

CONTRACT NO. KC-372-24
Professional Services Contract

This Professional Services Contract (“Contract”) is between Kitsap County, a Washington state political subdivision, having its principal offices at 614 Division Street, Port Orchard, Washington 98366 (“County”) and Easter Seals Washington, a WA state non-profit corporation, having its principal offices at 200 West Mercer, Suite 210 E, Seattle, WA 98119 (“Contractor”).

In consideration of the terms and conditions of this Contract, the parties agree as follows:

SECTION 1. TERM AND EFFECTIVE DATE

- 1.1 The Contract will become effective July 1, 2024 and terminate June 30, 2025, unless terminated or extended. The Contract may be extended for additional consecutive terms at the mutual agreement of the parties. In no event will the Contract become effective unless and until it is approved and executed by the duly authorized representative of Kitsap County.

SECTION 2. SERVICES

- 2.1. Scope of Work. The Contractor shall provide all “Services” identified in Attachment A: (Scope of Work), which is incorporated herein by reference. The Contractor shall provide its own equipment, labor, and materials.
- 2.2. Contract. “Contract” means this Contract and any exhibits, amendments, and solicitation documents accepted by the County, and Attachment A – Service Definitions; Attachment B – Special Terms and Conditions Attachment; C – Service Information Form; Attachment D – Criteria for Evaluation Attachment; E - DRW Access Agreement; Attachment F - Certification Regarding Debarment, Suspension, and Other Responsibility Matters; Attachment G – Certification Regarding Lobbying Attachment; and H – Confidentiality and Data Security All such documents are incorporated herein in full by this reference.
- 2.3. Personnel. The Contractor shall have and maintain complete responsibility for its Personnel. “Personnel” means Contractor and Contractor’s employees, subcontractors, volunteers, interns, agents, and any other person utilized by the Contractor directly or indirectly or through third parties to perform any Services under the Contract. The Contractor shall promptly remove any Personnel performing Services on request from the County Representative.
- 2.4. Standards. The Contractor warrants that i) Contractor has the qualifications, knowledge, experience, skills, and resources necessary to provide all Services; ii) all Services shall be provided by Personnel experienced in their respective fields and in a manner consistent with the standards of care, skill, diligence, and knowledge commonly possessed and exercised by experienced professionals in the same discipline in the same or similar circumstances; and iii) all Services shall be performed to the County’s reasonable satisfaction and according to the schedule agreed to by the parties.
- 2.5. Communication. The Contractor shall keep the County informed of the progress of the Services in the manner, method, and intervals requested by the County.

SECTION 3. COMPENSATION AND PAYMENT

- 3.1. Compensation. The maximum amount of compensation paid under the Contract by the County shall not exceed \$548,695. A description of the compensation is provided in Attachment C: Service Information Form herein by reference.
- 3.2. Invoice. The Contractor will submit one (1) invoice to the County per month for payment of Services completed to date, unless otherwise provided herein. Each invoice shall identify the Services performed, dates performed, and any other information requested by the County.
- 3.3. Payment. The County will make reasonable efforts to pay the Contractor within thirty (30) days from the date the County receives a complete and correct invoice, unless otherwise provided herein. All funds disbursed to the Contractor will be processed by Direct Deposit via Automated Clearing House (ACH), unless otherwise agreed to by the parties.
- 3.4. Insurance/W-9 Compliance. All payments are expressly conditioned upon the Contractor's compliance with all insurance requirements and submission of a current IRS W-9 form to the County. Payments may be suspended in full in the event of noncompliance. Upon full compliance, payments will be released to the Contractor unless otherwise provided herein.
- 3.5. Restrictions. The Contractor will only be entitled to receive payment for Services expressly authorized in the Contract, and received during the Contract term and accepted by the County. The Contractor acknowledges oral requests and approvals of additional services or additional compensation are prohibited and unenforceable. Advance payments are not authorized.

SECTION 4. TERMINATION

- 4.1. For Convenience. The County may terminate the Contract, in whole or in part, without penalty, for any reason or no reason, with ten days prior notice to the Contractor.
- 4.2. For Funding issues. If any funding for Services is not available, withdrawn, reduced, or limited in any way, or if additional or modified conditions are placed on the funding after the Contract becomes effective, the County may: (1) accept a decreased price offered by the Contractor; (2) terminate the Contract; or (3) terminate the Contract and re-solicit the requirements.
- 4.3. Termination for Default. The County may immediately terminate the Contract, in whole or part, due to the failure of the Contractor to comply with any Contract term or condition, or to make satisfactory progress in performing the Contract, subject to the provisions of 11.1, or if the County determines the Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity. The Contractor shall immediately notify the County if the Contractor becomes suspended or debarred.
- 4.4. Procedures. Upon receipt of notice of termination, the Contractor shall stop all Services as directed in the notice, notify Personnel of the termination date, and minimize further costs. All goods, materials, documents, data, and reports prepared by the Contractor under the Contract shall become the property of, and delivered to, the County on demand. A final payment will be made to the Contractor only for Services performed and accepted by the County through the effective date of termination. No costs incurred after the effective date of the termination will be paid.

SECTION 5. INDEMNIFICATION

- 5.1. To the fullest extent permitted by law, the Contractor shall indemnify, defend, and hold harmless Kitsap County and its elected and appointed officials, officers, employees, and agents (collectively "Indemnitees") 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 the Contractor, its Personnel, third parties, or Kitsap 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. It is the specific intent of the parties that the Indemnitees shall, in all instances, except Claims arising from the sole negligence or willful misconduct of the Indemnitees, be indemnified by the Contractor from and against any and all Claims.
- 5.2. With regard to any Claim against any Indemnitee by any of the Contractor's Personnel, or anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the Contractor's indemnification obligation shall not be limited in any way by a limitation on the amount or type of damages, compensation, or benefits payable by or for the Contractor or Contractor's Personnel under workers compensation acts, disability benefit acts, or other employee benefit acts. Solely for the purposes of this indemnification provision, the Contractor expressly waives its immunity under Title 51 RCW (Industrial Insurance) and acknowledges this waiver was mutually negotiated by the parties.
- 5.3. Architectural, Landscape Architectural, Engineering, or Land Surveying Services. Should a court of competent jurisdiction determine the Contract is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Contractor and the County, its officers, officials, employees, and agents, the Contractor's liability hereunder, including the duty and cost to defend, will be only to the extent of the Contractor's negligence.
- 5.4. Claim. "Claim" means all losses, claims, suits, actions, liabilities, damages, demands, judgments, settlements, expenses, fines, or other liabilities of any kind or nature whatsoever, including without limitation, all costs including costs of Claim processing, investigation, reasonable attorneys' fees, and damages, for any personal or bodily injury, sickness, disease, disability, or death, or loss or damage to tangible or intangible business or property, including the loss of use. Claim includes any infringement of copyright, patent, trademark, or other proprietary rights of any third parties arising out of Contract performance or use by the County of materials furnished or work performed under the Contract.
- 5.5. Obligations/Notice of Claim. The County will provide the Contractor notice of the assertion of liability by a third party that may give rise to a Claim by County against the Contractor based on the indemnity contained herein. The Contractor shall respond to the County's tender of defense of a claim in writing within fourteen (14) calendar days from the notice date, and will advise the County if the Contractor accepts or denies tender of the claim. The County may in its discretion withhold all or part of any payment due the Contractor under the Contract until the Contractor responds to such notice. The Contractor shall keep the County timely and fully informed through all stages of the defense and promptly respond to and comply with County's requests for information. The County at all times reserves the right, but has no obligation to participate in the defense and settlement of any Claim. Such participation shall not constitute a waiver of the Contractor's indemnity and defense obligations under the Contract. The Contractor shall not settle or compromise any

Claim in any manner that imposes any obligations upon the County without the prior written consent of the County. The Contractor shall promptly advise the County of any occurrence or information known to the Contractor that could reasonably result in a Claim against the County. The violation of any provisions of this Section, including improper refusal to accept tender, is a material breach.

SECTION 6. INSURANCE

- 6.1. Minimum Insurance Required. The Contractor and its subcontractors, if any, shall procure and maintain, until all of the Contract obligations have been fully discharged, including any warranty period, all insurance required in this Section with an insurance company duly licensed in Washington State with an A.M. Best Company ratings of not less than A-VIII and a category rating of not less than "8", with policies and forms satisfactory to the County. Use of alternative insurers requires prior written approval from the County. Coverage limits shall be at minimum the limits identified in this Section, or the limits available under the policies maintained by the Contractor without regard to the Contract, whichever is greater.
- 6.2. Professional Liability. Not less than \$1,000,000 per claim and \$2,000,000 annual aggregate. Coverage will apply to liability for professional error, act or omission arising out of or in connection with the Contractor's Services under the Contract. The coverage shall not exclude bodily injury, property damage or 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.
- 6.3. Commercial General Liability ("CGL"). Not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate. Coverage shall include personal injury, bodily injury, and property damage for premise-operations liability, products/completed operations, personal/advertising injury, contractual liability, independent contractor liability, and stop gap/employer's liability. Coverage shall not exclude or contain sub-limits less than the minimum limits required herein, without the prior written approval of the County. The certificate of insurance for the CGL policy shall expressly cover the indemnification obligations required by the Contract.
- 6.4. Automobile Liability.
- Contractor shall maintain personal automobile insurance on all vehicles used for Contract purposes as required by law.
 - Not less than \$100,000 per occurrence and \$300,000 annual aggregate. If a personal automobile liability policy is used to meet this requirement, it must include a business rider and cover each vehicle to be used in the performance of the Contract. If Contractor will use non-owned vehicles in performance of the Contract, the coverage shall include owned, hired, and non-owned automobiles.
 - Not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate. Coverage shall include liability for any and all owned, hired, and non-owned vehicles. Coverage may be satisfied with an endorsement to the CGL policy.

- 6.5. Umbrella or Excess Liability. The Contractor may satisfy the minimum liability limits required for the CGL and Automobile Liability under an Umbrella or Excess Liability policy. There is no minimum per occurrence limit of liability under the Umbrella or Excess Liability; however, the annual aggregate limit shall not be less than the highest "Each Occurrence" limit for either CGL or Automobile Liability. The Contractor agrees to an endorsement naming the County as an additional insured as provided in this Section, unless the Umbrella or Excess Liability provides coverage on a "Follow-Form" basis.
- 6.6. Workers' Compensation and Employer Liability. If applicable, the Contractor shall maintain workers' compensation insurance as required under the Title 51 RCW (Industrial Insurance), for all Contractor's Personnel eligible for such coverage. If the Contract is for over \$50,000, then the Contractor shall also maintain employer liability coverage with a limit of not less than \$1,000,000.
- 6.7. Primary, Non-Contributory Insurance/Subcontractors. The Contractor's and its subcontractors' insurance policies and additional named insured endorsements will provide primary insurance coverage and be non-contributory. Any insurance or self-insurance programs maintained or participated in by the County will be excess and not contributory to such insurance policies. All Contractor's and its subcontractors' liability insurance policies must be endorsed to show as primary coverage. The Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All subcontractors shall comply with all insurance and indemnification requirements herein.
- 6.8. Review of Policy Provisions. Upon request, the Contractor shall provide a full and complete copy of all requested insurance policies to the County. The County reserves the right without limitation, but has no obligation to revise any insurance requirement, or to reject any insurance policies that fail to meet the requirements of the Contract. The County also has the right, but no obligation to review and reject any proposed insurer providing coverage based upon the insurer's financial condition or licensing status in Washington. The County has the right to request and review the self-insurance retention limits and deductibles, and the Contractor's most recent annual financial reports and audited financial statements, as conditions of approval. Failure to demand evidence of full compliance with the insurance requirements or failure to identify any insurance deficiency shall not relieve the Contractor from, nor be construed or deemed a waiver, of its obligation to maintain all the required insurance at all times as required herein.
- 6.9. Waiver of Subrogation. In consideration of the Contract award, the Contractor agrees to waive all rights of subrogation against the County, its elected and appointed officials, officers, employees, and agents. This waiver does not apply to any policy that includes a condition that expressly prohibits waiver of subrogation by the insured or that voids coverage should the Contractor enter into a waiver of subrogation on a pre-loss basis.
- 6.10. Additional Insured, Endorsement and Certificate of Insurance. All required insurance coverage, other than the workers' compensation and professional liability, shall name the County, its elected and appointed officials, officers, employees, and agents, as additional insureds and be properly endorsed for the full available limits of coverage maintained by Contractor and its subcontractors. Endorsement is not required if the Contractor is a self-insured government entity, or insured through a government risk pool authorized by Washington State.

The Certificate of Insurance and endorsement shall identify the Contract number and shall require not less than thirty (30) days' prior notice of termination, cancellation, nonrenewal or reduction in coverage. At the time of execution, the Contractor shall provide the Certificate of Insurance, endorsement, and all insurance notices to: Risk Management Division, Kitsap County Department of Administrative Services, 614 Division Street, MS-7, Port Orchard, Washington 98366.

- 6.11. General. The coverage limits identified herein are minimum requirements only and will not in any manner limit or qualify the liabilities or obligations of the Contractor under the Contract. All insurance policy deductibles and self-insured retentions for policies maintained under the Contract shall be paid by the Contractor. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County, its elected and appointed officials, officers, employees, or agents. The Contractor's insurance shall apply separately to each insured against whom a claim is made or suit is brought, subject to the limits of the insurer's liability.
- 6.12. Claims-Made. If the Contractor's liability coverage is written as a claims-made policy, the Contractor shall purchase an extended-reporting period or "tail" coverage for a minimum of three (3) years following completion of the performance or attempted performance of the provisions of this Contract.

SECTION 7. NOTICE AND CONTRACT REPRESENTATIVES

- 7.1. Any notices, demands and other communications required by the Contract will be effective if personally served upon the other party or if mailed by registered or certified mail, postage prepaid, return receipt requested, to the other party's Contract Representative at the address below. Notice may also be given by facsimile with the original to follow by regular mail. Notice will be deemed to be given three (3) 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. Each party will designate a "Contract Representative", which may be changed by providing fifteen (15) days prior notice to the other party.

County's Contract Representative

Name: Kelly Oneal
Title: DD County Coordinator
Address: Kitsap County Human Services, 614 Division St., MS-23, Port Orchard, WA 98366
Phone: 360-337-4624
Email: koneal@kitsap.gov

Contractor's Contract Representative

Name: Cathy Bisillon
Title: President and CEO
Address: Easter Seals Washington, 200 West Mercer, Suite 210 E, Seattle, WA 98119
Phone: 360-981-9263
Email: cathyb@wa.easterseals.com

SECTION 8. AMENDMENTS, SUBCONTRACTS, INDEPENDENT CONTRACTOR

- 8.1. Amendment. No amendment or modification to the Contract will be effective without the prior written consent of the authorized representatives of the parties.
- 8.2. Successors and Assigns. To the extent permitted by law, the Contract is binding on the parties' respective partners, successors, assigns, executors, and legal representatives.
- 8.3. Assignments. Except with the prior written consent of the other party, each party shall not assign or transfer, including by merger (whether that party is the surviving or disappearing entity), consolidation, dissolution, or operation of law any right, duty, obligation, or remedy under the Contract. Any purported assignment or transfer in violation of this section shall be void.
- 8.4. Subcontracts. The Contractor shall provide the County a list of all subcontractors and the subcontractors' proposed responsibilities. "Subcontract" means any contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or service for the performance of the Contract. All subcontracts shall incorporate by reference the terms and conditions of this Contract. The Contractor is solely responsible for the performance and payment of its subcontractors.
- 8.5. Independent Contractor. Each party under the Contract shall be for all purposes an independent contractor. Nothing contained herein will be deemed to create an association, a partnership, a joint venture, or a relationship of principal and agent, or employer and employee between the parties. The Contractor shall have complete responsibility and control over its Personnel. Neither the Contractor nor its Personnel shall be, or be deemed to be, or act or purport to act, as an employee, agent or representative of the County. The Contractor and its Personnel shall have no County employee-type benefits of any kind whatsoever, including without limitation, insurance, pension plan, vacation pay or sick pay, or other right or privilege afforded to County employees. The Contractor and its Personnel shall be responsible for payment of all insurance, taxes, and benefits.

SECTION 9. OWNERSHIP, CONFIDENTIAL INFORMATION AND BREACH

- 9.1. Ownership. Any and all data, reports, analyses, documents, photographs, pamphlets, plans, specifications, surveys, films, or any other materials created, prepared, produced, constructed, assembled, made performed, or otherwise produced by the Contractor or its Personnel for delivery to the County under this Contract shall be the sole and absolute property of the County. All such property shall constitute "work made for hire" as defined by the U.S. Copyright Act of 1976, 17 U.S.C § 101, and the ownership of the copyright and any other intellectual property rights in such property shall vest in the County at the time of its creation. Ownership of the intellectual property includes the right to copyright, patent, and register, and the ability to transfer these rights. Material the Contractor uses to perform this Contract that is not created, prepared, constructed, assembled, made, performed, or otherwise produced for or paid for by the County is owned by the Contractor and is not "work made for hire" within the terms of the Contract.
- 9.2. Confidential Information/Breach. The Contractor shall ensure that all personal identifying information, financial information, and other information submitted or made available to the Contractor by, or on behalf of, the County, or acquired or developed by the Contractor in the performance of the Contract (unless publicly available) is kept confidential, secured,

and protected to prevent unauthorized access. Such information will be utilized by the Contractor solely as necessary for the performance of Services under the Contract and not made available to any other person without the County's prior written consent. In the event of unauthorized access or other security breach, the Contractor shall immediately notify the Contract Representative and shall at its sole expense comply with all requirements of RCW 19.255.010, in effect at any given time. Upon expiration or termination of the Contract, all confidential information shall be returned to the County or destroyed at the County's discretion.

SECTION 10. REPRESENTATIONS AND RECORDS

- 10.1. No Fee. The Contractor certifies it has not received, nor paid or agreed to pay, another person or entity, other than a bona fide employee working exclusively for the Contractor, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of the Contract.
- 10.2. Licenses, Permits and Taxes. The Contractor shall, at its own expense, have and maintain all licenses, registrations, permits, and approvals necessary for the performance of the Contract, including without limitation, registration with the Washington State Department of Revenue. The Contractor shall pay all fees (including licensing fees) and applicable federal, state, and local taxes.
- 10.3. Compliance. The Contractor and its Personnel, and the Services provided by the Contractor and its Personnel, shall comply with all applicable laws, codes, and standards in effect at any given time regardless as to whether such laws are referred to by the County. If required for the Services provided, the Contractor and its Personnel shall submit to a background check as directed by the County.
- 10.4. Nondiscrimination. The Contractor and its Personnel shall not discriminate against any person on the basis of race, color, creed, religion, national origin, age, sex, marital status, sexual orientation, veteran status, disability, or other circumstance prohibited by federal, state, or local law, and shall comply with Title VI of the Civil Rights Act of 1964, P.L. 88-354 and Americans with Disabilities Act of 1990 in the performance of the Contract.

- 10.5. Public Records. The Contractor agrees that the Contract and all records associated with the Contract shall be available to the County for inspection and copying by the public pursuant to the Public Records Act, Chapter 42.56 RCW (“Act”). If the County determines that records in the custody of the Contractor are needed to respond to a request under the Act, the Contractor shall make all such records promptly available to the County at no cost to the County. With the exception of the Contract, if the Contractor considers any portion of any record, electronic or hard copy, to be protected from disclosure under the Act, the Contractor shall clearly identify all specific information it claims to be confidential or proprietary. If the County receives a request under the Act to inspect or copy proprietary information that has been identified by the Contractor as protected from disclosure and the County determines that release of the information is required by the Act or otherwise appropriate, the County’s sole obligation will be to make a reasonable effort to notify the Contractor of the request and the date that such protected information will be released unless the Contractor obtains a court order to enjoin disclosure pursuant to RCW 42.56.540. If the Contractor fails to timely obtain a court order enjoining disclosure, the County will release the requested information on the date specified. The County has no obligation on behalf of the Contractor to claim any exemption from disclosure under the Act. The County will not be liable to the Contractor for releasing records pursuant to the Act.
- 10.6. Advertising, Logo. The Contractor shall not use, advertise, or promote for commercial benefit information concerning the Contract or use any trade name, trademark, or logo of the County, without the County’s prior written consent.
- 10.7. Audit and Record Retention. The Contractor and its Personnel shall retain all books, documents, and records relating to performance of the Contract and Services provided in connection with this Contract for six (6) years after completion of the Contract or longer if requested by the County. All records shall be subject to inspection and audit by the County. Upon request, the Contractor shall promptly make available to the County a legible copy of all books, documents, and records at no cost to the County.

SECTION 11. RIGHTS AND REMEDIES

- 11.1. Failure to Perform. If County determines the Contractor has failed to perform any material obligation of the Contract, and such failure has not been cured within ten (10) days’ following notice from the County, the County may without penalty, in its discretion, withhold all monies due the Contractor until such failure is cured to the reasonable satisfaction of the County.
- 11.2. Right of Assurance. If the County in good faith has reason to believe the Contractor does not intend, or is unable to perform, or continue performing under the Contract, the County may demand in writing that the Contractor give a written assurance of intent to perform. Should the Contractor fail to provide adequate assurance to the reasonable satisfaction of the County, by the date specified the demand, the County may terminate all or part of the Contract and pursue all other rights and remedies available at law and in equity.

- 11.3. Responsibility for Errors. All Services shall be completed to the reasonable satisfaction of the County and as required herein. Upon request, the Contractor shall provide any clarifications and/or explanations regarding any Services provided as required by the County, at no additional cost to the County. In the event of an error or omission under the Contract, the Contractor shall, at no cost to the County, provide all necessary design drawings, estimates, and all other professional services the County deems necessary to rectify and correct the matter to the satisfaction of the County. The Contractor shall continue to be responsible for the accuracy of Services, even after the Work is accepted by the County and the termination or expiration of the Contract.
- 11.4. Remedies. All County rights and remedies under the Contract are in addition to, and shall in no way limit, any other rights and remedies that may be available to the County at law and in equity.
- 11.5. Right of Off-Set; Reimbursement. The County will be entitled to offset against any sums due the Contractor and to reimbursement from the Contractor for any damages, expenses, or costs incurred by the County due to the Contractor's nonconforming performance or failure to perform the Services under the Contract.
- 11.6. Waiver. Either party's failure to insist upon the strict performance of any provision of the Contract, or to exercise any right based upon a breach thereof or the acceptance of any performance during such breach, will not constitute a waiver of any right or remedy under the Contract unless expressly so agreed in writing by an authorized representative.
- 11.7. Breach. In the event of a material breach by the Contractor, the County may procure, on terms and in the manner that it deems appropriate, Services to replace those under the Contract. The Contractor shall be liable to the County for any and all costs, expenses, penalties, and fees incurred by the County in procuring such Services in substitution for those due from the Contractor under the Contract.

SECTION 12. GOVERNING LAW, DISPUTES

- 12.1. Governing Law; Venue. The Contract will be governed in all respects by the laws of the State of Washington, both as to interpretation and performance, without regard to conflicts of law or choice of law provisions. Any action arising out of or in connection with the Contract may be instituted and maintained only in a court of competent jurisdiction in Kitsap County, Washington or as provided by RCW 36.01.050.
- 12.2. Disputes. Conflicts and disagreements between the parties related to the Contract will be promptly brought to the attention of the County. Any dispute relating to the quality or acceptability of performance or compensation due the Contractor will be decided by the County's Contract Representative. All decisions of the County's contract Representative are considered final; however, nothing herein prohibits either party from seeking judicial relief.

SECTION 13. PREVAILING WAGE

[Prevailing Wage]

SECTION 14. GENERAL PROVISIONS

- 14.1. Implied Contract Terms. Each provision of law and any terms required by law to be in the Contract are made a part of the Contract as if fully stated in it.
- 14.2. Headings/Captions. Headings and captions used are for convenience only and are not a part of the Contract and do not in any way limit or amplify the terms and provisions hereof.
- 14.3. No Party the Drafter. The Contract is the product of negotiation between the parties, and no party is deemed the drafter of the Contract.
- 14.4. No Third Party Beneficiary. No provision of the Contract is intended to, nor will it be construed to, create any third party beneficiary or provide any rights or benefits to any person or entity other than the County and the Contractor.
- 14.5. 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.
- 14.6. Precedence. The Contract documents consist of this Contract and its attachments and exhibits. In the event of a conflict between or among the Contract documents, the order of precedence shall be this Contract, then the attachments and exhibits.
- 14.7. Counterparts/Electronic Signature. The Contract may be executed in several counterparts, each of which will be deemed an original, but all of which together will constitute one and the same agreement. A facsimile, email, or other electronically delivered signatures of the parties shall be deemed to constitute original signatures and deemed to constitute duplicate originals.
- 14.8. Non-Exclusive Contract. The County may at its discretion enter into multiple agreements to obtain the same or similar services that are the subject of this Contract or may have its own employees perform the same or similar services contemplated by the Contract.
- 14.9. Survival. Those provisions of this Contract that by their sense and purpose should survive expiration or termination of the Contract shall so survive. Those provisions include, without limitation: Sections 5 (Indemnification), 6 (Insurance), 8.5 (Independent Contractor), 9 (Ownership, Confidential Information and Breach), 11 (Rights and Remedies), 12 (Governing Law, Disputes), and 14 (General Provisions).
- 14.10. Entire Agreement. The parties acknowledge the Contract is the product of negotiation between the parties and represents the entire agreement of the parties with respect to its subject matter. All previous agreements and representations, whether oral or written, entered into prior to this Contract are hereby revoked and superseded by the Contract.
- 14.11. Authorization. Each party signing below warrants to the other party, that they have the full power and authority to execute this Contract on behalf of the party for whom they sign.

Dated this 15 day of July, 2024

Dated this 12 day of Aug, 2024

EASTER SEALS WASHINGTON

**BOARD OF COUNTY COMMISSIONERS
KITSAP COUNTY, WASHINGTON**

Cathy I Bisailon

Signature

Cathy Bisailon

Print Name

President and CEO

Title

Katherine T. Walters

KATHERINE T. WALTERS, Chair

NOT PRESENT

CHRISTINE ROLFES, Commissioner

Charlotte Garrido

CHARLOTTE GARRIDO, Commissioner

ATTEST:

Dana Daniels

Dana Daniels, Clerk of the Board



ATTACHMENT A: SERVICE DEFINITIONS

BARS

Child Development Services (Birth to Three)

Child Development Services are designed to meet the developmental needs of each eligible child and the needs of the family related to enhancing the child's development. Services may include specialized instruction, speech-language pathology, occupational therapy, physical therapy, assistive technology, and vision services. Services are provided in natural environments to the maximum extent appropriate.

Individual Supported Employment

Individual Supported Employment services are a part of a Client's pathway to employment and are tailored to individual needs, interests, abilities, and promote career development. These are individualized services necessary to help persons with developmental disabilities obtain and continue integrated employment at or above the state's minimum wage in the general workforce. These services may include intake, discovery, assessment, job preparation, job marketing, job supports, record keeping and support to maintain a job. (per [Individual Employment and Billable Activities](#))

Individualized Technical Assistance Services

Individualized Technical Assistance services are part of a Client's pathway to employment or community inclusion. This service provides assessment and consultation to the employment provider to identify and address existing barriers to employment. This is in addition to supports received through supported employment and community inclusion services for clients who have not yet achieved their goal.

Community Inclusion

Individualized services provided in integrated community settings with other individuals without disabilities. The activities are based on Client interests and provide opportunities typically experienced by the general public of similar age in their local community, accessible by public transit or a reasonable commute from their home. The goal of the service is to support clients to participate, contribute, and develop relationships with community members who are not paid staff. (per [Community Inclusion Billable Activities](#)) These services may be authorized for individuals 62 and older. These services may be authorized in addition to or instead of employment support (Individual Employment) for working age individuals who have received nine months of employment support.

Infrastructure Projects

Projects in support of Clients (services not easily tracked back to a specific working age client) or that directly benefit a Client(s) but the Client

is not working age. Examples include planning services like benefits planning and generic job development e.g. "Project Search."

Start-up Projects

Projects that support an agency or directly benefit the agency. Examples include equipment purchases and agency administrative support.

Partnership Projects

Collaborative partnerships with school districts, employment providers, DVR, families, employers and other community collaborators needed to provide the employment supports and services young adults with developmental disabilities require to become employed during the school year they turn 21.

ATTACHMENT B: SPECIAL TERMS AND CONDITIONS

SECTION 1. Definitions

- 1.1 **“Acuity Level”** means the level of Client’s abilities and needs as determined through the DDA assessment.
- 1.2 **“ALTSA Web Access (AWA)”** means a web-based portal to the Developmental Disabilities Administration CARE system designed to support county services for DDA clients.
- 1.3 **“Additional Consumer Services”** refers to indirect client service types as follows:
- 1) **“Community Information and Education”**: Activities to inform and/or educate the general public about developmental disabilities and related services. These may include information and referral services; activities aimed at promoting public awareness and involvement; and community consultation, capacity building and organization activities.
 - 2) **“Training”**: To increase job related skills and knowledge of staff, providers, volunteers, or interning students in the provision of services to people with developmental disabilities. Also, to enhance program-related skills of board or advisory board members.
 - 3) **“Other Activities”** reserved for special projects and demonstrations categorized into the following types:
 - A. **Infrastructure projects**: Projects in support of clients (services not easily tracked back to a specific working age client) or that directly benefit a client(s), but the client is not of working age. Examples include planning services, like benefits planning, and generic job development; e.g. “Project Search.”
 - B. **Start-up Projects**: Projects that support an agency or directly benefit the agency. Examples include equipment purchases and agency administration support.
 - C. **Partnership Project**: Collaborative partnerships with school districts, employment providers, DVR, families, employers and other community collaborators needed to provide the employment supports and services young adults with developmental disabilities require to become employed during the school year they turn 21.
- 1.4 **“ADSA”** means Aging and Disability Services.
- 1.5 **“Budget and Accounting Reporting System (BARS)”** means a master classification of balance sheet, revenue, and expenditure/expenses accounts.
- 1.6 **“Client”** means a person with a developmental disability as defined in Chapter [388-823](#) WAC who is currently eligible and active with the Developmental Disabilities Administration or is an identified PASSR client.

1.7 **“Competitive Integrated Employment”** means work performed by a Client on a part time or full-time basis, within an integrated setting within the community that meets HCBS setting requirements. The Client must meet be compensated at minimum wage or higher, using the higher federal, state or local rate, and at a rate comparable to the wage paid to non-disabled workers performing the same tasks, including the same benefits and opportunities for advancement.

1.8 **“Consumer Support”** refers to direct client service types as follows:

1) **“Community Inclusion” or “CI”**: means individualized services provided in integrated community settings with other individuals without disabilities. The activities are based on Client interests and provide opportunities typically experienced by the general public of similar age in their local community, accessible by public transit or a reasonable commute from their home. The goal of the service is to support clients to participate, contribute, and develop relationships with community members who are not paid staff. These services may be authorized for individuals 62 and older. These services may be authorized in addition to or instead of employment support (Individual Employment) for working-age individuals who have received nine months of employment support.

2) **“Child Development Services” or “CDS”**: Birth to three services are designed to meet the developmental needs of each eligible child and the needs of the family related to enhancing the child’s development. Services may include specialized instruction, speech-language pathology, occupational therapy, physical therapy, assistive technology, and vision services. Services are provided in natural environments to the maximum extent appropriate.

3) **“Individual Supported Employment” or “IE”**: Services are part of a Client’s pathway to employment and are tailored to individual needs, interests, abilities, and promote career development. These are individualized services necessary to help persons with developmental disabilities obtain and continue integrated employment at or above the state’s minimum wage in the general workforce. These services may include intake, discovery, assessment, job preparation, job marketing, job supports, record keeping and support to maintain a job.

4) **“Individualized Technical Assistance” or “ITA”**: Services are part of a Client’s pathway to individual employment or community inclusion. This service provides assessment and consultation to the employment provider to identify and address existing barriers to employment. This is in addition to supports received through supported employment services or community inclusion for Clients who have not yet achieved their goal.

1.9 **“Contractor”** means a vendor whom the county contracts for services.

- 1.10 **“County”** means the political subdivision of the state of Washington and the county or counties entering into this Program Agreement.
- 1.11 **“DDA Case Resource Manager (CRM)”** means case manager for DDA clients.
- 1.12 **“County Service Authorization (CSA)”** means authorization of county services.
- 1.13 **“Developmental Disabilities (DD)”** means a disability attributable to intellectual disability, cerebral palsy, epilepsy, autism, or another neurological or other condition of an individual found by the secretary to be closely related to an intellectual disability or to require treatment similar to that required for individuals with intellectual disabilities, which disability originates before the individual attains the age of eighteen, which has continued or can be expected to continue indefinitely, and which constitutes a substantial limitation to the individual.
- 1.14 **“Developmental Disabilities Administration (DDA)”** means a division within DSHS.
- 1.15 **“DDA Regional office (DDA Region)”** means the regional DDA office that supports DDA clients.
- 1.16 **“DRW”** means Disability Rights of Washington (Formally known as Washington Protection and Advocacy System, WPAS).
- 1.17 **“DSHS”** means the state Department of Social and Health Services.
- 1.18 **“Division of Vocational Rehabilitation (DVR)”** means a division within the Department of Social and Human Services.
- 1.19 **“Medicaid Home and Community Based Services (HCBS)”** means services occur in the Client’s home rather than institutions or other isolated settings. These programs serve a variety of targeted population groups, such as people with intellectual or developmental disabilities, physical disabilities, and/or mental illnesses.
- 1.20 **“Preadmission Screening and Resident Review (PASSR)”** means individuals with intellectual disabilities or related conditions (ID/RC) who have been referred for nursing facility (NF) care.
- 1.21 **“Person Centered Service Plan (PCPS)”** means a document that authorizes and identifies the DDA paid services to meet a Client’s assessed needs. Formally referred to as the Individual Support Plan.
- 1.22 **“Quality Assurance”** means an adherence to all contract requirements, including DDA policy 6.13, Provider Qualifications for Employment and Day Program Services, DDA Guiding Values, County Guide to Achieving

Developmental Disability Administration's Guiding Values and the Criteria for Evaluation, as well as focus on reasonably expected levels of performance, quality and practice.

- 1.23 **"Quality Improvement"** means a focus on activities to improve performance above minimum standards and reasonably expected levels of performance, quality and practice.
- 1.24 **"RCW"** means Revised Code of Washington.
- 1.25 **"Service Provider"** is a qualified Client service vendor who is contracted to provide Employment and Day Program services.
- 1.26 **"WAC"** means Washington Administrative Code.

SECTION 2. Credentials and Minimum Requirements

- 2.1 The Contractor will comply with the Developmental Disabilities Administration's [Policy 6.13, Program Provider Qualifications](#).
- 2.2 **Home and Community Based Waiver Services assignment of Medicaid Billing Rights:** The Contractor agrees to assign the Developmental Disabilities Administration its Medicaid billing rights for services to DDA clients eligible under the Title XIX program in this agreement.
- 2.3 **Single State Medicaid Agency-DSHS.** DSHS, as the single state Medicaid Agency, has administrative authority for Title XIX coverage of services for people with developmental disabilities per 42 CFR 431.10. The County only has responsibility for services covered in this agreement.
- 2.4 **Qualified Board Members:** The Contractor, if it has a board, shall include members knowledgeable about developmental disabilities. The Contractor shall assure that potential conflict of interest (real or apparent) will not arise. Such a conflict will arise when a Board member is a guardian, legal representative, family member or other decision maker for the client. The Contractor shall document specific measures taken to ensure a conflict of interest does not exist.
- 2.5 **Background and Criminal History Check:** The Contractor shall ensure a background criminal history clearance is required every three years for all employees, subcontractors, and/or volunteers who may have unsupervised access to vulnerable DSHS clients, in accordance with RCW 43.43.830-845, RCW 74.15.030, and Chapter 388. WAC. If the entity elects to hire or retain an individual after receiving notice that the applicant has a conviction for an offense that would disqualify the applicant from having unsupervised contact with vulnerable adults, as defined in Chapter 74.34 RCW, the County shall deny payment for any subsequent services rendered by the individual provider. The

Contractor shall utilize DSHS Background Check Central Unit (BCCU) to obtain background clearances.

- 2.6 **Reporting Abuse and Neglect:** The Contractor is a mandated reporter under RCW 74.34.020 (13) and must comply with the reporting requirements described in RCW 74.34.035, .040 RCW, and 26.44 RCW. If the Contractor is contacted by DSHS that a Contractor is cited or on the registry for a substantiated finding, then that associated staff will be prohibited from providing services under this contract.

The Contractor will promptly report to DSHS per Policy 5.13 Protection from Abuse and Policy 6.08 (mandated reporting Requirements for Employment and Day Program Services Providers), incorporated by reference, if:

- A. They have reasonable cause to believe that abandonment, abuse, financial exploitation or neglect (as defined in RCW 74.34.020) of a person who has a developmental disability (as defined in RCW 71A.10.020) has occurred.
 - B. If they have reason to suspect that sexual or physical assault of such a person has occurred, they shall also immediately report to the appropriate law enforcement agency.
- 2.7 **Duplicative Funding.** Client services shall not be reimbursed under this Agreement when the same services are paid for under the Rehabilitation Act of 1973, as amended in 1993 (DVR), P.L. 94-142 (Public Education), or any other source of public or private funding.
- 2.8 **Compliance with Law, Rules and Regulations.** The Contractor agrees to abide by the terms of the Developmental Disabilities Administration Policy Manual as applicable; available at website: <http://www.dshs.wa.gov/dda/county-best-practices>.

DDA Policies: 4.11 County Services for Working Age Adults, 5.05 Limited English Proficiency (LEP) Clients, 5.06 Client Rights, 5.13, Protection From Abuse: Mandatory Reporting, 5.14 Positive Behavior Support, 5.15 Use of Restrictive Procedures, 5.17 Physical/Manual Intervention Techniques, 6.08 Mandatory Reporting Requirements for Employment and Day Program Providers, 6.13 Provider Qualifications for Employment and Day Program Services, 9.03 Employee Protection from Bloodborne Pathogens, 12.01 Incident Management, 15.03 Community Protection Standards for Day/Employment Programs; 15.19 Positive Behavior Support for Children and Youth; 5.20 Restrictive Procedures and Physical Interventions with Children and Youth; 5.23 Functional Assessments and Positive Behavioral Support Plans: Employment and Day.

WACS: 388-825, Developmental Disabilities Administration Service Rules; 388-06, Background Checks; 388-823, Developmental Disabilities Administration Intake and Determination of Developmental Disabilities; 388-845-0001,0030, 0210,0215,0220,0600-0610,1400-1410,2100,2110, Developmental Disabilities Administration Home and Community Based Waivers; 388-828, Developmental Disabilities Administration (DDA) Assessment; 296-24, General Health and Safety; 296-62, General Occupational Health Standards

RCWS: 43.43.830-845 Background Checks; 71.A.14.070 Confidentiality of Information; 49.17, Washington Industrial Safety and Health Act; 26.44 Abuse of Children; 74.34 Abuse of Vulnerable Adults; 44.04.280, Respectful Language.

County Guide to Achieve Developmental Disability Administration's Guiding Values

DDA Guiding Values

Criteria for Evaluation

DDA Guidelines for Community Assessments within Employment and Vocational Programs

Budgeting, Accounting and Reporting System (BARS), Developmental Disabilities Administration

Disability Rights of Washington Access Agreement

Any other requirements established by the Department of Social and Health Services, the County, and rules and regulations promulgated thereunder, and rules and regulations of the state and federal government as applicable, which control disposition of funds granted under this Work Order, and any subcontract.

SECTION 3. Statement of Work

- 3.1 **Number of People Served:** The number of people served shall be determined by County Service Authorizations. The number of people served may fluctuate as people enter/leave the Contractor's service over the contract period.
- 3.2 **Limitation to the Waiver Services:** The Contractor will act in accordance with WAC 388-845 by monitoring the client's yearly waiver limits for consumer Employment or Day support services.
- 3.3 **Direct Client Services and Program Outcomes:** The Contractor will provide services as defined and outlined in the Service Information Forms. An Individual Support Plan will be developed for each person referred to the Contractor with a

County Service Authorization for IE and CI services that reflect the individual's preferences. Each plan will contain the minimum elements outlined in Attachment D, Criteria for Evaluation. The Individual Support Plan should be developed within 60 days of a participant beginning services and updated at least annually or more frequently if appropriate. The Contractor will provide a copy of the participant's Individual Support Plan to the respective CRM, County staff, guardian and others as appropriate.

Prior to beginning services, the Contractor will clearly communicate the maximum service hours the client can expect to receive. The Contractor will also communicate the service hour information to the County. If a change occurs in the maximum service hours expected, the client, the client's DDA Case Resource Manager and County staff will be informed prior to the change.

The client's DDA PCSP is the driver for the service. The AWA County Service Authorization and updated Planned Rates information will not exceed the client's DDA PCSP maximum listed service hours. The amount of service the client receives should match AWA Planned Rates and County Service Authorization information.

Six-month progress reports describing the progress made towards achieving Client's goal(s) will be provided by the Contractor to the respective CRM, participant, County staff and/or guardian, if any, within 30 days following the six-month period. The client six-month progress reports will also include the client service hours received by the Contractor. The report will be provided on an ongoing, six-month interval within 30 days following the six-month period of client's annual plan date. The report will summarize activities and outcomes made towards the Client's individualized goal(s).

All clients will be contacted by their Contractor according to client need, and at least once per month.

- 3.4 Employment and day services must adhere to the Home and Community Based settings requirements of 42CFR 441.301 (c)(4), including:
- a. The setting is integrated in the greater community and supports Client full access to the greater community;
 - b. Ensures the Client receives services in the community to the same degree of access as individuals not receiving Medicaid HCBS;
 - c. Provides opportunities to seek employment and work in competitive integrated settings; and
 - d. The setting facilitates individual choice regarding services and supports, and who provides them.

- 3.5 For Individual Employment where the service provider is also the client's employer, long-term funding will remain available to the service provider/employer for six months after the employee/DDA client's date of hire. At the end of the six month period, if the DDA client continues to need support on the job, another service provider who is not the employer of record must provide the support unless the County issues prior written approval for the service provider to continue to provide long-term supports, if needed. If the County approves the continuation of long-term supports where the service provider is also the Client's employer, the County will regularly monitor these positions to assure fading efforts occur when appropriate and any potential conflict of interest is addressed.
- 3.6 **Utilization of DVR, PASS and IRWE:** In developing employment support plans for individuals with developmental disabilities, the Contractor shall utilize Division of Vocational Rehabilitation (DVR) per the DVR/DDA MOU, Social Security work incentive programs, such as Plans for Achieving Self Support (PASS) and Impairment-Related Work Expense (IRWE), for those who are programmatically eligible.
- 3.7 **Compliance with Confidentiality and Data Security Policies.** The Contractor shall take any necessary and reasonable steps to comply with the Confidentiality and Data Security Policy incorporated by reference herein.
- 3.8 **Contractor Grievance Process and Procedures.** The Contractor will incorporate the elements identified in the Criteria for An Evaluation System, Developmental Disabilities, (Attachment D) into their Grievance Process/Procedures, including a review of grievances by the Contractor's Board of Directors as appropriate.
- 3.9 **Contractor Conflict of Interest Process and Procedures.** The Contractor will develop a plan that addresses potential conflict of interest(s) when applicable as outlined in [Policy 6.13, Program Provider Qualifications](#). A copy of the plan will be provided to County staff for review and approval.

SECTION 4. Evaluation

- 4.1 **Contractor Evaluation System.** The Contractor shall complete and have available for review a Service Evaluation System. The evaluation shall include the Criteria for an Evaluation System, quality assurance and quality improvements. A copy of such Service Evaluation System shall be provided upon request to the County for review and approval.
- 4.2 **Program Evaluation.** The County shall have the right to periodically evaluate the services delivered to assess compliance with this County Program

Agreement. The County shall conduct at least one on-site visit that may include DDA Regional Staff to each contractor during the period of this Program Agreement. The County shall maintain written documentation of all evaluations and on-site visits. Copies of such documentation will be provided to the Contractor and upon request, to the DDA Office.

SECTION 5. Billing and Payment

- 5.1 **Approval of Fees-County Responsibility:** The County reserves the right to approve fees/rates paid to the Contractor for the service(s) being provided under this agreement.
- 5.2 **Work Order Budget.** The County shall pay the Contractor allowable, allocable and reimbursable costs, as defined in the DDA Budgeting Accounting and Reporting System Manual Supplement. Fiscal Year (FY) reimbursement for FY 25 shall not exceed the revenue for the FY revenue listed on the County Service Authorizations. Furthermore, these payments shall not exceed the Contractor's actual reimbursable cost for the service.
- 5.3 **Compliance with BARS Policies.** The Contractor shall take any necessary and reasonable steps to comply with the currently effective DDA BARS Supplement Manual incorporated by reference herein.
- 5.4 **Monthly Vouchers with Documentation.** All requests for reimbursement by the Contractor for performance hereunder must be submitted on an invoice signed by the Director or designee. The AWA documentation is also required for reimbursement via electronic transmission (e-mail attachment). The Contractor may submit a combined claim for all programs/services covered by this agreement, provided the claim for each individual is separately identified.
- 5.5 **A claim for each individual is made on the AWA system documents by indicating the number of service units delivered to each individual listed, and the fee per unit.** A unit is defined as:
 - A. An "Hour" which is at least fifty (50) minutes of direct service. Partial hour to the quarter may be recorded; and
 - B. A "Month" represents a minimum of one (1) service visit, which is at least fifty (50) minutes of direct service for Child Development Services (CDS) reimbursement.
- 5.6 **Timeliness of and Modification to Billings.** The County must receive all initial invoices with documentation within ten (10) calendar days following the last day of the month for which reimbursement is claimed. If an invoice or required documentation is incorrect, it will be returned to the Contractor. The Contractor can expect to receive payment from a correct invoice and documentation within

thirty days from time of receipt by the County. Corrected invoices and documentation will be accepted throughout the period of the contract as long as they are received within sixty (60) calendar days of the associated fiscal year, unless an extension is approved by the County. The County agrees to provide instruction and training to the Contractor on the use of the AWA system.

- 5.7 **Internal Control.** The Contractor shall establish and maintain a system of internal control systems that includes written policy/procedural manuals for information systems, personnel, and accounting/ finance to ensure the efficient and proper processing and use of contract funds. The manuals should provide sufficient detail such that operations can continue should staffing change or absences occur. The Contractor should be able to demonstrate the ability to safeguard public funds including maintaining books, records, documents and other materials relevant to the provision of goods and services.

SECTION 6. NON-COMPLIANCE

- 6.1 **Recovery of Fees.** If the Contractor bills and is paid fees for services that the County later finds were (a) not delivered or (b) not delivered in accordance with applicable standards, the County shall recover the fees for those services and contractor shall fully cooperate during the recovery.
- 6.2 **Corrective Action Process.** If the County Contract Administrator finds indications of non-compliance during the Reports on Numbers Served and Outcomes or learns that the Contractor is out of compliance with any of the other terms or conditions of this contract, the following process will be pursued by designated County staff.
- A. A corrective action plan, if required, will be initiated by County staff with the Contractor.
 - B. If the above process does not result in a resolution acceptable to the County, staff may contact the Contractor for the purpose of official, verbal notification of non-compliance and to establish a date when representatives of the Contractor and County shall discuss the areas of non-compliance and attempt to resolve the issues.
 - C. Within five (5) working days of the verbal notification, the County will provide the Contractor, via certified mail, a written summary of the areas of non-compliance.
 - D. Within twenty (20) working days of the date the written notification is mailed, a discussion shall be held between the County and Contractor staff about the areas of non-compliance.

- E. If the County and the Contractor cannot agree on a corrective action plan within ten (10) working days of the discussion described in the previous paragraph, the County shall withhold payment related to the area(s) of non-compliance, unless a written, time-limited extension of the ten (10) day period is issued by the County.
- F. The evaluation procedure and corrective action process outlined above shall not replace the dispute resolution process outlined in the Basic Interagency Agreement with the Contractor. It is a precursor to that process.
- G. Nothing in this section shall preclude audits by other duly authorized representatives of the County, the State Auditor's Office or federal officials so authorized by law, nor shall it preclude the recoupment of overpayments identified through those audit procedures.

SECTION 7. CONTRACTING/SUB-CONTRACTING

- 7.1 **County Approval of Subcontractors.** Subcontracting for direct services is not allowed under this program agreement.

SECTION 8. DSHS/DRW ACCESS AGREEMENT

- 8.1 The DRW February 27, 2001 Access Agreement with DDA is incorporated by reference. The Contractor assures that it and its subcontractors have reviewed the Access Agreement. The agreement covers DRW access to individuals with developmental disabilities, clients, programs and records, outreach activities, authority to investigate allegations of abuse and neglect, other miscellaneous matters, and is binding for all providers of DDA contracted services.

SECTION 9. AUDITING AND COST RECOVERY

- 9.1 **Audit Requirements.** Independent Audits will be submitted annually to the Kitsap County DD Contract Administrator 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 transactions and reports of the Contractor. Copies of the audit and management letter shall be submitted to the County Human Services Department within nine 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 the 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 the fiscal year.
- D. The Contractor shall submit one (1) copy 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.

9.2 **Maintenance of Records.** The Contractor shall maintain all books, records, documents, reports, and other evidence, which sufficiently and properly reflect all direct and indirect costs related to the performance of this contract. The Contractor will keep all client records, reports, and documents a minimum of six (6) years for clients to be eligible under Title XIX. These records shall be subject to inspection, review or audit by personnel of both parties and other personnel duly authorized by the County and the Office of the State Auditor. In the event of litigation, unresolved audits and/or unresolved claims, the Contractor agrees to retain all records, reports and other documentation until all such litigation, claims and audits have been resolved.

9.3 **Suspension, Debarment, and Lobbying.** The Contractor shall certify, on a separate attachment form (Attachment F) that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transaction by any Federal debarment or agency. Also, the Contractor, on a separate form (Attachment G), will certify that it does not use Federal funds for lobbying purposes. Both forms are attached to this Contract.

ATTACHMENT C: SERVICE INFORMATION FORM (7/1/24)

Easter Seals Washington

INDIVIDUAL SUPPORTED EMPLOYMENT

Individual Supported Employment services are a part of Client's pathway to employment and are tailored to individual needs, interests, and abilities, and promote career development. These are individualized services necessary to help persons with developmental disabilities obtain and continue integrated employment at or above the state's minimum wage in the general workforce. These services may include intake, discovery, assessment, job preparation, job marketing, job supports, record keeping and support to maintain a job.

ESTIMATED NUMBER OF PEOPLE TO BE SERVED:

The number of people served is determined by the issuance of County Service Authorizations. The number of people served will fluctuate as people choose to enter or leave the Contractor's service over the contract period. It is estimated that Easter Seals Washington will serve between fifteen (15) and twenty-five (25) individuals in this category.

TARGETED OUTCOMES/GOALS:

An Individual Support Plan (including measurable outcomes) will be developed for each person referred to the Contractor with a County Service Authorization. Outcomes should be in accordance with the Criteria for Evaluation (<http://www.dshs.wa.gov/dda/county-best-practices>) and incorporate County Guide to Achieve Developmental Disability Administration's Guiding Values, Role of Employment, (<http://www.dshs.wa.gov/dda/county-best-practices>). The plan must be tailored to promote the employment outcomes that meet the desires of the client. The plan will be reviewed at a minimum of every six (6) months and be rewritten as needed in order to meet the client's goals for the individual employment program. Provided services will relate to the client's individually identified goal(s) as outlined in their plan, and the semi-annual reports will demonstrate progress made on identified goals of the previous six (6) months.

Staff will serve clients so that they will be supported to work towards a living wage. A living wage is the amount needed to enable a client to meet or exceed his or her living expenses. Clients should be supported to average 20 hours of community work per week, or 86 hours a month, with the ultimate goal being full-time employment and earning a living wage. However, each person's preferred hours of employment should be taken into consideration. The amount of service provided will be based on the client's demonstrated need, acuity level and work history per WAC 388-828.

For clients interested in pursuing self-employment, state-adopted self-employment guidelines, as applicable (<http://www.dshs.wa.gov/dda/county-best-practices>), will be followed for any client who owns and operates a business. In addition, at a minimum,

any self-employment venture must include a business plan, established benchmarks for financial gain, and show that progress is being made towards providing a living wage.

Sites utilized for community assessment activities will comply with the [US Department of Labor Standards](#) and applicable state standards as well as follow DDA Guidelines for Community Assessments with Employment and Vocational Programs. (<http://www.dshs.wa.gov/dda/county-best-practices>)

Service activities will be in accordance with Employment Activities – Strategies and Progress/Outcomes Measures (<http://www.dshs.wa.gov/dda/county-best-practices>). Supports provided should include training and support to the employee's employer and co-workers in each job placement to ensure jobs are maintained. This also includes the development of natural supports.

Information pertaining to wages, productivity, benefits and work hours shall be documented for each participant, including progress in achieving increased wages and work hours.

A written performance plan which describes program objectives and expected outcomes shall be developed. It shall include details regarding how and when objectives will be accomplished. At a minimum, the plan shall contain performance indicators that measure the percentage of people employed, the average number of hours worked per month, the number of new jobs starts, the number of job losses and reasons for job loss. The plan shall be evaluated at least biennially, revised based on actual performance, and demonstrate progress over time.

Evidence that services are provided in adherence to the Medicaid HCBS settings requirements of 42 CFR 441.530 (a)(1), including: is integrated in and supports full access to the greater community; ensures the individual receives services in the community to the same degree of access as individuals not receiving Medicaid HCBS; and provides opportunities to seek employment and work in competitive integrated settings. Settings that isolate people from the broader community or that have the effect of isolating them from the broader community of individuals that do not receive Medicaid HCB services are presumed not to be home and community based.

All clients receiving individual employment services shall be employed earning minimum wage or better within six (6) months. If a client is not employed earning minimum wage or better by the time six (6) months has elapsed, the Contractor will assure that the following activities have been taken:

- a) Review of the progress towards employment goals;
- b) Provide evidence of consultation with the family/client; and
- c) Development of additional strategies with the family/client, county staff, employment support staff and the DDA case manager. Strategies may include providing technical assistance, changing to a new provider, and/or providing additional resources as needed to support the client's pursuit of employment.

The additional new strategies will be documented for each client and kept in the client's file(s).

If after twelve (12) months the client remains unemployed, an additional review will be conducted. The Contractor will address steps outlined in the previous six (6) month progress report. When requesting to participate in community inclusion services, the client shall communicate directly with their DDA case manager, as the DDA Case manager is directly responsible for authorizing Community Inclusion Services.

Staff will have the opportunity to attend conferences and receive training.

BILLING:

This contract is fee-for-service. Individuals shall be billed at a rate of \$108.80 per unit, per month, from July 1, 2024 –June 30, 2025, unless a specialized rate is agreed upon by the agency, DDA Case Management and the County and the rate is documented on the County Service Authorization form. One (1) unit equals an "hour" which is at least fifty minutes of service. Partial hour to the quarter may be recorded.

Reimbursable activities are contained on the *Employment Phases and Billable Activities* document located at <http://www.dshs.wa.gov/dda/county-best-practices>.

The contractor will not be reimbursed for service hours/units provided above the maximum service hours/units documented on the client's DDA ISP or activities outside the scope of the *Employment Phases and Billable Activities* document.

Service or organizational improvement activities: With the County's prior approval, the County may elect to provide reimbursement to the Service Provider for approved expenditures for activities designed to increase the quality of services provided to clients with a focus on professional development, client engagement, and capacity.

The Contractor may bill up to a maximum of \$4,000 in the purchase of software, hardware and/or assistive technology or activities related to diversity, equity and inclusion efforts as it pertains to the support of individuals receiving IE and/or CI program services. The Contractor will maintain receipts of purchases that will be made available for review upon request by Kitsap County staff.

ATTACHMENT C: SERVICE INFORMATION FORM (7/1/24)

Easter Seals Washington

COMMUNITY INCLUSION SERVICES

Individualized services provided in integrated community settings with other individuals without disabilities. The activities are based on Client interests and provide opportunities typically experienced by the general public of similar age in their local community, accessible by public transit or a reasonable commute from their home. The goal of the service is to support clients to participate, contribute, and develop relationships with community members who are not paid staff. These services may be authorized for individuals 62 and older. These services may be authorized in addition to or instead of employment support (Individual Employment) for working age individuals who have received nine months of employment support.

ESTIMATED NUMBER OF PEOPLE TO BE SERVED:

The number of people served is determined by the issuance of County Services Authorizations. The number of people served will fluctuate as people choose to enter or leave the contractor's service over the contract period. It is estimated that Easter Seals Washington will serve between twenty (20) and thirty (30) individuals per month in this program.

TARGETED OUTCOMES/GOALS:

An Individual Support Plan (including outcomes) will be developed for each client referred to the Contractor with a County Service Authorization that will be individualized and identifies the support needs of each client. Outcomes should be in accordance with the Criteria for Evaluation (<http://www.dshs.wa.gov/dda/county-best-practices>) and incorporate County Guide to Achieve Developmental Disability Administration's Guiding Values, Role of Community Inclusion, (<http://www.dshs.wa.gov/dda/county-best-practices>). The plan must be tailored to promote community integration and meet the desires of the client. The plan will be reviewed every six months, and be rewritten as needed in order to meet the client's goals for the community inclusion program. Provided services will relate to the client's individually identified goal(s) as outlined in their plan, and the semi-annual reports will demonstrate progress made on identified goals of the previous six months. Plan goals need to reflect information documented in the participant's DDA Support Intensity Scale (SIS) Cares Assessment in one or more areas of the subscales identified in Attachment D, Criteria for Evaluation, (<http://www.dshs.wa.gov/dda/county-best-practices>)

Community Inclusion services should ensure health and safety, promote positive image and relationships in the community, increase competence, and individual skill building. Services will focus on identifying client interests and developing strategies to connect people to their local communities. Service activities should provide the support needed for program clients to learn, practice, and apply life skills to develop relationships and actively engage in their communities.

Supports offered will teach clients to use the community and community resources as independently as possible, developing natural supports, fading agency staff support and promoting client independence.

Volunteer opportunities will comply with the [US Department of Labor Standards](#) and applicable state standards.

The Contractor will document:

1. Services provided will focus on activities that are typically experienced by the general public. Support to participate in segregated activities and/or specialized activities will not be reimbursed.
2. Clients are assisted to take part in typical and integrated activities, events and organizations in the client's neighborhood or local community in ways similar to others of the same age. Plans should identify community places where the client's interests, culture, talent and gifts can be contributed and shared with others with similar interests. Plan activities may include participation in a volunteer job or membership at a community organization.
3. Clients are assisted to take part in activities on an individual basis. Plans should identify clubs, associations and organizations where a client can be a member and have decision-making capacities.
4. Opportunities are fostered to build and strengthen relationships between family members and members of the local community who are not paid to be with the person.

Evidence that services are provided in adherence to the Medicaid HCBS settings requirements of 42 CFR 441.530 (a)(1) including: is integrated in and supports full access to the greater community; and ensures the individual receives services in the community to the same degree of access as individuals not receiving Medicaid HCBS. Settings that isolate people from the broader community or that have the effect of isolating them from the broader community of individuals that do not receive Medicaid HCB services are presumed not to be home and community based.

A written performance plan which describes program objectives and expected outcomes shall be developed. It shall include details regarding how and when objectives will be accomplished. At a minimum, the plan shall contain performance indicators that measure client participation in volunteer or other meaningful, individualized community inclusive activities. The outcome performance measures tracked should demonstrate progress in meeting plan goals over time.

Staff has the opportunity to attend conferences and/or receive training.

BILLING:

This contract is fee-for-service. Individuals shall be billed at a rate of \$66.08 per unit, per month, from July 1, 2024 –June 30, 2025, unless a specialized rate is agreed upon by the agency, DDA Case Management and the County and the rate is documented on the County Service Authorization form. One (1) unit equals an “hour” which is at least fifty minutes of service. Partial hour to the quarter may be recorded.

Reimbursable activities are contained on the *Community Inclusion Billable Activities* document located at <http://www.dshs.wa.gov/dda/county-best-practices>.

Community Inclusion service support hours will be based on the client’s community Inclusion acuity as determined per WAC through the client’s DDA PSPC. Clients receiving service hours above their assessed level of support or activities provided outside the scope of the *Community Inclusion Billable Activities* will not be reimbursed.

Service or organizational improvement activities: With the County’s prior approval, the County may elect to provide reimbursement to the Service Provider for approved expenditures for activities designed to increase the quality of services provided to clients with a focus on professional development, client engagement, and capacity.

The Contractor may bill up to a maximum of \$4,000 in the purchase of software, hardware and/or assistive technology or activities related to diversity, equity and inclusion efforts as it pertains to the support of individuals receiving IE and/or CI program services. The Contractor will maintain receipts of purchases that will be made available for review upon request by Kitsap County staff.

Attachment D: CRITERIA FOR EVALUATION

CRITERIA FOR EVALUATION DEVELOPMENTAL DISABILITIES July 1, 2024

CRITERIA FOR ALL SERVICES

A. SERVICES ACCORDING TO INDIVIDUAL NEED -- The service provider documents:

1. That services the client is receiving relate to the client's Individual Habilitation Plan (IHP) (ICF/ID), PASRR Level II Assessment, DDA Assessment including the Person Centered Service Plan (PCSP) and/or Individualized Family Service Plan (IFSP).
2. A copy of the current annual DDA Assessment, Service Summary, and Employment Summary or PASRR Level II Assessment or IHP or IFSP if applicable, will be maintained in the client's file.
3. There is a County approved grievance process for clients that:
 - a) Is explained to clients and others in accordance with [DDA Policy 5.02, Necessary Supplemental Accommodation](#);
 - b) Negotiates conflicts;
 - c) States advocates are available and clients are encouraged to bring advocates to help negotiate;
 - d) Provides a mediation process using someone who is unaffected by the outcome if conflicts remain unresolved (a DDA Case Resource Manager may be included as an alternative option);
 - e) Prohibits retaliation for using the grievance process; and
 - f) Includes a process for tracking and reporting grievances.
4. Clients and others, in accordance with [DDA Policy 5.06, Client Rights](#), have been informed of their rights, what services and benefits may be expected from the program, the program's expectations of them, and if necessary, the client's family, guardian or advocate is also informed.

B. HEALTH AND SAFETY -- The service provider has a policy that addresses confidential / private information for and documents:

1. Incidents involving injury, health or safety issues are reported to DDA and the County reference [DDA Policy 6.08, Mandatory Reporting Requirements for Employment and Day Program Services Providers](#).
2. Incident reports are tracked and analyzed for potential trends and patterns.
3. Mandatory reporting is done in accordance with [Chapter 74.34 RCW, Abuse of Vulnerable Adults](#) and [Chapter 26.44 RCW, Abuse of Children](#).
4. Current emergency contact and medical information (medications, diet, allergies, etc.) needed during the hours of service is readily available for each client.
5. Evidence that it employs typical safety protection based upon the environment the client is working or receiving services in.

C. POLICIES PROTECTING INDIVIDUAL RIGHTS -- The service provider has policies that protect individual rights that include but are not limited to:

1. Respectful staff-to-client interactions;

CRITERIA FOR EVALUATION
DEVELOPMENTAL DISABILITIES
July 1, 2024

2. A person's right to be treated with dignity, respect and free of abuse;
3. A person's right to privacy; and
4. Safeguarding personal information.

D. ORGANIZATIONAL DESIGN -- The service provider documents:

1. The date policies are implemented or date they are revised.
2. A written performance plan which describes program objectives, expected outcomes, how and when objectives will be accomplished, and that the plan is evaluated at least biennially and revised based on actual performance. The performance plan must include performance indicators that address diversity, equity and inclusion efforts. Document progress on performance indicators identified in [DDA Policy 6.13, Provider Qualifications for Employment and Day Program Services](#).
3. Direct service staff are trained and has experience in accordance with DDA Policy 6.13.
4. That it is able to account for and manage public funds compliance with Generally Accepted Accounting Principles "GAAP" provide financial statements within nine months subsequent to the close of the subcontractor's fiscal year. An agency, for-profit or non-profit, who receives in excess of \$100,000 in DDA funds during its fiscal year from the County, shall provide Certified Public Accountant reviewed or audited financial statements.
5. An administrative/organizational structure that clearly defines responsibilities.
6. Each employee has a current (within three years) DSHS background check in accordance with [RCW 43.43.830-845](#), [RCW 74.15.030](#) and [WAC 388-825](#). Child Development Service providers may submit background checks directly to the BCS at DSHS or they may submit background checks to the Department of Children, Youth and Families, for processing by the DSHS BCCU.
7. Equal access to persons who do not speak or have a limited ability to speak, read, or write English well enough to understand and communicate effectively (reference [DDA Policy 5.05, Limited English Proficient \(LEP\) Clients](#)).

CRITERIA FOR EVALUATION
DEVELOPMENTAL DISABILITIES
July 1, 2024

CRITERIA FOR SPECIFIC SERVICES

E. CHILD DEVELOPMENT SERVICES (Birth to Three) -- The County evaluates, in collaboration with the Local Lead Agency, that service providers document:

1. The child and family received timely services. (Services are considered timely if they begin within 30 days of the start date on the signed IFSP unless documented that there was an exceptional family circumstance).
2. Services are in compliance with the natural environments criteria for IDEA, Part C and Washington State's federally approved Early Intervention Plan.
3. Training, experience, and expertise of staff meet the highest entry level requirements in Washington State for Early Intervention professionals and relate to the needs of the child.
4. Evaluation (eligibility), assessment (child and family need) and the Individualized Family Service Plan (IFSP) was conducted within 45 days of receipt of referral. (Referral is defined as the date the family resources coordinator or lead agency received referral)
5. The family was assisted to ensure the child obtained an evaluation by a multidisciplinary team.
6. Contractor received from the parent, in writing, consent for all activities related to the provision of Early Intervention Services in the family's native language or other mode of communication.
7. The IFSP was reviewed every six months with a new plan written annually.
8. Progress toward the child and family outcomes within the IFSP are assessed on an ongoing basis and documented at least annually.
9. Child and family outcomes within the IFSP are functional and based on the individualized needs of the infant or toddler and the concerns and the priorities of the family. Child specific outcomes reflect the child's participation in everyday routines and activities. Family specific outcomes address the capacity of the family to enhance their child's development.
10. Services and supports were provided, to the maximum extent appropriate for the individual child, in naturally occurring environments and occurs in a setting other than a natural environment only when early intervention cannot be achieved satisfactorily for an infant or toddler in a natural environment.
11. A transition plan for each child participating in the early intervention program was developed at least 90 days prior to the child's third birthday.

F. ALL EMPLOYMENT SERVICES-- The service provider documents:

1. Adult Employment plans will include the information listed below and should be developed by the provider in collaboration with the Case Resource Manager, client and their family (the team). Initial plans will be completed within 60 days from date of service authorization and must be signed by the client and/or their guardian, if any. Copies of the initial and subsequent revised plans will be distributed as appropriate to all team members. Plans will be reviewed and signed

CRITERIA FOR EVALUATION
DEVELOPMENTAL DISABILITIES
July 1, 2024

- annually. All employment plans should address how the client will pursue and maintain a community paid job, increased wages, and increased work hours towards a living wage.
- a) Current date;
 - b) Timeline for the plan;
 - c) Client's name first and last;
 - d) Client ADSA ID;
 - e) Employment goal;
 - i. The preferred (job type) the client wishes to obtain or maintain;
 - ii. The preferred wages/salary the client wishes to earn;
 - iii. The number of hours the client prefers to work;
 - iv. The agreed upon timeline to achieve the employment goal.
 - f) The client's skills, gifts, interests and preferred activities;
 - g) Measurable strategies and timelines (action steps and supports) to meet the employment goal;
 - h) Identification of persons and/or entities available to assist the client in reaching their employment goal (example: a family member, Vocational Rehabilitation services, etc.) and;
 - i) Identification of other accommodations, adaptive equipment and/or supports critical to achieve employment goal.
2. All services relate to the client's individually identified goal(s) as outlined in the employment plan.
 3. The identification and provision of supports necessary for job success have been provided to each client. Supports may include, but are not limited to, identification of resources necessary for transportation, job restructuring, work materials or routine adaptation, work environment modifications, identification of job counseling needs, etc.
 4. Supports, which include training and support to employers and co-workers, have been provided in each job placement to ensure jobs are maintained and fading is occurring. This also includes the development of natural supports.
 5. Employment service activities and the outcome of those activities are documented.
 6. Six-month progress reports describing the progress made towards achieving client's goal will be provided by the service provider to the Case Resource Manager, client, and/or guardian if any within 30 days following the six-month period.
 7. Training and support is provided as a part of a client's pathway to integrated employment in accordance with [DDA Policy 4.11, County Services for Working Age Adults](#).
 8. Information about wages, benefits, and work hours for each client.
 9. Progress in achieving increased wages and work hours for each client.
 10. Evidence that services the agency provides adhere to the Medicaid HCBS settings requirements of 42 C.F.R Section 441.301(c)(4) including: is integrated in the greater community and supports individuals to have full access to the greater community; ensures the individual receives services in the community to the same degree of access as individuals not receiving Medicaid HCBS; the setting provides opportunities to seek employment and work in competitive integrated settings; and the setting facilitates individual choice regarding services and supports, and who provides them.

CRITERIA FOR EVALUATION
DEVELOPMENTAL DISABILITIES
July 1, 2024

11. Identifying settings that isolate people from the broader community or that have the effect of isolating individuals from the broader community of individuals who do not receive Medicaid HCB services. These settings are presumed not to be home and community-based.

G. GROUP SUPPORTED EMPLOYMENT-- The service provider documents:

1. Clients in Group Supported Employment shall be compensated in accordance with applicable State and Federal laws and regulations and the optimal outcomes of the provision of Group Support Employment services is permanent integrated employment at or above minimum wage in the community.
2. The direct service staff hours supporting the group.
3. Clients' identified goal(s) include pathway strategies leading to Individual Supported Employment.

H. INDIVIDUAL SUPPORTED EMPLOYMENT SERVICES-- The service provider documents:

1. Service is in accordance with the [DDA Employment Activities – Strategies and Progress/Outcomes Measures document](#).
2. State-adopted [self-employment guidelines](#) are followed for any individual who owns and operates a business. In addition, at minimum, any self-employment venture must include a business plan, established benchmarks for financial gain, and show that progress is being made towards providing a living wage.

I. COMMUNITY INCLUSION SERVICES -- The service provider documents:

1. Adult Community Inclusion plans will include information that identifies and addresses the individualized goal and support needs for each client. Plans must consider individualization, integration, and safety and should be developed by the provider in collaboration with the Case Resource Manager, client and their family (the team). Initial plans will be completed within 60 days from date of service authorization and must be signed by the client and/or their guardian if any. Copies of the initial and subsequent revised plans will be distributed as appropriate to all team members. Plans will be reviewed and signed annually. Plans will include the information listed below:
 - a) Current date;
 - b) Timeline for the Plan;
 - c) Client's name first and last;
 - d) Client's ADSA ID;
 - e) The client's skills, gifts, interests, and preferred activities.
 - f) The Community Inclusion goal. The goal needs to relate to the following (per the [County Guide to Achieve Developmental Disability Administration Guiding Values](#)):
 - i. Identify integrated community places where the client's interest, culture, talent, and gifts can be contributed and shared with others with similar interests.
 - ii. Identify typical community clubs, associations, and organizations where the client can be a member and have decision making capacities.
 - iii. Identify opportunities where the client can contribute to the community doing new and interesting things or things the client enjoys.

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- iv. Building and strengthening relationships between family members and members of the local community who are not paid to be with the person.
 - g) The Support Assessment subscale that most relates to the goal (Community living; Lifelong learning; Employment; Health & Safety; Social; and Protection & Advocacy)
 - h) Measurable strategies and timelines (action steps and supports) to meet the goal.
 - i) Identification of persons and/or entities available to assist the client in reaching their long-term goal.
 - j) Identification of other accommodations, adaptive equipment and/or conditions critical to achieve the goal.
2. All services relate to the client's individually identified goal(s) as outlined in their plan.
 3. Six-month progress reports describing the progress made towards achieving the client's goal, service activities and the outcome of those activities will be provided by the service provider to the Case Resource Manager, client, and/or guardian if any within 30 days following the six-month period.
 4. Each client is assisted to participate in typical and integrated activities, events and organizations in the client's neighborhood or local community in ways similar to others of same age.
 5. Each client is assisted to take part in activities on an individualized basis.
 6. The opportunity is provided for connection and relationship building between the client and people without disabilities and who are not paid to provide services to the client. This also includes the development of natural supports and fading of paid staff support.
 7. Volunteer opportunities comply with [U.S. Department of Labor](#) standards and applicable [state](#) standards.
 8. Service activities and the outcome of those activities are documented.
 9. Evidence that services the agency provides adhere to the Medicaid HCBS settings requirements of [42 C.F.R. Section 441.301 \(c\)\(4\)](#) including: is integrated in and supports full access to the greater community; ensures the individual receives services in the community to the same degree of access as individuals not receiving Medicaid HCBS; and provides opportunities to seek employment and work in competitive integrated settings.
 10. Identifying settings that isolate people from the broader community or that have the effect of isolating individuals from the broader community of individuals who do not receive Medicaid HCB services. These settings are presumed not to be home and community-based.

ATTACHMENT E: DRW ACCESS AGREEMENT

ACCESS AGREEMENT BETWEEN
DISABILITY RIGHTS OF WASHINGTON
AND
THE DEVELOPMENTAL DISABILITIES ADMINISTRATION
DEPARTMENT OF SOCIAL AND HEALTH SERVICES.

This agreement is entered into by the Washington Disability Rights of Washington, (hereinafter DRW), the protection and advocacy system authorized pursuant to the Developmental Disabilities Assistance and Bill of Rights Act of 1975, 42 U.S.C. sec. 6000, et seq. to investigate alleged incidents of abuse, neglect and rights violations of persons with developmental disabilities, and the Developmental Disabilities (Administration hereinafter DDA) of the Department of Social and Health Services, for the purpose of clarifying the rights and responsibilities of DRW with respect to its access; to individuals with developmental disabilities, clients, programs, and records.

The Department of Social and Health Services, specifically DDA, is responsible for providing services to, individuals with developmental disabilities, to the extent funding is available. In providing those services, DDA must protect the confidentiality of records and information regarding those individuals pursuant to the state and federal confidentiality laws.

DRW is charged by federal law to protect the legal and human rights of individuals with developmental disabilities. DRW provides legal and related advocacy services to meet that obligation. DRW is also required to maintain the confidentiality of records and information regarding individuals with developmental disabilities consistent with 42 U.S.C. § 6000, et seq.

This agreement governs the access of DISABILITY RIGHTS OF WASHINGTON System to DDA employees who do not work in Residential Habilitation Centers (RHCs) and records maintained by DDA which are associated with individuals with developmental disabilities living outside of RHCs.

Federal laws and regulations also provide DRW with access to community programs and individuals with developmental disabilities served by DDA contract providers. DDA will work with community providers and DRW to arrive at an agreement governing access to DDA contracted programs and the people served by them.

I. General.

A. That all terms used in this agreement which we defined in the Developmental Disabilities Assistance and Bill of Rights Act of 1975, 42 U.S.C. § 6000, et seq. will have the meaning given to them in the Act, unless otherwise stated in this agreement

B. This agreement is intended to carry out the provisions of the Developmental Disabilities Assistance and Bill of Rights Act of 1975, 42 U.S.C. § 6000, et seq. and therefore, if this agreement is or becomes inconsistent with the Act or the implementing regulations promulgated thereto, the terms of the Act and its implementing regulations will control.

C. If any provision of the agreement is held invalid, the parties intend that the remainder of the agreement not be affected.

II. Definitions.

A. Actively Aggressive: means that the individual with developmental disabilities is assaulting others or is threatening to do so, or the individual with developmental disabilities is actively harming him or herself

B. Client Services: means legal representation. The term does not include monitoring and observation.

C. Complaint: as defined in 45 CFR 1386, or hereinafter amended, includes, but is not limited to, any report or communication, whether formal or informal, written or oral, received by DRW including media accounts, newspaper articles, telephone calls (including anonymous calls), from any source alleging abuse or neglect of an individual with a developmental disability.

D. DDA Consumer: means an individual with a developmental disability receiving support from a program funded by DDA. The term includes DDA consumers who have died or whose whereabouts are unknown. See 45 CFR 1386.22(a)(2).

E. DDA Employees: includes those individuals who are employed by DDA or who volunteer for DDA to provide services to individuals with developmental disabilities.

F. Emergencies: means actions, omissions, or conditions that immediately threaten an individual with a developmental disability's health, life or well being.

G. Individual with a Developmental Disability: means individuals with developmental disabilities in the process of applying for or who have been found eligible for services from DDA.

H. Monitoring: means unaccompanied access to all residents of a program at reasonable times, which at a minimum shall include normal working and visiting hours to ensure program compliance with respect to the rights and safety of DDA consumers. See 45 C.F.R- §1386.22(g).

I. Probable Cause: as defined in 45 CFR 1386, or hereinafter amended, means a reasonable ground for belief that an individual with developmental disabilities has been, or may, be, subject to abuse or neglect. The individual making such determination may base the decision on reasonable inferences drawn from his or her experience or training regarding similar incidents, conditions or problems that are usually associated with abuse and neglect.

J. Program: consistent with the definition of "facility" in 45 CFR 1386.19 includes any setting that provides care, treatment services and habilitation, even if only "as needed" or under a contractual arrangement. Programs include, but are not limited to, community living arrangements (e.g.. group homes. adult

family homes, congregate care facilities, boarding homes, individual residences and apartments), day programs, juvenile detention centers, nursing homes, homeless shelters, jails and prisons.

K. Provider: means those individuals/corporations with whom DDA contracts to provide services to DDA consumers, including but not limited to behavioral management services, family support services, vocational support services, sheltered employment, tenant support, intensive tenant support, alternative living, supported living, group home, adult family home, and congregate care facilities, chore services, Medicaid personal care and other personal assistance services.

L. Provider Employee: includes those individuals who are employed by a provider or who volunteer for a provider to provide services to individuals with developmental disabilities.

M. Records: as defined in 42 U.S.C. § 6042 and 45 CFR 1386(22)(b), or hereinafter amended, reports prepared by any state staff or reports prepared by an agency charged with investigating reports of incidents of abuse, neglect, injury, or death that describe incidents of abuse, neglect, injury, or death occurring at a facility, investigative documents and discharge planning records. The term records also includes DDA consumer abuse and neglect committee reports but does not include peer review death reports, attorney work product, and records which are otherwise privileged under state or federal law.

N. Regular Program Activity: includes work assignments, education programs, therapy, health services, and daily living activities.

O. SOLA: means the DDA consumer support program, State Operated Living Alternative.

P. DRW Client(s):

(1) Individuals with developmental disabilities who do not have a guardian or legal representative and who indicate either orally or in writing to a DRW employee that they want DRW to represent them.

(2) Individuals with developmental disabilities without guardians who are unable to communicate their wishes regarding protection and advocacy services when DRW has received a complaint of abuse and/or neglect about the individual with a disability, or DRW determines that there is probable cause to believe that the individual with a developmental disability has been abused or neglected.

(3) Individuals with developmental disabilities who have a guardian or legal representative where the guardian or legal representative has consented to the representation in writing.

(4) Individuals with developmental disabilities whose guardian or legal representative fails or refuses to act on behalf of the individual with a developmental disability, despite being contacted by DRW, after a court has determined that the guardian has failed or refuses to act.

(5) A DRW client does not include those instances where DRW represents the guardian. DRW shall notify the DDA Regional Administrator or designee in writing that it represents the individual with developmental disabilities and forward a copy of that notice to either the guardian or the individual with developmental disabilities.

Q. DRW Employees: includes paid employees and volunteer employees as identified by DRW. Each employee shall carry DRW identification.

III. Access to Programs.

A. DDA will not obstruct DRW access to programs when consistent with the law and will ensure that SOLA and other programs staffed by DDA employees will comply with this agreement. For programs which contract with DDA to provide services, DDA will not obstruct DRW access to programs when consistent with the law, but DRW will assume, primary responsibility for enforcing its access rights. DRW will attempt to resolve access issues at the lowest level possible. In cases where there is danger of imminent or continuing harm to an individual with developmental disabilities, DRW will report the occurrence to DDA, consistent with the Washington State Bar Association Rules of Professional Responsibility and other applicable state law. In those cases and where there is a pattern of failure to provide access for DRW to a program or DDA consumers, DRW will report this failure to DDA, and DDA will respond by investigating the allegation of failure to provide access and will take appropriate actions.

B. DRW staff will identify themselves to any staff present when they arrive at a program by showing a DRW photo identification badge. DRW shall provide the DDA -director with a list of employee and their pictures by July 1, 1997, and DRW shall update this list as necessary.

C. DRW shall have access to SOLAs and other programs staffed by DDA employees as specified in this section. This agreement does not affect the right of an individual with a developmental disability served by such a program who owns or rents his or her own home to deny DRW access to programs or the residences of individuals who are served by programs.

D. DRW staff shall have access to all programs when DRW has received a complaint or has probable cause to believe that an incident of abuse, neglect, or other rights violation has occurred;

E. DRW staff shall have access to all living areas of SOLAs and other programs staffed by DDA employees during regular business hours for the purpose of providing information on legal rights and self advocacy to the

individuals with disabilities who participate in, the program. During the course of such access DRW staff shall be allowed to engage in informal discussions with the individuals with disabilities, out of the presence of DDA employees or others; in an area that affords privacy.

F. DRW staff may visit any location where residents are served by DDA employees, where the purpose is observation or monitoring compliance with respect to the rights and safety of service recipients (CFR 1386.22(g)(2)). Such observation and monitoring activities need not be limited to clients of DRW, and DRW staff shall not be required to schedule or give prior notice of such visits to DDA employees, provided that DRW has the permission of a DDA consumer. DRW staff shall be permitted to monitor the program without an accompanying DDA employee. DRW staff shall conduct all monitoring activities in a manner which is respectful of the privacy of the individuals with disabilities who reside in the monitored program.

IV. Access to Individuals with Developmental Disabilities.

A. DRW staff will be provided access to their clients in the same manner as such access is provided to privately retained and/or court appointed attorneys. DDA shall assist and support the professional relationship between DRW and its clients. Written consent for such access is not required.

B. DRW recognizes that all individuals with developmental disabilities have the right to refuse to talk with DRW, to have a third party present during the interview or to reschedule the appointment for a more convenient time. DRW shall advise their clients and other individuals with developmental disabilities with whom they have contact of these rights before each meeting. A person who does not wish to talk with DRW staff shall be allowed to communicate this directly and privately to DRW staff unless he or she overtly manifests fear of being alone with the DRW staff. When the individual with a developmental disability overtly manifests such fear by words or behavior, DRW shall respect that person's desires and not meet alone with that person.

C. DRW will encourage its clients and other individuals with developmental disabilities to notify DDA and/or providers of complaints regarding DDA services and to resolve those complaints through any existing dispute resolution process.

D. DRW staff shall comply with all safety and security requirements of DDA. DDA will communicate these requirements to DRW staff.

E. DDA employees shall not interfere with DRW staff in obtaining a private space for meetings between DRW staff and individuals with developmental disabilities. Private space does not mean a common area room or other location which would afford other residents and DDA employees open access to DRW employees in living areas or on the grounds. DDA employees shall respect the confidentiality needs of the individual with a developmental disability and DRW. Where an individual with a developmental disability indicates that he or she does not want to meet in a private space, DRW staff will respect this request.

F. DRW staff will not be required to schedule visits with DDA employees in advance of their visits. However, DRW staff may contact DDA employees to do so if access to a DRW client or other individual with a developmental disability will be facilitated due to the individual's daily activities.

G. DRW staff shall have the right to unaccompanied access to any SOLA or program staffed by DDA employees, and access to any individual DRW client or DD consumer they are authorized to serve, subject to the following limitations:

(1) While DRW need not notify the DDA employees prior to meeting with its client or DDA consumer, DRW agrees not to disturb a client or DDA consumer if the DRW employee arrives at the residence or other building in which the client or DDA consumer is served and the client or DDA consumer is engaged in regularly scheduled program activity. In such case, DRW staff will be to observe or otherwise verify the programming without disturbing it. If DRW staff presence disturbs or is objected to by the DRW client or any other DDA consumer who is present, DRW staff shall make arrangements to meet with the DRW client or DDA consumer at a later time. Where consulted prior to making an appointment, DDA employees will cooperate with DRW staff in making scheduling arrangements. The DRW employee shall not disturb nor interrupt the activity. If the activity is confidential, DRW shall obtain the client or DDA consumer's permission to observe the activity or shall respect the client or DDA consumer's right to privacy. DRW staff will then either wait until the activity is completed or reschedule the visit at a time that is mutually agreeable to DRW staff and its individual client or DDA consumer, no later than 48 hours later.

(2) If the DRW employee arrives for a meeting with a client or DDA consumer and the individual is actively aggressive, in programming to address this behavior, or receiving "one-to-one" supervision, in such a situation, DRW staff will be permitted to observe the individual from a safe distance or otherwise verify that the individual is actively aggressive. DRW staff will, then either:

(a) wait until the individual's aggressive behavior has stopped and be permitted to meet with the individual privately while DDA employees remain in viewing distance; unless such distance would place the individual with developmental disabilities at serious risk of harm based on that individual's documented behavioral issues; if the individual would be at serious risk of harm, DRW and DDA shall work cooperatively to address DRW need for confidentiality with the individual's need for safety; provided that any such interview does not interfere with the individual's Behavior Support Program, Individual Program Plan, Individual Service Plan, or other program plan, nor interfere with staffing needs for other individuals with developmental disabilities; or

(b) reschedule the visit at a time mutually agreeable to DRW and DDA employees, but no later than forty-eight (48) hours;

(c) if the DRW staff is notified that an individual is either actively aggressive or receiving one-to-one supervision and if knowing this the staff chooses to meet with the individual, DRW agrees to release, indemnify, and hold DDA, DSHS, the State and its employees, agents, officers, and servants harmless for any injuries that occur from any claims or cause of action asserted by any DRW employee or agent who is injured as a result of any act committed by an individual with developmental disabilities except that those circumstances where DDA employees willful misconduct is the proximate cause of the injury to DRW employee or agent. DRW agrees that its staff shall sign a statement to this effect prior to requesting to meet with any such individual. If the DRW staff refuses to sign such an agreement, DDA employees may deny the DRW staff access to the individual until such time as DDA employees determine that safety to the DRW staff is no longer an issue. When a DRW staff member elects to meet with an individual who is actively aggressive, it is neither negligent nor willful misconduct for a state employee to allow the meeting to take place.

H. All individuals with developmental disabilities who wish to contact DRW staff shall be provided uncensored access to writing materials, DRW address and toll-free telephone number, a stamped envelope, and/or access to a telephone for private conversations without monitoring by or permission from DDA employees.

I. SOLAs and programs staffed by DDA employees shall permit individuals with developmental disabilities to set appointments with DRW staff at times agreeable to both the individual with a developmental disability and DRW staff. If the DDA employees know that a meeting with a DDA consumer will be disruptive of the DDA consumer's regular program activity, DRW staff shall be informed of this and allowed to reschedule the appointment in order to meet with the DDA consumer so that the appointment does not disrupt his or her regular activity.

V. Access to Records of Individuals with Developmental Disabilities.

A DRW has access to records as provided in 42 U.S.C. § 6042, et. seq. DRW has legal authority to review an individual with developmental disabilities' records only when there is consent or, if a DDA consumer is unable to consent, there is a complaint or probable cause to believe a DDA consumer has suffered abuse or neglect. DRW has no general right to review records except in these circumstances.

B. Upon receiving a valid, written consent, DDA will have 48 hours in which to schedule an appointment with DRW so that it may come to the record location to review specified records. DDA will verify that DRW has received consent to view such records, or if the DDA consumer is unable to consent and there is no

guardian to consent, that there is a complaint or probable cause to believe, the DDA consumer has suffered abuse or neglect. DDA shall make the requested records within its possession available within five working days from the date the request is made.

C. DRW may access records of:

(1) any DDA consumer if he or she consents, or if he or she has a legal guardian with the power to consent for the DDA consumer and that guardian consents;

a) the DDA consumer or guardian shall give written authorization for access on a form approved by DRW and DDA jointly.

(2) any DDA consumer:

a) who by reason of his or her mental or physical condition is unable to authorize DRW to have access to their records;

b) who does not have a legal guardian, conservator or other legal representative, or for whom the legal guardian is the state; and

c) with respect to whom a complaint has been received by DRW or with respect to whom, as a result of monitoring or other activities there is probable cause to believe that such individual has been subject to abuse or neglect.

d) If records are requested pursuant to this section, the request shall be in writing and will state that the resident, by reason of his or her mental or physical condition is unable to authorize DRW to have access to his or her records, does not have a legal representative, and that a complaint has been received by DRW with, respect to the DDA consumer or that there is probable cause to believe the resident has been subjected to abuse or neglect. The DDA case manager will make a determination regarding whether a DDA consumer is able to consent to access within 3 working days, except in case of an emergency.

(3) In the case of a resident who has a legal guardian, and upon request by DRW, DDA will provide DRW with the name, address and telephone number of the legal guardian by 5 p.m. the next business day so that DRW can contact such representative and offer its assistance. If the guardian has been contacted by DRW and failed or refused to act on behalf of the individual DRW has received a complaint sufficiently that sufficiently identifies the individual or DRW has probable cause to believe that the health or safety of the individual is in serious and immediate jeopardy, DRW shall obtain court approval for such access.

a) If a guardian refuses to consent to allow DRW access to records, and DRW still wants access, DRW will file a lawsuit to access the records and allow a court to determine whether the guardian has failed or refused to act on behalf of the DDA consumer. DRW agrees to provide legal notice to DDA of any such proceeding. If the guardian refuses to provide written consent for DRW to access the records, DDA shall not make the records available absent a court order.

b) DRW shall attempt to contact the guardian to obtain consent. Unless an emergency exists, then DRW shall contact the standby guardian if one has been designated. If no standby guardian is appointed and the guardian is unavailable, and DRW determines that the DDA consumer is at risk of serious injury or death, DDA shall make the records available to DRW to review.

D. DRW staff may review the requested records within normal business hours in the building or room in which such records are provided. A DDA employee may remain in the room while the records are viewed. Under no circumstances may DRW staff remove the original records, or any part thereof, from the room where they are viewed.

E. DRW agrees to reimburse DDA for the costs of copies at the same rate charged for public disclosure requests, currently \$.15 per page. When feasible, copies will be provided on the day the copies are requested. If that is not possible, DDA will make the copies available within 10 days of the request.

F. DRW shall request a guardian information or access to DDA consumer records of the DDA Regional Administrator of the region in which the DDA consumer resides. Thereafter, their contact regarding that DDD consumer shall be the regional administrator, or his or her designee. DDA shall provide DRW a list with contact information for purposes of access to records. DDA agrees to update that list at least annually.

G. In order to access DDA records, DRW will send a written request directly to the DDA Regional Administrator or designee in custody of the records. In the request, DRW will identify the individual whose records it seeks. DRW need not identify the individual by name, but must sufficiently identify the individual so that the person reviewing the request can determine whose records are being sought. DRW will specify which records it wants and for which time periods. DRW will also indicate that it has received a complaint concerning the individual so that it has probable cause to believe the individual has suffered abuse or neglect. DRW need not further specify the nature of the complaint nor who made the complaint.

H. In the event DDA denies access to records pursuant to a request, DRW staff may request that the denial be in writing and include the reason for the denial.

I. DRW will limit its request to records it considers necessary to accomplish its investigation. DDA may request that DRW specifically identify the records that it is seeking if the request is too broad or voluminous.

VI. Outreach.

A. All individuals with developmental disabilities shall have access to DRW staff for the purpose of obtaining information about their legal rights and self-advocacy. DRW staff shall be allowed to engage in informal discussions with DDA consumers who wish to speak to them out of the presence of DDA employees in an area that affords privacy.

B. DRW may have regularly scheduled information/training sessions for DDA consumers and parents/guardians/family members regarding DRW's services and individual rights. DDA employees may attend outreach and scheduled information sessions only with advance written permission of DRW staff.

C. DDA agrees to give DRW a list of all current DDA consumers and their addresses. DDA will provide DRW an updated list annually.

D. DDA agrees to provide DDA consumers with notice of DRW services at the time of application for DDA services. DRW will provide DDA with copies of their brochure and/or any other information they want DDA to distribute at that time.

E. DDA agrees to require contractors to comply with 42 U.S.C. §6000 et seq. and 45 C.F.R. Parts 1385-86 by including the requirement in contracts. Current contracts will be amended to include this requirement when they are renewed.

VII. Authority to Investigate Allegations of Abuse and Neglect

A. DRW shall have unaccompanied reasonable access to DDA consumers and facilities when necessary to conduct a full investigation of an incident of abuse or neglect. This access shall include the opportunity to interview any individual with a developmental disability, any DDA or provider employee, or any other person who might be reasonably believed by DRW to have knowledge of the incident under investigation; and to review what DRW is entitled to review pursuant to this agreement. DRW shall be permitted to do its own investigation of allegations of abuse or neglect regardless of any pending action or investigation by the State or any other individual or entity.

B. DRW investigations shall not interfere with any other ongoing investigation. DRW employees shall not visit areas at times that would violate any person's right to privacy.

C. DDA shall allow and encourage all employees and providers to talk openly with DRW, employees. DRW will not ask staff to disrupt their work schedules or responsibilities to talk with DRW. Except in cases of emergency, DRW will schedule appointments with staff in advance.

D. While DDA and provider employees shall be encouraged to cooperate with DRW, employees have the right to refuse to talk with DRW. DRW shall notify employees of that right prior to any attempt to interview them.

E. Any complaint concerning DRW staff shall, be immediately brought to the attention of the DRW Executive Director or his or her designee. Upon receipt of a complaint, the DRW Executive Director or his or her designee shall conduct an investigation and submit a written response to the State within fourteen (14) days in an effort to resolve any complaints as expeditiously as possible. DDA reserves the right to file formal charges if the behavior places a DDA consumer's health or safety at risk.

F. DRW shall inform DDA and providers, in writing, of its findings and concerns upon completion of any investigation activity undertaken pursuant to its authority under 42 U.S.C. § 6000 et. seq., and the access rights granted to DRW in this agreement, in an effort to resolve DDA consumer complaints or concerns prior to commencing litigation, unless DRW believe that such delay would result in serious injury or harm to the DDA consumer

VIII. Implementation of the Agreement.

A. The DDA Assistant Secretary shall ensure that each supervisor will conduct an annual meeting with his or her staff to provide information regarding the parties' rights and responsibilities under this agreement. The DDA Assistant Secretary shall ensure that each employee of DDA has read and signed a copy of a form indicating that they have read this agreement at the time of hire, and at the time of his/her annual evaluation. DDA and DRW shall develop a mutually agreed to summary of this agreement for use in informing DDA employees of the parties, rights and responsibilities. When DDA and DRW develop and agree regarding the content of this summary, DDA employees shall be required to read the summary, rather than reading this agreement, and acknowledge that they read and understood the summary with a signature.

B. The agreement is effective as of the date it is signed.

C. DDA agrees that having an agreement in place that would govern DRW and DDA provider relationships is appropriate. This agreement will affect contractual relationships, so it will be negotiated with providers prior to implementation. This negotiation will take place during the 1997-1998 provider contract negotiations. DDA will request DRW review the proposed contract language prior to contract signing by DDA. The goal of this negotiation process will be to arrive at an agreement which implements the federal statutory and regulatory requirements in a manner consistent with the provision of quality, individualized services and supports to people with developmental disabilities living in the community.

D. The DDA Assistant Secretary will make changes as necessary to implement this agreement by September 1, 1997, and prior to implementing changes will confer with DRW.

E. DRW and DDA agree to work together to assist providers in becoming familiar with DRW access to programs. DDA agrees to host a forum in each region to familiarize providers with the access provisions. DRW agrees to make staff available as presenters at regional forums, and otherwise as mutually agreed to with providers. DDA will distribute to providers a summary of the access provisions. This summary will be prepared by DRW, and will be subject to the review and approval of DDA prior to distribution.

IX. Miscellaneous.

A. DRW agrees that its staff shall not give medical advice and shall not engage in the practice of medicine. It is DRW intent and purpose to give legal advice. For example, DRW will not tell DDA consumers not to take medication or that medications are wrong for them DRW will not discourage individuals with developmental disabilities from participating in programs or activities. DRW may explain DDA consumer legal rights including the right to informed consent, their right to be told of the risks and benefits of medication or medical procedures, their right to refuse to take medications and the procedure to follow if the DDA consumer does not wish to take medications, and their right to refuse to participate in experimental programs or research, all as guaranteed under state and federal law.

B. DRW agrees that: there are some DDA consumers who are identified as medically fragile or to have behavioral concerns that require constant monitoring. If DRW requests a meeting with such a DDA consumer and DDA determines that the DDA consumer cannot be left unsupervised with a DRW employee, a DDA or provider employee shall be present during any meetings. If DDA consumers are hospitalized due to medical conditions, DDA or provider employees may remain within viewing distance if necessary for the DDA consumer's health and safety. The employees will not interfere with the meeting except for medical reasons and will respect the DDA consumer's privacy to the extent possible given his or her medical needs.

C. This agreement delineates the usual process by which DRW and DDA will work together. In some situations, it may be necessary to amend these procedures. DRW and DDA may agree to modify these procedures as necessary for any particular situation,

X. Dispute Resolution.

A. DRW and DDA agree that informal resolution of disputes is preferred. If DRW staff and the DDA Regional Administrator or designee are unable to agree about an issue regarding interpretation or application of this agreement, they will request the DRW Executive Director and the DDA Assistant Secretary review the situation and attempt to resolve the disagreement.

B. The Directors Meeting and Mediation process are mandatory for both parties. The only exception to this term of the agreement is where DRW, in good faith, has probable cause to believe that there are exigent circumstances

warranting immediate access. Such circumstances are defined as "emergencies" as defined in the access agreements. In such cases, the DRW Executive Director or his or her designee shall contact the DDA Assistant Secretary or his or her designee; and/or Office of the Attorney General to attempt to resolve the dispute. If the exigent access dispute is not resolved by the end of the following business day, DRW may immediately take any necessary legal action, including seeking a temporary restraining order and preliminary injunction or an order to show cause in order to secure the necessary access without going through the ADR process discussed herein. When DRW does take such action, it shall give the Office of the Attorney General advance notice of such action by telephone and facsimile.

C. In the event that there is an access dispute regarding any aspect of the Access Agreements between DRW and DDA (Community), the aggrieved party shall send written notice to the director of the other party (e.g. DRW Executive Director, DDA Assistant Secretary, or their designees) of the dispute and the desire to meet to attempt to resolve the dispute. The DDA Assistant Secretary (or his/her designee) shall meet with the DRW Executive Director (or his/her designee) within ten days after receiving written notice from the aggrieved party. The date of receipt of notice shall be in accordance with Civil Rule .6 of the Washington Court Rules. The meeting may take place in person or telephonically. The parties have the right to bring their counsel to the directors meeting, however it is the preference of the parties not to have their counsel present. In the event a party intends to have his or her counsel present, that party will advise the other party of this intent in advance of the meeting. However, when either director (or his or her designee) is an attorney, it will be understood and expected that the other director may have his or her attorney present without prior notice.

D. In the event that the access issues are not resolved by a meeting between the Director/CEO and Executive Director of DRW or their designees, the parties agree to attempt to resolve the dispute through mediation absent exigent circumstances as described in paragraph 1. An available mediator from the mutually agreed upon Mediator Panel list as described below will be used to conduct the mediation.

Mediation will be scheduled to occur as soon as possible following the directors meeting, but will occur no later than 30 days from the time mediation is agreed upon by the parties, absent written, agreement by both parties to extend this timeline. The mediation may take place telephonically or in any manner the mediator believes will be efficient and conducive to a productive mediation. If, at any time during the mediation, either party declares an impasse, the mediation will end. The parties are then encouraged, but not required, to arbitrate the dispute. The costs of mediation shall be borne equally by the parties. If no litigation results within 90 days of the completion of mediation, DRW shall withdraw its access request. Nothing, however, prevents DRW from renewing its request in the future should that become necessary. In such event DRW renews the request, and that request is denied by the State, the ADR process will begin again.

E. Within 90 days of the execution of this agreement, the parties shall select a panel of at least 4 mutually agreeable mediators. There will be two separate lists: one for DRW and DDA and one for DRW and the MHD. The parties agree that any

one of the selected panel members will mediate all disputes related to the Access Agreement. However, the parties will rotate the order of contacting the panel members for each mediation in a nonstrategical manner.

In order to select this panel, within 60 days of execution of this agreement the parties will each propose at least 4 mediators. The parties will exchange, via fax, their list of proposed mediators and the mediators' curriculum vitae and any other necessary facts such as cost, mediation rules, etc. If the parties cannot agree upon at least 4 mediators from the first exchange of lists, the parties will exchange additional lists of mediators until an agreement can be reached. However, a final agreement must be reached no later than 90 days from the date of the settlement agreement of this case absent written agreement for an extension of a specific amount of time.

Any party may strike a mediator from the list except that a party may not strike a mediator from the panel once the mediation process has been initiated to resolve a dispute. If a party strikes a mediator from the panel, that mediator will be replaced by another mediator using the same mediator selection process as described above.

F. In the event that the access issues are not resolved through mediation, the parties may agree to attempt to resolve the dispute through arbitration. Written agreement to proceed to arbitration must be made within five working days of the completion of mediation described in Section B. An available arbitrator from the mutually agreed upon Arbitrator Panel list, as described below, will be used to conduct the arbitration of the dispute. Arbitration will be scheduled to occur as soon as possible, but will occur no later than 45 days from the time arbitration is agreed upon by the parties, absent written agreement by both parties to extend this timeline. Prior to the time of final agreement to arbitrate the dispute, the parties shall agree in writing whether the arbitration decision will be binding or advisory, and if advisory, whether that option is admissible in court. If no litigation results within 90 days of the completion of this arbitration, DRW shall withdraw its access request. Nothing, however, prevents DRW from renewing its request in the future should that become necessary. In such event that DRW renews its request, and that request is denied by the State, the ADR process will begin

G. Within 120 days of the execution of this agreement, the parties shall select a panel of at least 4 mutually agreeable arbitrators. The parties agree that any one of the selected panel members will arbitrate all disputes related to the Access Agreement. However, the parties will rotate the order of contacting the panel members for each arbitration in a nonstrategical manner.

In order to select this panel, within 60 days of the execution of this agreement the parties will each propose at least 4 arbitrators. The parties will exchange, via fax, their list of proposed arbitrators and the arbitrators' curriculum vitae and any other necessary facts such as cost, etc. If the parties cannot agree upon at least 4 arbitrators from the first exchange of lists, the parties will exchange additional lists of arbitrators until an agreement can be reached. However, a final agreement must be reached no later than 120 days from the date of the settlement

**ATTACHMENT F: 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:
Easter Seals Washington



Name: Cathy Bisailon
Title: President and CEO

DATE: 7/15/2024

ATTACHMENT G: 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.

Easter Seals Washington

Contractor Organization



Signature of Certifying Official

Date

ATTACHMENT H: CONFIDENTIALITY AND DATA SECURITY

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

1. **“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>)
2. **“Authorized User(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.
3. **“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 compromise of any such data. For purposes of this contract, data classified as category 4 refers to data protected by: Health Insurance Portability and Accountability Act (HIPPA).
4. **“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 the data in the cloud typically spans multiple servers and often multiple locations. Cloud storage can be divided between consumer grade storage for personnel files and enterprise grade for companies and governmental entities. Examples of consumer grade storage would include iCloud, Dropbox, Box.com, and many other entities. Enterprise cloud vendors include Microsoft Azure, Amazon Web Services, O365, and Rackspace.
5. **“Confidential Information”** means information that is exempt from disclosure to the public or other unauthorized persons under RCW 42.56 or other federal or state laws. Confidential information includes, but is not limited to, Personal Information.
6. **“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.
7. **“Hardened Password”** means a string of at least eight characters containing at least three of the four following character classes: Uppercase alphabetic, lowercase alphabetic, numeral and special

characters such as an asterisk, ampersand or exclamation point.

8. **“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.
9. **“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 the 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.
10. **“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’s license numbers, other identifying numbers, and any financial identifiers.
11. **“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 a 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.
12. **“Portable Media”** means any machine-readable media that may routinely be stored or moved independently of computing devices. Examples include magnetic tape, 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.
13. **“Physically Secure”** means that access is restricted through physical means to authorized individuals only.
14. **“Secure Area”** means an area to which only authorized representatives of the entity possessing the Confidential Information have access, and access is controlled through the 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 Confidential Information is not

available to unauthorized personnel. In otherwise Secure Areas, such as offices 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 non-authorized staff cannot access it.

15. **“Tracking”** means a record keeping system that identifies when the sender begins delivery of Confidential Information to the authorized and intended recipient, and when the sender receives confirmation of delivery from the authorized and intended recipient of Confidential Information.

16. **“Trusted Network”** means a network operated and maintained by the Contractor, which includes security controls sufficient to protect DSHS/County 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.

17. **“Trusted Systems”** include only the following methods of physical delivery: (1) hand-delivery by a person authorized to have access to the Confidential Information with written acknowledgement of receipt; (2) United States Postal Service (“USPS”) first class mail, or USPS delivery services that include Tracking, such as Certified Mail, Express Mail or Registered Mail; (3) commercial delivery services (e.g. FedEx, UPS, DHL) which offer tracking and receipt confirmation; and (4) the Washington State Campus mail system. For electronic transmission, the Washington State Governmental Network (SGN) is a Trusted System for communications within that Network

18. **“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.

1. Administrative Controls.

- a) A documented security policy governing the secure use of its computer network and which defines sanctions that may be applied to the Contractor staff for violating that policy.
- b) If the data is shared under this agreement is classified as Category 4 data, the Contractor must be aware of and compliant with the applicable legal or regulatory requirements for the Category 4 data.
- c) If confidential information shared under this agreement is classified as Category 4 data, the contractor must have a documented risk assessment for the system(s) housing the Category 4 Data.

2. 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 the user accounts are unique and that any given user account logon ID and password combination is known only to the employee to whom the account is assigned. For purposes of non-repudiation, it must always be possible to determine which employee performed a given action on the system housing the Data based solely on the logon ID used to perform the action.
- d. Ensure 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/County 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 with the contractor's network including:
 - (1) A minimum of 8 characters and containing at least three of the following 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 requirement for users by employing measures including:
 - (1) Ensuring mitigations applied to the system do not allow end-user modification.
 - (2) Not allowing the use of dial-up connections.
 - (3) Using industry standard protocols and solutions for remote access. Examples include but are not limited to RADIUS Microsoft Remote Desktop (RDP) and Citrix.
 - (4) Encrypting all remote access traffic from the external workstation to a 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 a Multi-Factor Authentication to connect from the external end point to the internal endpoint.
- i. Passwords or PIN codes may meet a lesser standard if used in conjunction with another authentication mechanism, such as a biometric (fingerprint, facial 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 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 storage on a Mobile Device, passcodes for the device must:

- (1) Be a minimum of six alphanumeric characters
- (2) Contain at least three unique character classes (upper case letter, lower case letter, number).
- (3) Not contain more than a three consecutive character run. Passwords consisting of 12345, or abcd12 would not be acceptable.

k. Render the device unusable after a maximum of 10 failed logon attempts.

Confidentiality.

- **The Contractor shall not use, publish, transfer, sell or otherwise disclose any Confidential Information gained by reason of this Contract for any purpose that is not directly connected with Contractor's performance of the services contemplated hereunder, except:**
 - as provided by law; or,
 - in the case of Personal Information, with the prior written consent of the person or personal representative of the person who is the subject of the Personal Information.
- **Ensure the security of Confidential Information transmitted via fax (facsimile) by:**
 - Verifying the recipient phone number to prevent accidental transmittal of Confidential Information to unauthorized persons.

Data Transport:

1. Paper Documents: Send paper documents containing Confidential Information via a Trusted System.

Protection of Data. The Contractor agrees to store data on one or more of the following media and protect the data as described. Electronic data can be on desktops, laptops, and other portable devices, servers and external media:

1. **Hard disk drives.** For Data stored on local workstation hard disks, access to the data will be restricted to Authorized Users 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.

2. **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/County confidential data stored on these disks, deleting unneeded data is sufficient as long as the disks remain in a secured area and otherwise meets the requirements listed in the above paragraph. Destruction of the data as outlined in Section 11. Data Disposition may be deferred until the disks are retired, replaced, or otherwise taken out of the secured area.

3. **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 secured area. When not in use for the contracted purpose, such discs must be stored in a Secure Area. Workstations which access DSHS/County 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.
4. **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.
5. **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.
6. **Data storage on portable devices or media.**
 - A) Except where otherwise specified herein, DSHS/County 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:

- Encrypt the data.
- Control access to devices with a unique user ID and hardened password or stronger authentication method, such as physical token or biometrics.
- 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.

B) Apply administrative and physical security controls to Portable Devices and Portable media by:

- Keeping them in a Secure Area when not in use,
- Using check-in/check-out procedures when they are shared; and
- Taking frequent inventories.

C) When being transported outside of a Secure Area, Portable Devices and Portable Media with confidential DSHS/County data must be under the physical control of Contractor staff with authorization to access the Data, even if the Data is encrypted.

7. **Data Stored for Backup Purposes**

(1) DSHS/County data 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 media would be reused during the course of normal backup operations. If backup media is retired while DSHS/County Confidential Information still exists upon it, such media will be destroyed at that time in accordance with Section 11. Data Disposition.

(2) DSHS/County data may be stored in 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 attachment. If this media is retired while DSHS Confidential Information still exists upon it, such media will be destroyed at that time in accordance with Section 11. Data Disposition.

8. **Cloud Storage.** DSHS Confidential Information requires protections equal to or greater than those specified elsewhere within this attachment. Cloud storage of data is problematic as DSHS/County nor the Contractor has control over the environment in which the data is stored. For this reason:

(1) DSHS/County 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 the use of the Cloud storage and Contractor can attest to the contact listed in the contract and keep a copy of the attestation for your records 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 only be possessed by the Contractor.
- f) The Data will not be downloaded to non-authorized systems, meaning systems that are not on the contractor network.
- g) The Data will not be decrypted until downloaded onto a computer within the control of an Authorized User or within the contractor 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 the requirements within this attachment; or,
- b) The Cloud storage solution used is HIPPA compliant.

(3) If the Data includes protected health information covered by the Health Insurance Portability and Accountability Act (HIPPA), the Cloud provider must sign a Business Associate Agreement prior to the data being stored in their Cloud solution.

9. **System Protection.** To prevent compromise of systems which contain DSHS/County Data or through which that Data passes:

- a. Systems containing DSHS/County data must have all security patches or hotfixes applied within three months of being made available.
- b. The Contractor will have a method of ensuring the requisite patches and hotfixes have been applied within the required timeframes.
- c. Systems containing DSHS/County Data shall have an Anti-Malware application, if available, installed.
- d. Anti-Malware software must be kept up to date. The product, its anti-virus engine and any malware database the systems uses, will be no more than one update behind current.

10. Data Segregation.

- DSHS/County category 4 data must be segregated or otherwise distinguishable from non-DSHS/County data. This is to ensure that when no longer needed by the Contractor, all DSHS/County data can be identified for return or destruction. It also aids in determining whether DSHS/County 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:
 - DSHS/County data will be kept on media (e.g. hard disk, optical disc, tape, etc.) which will contain no non-DSHS/County data; and/or
 - DSHS/County data will be stored in a logical container on electronic media, such as a partition or folder dedicated to DSHS/County data; and/or
 - DSHS/County data will be stored in a database which will contain no non-DSHS/County data; and/or
 - DSHS/County data will be stored within a database and will be distinguishable from non-DSHS/County data by the value of a specific field or fields within database records; and/or
 - When stored as physical paper documents, DSHS/County data will be physically segregated from non-DSHS/County data in a drawer, folder, or other container.
- When it is not feasible or practical to segregate DSHS/County data from non-DSHS/County data, then both the DSHS/County data and the non-DSHS/County data with which it is commingled must be protected as described in this attachment.

11. **Data Disposition.** When the contracted work has been completed or when no longer needed, except as noted in **Protection of Data**, the Contractor will

certify in writing that the data stored on the media listed below was destroyed utilizing the approved methods outlined in the following table:

Data stored on:	Will be destroyed by:
Server or workstation hard disks or Removable media (e.g. floppies, USB flash drives, portable hard disks, Zip or similar 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 Degaussing sufficiently to ensure that the data cannot be reconstructed, or Physically destroying the disk
Paper documents with sensitive or confidential data	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 course abrasive
Magnetic tape	Degaussing, incinerating or crosscut shredding

12. Notification of Compromise or Potential Compromise. The compromise or potential compromise of DSHS/County shared data must be reported to the County within one (1) business day of discovery. The Contractor must also take action to mitigate the risk of loss and comply with any requirements imposed by law or DSHS/County.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
04/19/2024

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 rights to the certificate holder in lieu of such endorsement(s).

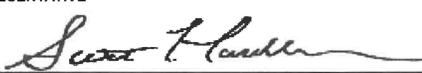
PRODUCER The Partners Group LLC 1111 Lake Washington Blvd N. Suite 400 Renton WA 98056	CONTACT NAME: Staci Braunschweig PHONE (A/C, No, Ext): (877) 455-5640 E-MAIL ADDRESS: sbraunschweig@tpgrp.com	FAX (A/C, No): (425) 455-6727
	INSURER(S) AFFORDING COVERAGE	
INSURED Easterseals Washington 200 W Mercer St Ste 210E Seattle WA 98119	INSURER A: Philadelphia Indemnity Ins Co	NAIC # 18058
	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES **CERTIFICATE NUMBER:** 24/25 **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 INSD	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 checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			PHPK26710969	04/01/2024	04/01/2025	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY			PHPK26710969	04/01/2024	04/01/2025	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			PHUB905862	04/01/2024	04/01/2025	EACH OCCURRENCE \$ 4,000,000 AGGREGATE \$ 4,000,000
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		Y/N	PHPK26710969	04/01/2024	04/01/2025	<input type="checkbox"/> PER STATUTE <input checked="" type="checkbox"/> OTH-ER WA STOP GAP E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A	Sexual/Physical/Abuse & Molestation			PHPK26710969	04/01/2024	04/01/2025	Occurrence: \$1,000,000 Aggregate: \$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Kitsap County Aging and Long-Term Care, the County, its officers, officials, employees, and agents, and the State of Washington, Department of Social & Health Services (DSHS), its Elected and Appointed officials, agents and employees are Additional Insureds per attached forms:
General Liability Deluxe Endorsement: Human Services PI-GLD-HS (10/11)
Business Auto Coverage Form CA 00 01 10 13.

CERTIFICATE HOLDER Kitsap County Division of Aging and Long-Term Care State of Washington - DSHS 614 Division Street, MS-5 Port Orchard WA 98366	CANCELLATION 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.

Coverage Applicable	Limit of Insurance	Page #
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.

BUSINESS AUTO COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we", "us" and "our" refer to the company providing this insurance.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section V – Definitions.

SECTION I – COVERED AUTOS

Item Two of the Declarations shows the "autos" that are covered "autos" for each of your coverages. The following numerical symbols describe the "autos" that may be covered "autos". The symbols entered next to a coverage on the Declarations designate the only "autos" that are covered "autos".

A. Description Of Covered Auto Designation Symbols

Symbol	Description Of Covered Auto Designation Symbols	
1	Any "Auto"	
2	Owned "Autos" Only	Only those "autos" you own (and for Covered Autos Liability Coverage any "trailers" you don't own while attached to power units you own). This includes those "autos" you acquire ownership of after the policy begins.
3	Owned Private Passenger "Autos" Only	Only the private passenger "autos" you own. This includes those private passenger "autos" you acquire ownership of after the policy begins.
4	Owned "Autos" Other Than Private Passenger "Autos" Only	Only those "autos" you own that are not of the private passenger type (and for Covered Autos Liability Coverage any "trailers" you don't own while attached to power units you own). This includes those "autos" not of the private passenger type you acquire ownership of after the policy begins.
5	Owned "Autos" Subject To No-fault	Only those "autos" you own that are required to have no-fault benefits in the state where they are licensed or principally garaged. This includes those "autos" you acquire ownership of after the policy begins provided they are required to have no-fault benefits in the state where they are licensed or principally garaged.
6	Owned "Autos" Subject To A Compulsory Uninsured Motorists Law	Only those "autos" you own that because of the law in the state where they are licensed or principally garaged are required to have and cannot reject Uninsured Motorists Coverage. This includes those "autos" you acquire ownership of after the policy begins provided they are subject to the same state uninsured motorists requirement.
7	Specifically Described "Autos"	Only those "autos" described in Item Three of the Declarations for which a premium charge is shown (and for Covered Autos Liability Coverage any "trailers" you don't own while attached to any power unit described in Item Three).
8	Hired "Autos" Only	Only those "autos" you lease, hire, rent or borrow. This does not include any "auto" you lease, hire, rent or borrow from any of your "employees", partners (if you are a partnership), members (if you are a limited liability company) or members of their households.
9	Non-owned "Autos" Only	Only those "autos" you do not own, lease, hire, rent or borrow that are used in connection with your business. This includes "autos" owned by your "employees", partners (if you are a partnership), members (if you are a limited liability company) or members of their households but only while used in your business or your personal affairs.

19	Mobile Equipment Subject To Compulsory Or Financial Responsibility Or Other Motor Vehicle Insurance Law Only	Only those "autos" that are land vehicles and that would qualify under the definition of "mobile equipment" under this policy if they were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where they are licensed or principally garaged.
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B. Owned Autos You Acquire After The Policy Begins

1. If Symbols **1, 2, 3, 4, 5, 6** or **19** are entered next to a coverage in Item Two of the Declarations, then you have coverage for "autos" that you acquire of the type described for the remainder of the policy period.
2. But, if Symbol **7** is entered next to a coverage in Item Two of the Declarations, an "auto" you acquire will be a covered "auto" for that coverage only if:
 - a. We already cover all "autos" that you own for that coverage or it replaces an "auto" you previously owned that had that coverage; and
 - b. You tell us within 30 days after you acquire it that you want us to cover it for that coverage.

C. Certain Trailers, Mobile Equipment And Temporary Substitute Autos

If Covered Autos Liability Coverage is provided by this Coverage Form, the following types of vehicles are also covered "autos" for Covered Autos Liability Coverage:

1. "Trailers" with a load capacity of 2,000 pounds or less designed primarily for travel on public roads.
2. "Mobile equipment" while being carried or towed by a covered "auto".
3. Any "auto" you do not own while used with the permission of its owner as a temporary substitute for a covered "auto" you own that is out of service because of its:
 - a. Breakdown;
 - b. Repair;
 - c. Servicing;
 - d. "Loss"; or
 - e. Destruction.

SECTION II – COVERED AUTOS LIABILITY COVERAGE

A. Coverage

We will pay all sums an "insured" legally must pay as damages because of "bodily injury" or "property damage" to which this insurance applies, caused by an "accident" and resulting from the ownership, maintenance or use of a covered "auto".

We will also pay all sums an "insured" legally must pay as a "covered pollution cost or expense" to which this insurance applies, caused by an "accident" and resulting from the ownership, maintenance or use of covered "autos". However, we will only pay for the "covered pollution cost or expense" if there is either "bodily injury" or "property damage" to which this insurance applies that is caused by the same "accident".

We have the right and duty to defend any "insured" against a "suit" asking for such damages or a "covered pollution cost or expense". However, we have no duty to defend any "insured" against a "suit" seeking damages for "bodily injury" or "property damage" or a "covered pollution cost or expense" to which this insurance does not apply. We may investigate and settle any claim or "suit" as we consider appropriate. Our duty to defend or settle ends when the Covered Autos Liability Coverage Limit of Insurance has been exhausted by payment of judgments or settlements.

1. Who Is An Insured

The following are "insureds":

- a. You for any covered "auto".
- b. Anyone else while using with your permission a covered "auto" you own, hire or borrow except:
 - (1) The owner or anyone else from whom you hire or borrow a covered "auto".

This exception does not apply if the covered "auto" is a "trailer" connected to a covered "auto" you own.

- (2) Your "employee" if the covered "auto" is owned by that "employee" or a member of his or her household.
 - (3) Someone using a covered "auto" while he or she is working in a business of selling, servicing, repairing, parking or storing "autos" unless that business is yours.
 - (4) Anyone other than your "employees", partners (if you are a partnership), members (if you are a limited liability company) or a lessee or borrower or any of their "employees", while moving property to or from a covered "auto".
 - (5) A partner (if you are a partnership) or a member (if you are a limited liability company) for a covered "auto" owned by him or her or a member of his or her household.
- c. Anyone liable for the conduct of an "insured" described above but only to the extent of that liability.

2. Coverage Extensions

a. Supplementary Payments

We will pay for the "insured":

- (1) All expenses we incur.
- (2) Up to \$2,000 for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.
- (3) The cost of bonds to release attachments in any "suit" against the "insured" we defend, but only for bond amounts within our Limit of Insurance.
- (4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$250 a day because of time off from work.
- (5) All court costs taxed against the "insured" in any "suit" against the "insured" we defend. However, these payments do not include attorneys' fees or attorneys' expenses taxed against the "insured".
- (6) All interest on the full amount of any judgment that accrues after entry of the judgment in any "suit" against the "insured" we defend, but our duty to pay interest ends when we have paid, offered to pay or deposited in court the part of the judgment that is within our Limit of Insurance.

These payments will not reduce the Limit of Insurance.

b. Out-of-state Coverage Extensions

While a covered "auto" is away from the state where it is licensed, we will:

- (1) Increase the Limit of Insurance for Covered Autos Liability Coverage to meet the limits specified by a compulsory or financial responsibility law of the jurisdiction where the covered "auto" is being used. This extension does not apply to the limit or limits specified by any law governing motor carriers of passengers or property.
- (2) Provide the minimum amounts and types of other coverages, such as no-fault, required of out-of-state vehicles by the jurisdiction where the covered "auto" is being used.

We will not pay anyone more than once for the same elements of loss because of these extensions.

B. Exclusions

This insurance does not apply to any of the following:

1. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the "insured".

2. Contractual

Liability assumed under any contract or agreement.

But this exclusion does not apply to liability for damages:

- a. Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement; or
- b. That the "insured" would have in the absence of the contract or agreement.

3. Workers' Compensation

Any obligation for which the "insured" or the "insured's" insurer may be held liable under any workers' compensation, disability benefits or unemployment compensation law or any similar law.

4. Employee Indemnification And Employer's Liability

"Bodily injury" to:

- a. An "employee" of the "insured" arising out of and in the course of:
 - (1) Employment by the "insured"; or
 - (2) Performing the duties related to the conduct of the "insured's" business; or
- b. The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph **a.** above.

This exclusion applies:

- (1) Whether the "insured" may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

But this exclusion does not apply to "bodily injury" to domestic "employees" not entitled to workers' compensation benefits or to liability assumed by the "insured" under an "insured contract". For the purposes of the Coverage Form, a domestic "employee" is a person engaged in household or domestic work performed principally in connection with a residence premises.

5. Fellow Employee

"Bodily injury" to:

- a. Any fellow "employee" of the "insured" arising out of and in the course of the fellow "employee's" employment or while performing duties related to the conduct of your business; or
- b. The spouse, child, parent, brother or sister of that fellow "employee" as a consequence of Paragraph **a.** above.

6. Care, Custody Or Control

"Property damage" to or "covered pollution cost or expense" involving property owned or transported by the "insured" or in the "insured's" care, custody or control. But this exclusion does not apply to liability assumed under a sidetrack agreement.

7. Handling Of Property

"Bodily injury" or "property damage" resulting from the handling of property:

- a. Before it is moved from the place where it is accepted by the "insured" for movement into or onto the covered "auto"; or

- b. After it is moved from the covered "auto" to the place where it is finally delivered by the "insured".

8. Movement Of Property By Mechanical Device

"Bodily injury" or "property damage" resulting from the movement of property by a mechanical device (other than a hand truck) unless the device is attached to the covered "auto".

9. Operations

"Bodily injury" or "property damage" arising out of the operation of:

- a. Any equipment listed in Paragraphs **6.b.** and **6.c.** of the definition of "mobile equipment"; or
- b. Machinery or equipment that is on, attached to or part of a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.

10. Completed Operations

"Bodily injury" or "property damage" arising out of your work after that work has been completed or abandoned.

In this exclusion, your work means:

- a. Work or operations performed by you or on your behalf; and
- b. Materials, parts or equipment furnished in connection with such work or operations.

Your work includes warranties or representations made at any time with respect to the fitness, quality, durability or performance of any of the items included in Paragraph **a.** or **b.** above.

Your work will be deemed completed at the earliest of the following times:

- (1) When all of the work called for in your contract has been completed;
- (2) When all of the work to be done at the site has been completed if your contract calls for work at more than one site; or
- (3) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

11. Pollution

"Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

- a. That are, or that are contained in any property that is:
 - (1) Being transported or towed by, handled or handled for movement into, onto or from the covered "auto";
 - (2) Otherwise in the course of transit by or on behalf of the "insured"; or
 - (3) Being stored, disposed of, treated or processed in or upon the covered "auto";
- b. Before the "pollutants" or any property in which the "pollutants" are contained are moved from the place where they are accepted by the "insured" for movement into or onto the covered "auto"; or
- c. After the "pollutants" or any property in which the "pollutants" are contained are moved from the covered "auto" to the place where they are finally delivered, disposed of or abandoned by the "insured".

Paragraph a. above does not apply to fuels, lubricants, fluids, exhaust gases or other similar "pollutants" that are needed for or result from the normal electrical, hydraulic or mechanical functioning of the covered "auto" or its parts if:

- (1) The "pollutants" escape, seep, migrate or are discharged, dispersed or released directly from an "auto" part designed by its manufacturer to hold, store, receive or dispose of such "pollutants"; and
- (2) The "bodily injury", "property damage" or "covered pollution cost or expense" does not arise out of the operation of any equipment listed in Paragraphs 6.b. and 6.c. of the definition of "mobile equipment".

Paragraphs b. and c. above of this exclusion do not apply to "accidents" that occur away from premises owned by or rented to an "insured" with respect to "pollutants" not in or upon a covered "auto" if:

- (a) The "pollutants" or any property in which the "pollutants" are contained are upset, overturned or damaged as a result of the maintenance or use of a covered "auto"; and
- (b) The discharge, dispersal, seepage, migration, release or escape of the "pollutants" is caused directly by such upset, overturn or damage.

12. War

"Bodily injury" or "property damage" arising directly or indirectly out of:

- a. War, including undeclared or civil war;
- b. Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- c. Insurrection, rebellion, revolution, usurped power or action taken by governmental authority in hindering or defending against any of these.

13. Racing

Covered "autos" while used in any professional or organized racing or demolition contest or stunting activity, or while practicing for such contest or activity. This insurance also does not apply while that covered "auto" is being prepared for such a contest or activity.

C. Limit Of Insurance

Regardless of the number of covered "autos", "insureds", premiums paid, claims made or vehicles involved in the "accident", the most we will pay for the total of all damages and "covered pollution cost or expense" combined resulting from any one "accident" is the Limit Of Insurance for Covered Autos Liability Coverage shown in the Declarations.

All "bodily injury", "property damage" and "covered pollution cost or expense" resulting from continuous or repeated exposure to substantially the same conditions will be considered as resulting from one "accident".

No one will be entitled to receive duplicate payments for the same elements of "loss" under this Coverage Form and any Medical Payments Coverage endorsement, Uninsured Motorists Coverage endorsement or Underinsured Motorists Coverage endorsement attached to this Coverage Part.

SECTION III – PHYSICAL DAMAGE COVERAGE

A. Coverage

1. We will pay for "loss" to a covered "auto" or its equipment under:

- a. **Comprehensive Coverage**

From any cause except:

- (1) The covered "auto's" collision with another object; or
- (2) The covered "auto's" overturn.

- b. **Specified Causes Of Loss Coverage**

Caused by:

- (1) Fire, lightning or explosion;
- (2) Theft;
- (3) Windstorm, hail or earthquake;
- (4) Flood;
- (5) Mischief or vandalism; or
- (6) The sinking, burning, collision or derailment of any conveyance transporting the covered "auto".

- c. **Collision Coverage**

Caused by:

- (1) The covered "auto's" collision with another object; or
- (2) The covered "auto's" overturn.

2. **Towing**

We will pay up to the limit shown in the Declarations for towing and labor costs incurred each time a covered "auto" of the private passenger type is disabled. However, the labor must be performed at the place of disablement.

3. **Glass Breakage – Hitting A Bird Or Animal – Falling Objects Or Missiles**

If you carry Comprehensive Coverage for the damaged covered "auto", we will pay for the following under Comprehensive Coverage:

- a. Glass breakage;
- b. "Loss" caused by hitting a bird or animal; and
- c. "Loss" caused by falling objects or missiles.

However, you have the option of having glass breakage caused by a covered "auto's" collision or overturn considered a "loss" under Collision Coverage.

4. **Coverage Extensions**

- a. **Transportation Expenses**

We will pay up to \$20 per day, to a maximum of \$600, for temporary transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type. We will pay only for those covered "autos" for which you carry either Comprehensive or Specified Causes Of Loss Coverage. We will pay for temporary transportation expenses incurred during the period beginning 48 hours after the theft and ending, regardless of the policy's expiration, when the covered "auto" is returned to use or we pay for its "loss".

- b. **Loss Of Use Expenses**

For Hired Auto Physical Damage, we will pay expenses for which an "insured" becomes legally responsible to pay for loss of use of a vehicle rented or hired without a driver under a written rental contract or agreement. We will pay for loss of use expenses if caused by:

- (1) Other than collision only if the Declarations indicates that Comprehensive Coverage is provided for any covered "auto";
- (2) Specified Causes Of Loss only if the Declarations indicates that Specified Causes Of Loss Coverage is provided for any covered "auto"; or

- (3) Collision only if the Declarations indicates that Collision Coverage is provided for any covered "auto".

However, the most we will pay for any expenses for loss of use is \$20 per day, to a maximum of \$600.

B. Exclusions

1. We will not pay for "loss" caused by or resulting from any of the following. Such "loss" is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the "loss".

a. Nuclear Hazard

- (1) The explosion of any weapon employing atomic fission or fusion; or
- (2) Nuclear reaction or radiation, or radioactive contamination, however caused.

b. War Or Military Action

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power or action taken by governmental authority in hindering or defending against any of these.

2. We will not pay for "loss" to any covered "auto" while used in any professional or organized racing or demolition contest or stunting activity, or while practicing for such contest or activity. We will also not pay for "loss" to any covered "auto" while that covered "auto" is being prepared for such a contest or activity.

3. We will not pay for "loss" due and confined to:
 - a. Wear and tear, freezing, mechanical or electrical breakdown.
 - b. Blowouts, punctures or other road damage to tires.

This exclusion does not apply to such "loss" resulting from the total theft of a covered "auto".

4. We will not pay for "loss" to any of the following:
 - a. Tapes, records, discs or other similar audio, visual or data electronic devices designed for use with audio, visual or data electronic equipment.

- b. Any device designed or used to detect speed-measuring equipment, such as radar or laser detectors, and any jamming apparatus intended to elude or disrupt speed-measuring equipment.

- c. Any electronic equipment, without regard to whether this equipment is permanently installed, that reproduces, receives or transmits audio, visual or data signals.

- d. Any accessories used with the electronic equipment described in Paragraph c. above.

5. Exclusions 4.c. and 4.d. do not apply to equipment designed to be operated solely by use of the power from the "auto's" electrical system that, at the time of "loss", is:

- a. Permanently installed in or upon the covered "auto";

- b. Removable from a housing unit which is permanently installed in or upon the covered "auto";

- c. An integral part of the same unit housing any electronic equipment described in Paragraphs a. and b. above; or

- d. Necessary for the normal operation of the covered "auto" or the monitoring of the covered "auto's" operating system.

6. We will not pay for "loss" to a covered "auto" due to "diminution in value".

C. Limits Of Insurance

1. The most we will pay for:

- a. "Loss" to any one covered "auto" is the lesser of:

- (1) The actual cash value of the damaged or stolen property as of the time of the "loss"; or

- (2) The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality.

- b. All electronic equipment that reproduces, receives or transmits audio, visual or data signals in any one "loss" is \$1,000, if, at the time of "loss", such electronic equipment is:

- (1) Permanently installed in or upon the covered "auto" in a housing, opening or other location that is not normally used by the "auto" manufacturer for the installation of such equipment;

(2) Removable from a permanently installed housing unit as described in Paragraph **b.(1)** above; or

(3) An integral part of such equipment as described in Paragraphs **b.(1)** and **b.(2)** above.

2. An adjustment for depreciation and physical condition will be made in determining actual cash value in the event of a total "loss".

3. If a repair or replacement results in better than like kind or quality, we will not pay for the amount of the betterment.

D. Deductible

For each covered "auto", our obligation to pay for, repair, return or replace damaged or stolen property will be reduced by the applicable deductible shown in the Declarations. Any Comprehensive Coverage deductible shown in the Declarations does not apply to "loss" caused by fire or lightning.

SECTION IV – BUSINESS AUTO CONDITIONS

The following conditions apply in addition to the Common Policy Conditions:

A. Loss Conditions

1. Appraisal For Physical Damage Loss

If you and we disagree on the amount of "loss", either may demand an appraisal of the "loss". In this event, each party will select a competent appraiser. The two appraisers will select a competent and impartial umpire. The appraisers will state separately the actual cash value and amount of "loss". If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

- a. Pay its chosen appraiser; and
- b. Bear the other expenses of the appraisal and umpire equally.

If we submit to an appraisal, we will still retain our right to deny the claim.

2. Duties In The Event Of Accident, Claim, Suit Or Loss

We have no duty to provide coverage under this policy unless there has been full compliance with the following duties:

a. In the event of "accident", claim, "suit" or "loss", you must give us or our authorized representative prompt notice of the "accident" or "loss". Include:

- (1) How, when and where the "accident" or "loss" occurred;

(2) The "insured's" name and address; and

(3) To the extent possible, the names and addresses of any injured persons and witnesses.

b. Additionally, you and any other involved "insured" must:

(1) Assume no obligation, make no payment or incur no expense without our consent, except at the "insured's" own cost.

(2) Immediately send us copies of any request, demand, order, notice, summons or legal paper received concerning the claim or "suit".

(3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit".

(4) Authorize us to obtain medical records or other pertinent information.

(5) Submit to examination, at our expense, by physicians of our choice, as often as we reasonably require.

c. If there is "loss" to a covered "auto" or its equipment, you must also do the following:

(1) Promptly notify the police if the covered "auto" or any of its equipment is stolen.

(2) Take all reasonable steps to protect the covered "auto" from further damage. Also keep a record of your expenses for consideration in the settlement of the claim.

(3) Permit us to inspect the covered "auto" and records proving the "loss" before its repair or disposition.

(4) Agree to examinations under oath at our request and give us a signed statement of your answers.

3. Legal Action Against Us

No one may bring a legal action against us under this Coverage Form until:

a. There has been full compliance with all the terms of this Coverage Form; and

b. Under Covered Autos Liability Coverage, we agree in writing that the "insured" has an obligation to pay or until the amount of that obligation has finally been determined by judgment after trial. No one has the right under this policy to bring us into an action to determine the "insured's" liability.

4. Loss Payment – Physical Damage Coverages

At our option, we may:

- a. Pay for, repair or replace damaged or stolen property;
- b. Return the stolen property, at our expense. We will pay for any damage that results to the "auto" from the theft; or
- c. Take all or any part of the damaged or stolen property at an agreed or appraised value.

If we pay for the "loss", our payment will include the applicable sales tax for the damaged or stolen property.

5. Transfer Of Rights Of Recovery Against Others To Us

If any person or organization to or for whom we make payment under this Coverage Form has rights to recover damages from another, those rights are transferred to us. That person or organization must do everything necessary to secure our rights and must do nothing after "accident" or "loss" to impair them.

B. General Conditions

1. Bankruptcy

Bankruptcy or insolvency of the "insured" or the "insured's" estate will not relieve us of any obligations under this Coverage Form.

2. Concealment, Misrepresentation Or Fraud

This Coverage Form is void in any case of fraud by you at any time as it relates to this Coverage Form. It is also void if you or any other "insured", at any time, intentionally conceals or misrepresents a material fact concerning:

- a. This Coverage Form;
- b. The covered "auto";
- c. Your interest in the covered "auto"; or
- d. A claim under this Coverage Form.

3. Liberalization

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

4. No Benefit To Bailee – Physical Damage Coverages

We will not recognize any assignment or grant any coverage for the benefit of any person or organization holding, storing or transporting property for a fee regardless of any other provision of this Coverage Form.

5. Other Insurance

- a. For any covered "auto" you own, this Coverage Form provides primary insurance. For any covered "auto" you don't own, the insurance provided by this Coverage Form is excess over any other collectible insurance. However, while a covered "auto" which is a "trailer" is connected to another vehicle, the Covered Autos Liability Coverage this Coverage Form provides for the "trailer" is:

- (1) Excess while it is connected to a motor vehicle you do not own; or
- (2) Primary while it is connected to a covered "auto" you own.

- b. For Hired Auto Physical Damage Coverage, any covered "auto" you lease, hire, rent or borrow is deemed to be a covered "auto" you own. However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

- c. Regardless of the provisions of Paragraph a. above, this Coverage Form's Covered Autos Liability Coverage is primary for any liability assumed under an "insured contract".

- d. When this Coverage Form and any other Coverage Form or policy covers on the same basis, either excess or primary, we will pay only our share. Our share is the proportion that the Limit of Insurance of our Coverage Form bears to the total of the limits of all the Coverage Forms and policies covering on the same basis.

6. Premium Audit

- a. The estimated premium for this Coverage Form is based on the exposures you told us you would have when this policy began. We will compute the final premium due when we determine your actual exposures. The estimated total premium will be credited against the final premium due and the first Named Insured will be billed for the balance, if any. The due date for the final premium or retrospective premium is the date shown as the due date on the bill. If the estimated total premium exceeds the final premium due, the first Named Insured will get a refund.
- b. If this policy is issued for more than one year, the premium for this Coverage Form will be computed annually based on our rates or premiums in effect at the beginning of each year of the policy.

7. Policy Period, Coverage Territory

Under this Coverage Form, we cover "accidents" and "losses" occurring:

- a. During the policy period shown in the Declarations; and
- b. Within the coverage territory.

The coverage territory is:

- (1) The United States of America;
- (2) The territories and possessions of the United States of America;
- (3) Puerto Rico;
- (4) Canada; and
- (5) Anywhere in the world if a covered "auto" of the private passenger type is leased, hired, rented or borrowed without a driver for a period of 30 days or less,

provided that the "insured's" responsibility to pay damages is determined in a "suit" on the merits, in the United States of America, the territories and possessions of the United States of America, Puerto Rico or Canada, or in a settlement we agree to.

We also cover "loss" to, or "accidents" involving, a covered "auto" while being transported between any of these places.

8. Two Or More Coverage Forms Or Policies Issued By Us

If this Coverage Form and any other Coverage Form or policy issued to you by us or any company affiliated with us applies to the same "accident", the aggregate maximum Limit of Insurance under all the Coverage Forms or policies shall not exceed the highest applicable Limit of Insurance under any one Coverage Form or policy. This condition does not apply to any Coverage Form or policy issued by us or an affiliated company specifically to apply as excess insurance over this Coverage Form.

SECTION V – DEFINITIONS

- A. "Accident" includes continuous or repeated exposure to the same conditions resulting in "bodily injury" or "property damage".
- B. "Auto" means:
 1. A land motor vehicle, "trailer" or semitrailer designed for travel on public roads; or

2. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.

However, "auto" does not include "mobile equipment".

- C. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these.

- D. "Covered pollution cost or expense" means any cost or expense arising out of:

1. Any request, demand, order or statutory or regulatory requirement that any "insured" or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
2. Any claim or "suit" by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

"Covered pollution cost or expense" does not include any cost or expense arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

- a. That are, or that are contained in any property that is:
 - (1) Being transported or towed by, handled or handled for movement into, onto or from the covered "auto";
 - (2) Otherwise in the course of transit by or on behalf of the "insured"; or
 - (3) Being stored, disposed of, treated or processed in or upon the covered "auto";
- b. Before the "pollutants" or any property in which the "pollutants" are contained are moved from the place where they are accepted by the "insured" for movement into or onto the covered "auto"; or
- c. After the "pollutants" or any property in which the "pollutants" are contained are moved from the covered "auto" to the place where they are finally delivered, disposed of or abandoned by the "insured".

Paragraph **a.** above does not apply to fuels, lubricants, fluids, exhaust gases or other similar "pollutants" that are needed for or result from the normal electrical, hydraulic or mechanical functioning of the covered "auto" or its parts, if:

- (1) The "pollutants" escape, seep, migrate or are discharged, dispersed or released directly from an "auto" part designed by its manufacturer to hold, store, receive or dispose of such "pollutants"; and
- (2) The "bodily injury", "property damage" or "covered pollution cost or expense" does not arise out of the operation of any equipment listed in Paragraph **6.b.** or **6.c.** of the definition of "mobile equipment".

Paragraphs **b.** and **c.** above do not apply to "accidents" that occur away from premises owned by or rented to an "insured" with respect to "pollutants" not in or upon a covered "auto" if:

- (a) The "pollutants" or any property in which the "pollutants" are contained are upset, overturned or damaged as a result of the maintenance or use of a covered "auto"; and
- (b) The discharge, dispersal, seepage, migration, release or escape of the "pollutants" is caused directly by such upset, overturn or damage.

- E.** "Diminution in value" means the actual or perceived loss in market value or resale value which results from a direct and accidental "loss".
- F.** "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
- G.** "Insured" means any person or organization qualifying as an insured in the Who Is An Insured provision of the applicable coverage. Except with respect to the Limit of Insurance, the coverage afforded applies separately to each insured who is seeking coverage or against whom a claim or "suit" is brought.
- H.** "Insured contract" means:
1. A lease of premises;
 2. A sidetrack agreement;
 3. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
 4. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;

5. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another to pay for "bodily injury" or "property damage" to a third party or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement; or
6. That part of any contract or agreement entered into, as part of your business, pertaining to the rental or lease, by you or any of your "employees", of any "auto". However, such contract or agreement shall not be considered an "insured contract" to the extent that it obligates you or any of your "employees" to pay for "property damage" to any "auto" rented or leased by you or any of your "employees".

An "insured contract" does not include that part of any contract or agreement:

- a. That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossing;
- b. That pertains to the loan, lease or rental of an "auto" to you or any of your "employees", if the "auto" is loaned, leased or rented with a driver; or
- c. That holds a person or organization engaged in the business of transporting property by "auto" for hire harmless for your use of a covered "auto" over a route or territory that person or organization is authorized to serve by public authority.

- I.** "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".
- J.** "Loss" means direct and accidental loss or damage.
- K.** "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:
1. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
 2. Vehicles maintained for use solely on or next to premises you own or rent;
 3. Vehicles that travel on crawler treads;

4. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
 - a. Power cranes, shovels, loaders, diggers or drills; or
 - b. Road construction or resurfacing equipment such as graders, scrapers or rollers;
5. Vehicles not described in Paragraph 1., 2., 3. or 4. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
 - a. Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well-servicing equipment; or
 - b. Cherry pickers and similar devices used to raise or lower workers; or
6. Vehicles not described in Paragraph 1., 2., 3. or 4. above maintained primarily for purposes other than the transportation of persons or cargo. However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":
 - a. Equipment designed primarily for:
 - (1) Snow removal;
 - (2) Road maintenance, but not construction or resurfacing; or
 - (3) Street cleaning;
 - b. Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
 - c. Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting or well-servicing equipment.

However, "mobile equipment" does not include land vehicles that are subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law are considered "autos".

- L. "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.
- M. "Property damage" means damage to or loss of use of tangible property.
- N. "Suit" means a civil proceeding in which:
 1. Damages because of "bodily injury" or "property damage"; or
 2. A "covered pollution cost or expense";
 to which this insurance applies, are alleged.
 "Suit" includes:
 - a. An arbitration proceeding in which such damages or "covered pollution costs or expenses" are claimed and to which the "insured" must submit or does submit with our consent; or
 - b. Any other alternative dispute resolution proceeding in which such damages or "covered pollution costs or expenses" are claimed and to which the insured submits with our consent.
- O. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.
- P. "Trailer" includes semitrailer.

Debarred Contractors List

A debarred contractor may not bid on, or have a bid considered on, any public works contract. You can search and filter this list using the options presented below.

Company Name: Principal: From: To:
WA UBI Number: RCW: Penalty Due: Wage Due:
License Number:

[Download all debarment data](#)

Show per page Showing 0 records First Previous Next Last

Company Name	UBI	License	Principals	Status	RCW	Debar Begins	Debar Ends	Penalty Due	Wages Due
There are no records that match your search criteria.									

Show per page Showing 0 records First Previous Next Last