which you control and actively manage on the effective date of this Coverage Part. However, coverage does not apply to any organization or subsidiary not named in the Declarations as Named Insured, if they are also insured under another similar policy, but for its termination or the exhaustion of its limits of insurance.
- d. **Funding Source** – Any person or organization with respect to their liability arising out of:
  - (1) Their financial control of you; or
  - (2) Premises they own, maintain or control while you lease or occupy these premises.

This insurance does not apply to structural alterations, new construction and demolition operations performed by or for that person or organization.

- e. **Home Care Providers** – At the first Named Insured's option, any person or organization under your direct supervision and control while providing for you private home respite or foster home care for the developmentally disabled.
- f. **Managers, Landlords, or Lessors of Premises** – Any person or organization with respect to their liability arising out of the ownership, maintenance or use of that part of the premises leased or rented to you subject to the following additional exclusions:

This insurance does not apply to:

- (1) Any “occurrence” which takes place after you cease to be a tenant in that premises; or
- (2) Structural alterations, new construction or demolition operations performed by or on behalf of that person or organization.
- g. **Lessor of Leased Equipment – Automatic Status When Required in Lease Agreement With You** – Any person or organization from whom you lease equipment when you and such person or organization have agreed in writing in a contract or agreement that such person or organization is to be added as an additional insured on your policy. Such person or

organization is an insured only with respect to liability for "bodily injury," "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person or organization.

A person's or organization's status as an additional insured under this endorsement ends when their contract or agreement with you for such leased equipment ends.

With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after the equipment lease expires.

- h. **Grantors of Permits** – Any state or political subdivision granting you a permit in connection with your premises subject to the following additional provision:
  - (1) This insurance applies only with respect to the following hazards for which the state or political subdivision has issued a permit in connection with the premises you own, rent or control and to which this insurance applies:
    - (a) The existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoist away openings, sidewalk vaults, street banners or decorations and similar exposures;
    - (b) The construction, erection, or removal of elevators; or
    - (c) The ownership, maintenance, or use of any elevators covered by this insurance.
- i. **Vendors** – Only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business, subject to the following additional exclusions:
  - (1) The insurance afforded the vendor does not apply to:
    - (a) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
    - (b) Any express warranty unauthorized by you;
    - (c) Any physical or chemical change in the product made intentionally by the vendor;
    - (d) Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
    - (e) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
    - (f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;

- (g) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or
- (h) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:
  - (i) The exceptions contained in Sub-paragraphs (d) or (f); or
  - (ii) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.
- (2) This insurance does not apply to any insured person or organization, from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing.
- j. **Franchisor** – Any person or organization with respect to their liability as the grantor of a franchise to you.
- k. **As Required by Contract** – Any person or organization where required by a written contract executed prior to the occurrence of a loss. Such person or organization is an additional insured for "bodily injury," "property damage" or "personal and advertising injury" but only for liability arising out of the negligence of the named insured. The limits of insurance applicable to these additional insureds are the lesser of the policy limits or those limits specified in a contract or agreement. These limits are included within and not in addition to the limits of insurance shown in the Declarations
- l. **Owners, Lessees or Contractors** – Any person or organization, but only with respect to liability for "bodily injury," "property damage" or "personal and advertising injury" caused, in whole or in part, by:
  - (1) Your acts or omissions; or
  - (2) The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured when required by a contract.

With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

- (a) All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
- (b) That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

**m. State or Political Subdivisions** – Any state or political subdivision as required, subject to the following provisions:

- (1) This insurance applies only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit, and is required by contract.
- (2) This insurance does not apply to:
  - (a) "Bodily injury," "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality; or
  - (b) "Bodily injury" or "property damage" included within the "products-completed operations hazard."

**M. Duties in the Event of Occurrence, Claim or Suit**

**SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**, Paragraph 2. is amended as follows:

a. is amended to include:

This condition applies only when the "occurrence" or offense is known to:

- (1) You, if you are an individual;
- (2) A partner, if you are a partnership; or
- (3) An executive officer or insurance manager, if you are a corporation.

b. is amended to include:

This condition will not be considered breached unless the breach occurs after such claim or "suit" is known to:

- (1) You, if you are an individual;
- (2) A partner, if you are a partnership; or
- (3) An executive officer or insurance manager, if you are a corporation.

**N. Unintentional Failure To Disclose Hazards**

**SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**, 6. **Representations** is amended to include the following:

It is agreed that, based on our reliance on your representations as to existing hazards, if you should unintentionally fail to disclose all such hazards prior to the beginning of the policy period of this Coverage Part, we shall not deny coverage under this Coverage Part because of such failure.

**O. Transfer of Rights of Recovery Against Others To Us**

**SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**, 8. **Transfer of Rights of**

**Recovery Against Others To Us** is deleted in its entirety and replaced by the following:

If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

Therefore, the insured can waive the insurer's rights of recovery prior to the occurrence of a loss, provided the waiver is made in a written contract.

**P. Liberalization**

**SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**, is amended to include the following:

If we revise this endorsement to provide more coverage without additional premium charge, we will automatically provide the additional coverage to all endorsement holders as of the day the revision is effective in your state.

**Q. Bodily Injury – Mental Anguish**

**SECTION V – DEFINITIONS**, Paragraph 3. Is deleted in its entirety and replaced by the following:

"Bodily injury" means:

- a. Bodily injury, sickness or disease sustained by a person, and includes mental anguish resulting from any of these; and
- b. Except for mental anguish, includes death resulting from the foregoing (Item a. above) at any time.

**R. Personal and Advertising Injury – Abuse of Process, Discrimination**

If **COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY COVERAGE** is not otherwise excluded from this Coverage Part, the definition of "personal and advertising injury" is amended as follows:

- 1. **SECTION V – DEFINITIONS**, Paragraph 14.b. is deleted in its entirety and replaced by the following:

- b. Malicious prosecution or abuse of process;

- 2. **SECTION V – DEFINITIONS**, Paragraph 14. is amended by adding the following:

Discrimination based on race, color, religion, sex, age or national origin, except when:

- a. Done intentionally by or at the direction of, or with the knowledge or consent of:
  - (1) Any insured; or
  - (2) Any executive officer, director, stockholder, partner or member of the insured;
- b. Directly or indirectly related to the employment, former or prospective employment, termination of employment, or application for employment of any person or persons by an insured;



- c. Directly or indirectly related to the sale, rental, lease or sublease or prospective sales, rental, lease or sub-lease of any room, dwelling or premises by or at the direction of any insured; or
- d. Insurance for such discrimination is prohibited by or held in violation of law, public policy, legislation, court decision or administrative ruling.

The above does not apply to fines or penalties imposed because of discrimination.

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