



**CLIENT SERVICES CONTRACT
SAFE STATION**

HCA Contract Number: K
Resulting from Solicitation Number
(If applicable: 2022HCA12
Contractor/Vendor Contract
Number:

This Contract is by and between the State of Washington Health Care Authority (HCA) and the Contractor identified below.

CONTRACTOR NAME		CONTRACTOR DOING BUSINESS AS (DBA)		
CONTRACTOR	Street	City	State	Zip Code
CONTRACTOR CONTACT		CONTRACTOR	CONTRACTOR E-MAIL ADDRESS	
Is Contractor a Subrecipient under this Contract? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		CFDA NUMBER(S):	FFATA Form <input type="checkbox"/> YES <input type="checkbox"/>	

HCA PROGRAM	HCA DIVISION/SECTION
HCA CONTACT NAME AND TITLE	HCA CONTACT ADDRESS Health Care Authority 626 8th Avenue SE PO Box ____ Olympia, WA 98504-____
HCA CONTACT TELEPHONE (360) 725-	HCA CONTACT E-MAIL ADDRESS

CONTRACT START DATE July 1, 2022	CONTRACT END DATE June 30, 2023	TOTAL MAXIMUM CONTRACT
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EXHIBITS. The following Attachments and Exhibits are attached and are incorporated into this Contract by reference:

- Exhibits (specify): Exhibit A Statement of Work
- Attachments (specify): Attachment 1: Data Use, Security and Confidentiality

The parties signing below warrant that they have read and understand this Contract, and have authority to execute this Contract. This Contract will be binding on HCA only upon signature by HCA

CONTRACTOR SIGNATURE	PRINTED NAME AND TITLE	DATE SIGNED
HCA SIGNATURE	PRINTED NAME AND TITLE	DATE SIGNED

RECITALS

The state of Washington, acting by and through the Health Care Authority (HCA), issued a Request for Application (to be attached, upon execution of the agreement) dated April 29, 2022, for the purpose of purchasing Client Services in accordance with its authority under chapters 39.26 and 41.05 RCW.

[Contractor Name] submitted a timely Response to HCA's RFA #2022HCA12 (to be attached, upon execution of the agreement).

HCA evaluated all properly submitted Responses to the above-referenced RFA and has identified [Contractor Name] as the Apparent Successful Bidder.

HCA has determined that entering into a Contract with [Contractor Name] will meet HCA's needs and will be in the State's best interest.

NOW THEREFORE, HCA awards to [Contractor Name] this Contract, the terms and conditions of which will govern Contractor's providing to HCA the Client Services.

The purpose of this Contract is to to implement the Safe Station Program in Washington State: Individuals seeking treatment can visit a fire department that is designated as a "Safe Station" and dispose of any paraphernalia and receive help gaining access to care. Participating fire departments will be designated as Safe Stations that (1) provide assessment and referral services at their station locations and/or (2) deploy a mobile response unit that responds to requests for assistance in community-based locations.

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

"Agent" shall mean the Washington State Health Care Authority Director and/or the Director's delegate authorized in writing to act on behalf of the Director.

"Allowable cost" means an expenditure which meets the test of the appropriate executive office of the president of the united states' office of management and budget circular. The most significant factors which determine whether a cost is allowable are the extent to which the cost is:

- Necessary and reasonable;
- Allocable;
- Authorized or not prohibited under Washington state or local laws and regulations;
- Adequately documented.

"Authority" shall mean the Washington State Health Care Authority, any section, unit or other entity of the Authority, or any of the officers or other officials lawfully representing the Authority.

"Authorized Representative" means a person to whom signature authority has been delegated in writing acting within the limits of his/her authority.

"Breach" means the unauthorized acquisition, access, use, or disclosure of confidential

information that compromises the security, confidentiality, or integrity of the confidential information.

“Business Associate” means a Business Associate as defined in 45 CFR 160.103, who performs or assists in the performance of an activity for or on behalf of HCA, a Covered Entity, that involves the use or disclosure of protected health information (PHI). Any reference to Business Associate in this DSA includes Business Associate’s employees, agents, officers, Subcontractors, third party contractors, volunteers, or directors.

“Business Days and Hours” means Monday through Friday, 8:00 a.m. To 5:00 p.m., Pacific Time, except for holidays observed by the state of Washington.

“Centers for Medicare and Medicaid Services” or **“CMS”** means the federal office under the Secretary of the United States Department of Health and Human Services, responsible for the Medicare and Medicaid programs.

“CFR” means the Code of Federal Regulations. All references in this Contract to CFR chapters or sections include any successor, amended, or replacement regulation. The CFR may be accessed at <http://www.ecfr.gov/cgi-bin/ECFR?Page=browse>.

“Confidential Information” means information that is exempt from disclosure to the public or other unauthorized persons under chapter 42.56 rcw or other federal or state laws. Confidential information includes, but is not limited to, personal information.

“Consumer” means an individual who has applied for, is eligible for, or who has received mental health services. This also includes parents and legal guardians when they have a child under the age of 13, or a child 13 or older and they are involved in their treatment plan (WAC 388-865-0150)

“Contract” or **“Agreement”** means the entire written agreement between the authority and the contractor, including any exhibits, documents, or materials incorporated by reference. The parties may execute this contract in multiple counterparts, each of which is deemed an original and all of which constitute only one agreement. E-mail (electronic mail) or fax (facsimile) transmission of a signed copy of this contract shall be the same as delivery of an original.

“Contractor” means the individual or entity performing services pursuant to this contract and includes the contractor’s owners, members, officers, directors, partners, employees, and/or agents, unless otherwise stated in this contract. For purposes of any permitted subcontract, “contractor” includes any subcontractor and its owners, members, officers, directors, partners, employees, and/or agents.

“Covered Entity” means a health plan, a health care clearinghouse or a health care provider who transmits any health information in electronic form to carry out financial or administrative activities related to health care, as defined in 45 CFR 160.103.

“Cultural Competency” means a set of congruent behaviors, attitudes and policies that come together in a system, or agency, and enables that system or agency to work effectively in cross-cultural situations. A culturally competent system of care acknowledges and incorporates at all levels the importance of language and culture, assessment of cross-cultural relations, knowledge and acceptance of dynamics of cultural differences, and expansion of cultural knowledge and adaptation of services, to

meet culturally unique needs.

“Data” means information produced, furnished, acquired, or used by contractor in meeting requirements under this contract

“Debarment” means an action taken by a federal agency or official to exclude a person or business entity from participating in transactions involving certain federal funds.

“Effective Date” means the first date this Contract is in full force and effect. It may be a specific date agreed to by the parties; or, if not so specified, the date of the last signature of a party to this Contract.

“Encrypt” means to encode confidential information into a format that can only be read by those possessing a “key”; a password, digital certificate or other mechanism available only to authorized users. Encryption must use a key length of at least 128 bits.

“Fee-for-Service” or “Set rate” means the subcontractor receives a negotiated fixed rate of pay based on performance of a defined unit of service such as per treatment per hour or per session.

“For Profit” means a business or institution initiated or operated for the purpose of making a profit.

“HCA Contract Manager” means the individual identified on the cover page of this Contract who will provide oversight of the Contractor’s activities conducted under this Contract.

“Health Care Authority” or “HCA” means the Washington State Health Care Authority, any division, section, office, unit or other entity of HCA, or any of the officers or other officials lawfully representing HCA.

“Medicaid” means the Centers for Medicaid and Medicare Services (CMS) Federal Department of Health and Human Services (DHHS) program, which is state-operated and provides medical benefits for certain indigent or low-income persons in need of health and medical care. The program is authorized by Title XIX of the Social Security Act and may only be used to cover costs for specified services for people who meet specific eligibility criteria, and program eligibility requirements. Additionally, these funds are only paid out for these services utilizing specified rates of payment for providers following a specified administrative methodology.

“Office of Contracts and Procurement” or “OCP” means the Washington State Health Care Authority central headquarters contracting office, or successor section or office.

“OMB” means the office of management and budget of the executive office of the president of the united states.

“Overpayment” means any payment or benefit to the Contractor in excess of that to which the Contractor is entitled by law, rule, or this Contract, including amounts in dispute.

“Proprietary Information” means information owned by Contractor to which Contractor claims a protectable interest under law. Proprietary Information includes, but is not limited to, information protected by copyright, patent, trademark, or trade secret laws.

“Personal information” means information identifiable to any person, including, but not limited to, information that relates to a person’s name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, other identifying numbers, and any financial identifiers.

“Program Income” means gross income earned by the non-Federal entity that is directly generated by a supported activity or earned as a result of the Federal award during the period of performance.

“Protected Health Information” or “PHI” means individually identifiable information that relates to the provision of health care to an individual; the past, present, or future physical or mental health or condition of an individual; or past, present, or future payment for provision of health care to an individual, as defined in 45 CFR 160.103. Individually identifiable information is information that identifies the individual or about which there is a reasonable basis to believe it can be used to identify the individual, and includes demographic information. PHI is information transmitted, maintained, or stored in any form or medium. 45 CFR 164.501. PHI does not include education records covered by the Family Educational Rights and Privacy Act, as amended, 20 USC 1232g(a)(4)(b)(iv).

“Public information” means information that can be released to the public. It does not need protection from unauthorized disclosure, but does need protection from unauthorized change that may mislead the public or embarrass hca.

“Physically Secure” means that access is restricted through physical means to authorized individuals only

“RCW” means the revised code of washington. All references in this contract to rcw chapters or sections shall include any successor, amended, or replacement statute. Pertinent rcw chapters can be accessed at: <http://apps.leg.wa.gov/rcw/>.

“Recovery” means the processes through which people are able to live, work, learn and participate fully in their community.

“Recovery Support Services” means a broad range of non-clinical services that assist individuals and families to initiate, stabilize, and maintain long-term Recovery from Substance Use Disorders.

“Regulation” means any federal, state, or local regulation, rule, or ordinance.

“Secured Area” means an area to which only authorized representatives of the entity possessing the confidential information have access. Secured areas may include buildings, rooms or locked storage containers (such as a filing cabinet) within a room, as long as access to the confidential information is not available to unauthorized personnel.

“Sensitive information” means information that is not specifically protected by law, but should be limited to official use only, and protected against unauthorized access.

“Subcontract” means any separate agreement or contract between the Contractor and an individual or entity (“Subcontractor”) to perform all or a portion of the duties and obligations that the contractor is obligated to perform pursuant to this contract.

“Substance Use Disorder” or “SUD” means a cluster of cognitive, behavioral, and physiological symptoms indicating that an individual continues using the substance despite significant substance-related problems. The diagnosis of a Substance Use Disorder is based on a pathological pattern of behaviors related to the use of the substances.

“Successor” means any entity which, through amalgamation, consolidation, or other legal succession becomes invested with rights and assumes burdens of the original contractor.

“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.

“Trusted Systems” include only the following methods of physical delivery:

- Hand-delivery by a person authorized to have access to the Confidential Information with written acknowledgement of receipt
- United States Postal Service (USPS) first class mail, or USPS delivery services that include Tracking, such as Certified Mail, Express Mail or Registered Mail
- Commercial delivery services (e.g. Fedex, UPS, DHL) which offer tracking and receipt confirmation; and
- The Washington State Campus mail system.

For electronic transmission, the Washington State Governmental Network (SGN) is a Trusted System for communications within that Network.

“USC” means the United States Code. All references in this Contract to USC chapters or sections will include any successor, amended, or replacement statute. The USC may be accessed at <http://uscode.house.gov/>

“Vendor” means a dealer, distributor, merchant, or other seller providing goods or services that are required for the conduct of a federal program. These goods or services may be for an organization's own use or for the use of beneficiaries of the federal program. See omb circular a-133 for additional details.

“WAC” means the Washington administrative code. All references in this contract to WAC chapters or sections shall include any successor, amended, or replacement regulation. Pertinent WAC chapters or sections can be accessed at: <http://apps.leg.wa.gov/wac/>

“Young Adult” means an individual from age eighteen (18) through twenty (20).

“Youth” means an individual from age ten (10) through age seventeen (17).

2. Term

- 2.1. The initial term of the Contract will commence on July 1, 2022, or date of last signature, whichever is later, and continue through June 30, 2023, unless terminated sooner as provided herein.

2.2. This Contract may be extended for up to 5 additional 1-year periods. No change in terms and conditions will be permitted during these extensions unless specifically agreed to in writing.

2.3. Work performed without a contract or amendment signed by the authorized representatives of both parties will be at the sole risk of the Contractor. HCA will not pay any costs incurred before a contract or any subsequent amendment(s) is fully executed.

3. Performance Monitoring

HCA will monitor the performance of the Contractor against goals and performance standards as stated in Exhibit A: Statement of Work. Substandard performance as determined by HCA will constitute non-compliance with this Contract. If action to correct such substandard performance is not taken by the Contractor within a reasonable period of time after being notified by HCA, suspension or termination procedures will be initiated.

4. Subcontracting

Neither the Contractor nor any Subcontractor shall enter into subcontracts for any of the work contemplated under this Contract without obtaining prior written approval of the Authority. In no event shall the existence of the subcontract operate to release or reduce the liability of the contractor to the Authority for any breach in the performance of the Contractor's duties. This clause does not include contracts of employment between the Contractor and personnel assigned to work under this Contract.

Additionally, the Contractor is responsible for ensuring that all terms, conditions, assurances and certifications set forth in this Contract are carried forward to any subcontracts. Contractor and its subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons Confidential Information without the express written consent of the Authority or as provided by law.

If at any time during the progress of the work, the Authority determines in its sole judgment that any subcontractor is incompetent or undesirable, the Authority shall notify the Contractor, and the Contractor shall take immediate steps to terminate the subcontractor's involvement in the work.

The rejection or approval by the Authority of any subcontractor or the termination of a subcontractor shall not relieve the Contractor of any of its responsibilities under this Contract, nor be the basis for additional charges to the Authority.

The Authority has no contractual obligations to any subcontractor or vendor under contract to the Contractor. The Contractor is fully responsible for all contractual obligations, financial or otherwise, to their subcontractors.

4.1. Subcontract Monitoring

The Contractor shall obtain prior approval before entering into any subcontracting arrangement. In addition, the Contractor shall submit to the DBHR Program Manager identified on page one (1) of this Contract at least one of the following for review and approval purposes:

- Copy of the proposed subcontract to ensure it meets all HCA requirements; or

- Copy of the Contractor's standard contract template to ensure it meets all requirements and approve only subcontracts entered into using that template; or
- Certify in writing that the subcontractor meets all requirements under the Contract and that the subcontract contains all required language under the Contract, including any data security, confidentiality and/or Business Associate language, as appropriate.

4.2. Monitoring Activities

The Contractor is required to meet or exceed the monitoring activities, as outlined below. Compliance will be monitored throughout the performance period to assess risk. Concern will be addressed through a Corrective Action Plan. Monitoring activities may include, but are not limited to:

- Review of financial and performance reports
- Monitoring and documenting the completion of Contract deliverables
- Documentation of phone calls, meetings (e.g. agendas, sign-in sheets, meeting minutes), e-mails and correspondence
- Review of reimbursement requests and supporting documentation to ensure allowbaility and consistency with Contract work plan, budget and Federal requirements
- Observation and documentation of Contract-related activities, such as trainings and events
- On-site visits to review records and inventories, to verify source documentation for reimbursement requests and performance reports, and to verify completion of deliverables

5. Compensation and Billing

5.1. Consideration and Source of Funds

Total consideration payable to the Contractor for satisfactory performance of the work under this Contract is up to a maximum of \$XXX, including any and all expenses; and shall be based on completion and reporting to HCA of the work set forth in Exhibit A, Statement of Work. (A specific payment schedule will be developed mutually between Contractor and HCA after announcement of ASA(s) but prior to execution of the contract).

Funding for any additional periods past the initial term are contingent on satisfactory completion of all contract requirements and continued state funding.

5.2. Invoice System.

The Contractor shall submit invoices using State Form A-19 Invoice Voucher, or such other form as designated by HCA. Consideration for services rendered shall be payable upon receipt of properly completed invoices which shall be submitted to HCA at Acctspay@hca.wa.gov by the Contractor not more often than monthly. Please include the contract number in the subject line of the email.

Invoices must describe and document to HCA's satisfaction a description of the work performed, the progress of the project, and fees. If expenses are invoiced, invoices must provide a detailed breakdown of each type. Any single expense in the amount of

\$50.00 or more must be accompanied by a receipt in order to receive reimbursement. All invoices will be reviewed and must be approved by the Contract Manager or his/her designee prior to payment.

Contractor must submit properly itemized invoices to include the following information, as applicable:

- i. HCA Contract number K _____ ;
- ii. Contractor name, address, phone number;
- iii. DUNS Number
- iv. Description of Services;
- v. Date(s) of delivery;
- vi. Net invoice price for each item;
- vii. Applicable taxes;
- viii. Total invoice price; and
- ix. Payment terms and any available prompt payment discount.

HCA will return incorrect or incomplete invoices to the Contractor for correction and reissue. The Contract Number must appear on all invoices, bills of lading, packages, and correspondence relating to this Contract.

In order to receive payment for services or products provided to a state agency, Contractor must register with [the Statewide Payee Desk](https://ofm.wa.gov/it-systems/statewide-vendorpayee-services/receiving-payment-state) at <https://ofm.wa.gov/it-systems/statewide-vendorpayee-services/receiving-payment-state>. Payment will be considered timely if made by HCA within thirty (30) calendar days of receipt of properly completed invoices. Payment will be directly deposited in the bank account or sent to the address Contractor designated in its registration.

Upon expiration of the Contract, any claims for payment for costs due and payable under this Contract that are incurred prior to the expiration date must be submitted by the Contractor to HCA within sixty (60) calendar days after the Contract expiration date. HCA is under no obligation to pay any claims that are submitted sixty-one (61) or more calendar days after the Contract expiration date ("Belated Claims"). HCA will pay Belated Claims at its sole discretion, and any such potential payment is contingent upon the availability of funds.

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

5.3. Overpayments

If it is determined by the Authority, or during the course of a required audit, that the Contractor has been paid unallowable costs under this Contract, the Authority may require the Contractor to reimburse the Authority in accordance with OMB Circular A-87.

If the Contractor receives a vendor overpayment notice or a letter communicating the existence of an overpayment from the Washington State Department of Social and

Health Services, Office of Financial Recovery (OFR), the Contractor may protest the overpayment determination by requesting an adjudicative proceeding. The Contractor's request for an adjudicative proceeding must:

- Be received by the OFR at Post Office Box 79501, Olympia, Washington 98507-9501, within twenty-eight (28) calendar days of service of the notice;
- Be sent by certified mail (return receipt) or other manner that proves OFR received the request;
- Include a statement as to why the Contractor thinks the notice is incorrect; and
- Include a copy of the overpayment notice.

Timely and complete requests will be scheduled for a formal hearing by the Washington State Office of Administrative Hearings. The Contractor may be offered a pre-hearing or alternative dispute resolution conference in an attempt to resolve the overpayment dispute prior to the hearing.

Failure to provide OFR with a written request for a hearing within twenty-eight (28) days of service of a vendor overpayment notice or other overpayment letter will result in an overpayment debt against the Contractor. HCA may charge the Contractor interest and any costs associated with the collection of this overpayment. HCA may collect an overpayment debt through lien, foreclosure, seizure and sale of the Contractor's real or personal property; order to withhold and deliver; or any other collection action available to HCA to satisfy the overpayment debt.

6. Contract Closeout

Upon termination of this Contracts in whole or in part for any reason including completion of the project, the following provisions may apply:

- A. Disposition of program assets (including the return of all unused materials, equipment, unspent cash advances, and program income balances)

7. Remedial Action

7.1. Causes

HCA may initiate remedial action if HCA determines any of the following situations exists:

- A problem exists that negatively impacts individuals receiving services under this Contract;
- The Contractor has failed to perform any of the requirements or services required under this Contract;
- The Contractor has failed to develop, produce, and/or deliver to HCA any of the statements, reports, data, data corrections, accountings, claims, and/or documentation required under this Contract;

- The Contractor has failed to perform any administrative functions required under this Contract, where administrative function is defined as any obligation other than the actual provision of mental health services;
- The Contractor has failed to implement corrective action required by the state and within HCA prescribed timeframes

7.2. Corrective Action Plans

HCA may require the Contractor to develop a corrective action plan, which must be submitted for approval to HCA within 15 calendar days of notification. Corrective action plans may require modification to any policies or procedures by the Contractor relating to fulfillment of its obligations pursuant to this Contract. HCA, at its sole discretion, may extend or reduce the time allowed for corrective action depending upon the nature of the situation.

- a. Corrective action plans must at a minimum include:
 - i. A brief description of the finding(s), including all relevant information specific to the issue(s)
 - ii. Specific actions taken and to be taken by the Contractor, including: a timetable; a description of the monitoring to be performed
- b. Corrective action plans are subject to approval by HCA. HCA MAY
 - i. Accept the plan as submitted;
 - ii. Accept the plan with specified modifications;
 - iii. Request a modified plan;
 - iv. Reject the plan

8. Third-Party Beneficiaries

Although HCA and Contractor mutually recognize that services under this Contract may be provided by the Contractor to individuals receiving services under the Medicaid program, and chapters 71.05, 71.24, and 71.34 RCW, it is not the intention of either HCA or the Contractor that such individuals, or any other persons, occupy the position of intended third-party beneficiaries of the obligations assumed by either party to this Contract.

9. Disputes

9.1. Requesting a dispute

- Requests must be sent by certified mail or other method providing a signed receipt to the following address:

Office of Contracts and Procurements
Health Care Authority
PO Box 42702
Olympia, Washington 98504-2702

- Requests must be received by Contract Services no later than twenty-eight (28) calendar days after this Contract expiration or termination.
- Requests must identify in writing the spokesperson for the Contractor, if other than the Contractor's signatory.

9.2. Content of the dispute request:

The party requesting a dispute resolution shall submit a statement that:

- Identifies the issue(s) in dispute
- Identifies the relative positions of the parties
- Requests resolution through the current HCA process

9.3. Action on the request:

- HCA shall notify the non-requesting party that the request has been made, notify both parties of the dispute resolution process to be followed, and manage the process to its conclusion.
- The Contractor shall provide pertinent information as requested by the person assigned to resolve the dispute.

Contractor and HCA agree that, the existence of a dispute notwithstanding, they will continue without delay to carry out all their respective responsibilities under this Contract that are not affected by the dispute Insurance.

10. Insurance.

The Contractor shall at all times comply with the following insurance requirements.

10.1. General Liability Insurance

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

In lieu of general liability insurance mentioned above, if the Contractor is a sole proprietor with less than three contracts, the Contractor may choose one of the following three general liability policies but only if attached to a professional liability policy, and if selected the policy shall be maintained for the life of this Contract:

Supplemental Liability Insurance, including coverage for bodily injury and property damage that will cover the contractor wherever the service is performed with the following minimum limits: Each Occurrence - \$1,000,000; General Aggregate - \$2,000,000. The State of Washington, Health Care Authority (HCA) it's elected and appointed officials, agents, and employees shall be named as additional insureds.

10.2. Business Auto Liability Insurance (BAL)

The Contractor shall maintain a Business Automobile Policy on all vehicles used in the performance of work under this Contract, including vehicles hired by the Contractor or owned by the Contractor's employees, volunteers or others, with the following minimum limits: \$1,000,000 per accident combined single limit. The Contractor's carrier shall provide HCA with a waiver of subrogation or name HCA as an Additional Insured.

10.3. Professional Liability Insurance (PL)

The Contractor shall maintain Professional Liability Insurance or Errors & Omissions insurance, including coverage for losses caused by errors and omissions, with the following minimum limits: Each Occurrence - \$1,000,000; Aggregate - \$2,000,000.

10.4. Worker's Compensation

The Contractor shall comply with all applicable Worker's Compensation, occupational disease, and occupational health and safety laws and regulations. The State of Washington and HCA shall not be held responsible for claims filed for Worker's Compensation under Title 51 RCW by the Contractor or its employees under such laws and regulations.

10.5. Employees and Volunteers

Insurance required of the Contractor under the Contract shall include coverage for the acts and omissions of the Contractor's employees and volunteers. In addition, the Contractor shall ensure that all employees and volunteers who use vehicles to transport clients or deliver services have personal automobile insurance and current driver's licenses.

10.6. Subcontractors

The Contractor shall ensure that all subcontractors have and maintain insurance with the same types and limits of coverage as required of the Contractor under this Contract.

10.7. Separation of Insureds

All insurance policies shall include coverage for cross liability and contain a "Separation of Insureds" provision.

10.8. Insurers

The Contractor shall obtain insurance from insurance companies identified as an admitted insurer/carrier in the State of Washington, with a Best's Reports' rating of B++, Class VII, or better. Surplus Lines insurance companies will have a rating of A-, Class VII, or better.

10.9. Evidence of Coverage

The Contractor, upon request by HCA staff, submits a copy of the Certificate of Insurance, policy, and additional insured endorsement for each coverage required of the Contractor under this Contract. The Certificate of Insurance shall identify the Washington State Health Care Authority (HCA) as the Certificate Holder. A duly authorized representative of each insurer, showing compliance with the insurance

requirements specified in this Contract, shall execute each Certificate of Insurance. The Contractor is not required to submit to the HCA copies of Certificates of Insurance for personal automobile insurance required of the Contractor's employees and volunteers under the Contract.

The Contractor shall maintain copies of Certificates of Insurance for each subcontractor as evidence that each subcontractor maintains insurance as required by the Contract.

10.10. Material Changes

The insurer shall give HCA 45 days advance written notice of cancellation or non-renewal. If cancellation is due to non-payment of premium, the insurer shall give HCA 10 days advance written notice of cancellation.

10.11. General

By requiring insurance, the State of Washington and HCA do not represent that the coverage and limits specified will be adequate to protect the Contractor. Such coverage and limits shall not be construed to relieve the Contractor from liability in excess of the required coverage and limits and shall not limit the Contractor's liability under the indemnities and reimbursements granted to the State and HCA in this Contract. All insurance provided in compliance with this Contract shall be primary as to any other insurance or self-insurance programs afforded to or maintained by the State.

11. Notices.

Whenever one party is required to give notice to the other party under this Contract, it shall be deemed given if mailed by United States Postal Service, registered or certified mail, return receipt requested, postage prepaid and addressed as follows:

- a. In the case of notice to the Contractor, notice shall be sent to the point of contact identified on page one (1) of this Contract;
- b. In the case of notice to HCA, notice shall be sent to:

Office of Contracts and Procurements
Washington State Health Care Authority
P. O. Box 42702
Olympia, Washington 98504-2702
Taxes, Fees and Licenses. Contracts@hca.wa.gov

Said notice shall become effective on the date delivered as evidenced by the return receipt or the date returned to sender for non-delivery other than for insufficient postage. Either party may at any time change its address for notification purposes by mailing a notice in accordance with this Section, stating the change and setting forth the new address, which shall be effective on the tenth (10th) day following the effective date of such notice unless a later day is specified in the notice.

12. Taxes, Fees and Licenses

12.1. Taxes

Where required by state statute or regulation, the Contractor shall pay for and maintain in current status and all taxes that are necessary for performance under this Contract. Unless otherwise indicated, HCA agrees to pay State of Washington sales or use taxes on all applicable consumer services and materials purchased. The Contractor shall not charge federal excise taxes and the HCA agrees to furnish the Contractor with an exemption certificate where appropriate.

In general, Contractors engaged in retail sales activities within the State of Washington are required to collect and remit sales tax to the Department of Revenue (DOR). In general, out-of-state Contractors must collect and remit "use tax" to DOR if the activity carried on by the seller in the State of Washington is significantly associated with the Contractor's ability to establish or maintain a market for its products in Washington State. Examples of such activity include where the Contractor either directly or by an agent or representative:

- Maintains an in-state office, distribution house, sales house, warehouse, service enterprise, or any other in-state place of business;
- Maintains an in-state inventory or stock of goods for sale;
- Regularly solicits orders from purchasers located within the State of Washington via sales representatives entering the State of Washington;
- Sends other staff into the State of Washington (e.g. product safety engineers, etc.) to interact with purchasers in an attempt to establish or maintain market(s); or
- Other factors identified in Chapter 458-20 WAC.

12.2. Fees/Licenses

Contractor shall pay for and maintain in a current status, any license fees, assessments, permit changes, etc., which are necessary for contract performance. It is the Contractor's sole responsibility to monitor and determine any changes of the enactment of any subsequent regulations for said fees, assessments or charges and to immediately comply with said changes or regulations during the entire term of this Contract.

13. Access to Data

In compliance with RCW 39.26.180 (2) and federal rules, the Contractor must provide access to any data generated under this Contract to HCA, the Joint Legislative Audit and Review Committee, the State Auditor, and any other state or federal officials so authorized by law, rule, regulation, or agreement at no additional cost. This includes access to all information that supports the findings, conclusions, and recommendations of the Contractor's reports, including computer models and methodology for those model.

14. Advance Payment

HCA shall not make any payments in advance or anticipation of the delivery of services to

be provided pursuant to this Contract.

15. Amendment

This Contract may be amended by mutual agreement of the parties. Such amendments will not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

16. Antitrust Assignment

The Contractor hereby assigns to the State of Washington any and all of its claims for price fixing or overcharges which arise under the antitrust laws of the United States, or the antitrust laws of the State of Washington, relating to the goods, products or services obtained under this Contract.

17. Assignment

Contractor may not assign or transfer all or any portion of this Contract or any of its rights hereunder, or delegate any of its duties hereunder, except delegations as set forth in Section 4, *Subcontracting*, without the prior written consent of HCA. Any permitted assignment will not operate to relieve Contractor of any of its duties and obligations hereunder, nor will such assignment affect any remedies available to HCA that may arise from any breach of the provisions of this Contract or warranties made herein, including but not limited to, rights of setoff. Any attempted assignment, transfer or delegation in contravention of this Contract will be null and void. HCA may assign this Contract to any public agency, commission, board, or the like, within the political boundaries of the State of Washington, with written notice of thirty (30) calendar days to Contractor.

This Contract will inure to the benefit of and be binding on the parties hereto and their permitted successors and assigns

18. Warranties

- 18.1.** Contractor represents and warrants that it will perform all services pursuant to this Contract in a professional manner and with high quality and will immediately re-perform any services that are not in compliance with this representation and warranty at no cost to HCA.
- 18.2.** Contractor represents and warrants that it will comply with all applicable local, State, and federal licensing, accreditation and registration requirements and standards necessary in the performance of the Services.
- 18.3.** EXECUTIVE ORDER 18-03 – WORKERS’ RIGHTS (MANDATORY INDIVIDUAL ARBITRATION). Contractor represents and warrants, as previously certified in Contractor’s bid submission, that Contractor does NOT require its employees, as a condition of employment, to sign or agree to mandatory individual arbitration clauses or class or collective action waivers. Contractor further represents and warrants that, during the term of this Contract, Contractor shall not, as a condition of employment, require its employees to sign or agree to mandatory individual arbitration clauses or class or collective action waivers.

18.4. Any written commitment by Contractor within the scope of this Contract will be binding upon Contractor. Failure of Contractor to fulfill such a commitment may constitute breach and will render Contractor liable for damages under the terms of this Contract. For purposes of this section, a commitment by Contractor includes: (i) Prices, discounts, and options committed to remain in force over a specified period of time; and (ii) any warranty or representation made by Contractor to HCA or contained in any Contractor publications, or descriptions of services in written or other communication medium, used to influence HCA to enter into this Contract.

19. Assurances

The Authority and the Contractor agree that all activity pursuant to this Contract will be in accordance with all applicable federal, state and local laws, rules, and regulations.

20. Attorneys Fees

In the event of litigation or other action brought to enforce contract terms, each party agrees to bear its own attorneys' fees and costs.

21. Rights of State and Federal Governments

In accordance with 45 C.F.R. 95.617, all appropriate state and federal agencies, including but not limited to the Centers for Medicare and Medicaid Services (CMS), will have a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, translate, or otherwise use, and to authorize others to use for Federal Government purposes: (i) software, modifications, and documentation designed, developed or installed with Federal Financial Participation (FFP) under 45 CFR Part 95, subpart F; (ii) the Custom Software and modifications of the Custom Software, and associated Documentation designed, developed, or installed with FFP under this Contract; (iii) the copyright in any work developed under this Contract; and (iv) any rights of copyright to which Contractor purchases ownership under this Contract.

22. Billing Limitations

The Authority shall pay the Contractor only for authorized services provided in accordance with this Contract.

The Authority shall not pay any claims for payment for services submitted more than twelve (12) months after the calendar month in which the services were performed. The authority within the special terms and conditions of this contract may reduce length of time following the provision of services in which the contractor may submit claims for payment.

The contractor shall not bill and hca shall not pay for services performed under this contract, if the contractor has charged or will charge another agency of the state of washington or any other party for the same services.

23. Change in Status

In the event of substantive change in the legal status, organization structure, or fiscal reporting responsibility of the Contractor, the Contractor agrees to notify the Office of Contracts and Procurement (OCP) of the change. The Contractor shall provide notice as

soon as practicable, but no later than thirty (30) days after such a change takes effect.

24. Compliance with Applicable Law

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

Pursuant to Proclamation 21-14 – COVID-19 Vaccination Requirement (dated August 9, 2021) as amended by Proclamation 21-14.1 – COVID-19 Vaccination Requirement (dated August 20, 2021) (“Proclamation”) all contractors and any of their employees and/or subcontractors who provide contracted services on-site at HCA facilities must certify that they are fully vaccinated against the COVID-19 virus, unless properly excepted or exempted for disability or sincerely held religious beliefs as set forth in the Proclamation. Contractors who cannot so certify are prohibited from contracting with the state.

Contractor represents and warrants that should their responsibilities to the HCA involve on-site services as of October 18, 2021, Contractor’s personnel (including subcontractors) providing such services will be fully vaccinated against the COVID-19 virus unless properly excepted or exempted for disability or sincerely held religious beliefs as set forth in the Proclamation. Contractor further understands that, upon request, Contractor personnel must provide to HCA proof of vaccination, in a manner established by the HCA. Failure to meet these requirements may result in the immediate termination of this Contract.

During the performance of this Contract, the Contractor must comply with all federal and state nondiscrimination laws, regulations and policies, including but not limited to: Title VII of the Civil Rights Act, 42 U.S.C. §12101 et seq.; the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. §12101 et seq., 28 CFR Part 35; and Title 49.60 RCW, Washington Law Against Discrimination. In the event of Contractor’s noncompliance or refusal to comply with any nondiscrimination law, regulation or policy, this Contract may be rescinded, canceled, or terminated in whole or in part under the Termination for Default sections, and Contractor may be declared ineligible for further contracts with HCA.

Failure to comply with any provisions of this section may result in Contract termination.

25. Conflict of Interest

Notwithstanding any determination by the Executive Ethics Board or other tribunal, the Authority may, in its sole discretion, by written notice to the Contractor terminate this Contract if it is found after due notice and examination by the Agent that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW; or any similar statute involving the Contractor in the procurement of, or services under this Contract.

In the event this Contract is terminated as provided above, the Authority shall be entitled to pursue the same remedies against the Contractor as it could pursue in the event of a breach of this Contract by the Contractor. The rights and remedies of the Authority provided for in this Section shall not be exclusive and are in addition to any other rights and remedies provided by the law. The existence of facts upon which the Agent makes any determination under this Section shall be an issue and may be reviewed as provided in the “Disputes” Section of this Contract.

26. Conformance

If any provision of this Contract violates any statute or rule of law of the State of Washington, it is considered modified to conform to that statute or rule of law.

27. Contractor Certification Regarding Ethics

The Contractor certifies that the Contractor is now, and shall remain, in compliance under Chapter 42.52 RCW, Ethics in Public Service, throughout the term of this Contract.

28. Covenant Against Contingent Fees

The Contractor warrants that no person or selling agent has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established agents maintained by the Contractor for the purpose of securing business. The Authority shall have the right, in the event of breach of this clause by the Contractor, to annul this Contract without liability or, in its discretion, to deduct from the contract price or consideration or recover by other means the full amount of such commission, percentage, brokerage or contingent fee.

29. Debarment Certifications

The Contractor, by signature to this Contract, certifies that the Contractor is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency from participating in transactions (Debarred). The Contractor also agrees to include the above requirement in any and all Subcontracts into which it enters. The Contractor shall immediately notify the HCA Contact designated on the cover page of this Contract if, during the term of this Contract, the Contractor becomes debarred. HCA may immediately terminate this Contract by providing Contractor written notice if Contractor becomes Debarred during the term of this Contract.

30. Force Majeure

If the Contractor is prevented from performing any of its obligations hereunder in whole or in part as a result of a major epidemic, act of God, war, terrorist acts, civil disturbance, court order, or any other cause beyond its control, such nonperformance shall not be grounds for termination for default. Immediately upon the occurrence of any such event, the Contractor shall commence to use its best efforts to provide, directly or indirectly, alternate and, to the extent practicable, comparable performance. Nothing in this Section shall be construed to prevent HCA from terminating this Contract for reasons other than for default during the period of event set forth above, or for default, if such default occurred prior to such event.

31. Fraud and Abuse Requirements

The Contractor shall report in writing all verified cases of fraud and abuse, including fraud and abuse by the Contractor's employees and/or subcontractors, within five (5) business days, to the HCA Contact designated on page one of this Contract. The report shall include the following information:

- Subject(s) of complaint by name and either provider/subcontractor type or employee position;

- Source of complaint by name and provider/subcontractor type or employee position;
- Nature of complaint;
- Estimate of the amount of funds involved; and
- Legal and administrative disposition of case

32. Governing Law and Venue

This Contract shall be construed and interpreted in accordance with the laws of the state of Washington and the venue of any action brought hereunder shall be in Superior Court for Thurston County.

33. Health and Safety

Contractor shall perform any and all of its obligations under this Contract in a manner that does not compromise the health and safety of any HCA client with whom the Contractor has contact.

34. Hold Harmless and Indemnification

- a. The Contractor shall be responsible for and shall indemnify, defend, and hold HCA harmless from all claims, loss, liability, damages, or fines arising out of or relating to:
 - i. The Contractor's or any Subcontractor's performance or failure to perform this Contract, or
 - ii. The acts or omissions of the Contractor or any Subcontractor;
- b. The Contractor waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend, and hold harmless the State and its agencies, officials, agents, or employees.

Nothing in this Section shall be construed as a modification or limitation on the Contractor's obligation to procure insurance in accordance with this Contract or the scope of said insurance.

35. Independent Contractor

The parties intend that an independent contractor relationship will be created by this Contract. The Contractor and his or her employees or agents performing under this Contract are not employees or agents of the Authority. The Contractor, his or her employees, or agents performing under this Contract will not hold himself/herself out as, nor claim to be, an officer or employee of the Authority by reason hereof, nor will the Contractor, his or her employees, or agent make any claim of right, privilege or benefit that would accrue to such officer or employee.

All payments accrued on account of payroll taxes, unemployment contributions, and other taxes, insurance or other expenses for the Contractor or its staff shall be the sole responsibility of the Contractor.

36. Industrial Insurance Coverage

The Contractor shall comply with the provisions of Title 51 RCW, Industrial Insurance. If the Contractor fails to provide industrial insurance coverage or fails to pay premiums or

penalties on behalf of its employees, as may be required by law, HCA may collect from the Contractor the full amount payable to the Industrial Insurance accident fund. HCA may deduct the amount owed by the Contractor to the accident fund from the amount payable to the Contractor by HCA under this Contract, and transmit the deducted amount to the Department of Labor and Industries, (L&I) Division of Insurance Services. This provision does not waive any of L&I's rights to collect from the Contractor.

37. Inspection

The Contractor shall, at no cost, provide HCA and the Office of the State Auditor with reasonable access to Contractor's place of business, Contractor's records, and HCA client records, wherever located. These inspection rights are intended to allow HCA and the Office of the State Auditor to monitor, audit, and evaluate the Contractor's performance and compliance with applicable laws, regulations, and these Contract terms. These inspection rights shall survive for six (6) years following this Contract's termination or expiration.

38. Limitation of Authority

Only the Agent or Agent's delegate by writing (delegation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Contract. Furthermore, any alteration, amendment, modification, or waiver of any Section or condition of this Contract is not effective or binding unless made in writing and signed by the Agent or Agent's delegate.

39. Maintenance of Records

The Contractor shall maintain records relating to this Contract and the performance of the services described herein. The records include, but are not limited to, accounting procedures and practices, which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Contract. All records and other material relevant to this Contract shall be retained for six (6) years after expiration or termination of this Contract.

Without agreeing that litigation or claims are legally authorized, if any litigation, claim, or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

40. Ownership of Material

Unless otherwise provided, all Materials produced under this Contract shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned by the Authority. The Authority shall be considered the author of such Materials. In the event the Materials are not considered "works for hire" under the U.S. Copyright laws, Contractor hereby irrevocably assigns all right, title, and interest in Materials, including all intellectual property rights, to the Authority effective from the moment of creation of such Materials.

Materials means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. Ownership includes the right to copyright, patent, register and the ability to transfer these rights.

The Contractor shall exert all reasonable effort to advise the Authority, at the time of delivery of Materials furnished under this Contract, of all known or potential invasions of privacy

contained therein and of any portion of such document which was not produced in the performance of this Contract. The Authority shall receive prompt written notice of each notice or claim of copyright infringement received by the Contractor with respect to any data delivered under this Contract. The Authority shall have the right to modify or remove any restrictive markings placed upon the data by the Contractor.

41. Publicity

The Contractor agrees to submit to the Authority all advertising and publicity matters relating to this Contract wherein the Authority's name is mentioned or language used from which the connection of the Authority's name may, in the Authority's judgment, be inferred or implied. The Contractor agrees not to publish or use such advertising and publicity matters without the prior written consent of the Authority.

The award of this Contract to Contractor is not in any way an endorsement of Contractor or Contractor's Services by HCA and must not be so construed by Contractor in any advertising or other publicity materials.

Contractor agrees to submit to HCA, all advertising, sales promotion, and other publicity materials relating to this Contract or any Service furnished by Contractor in which HCA's name is mentioned, language is used, or Internet links are provided from which the connection of HCA's name with Contractor's Services may, in HCA's judgment, be inferred or implied. Contractor further agrees not to publish or use such advertising, marketing, sales promotion materials, publicity or the like through print, voice, the Web, and other communication media in existence or hereinafter developed without the express written consent of HCA prior to such use.

42. Registration with the State of Washington

The Contractor shall be responsible for registering with Washington State agencies, including but not limited to, the Washington State Department of Revenue, the Washington Secretary of State's Corporations Division, and the Washington State Office of Financial Management, Division of Information Services' Statewide Vendors program.

43. Savings

In the event funding from State, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Contract and prior to its completion or termination, the Authority may terminate this Contract under the "Termination Due to Change in Funding" Section, without the ten (10) day notice requirement, subject to renegotiation at the Authority's discretion under those new funding limitations and conditions.

44. Severability

If any term or condition of this Contract is held invalid by any court, the remainder of this Contract remains valid and in full force and effect.

45. Site Security

While on the Authority's premises, the Contractor, its agents, employees, or subcontractors shall conform in all respects with physical, fire or other security policies or regulations. Failure to comply with these regulations and/or policies may be grounds for revoking or suspending security access to these facilities. The Authority reserves the right and authority

to immediately revoke security access for the Contractor's agents, employees, and/or subcontractors for any real or threatened breach of this provision. Upon reassignment or termination of any Contractor staff, the Contractor agrees to promptly notify OCP.

While on HCA premises, Contractor, its agents, employees, or Subcontractors must conform in all respects with physical, fire or other security policies or regulations. Failure to comply with these regulations may be grounds for revoking or suspending security access to these facilities. HCA reserves the right and authority to immediately revoke security access to Contractor staff for any real or threatened breach of this provision. Upon reassignment or termination of any Contractor staff, Contractor agrees to promptly notify HCA.

46. Survivability

The terms and conditions contained in this Contract which, by their sense and context, are intended to survive the expiration or termination of this particular agreement shall survive. Surviving terms include, but are not limited to: Billing Limitations; Confidentiality, Disputes; Indemnification and Hold Harmless, Inspection, Maintenance of Records, Notice of Overpayment, Ownership of Material, Termination for Default, Termination Procedure, and Treatment of Property.

47. System Security

Unless otherwise provided, the Contractor agrees not to attach any Contractor-supplied computers, peripherals or software to the Authority Network without prior written authorization from Authority's Security Administrator. Contractor-supplied computer equipment, including both hardware and software, must be reviewed by the Authority's Security Administrator prior to being connected to any Authority network connection and that it must have up-to-date anti-virus software and personal firewall software installed and activated on it.

Unauthorized access to Authority networks and systems is a violation of Authority Policy 06-03 and constitutes computer trespass in the first degree pursuant to RCW 9A.52.110. Violation of any of these laws or policies could result in termination of this Contract and other penalties.

48. Termination for Convenience

Except as otherwise provided in this Contract, the Agent, or designee, may, by giving ten (10) calendar days written notice, beginning on the second day after the mailing, terminate this Contract in whole or in part when it is in the best interest of the Authority. If this Contract is so terminated, the Authority shall be liable only for payment in accordance with the terms of this Contract for services rendered prior to the effective date of termination.

49. Termination for Default

In the event the Authority determines the Contractor has failed to comply with the terms and conditions of this Contract, the Authority has the right to suspend or terminate this Contract. The Authority shall notify the Contractor in writing of the need to take corrective action. If corrective action is not taken within ten (10) business days, this Contract may be terminated. The Authority reserves the right to suspend all or part of this Contract, withhold further payments, or prohibit the Contractor from incurring additional obligations of funds during

investigation of the alleged compliance breach and pending corrective action by the Contractor or a decision by the Authority to terminate this Contract.

In the event of termination, the Contractor shall be liable for damages as authorized by law including, but not limited to, any cost difference between the original contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, e.g., cost of the competitive bidding, mailing, advertising, and staff time. The termination shall be deemed a "Termination for Convenience" if it is determined that the Contractor:

- Was not in default, or
- Failure to perform was outside of his or her control, fault or negligence.

50. Termination Due to Change in Funding

If the funds HCA relied upon to establish this Contract are withdrawn, reduced or limited, or if additional or modified conditions are placed on such funding, HCA may immediately terminate or unilaterally amend this Contract by providing written notice to the Contractor. The termination shall be effective on the date specified in the termination notice.

51. Termination or Expiration Procedures

The following terms and conditions apply upon Contract termination or expiration:

- a. The Authority, in addition to any other rights provided in this Contract, may require the Contractor to deliver to the Authority any property specifically produced or acquired for the performance of such part of this Contract as has been terminated.
- b. The Authority shall pay to the Contractor the agreed upon price, if separately stated, for completed work and service accepted by the Authority's program staff and the amount agreed upon by the Contractor and the Authority for:
 - i. Completed work and services for which no separate price is stated;
 - ii. Partially completed work and services;
 - iii. Other property or services which are accepted by the Authority's program staff; and
 - iv. The protection and preservation of property unless the termination is for default, in which case the Agent or designee shall determine the extent of the liability. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" Section of the Contract. The Authority may withhold from any amounts due the Contractor such sum as the Agent or designee determines to be necessary to protect the Authority against potential loss or liability.
- c. The rights and remedies of the Authority provided in this Section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.
- d. After receipt of notice of termination, and except as otherwise directed by the Agent or designee, the Contractor shall:

- i. Stop work under this Contract on the date, and to the extent specified in the notice;
- ii. Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under this Contract that is not terminated;
- iii. Assign to the Authority, in the manner, at the times, and to the extent directed by the Agent or designee, all the rights, title, and interest of the Contractor under the orders and subcontracts so terminated; in which case the Authority has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
- iv. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Agent or designee to the extent the Agent or designee may require, which approval or ratification shall be final for all the purposes of this Section;
- v. Transfer title to the Authority and deliver in the manner, at the times, and to the extent directed by the Agent or designee any property which, if this Contract has been completed, would have been required to be furnished to the Authority;
- vi. Complete performance of such part of the work as shall not have been terminated by the Agent or designee; and
- vii. Take such action as may be necessary, or as the Agent or designee may direct, for the protection and preservation of the property related to this Contract which is in the possession of the Contractor and in which the Authority has or may acquire an interest.

52. Treatment of Property

All property purchased or furnished by HCA for use by the Contractor during this Contract term shall remain with HCA. Title to all property purchased or furnished by the Contractor for which the Contractor is entitled to reimbursement by HCA under this Contract shall pass to and vest in HCA. The Contractor shall protect, maintain, and insure all HCA property in its possession against loss or damage and shall return HCA property to HCA upon Contract termination or expiration.

53. Waiver

Waiver of any breach or default on any occasion shall not be deemed to be a waiver of any subsequent breach or default. Any waiver shall not be construed to be a modification of the terms and conditions of this Contract. Only the HCA Contracts Administrator or designee has the authority to waive any term or condition of this Contract on behalf of HCA.

54. Pay Equity

54.1. Contractor represents and warrants that, as required by Washington state law (Engrossed House Bill 1109, Sec. 211), during the term of this Contract, it agrees to

equality among its workers by ensuring similarly employed individuals are compensated as equals. For purposes of this provision, employees are similarly employed if (i) the individuals work for Contractor, (ii) the performance of the job requires comparable skill, effort, and responsibility, and (iii) the jobs are performed under similar working conditions. Job titles alone are not determinative of whether employees are similarly employed.

- 54.2.** Contractor may allow differentials in compensation for its workers based in good faith on any of the following: (i) a seniority system; (ii) a merit system; (iii) a system that measures earnings by quantity or quality of production; (iv) bona fide job-related factor(s); or (v) a bona fide regional difference in compensation levels.
- 54.3.** Bona fide job-related factor(s)” may include, but not be limited to, education, training, or experience, that is: (i) consistent with business necessity; (ii) not based on or derived from a gender-based differential; and (iii) accounts for the entire differential.
- 54.4.** A “bona fide regional difference in compensation level” must be (i) consistent with business necessity; (ii) not based on or derived from a gender-based differential; and (iii) account for the entire differential.
- 54.5.** Notwithstanding any provision to the contrary, upon breach of warranty and Contractor’s failure to provide satisfactory evidence of compliance within thirty (30) Days of HCA’s request for such evidence, HCA may suspend or terminate this Contract.

55. Order of Precedence

- i. Applicable Federal and State of Washington statutes and regulations;
- ii. Data Share Agreement, HCA Contract Number;
- iii. Recitals;
- iv. The terms and conditions in Section 1 through 52 of this Contract;
- v. Schedule A(s): Statement of Work;
- vi. Exhibit “X”: HCA RFA 2022HCA12 Safe Station, dated April 29, 2022
- vii. Exhibit “X” Contractor’s Response dated;
- viii. Any other provision, term or material incorporated herein by reference or otherwise incorporated.

EXHIBIT A: STATEMENT OF WORK

The Safe Station program will designate fire stations as “Safe Stations” meant to be open to the general public—24 hours a day, seven days a week. Participating fire stations will assist those suffering from drug addiction and substance abuse; the focus of the program is on addiction or abuse of all drugs and not just heroin/opioids.

A fire station that is awarded a contract under this RFA, will be a Contractor that must adhere to the following obligations:

- Must have staff on site 24 hours a day, seven days a week ready to receive individuals (hereinafter referred to as “Participants”)
 - The Contractor must:
 - Have a private, designated section of the fire station where staff can identify participants and create a record of the visit. Staff must have an intake form and also record pertinent medical and personal information (such as any means of contacting the Participant – cell phone, email) acquired during the visit. Contractor must store the information electronically and confidentially in accordance with state and federal law, including HIPAA requirements, and HCA policies.
 - Acquire any drugs and/or paraphernalia that participants may have on their possessions in a safe and non-confrontational manner. Such drugs and/or paraphernalia must be put in a locked, drop-box or other similar secure spot.
 - Provide written information to participants about drug recovery programs in the county and/or State. HCA will determine the content of the written materials and Contractor will develop, write, and disseminate the materials. The written materials must be in English. Contractor will use its discretion to determine whether it is necessary to furnish written materials in other languages. Contractor must also have basic office supplies, basic furniture, and food/snacks/water.
 - Have standard operating policies for interacting with participants at the Safe Station and, in the community when deploying a mobile response unit, if applicable.
- Must screen and assess the participant (take the participant’s vital signs and inquire about any existing medical conditions) to determine whether transportation to a medical facility is necessary. Contractor must create an objective set of medical measures to determine whether transportation to a medical facility is required. For example, if a participant’s vital signs are determined to be unstable

(to be defined by Contractor), Contractor must transport the participant to a hospital/medical facility. The Contractor must develop transportation policies for this purpose and, if applicable, policies when deploying a mobile response unit in the community.

- If Contractor determines that a participant does not require transportation to a hospital/medical facility (i.e. the participant is stable), Contractor will call for a “Behavioral Health Professional” (substance use disorder professionals, licensed practical nurses, paramedics, registered nurses, or emergency medical technicians) to further screen and assess the Participant. Contractor will wait with the participant until the Behavioral Health Professional arrives.
 - Certified substance use disorder peer specialists may be employed in a Safe Station if HCA determines that Contractor has a plan in place to provide appropriate levels of supervision and technical support.
- The Behavioral Health Professional must meet with the Participant to talk about their drug abuse or addiction needs in more detail, as well as options for treatment programs. The Behavioral Health Professional and Contractor must determine next steps for the Participant. After the Participant has left the Safe Station, Contractor and/or the Behavioral Health Professional must attempt follow-up contacts with the Participant. Contractor and/or the Behavioral Health Professional must make at least 3 attempts a week for 3 consecutive weeks following the Participant’s visit, , until Contractor and/or Behavioral Health Professional makes direct contact with Participant. If Contractor and/or Behavioral Health Professional make direct contact with the Participant, Contractor and/or Behavioral Health Professional will collaborate with Participant and Behavioral Health Administrative Services Organizations in the region to develop a streamlined process for referring Participant to the appropriate level of care.
- Communication About the Safe Station Program to the Public
 - Contractor should create awareness about the Safe Station Program in the community. Contractor should utilize a variety of outreach and communication methods to disseminate information about the Safe Station program. Contractor may use any means to spread awareness about the Safe Station program so long as it is pre-approved by HCA.
 - Contractor must affix a sign on the exterior of the fire station or post signage outside the fire station that identifies the fire station as a Safe Station. This sign must be visible 24 hours a day, seven days per week.
- Communication with HCA About Progress
 - Every 30 days, Contractor must provide to HCA a list of participants who have visited the Safe Station. In the list submitted to HCA, the participants must be described without the disclosure of protected health information

(should be referred to “27. y.o. male/female”). The report should consist of the following for each individual Participant:

- Date and time the Participant was received at the Safe Station;
- The results of any screening or assessments done by Contractor and/or Behavioral Health Professionals;
- Whether participants who visited the Safe Station were transported to a hospital/medical facility; and
- Documentation of follow-up attempts by Contractor and/or Behavioral Health Professionals.

ATTACHMENT 1: Data Use, Security, and Confidentiality

1. Definitions

In addition to the definitions set out in section 1, Definitions, of the Contract, the definitions below apply to this Schedule:

“Authorized User” means an individual or individuals with an authorized business need to access HCA’s Confidential Information under this Contract.

“Business Associate” means a Business Associate as defined in 45 C.F.R. § 160.103, who performs or assist in the performance of an activity for or on behalf of HCA, a Covered Entity, that involves the use or disclosure of Protected Health Information (PHI). Any reference to Business Associate in this Contract includes Business Associate’s employees, agents, officers, Subcontracts, third party contractors, volunteers, or directors.

“Business Associate Agreement” or **“BAA”** means the HIPAA Compliance section of this Schedule, Section 12, and includes the Business Associate provisions required by the U.S. Department of Health and Human Services, Office for Civil Rights.

“Breach” means the acquisition, access, use, or disclosure of Data in a manner not permitted under law, including but not limited to the HIPAA Privacy Rule which compromises the security or privacy of the Protected Health Information, with the exclusions and exceptions listed in 45 C.F.R. 164.402.

“Client” means an individual who is eligible for or receiving services through HCA program(s).

“Confidential Information” means information that is exempt from disclosure to the public or other unauthorized persons under Chapter 42.56 RCW or other federal or state laws. Confidential Information comprises both Category 3 and Category 4 Data as described in Section **Error! Reference source not found.**, *Data Classification*, which includes, but is not limited to, Personal Information and Protected Health Information. For purposes of this Contract, Confidential Information means the same as “Data.”

“Contract Administrator” means the HCA individual designated to receive legal notices and to administer, amend, or terminate this Contract.

“Contract Manager” means the individual identified on the cover page of this Contract who will provide oversight of the activities conducted under this Contract.

“Covered Entity” means HCA, which is a Covered Entity as defined in 45 C.F.R. § 160.103, in its conduct of covered functions by its health care components.

“Designated Record Set” means a group of records maintained by or for a Covered Entity, that is: the medical and billing records about individuals maintained by or for a covered health care provider; the enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or used in whole or part by or for the Covered Entity to make decisions about individuals.

“Disclosure” means the release, transfer, provision of, access to, or divulging in any other manner of information outside the entity holding the information.

“Electronic Protected Health Information” or **“ePHI”** means Protected Health Information that is transmitted by electronic media or maintained in any medium described in the definition of electronic media at 45 C.F.R. § 160.103.

“HIPAA” means the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, as amended by the American Recovery and Reinvestment Act of 2009 (“ARRA”), Sec. 13400 – 13424, H.R. 1 (2009) (HITECH Act).

“HIPAA Rules” means the Privacy, Security, Breach Notification, and Enforcement Rules at 45 C.F.R. Parts 160 and Part 164.

“Individual(s)” means the person(s) who is the subject of PHI and includes a person who qualifies as a personal representative in accordance with 45 C.F.R. § 164.502(g).

“Limited Data Set(s)” means a data set that meets the requirements of 45 C.F.R. §§ 164.514(e)(2) and 164.514(e)(3).

“Minimum Necessary” means the least amount of PHI necessary to accomplish the purpose for which the PHI is needed.

“Permissible Use” means only those uses authorized in this Contract and as specifically defined herein.

“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 (including or excluding zip code), telephone numbers, social security numbers, driver’s license numbers, credit card numbers, any other identifying numbers, and any financial identifiers.

“Protected Health Information” or **“PHI”** means information that relates to the provision of health care to an individual; the past, present, or future physical or mental health or condition of an individual; or past, present or future payment for provision of health care to an individual. 45 C.F.R. 160 and 164. PHI includes demographic information that identifies the individual or about which there is reasonable basis to believe, can be used to identify the individual. 45 C.F.R. 160.103. PHI is information transmitted, maintained, or stored in any form or medium. 45 C.F.R. 164.501. PHI does not include education records covered by the Family Educational Right and Privacy Act, as amended, 20 USC 1232g(a)(4)(b)(iv).

“ProviderOne” means the Medicaid Management Information System, which is the State’s Medicaid payment system managed by HCA.

“Regulation” means any federal, state, or local regulation, rule, or ordinance.

“Contractor” means the entity that is identified on the cover page of this Contract and is a party to this Contract, and includes the entity’s owners, members, officers, directors, partners, trustees, employees, and Subcontractors and their owners, members, officers, directors, partners, trustees, and employees.

“Subcontract” means any separate agreement or contract between the Contractor and an individual or entity (“Subcontractor”) to perform any duties that give rise to a business requirement to access the Data that is the subject of this Contract.

“Use” includes the sharing, employment, application, utilization, examination, or analysis, of PHI within an entity that maintains such information

2. Description of Data to be Shared / Data Licensing Statements

Data Licensing Statements are the written statements that determine the following issues, at a minimum:

- a. Identification of the purpose of the file;
- b. Identification of costs (if any)
- c. Identification of transmission method; and
- d. Identification of the file layout.

3. HCA System Access Requirements and Process

- 3.1. The Contractor may request access to the [system] for up to [#] Authorized Users under this Contract.
- 3.2. The Contractor Contract Manager, identified in Section **Error! Reference source not found.** must send the request to the HCA Security Help Desk at HCAITSecurity@hca.wa.gov.
- 3.3. The Contractor must access the system(s) through the State Governmental Network (SGN), or SecureAccessWashington (SAW), or through another method of secure access approved by HCA in writing.
- 3.4. Contractor Point of Contact. The Contractor Point of Contact will be the single source of access requests and the person HCA will contact for any follow-up information or to initiate an audit under this Contract. Contractor Point of Contact may be changed by written notice to the HCA Security Help Desk, email acceptable, with a copy to the HCA Contract Manager and HCA Office of Contracts and Procurements at contracts@hca.wa.gov.

NAME OR TITLE	
ADDRESS	
TELEPHONE	
EMAIL	

- 3.5 HCA will grant the appropriate access permissions to Contractor Authorized Users within 30 calendar days from the date of receipt of a complete and accurate request form. HCA

will respond within 5 business days of receipt of request form if there is a need for clarification or revisions to any inaccurate or incomplete request form(s).

3.6 HCA does not allow shared User IDs and passwords for use with Confidential Information or to access systems that contain Confidential Information. Contractor must ensure that only Authorized Users access and Use the system(s) in this Contract, use only their own User ID and password to access the system(s), and do not allow employees or others who are not authorized to borrow a User ID or password to access any system(s).

3.7 Contractor must notify HCA within 5 business days whenever an Authorized User who has access to the Data is no longer employed by the Receiving Part or whenever an Authorized User's duties change such that the user no longer requires access to the Data.

3.8 Contractor's access to the systems may be continuously tracked and monitored. HCA reserves the right, at any time, to terminate Data access for an individual, conduct audits of system(s) access and use, and to investigate possible violations of this Contract and/or violations of federal and state laws and regulations governing access to PHI.

4. Data Classification

The State classifies data into categories based on the sensitivity of the data pursuant to the Security policy and standards promulgated by the Office of the state of Washington Chief Information Officer. (See Section 4, *Data Security*, of *Securing IT Assets Standards* No. 141.10 in the *State Technology Manual* at <https://ocio.wa.gov/policies/141-securing-information-technology-assets/14110-securing-information-technology-assets>. Section 4 is hereby incorporated by reference.)

The Data that is the subject of this Contract is classified as indicated below:

Category 1 – Public Information

Public information is information that can be or currently is released to the public. It does not need protection from unauthorized disclosure, but does need integrity and availability protection controls.

Category 2 – Sensitive Information

Sensitive information may not be specifically protected from disclosure by law and is for official use only. Sensitive information is generally not released to the public unless specifically requested.

Category 3 – Confidential Information

Confidential information is information that is specifically protected from disclosure by law. It may include but is not limited to:

- a. Personal Information about individuals, regardless of how that information is obtained;

- b. Information concerning employee personnel records;
- c. Information regarding IT infrastructure and security of computer and telecommunications systems;

Category 4 – Confidential Information Requiring Special Handling

Confidential information requiring special handling is information that is specifically protected from disclosure by law and for which:

- a. Especially strict handling requirements are dictated, such as by statutes, regulations, or agreements;
- b. Serious consequences could arise from unauthorized disclosure, such as threats to health and safety, or legal sanctions.

5. Constraints on Use of Data/Limited License

- 5.1. Subject to the Terms and Conditions of this Contract, HCA hereby grants Contractor a limited license for the access and Permissible Use of Data. This grant of access may not be deemed as providing Contractor with ownership rights to the Data. The Data being shared/accessed is owned and belongs to HCA.
- 5.2. **[Use for Limited Data Sets]** Contractor agrees to not attempt to re-identify individuals in the Data shared, or attempt to contact said individuals.
- 5.3. **[Use for Part 2 (SUD/MH) Data]** Data shared under this Contract includes data protected by 42 C.F.R. Part 2. In accordance with 42 C.F.R. § 2.32, this Data has been disclosed from records protected by federal confidentiality rules (42 C.F.R. Part 2). The federal rules prohibit Contractor from making any further disclosure(s) of the Data that identifies a patient as having or having had a substance use disorder either directly, by reference to publicly available information, or through verification of such identification by another person unless further disclosure is expressly permitted by the written consent of the individual whose information is being disclosed or as otherwise permitted by 42 C.F.R. Part 2. A general authorization for the release of medical or other information is NOT sufficient for this purpose (42 C.F.R. § 2.31). The federal rules restrict any use of the SUD data to investigate or prosecute with regard to a crime any patient with a substance use disorder, except as provided at 42 C.F.R. §§ 2.12(c)(5) and 2.65.
- 5.4. This Contract does not constitute a release of the Data for the Contractor's discretionary use. Contractor must use the Data received or accessed under this Contract only to carry out the purpose and justification of this Contract as set out in the Data Licensing Statement(s). Any analysis, use, or reporting that is not within the Purpose of this Contract is not permitted without HCA's prior written consent.
- 5.5. This Contract does not constitute a release for Contractor to share the Data with any third parties, including Subcontractors, even if for authorized use(s) under this

Contract, without the third party release being approved in advance by HCA and identified in the Data Licensing Statement(s).

5.6. Derivative Data Product Review and Release Process. All reports derived from Data shared under this Contract, produced by Contractor that are created with the intention of being published for or shared with external customers (Data Product(s)) must be sent to HCA for review of usability, data sensitivity, data accuracy, completeness, and consistency with HCA standards prior to disclosure. This review will be conducted and response of suggestions, concerns, or approval provided to Receiving Party within 10 business days.

- i. Small Numbers. Contractor will adhere to HCA Small Numbers Standards, Attachment 2. HCA and Contractor may agree to individual Permissible Use exceptions to the Small Numbers Standards, in writing (email acceptable).

5.7 Any disclosure of Data contrary to this Contract is unauthorized and is subject to penalties identified in law.

6. Data Modification(s)

Any modification to the Purpose, Justification, Description of Data to be Shared/Data Licensing Statement(s), and Permissible Use, is required to be approved through HCA's Data Request Process. Contractor must notify HCA's Contract Manager of any requested changes to the Data elements, Use, records linking needs, research needs, and any other changes from this Contract, immediately to start the review process. Approved changes will be documented in an Amendment to the Contract.

7. Security of Data

7.1. Data Protection

The Contractor must protect and maintain all Confidential Information gained by reason of this Contract against unauthorized use, access, disclosure, modification or loss. This duty requires the Contractor to employ reasonable security measures, which include restricting access to the Confidential Information by:

- a. Allowing access only to staff that have an authorized business requirement to view the Confidential Information.
- b. Physically securing any computers, documents, or other media containing the Confidential Information.

7.2. Data Security Standards

Contractor must comply with the Data Security Requirements set out in Attachment 1 and the Washington OCIO Security Standard, 141.10 (<https://ocio.wa.gov/policies/141-securing-information-technology-assets/14110-securing-information-technology-assets/>) The Security Standard 141.10 is hereby incorporated by reference into this Contract.

7.3. Data Disposition and Retention

- a. Contractor will dispose of HCA Data in accordance with this section.
- b. Upon request by HCA, or at the end of the Contract term, or when no longer needed, Confidential Information/Data must be disposed of as set out in Attachment 1, Section **Error! Reference source not found.** *Data Disposition*, except as required to be maintained for compliance or accounting purposes. Contractor will provide written certification to HCA of disposition using Attachment 4, *Certification of Destruction/Disposition of Confidential Information*.
- c. **[Medicaid Claims Data]** For the purpose of this section, “fiscal year” means the 12-month period of July 1 to June 30. Claims Data will not be kept or maintained beyond 10 years after the end of the fiscal year in which the claim is dated. Client Data, not including Claims Data, will not be kept or maintained beyond 10 years from the date received from HCA. Any other Data will not be kept or maintained beyond 10 years from the date received from HCA. At that time Data and derivative Data Products must be disposed of in accordance with subsection **Error! Reference source not found.**

8. Data Confidentiality and Non-Disclosure

8.1. Data Confidentiality.

The Contractor will 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 the purpose, justification, and Permissible Use of this Contract, as set out in the attached Data Licensing Statement(s), except: (a) as provided by law; or (b) with the prior written consent of the person or personal representative of the person who is the subject of the Data.

8.2. Non-Disclosure of Data

The Contractor must ensure that all employees or Subcontractors who will have access to the Data described in this Contract (including both employees who will use the Data and IT support staff) are instructed and made aware of the use restrictions and protection requirements of this Contract before gaining access to the Data identified herein. The Contractor will also instruct and make any new employee aware of the use restrictions and protection requirements of this Contract before they gain access to the Data.

The Contractor will ensure that each employee or Subcontractor who will access the Data signs the *User Agreement on Non-Disclosure of Confidential Information*, Attachment 3 hereto. The Contractor will retain the signed copy of the *User Agreement on Non-Disclosure of Confidential Information* in each employee’s personnel file for a minimum of six years from the date the employee’s access to the Data ends. The documentation must be available to HCA upon request.

8.3. Penalties for Unauthorized Disclosure of Data

State laws (including RCW 74.04.060 and RCW 70.02.020) and federal regulations (including HIPAA Privacy and Security Rules, 45 C.F.R. Part 160 and Part 164; Confidentiality of Alcohol and Drug Abuse Patient Records, 42 C.F.R., Part 2; and Safeguarding Information on Applicants and Beneficiaries, 42 C.F.R. Part 431, Subpart F) prohibit unauthorized access, use, or disclosure of Confidential Information. Violation of these laws may result in criminal or civil penalties or fines.

The Contractor accepts full responsibility and liability for any noncompliance by itself, its employees, and its Subcontractors with these laws and any violations of the Contract.

9. Data Shared with Subcontractors

The Contractor will not enter into any Subcontract without the express, written permission of HCA, which will approve or deny the proposed subcontract in its sole discretion. If Data access is to be provided to a Subcontractor under this Contract it will only be for the Permissible Use authorized by HCA and the Contractor must include all of the Data security terms, conditions and requirements set forth in this Contract in any such Subcontract. In no event will the existence of the Subcontract operate to release or reduce the liability of the Contractor to HCA for any breach in the performance of the Contractor's responsibilities.

10. Audit

- 10.1. At HCA's request or in accordance with OCIO 141.10, Contractor shall obtain audits covering Data Security and Permissible Use. Contractor may cover both the Permissible Use and the Data Security Requirements under the same audit, or under separate audits. The term, "independent third-party" as referenced in this section means an outside auditor that is an independent auditing firm.
- 10.2. Data Security audits must demonstrate compliance with Data Security standards adopted by the Washington State Office of the Chief Information Officer (OCIO), and as set forth in Attachment 1, Data Security Requirements. At a minimum, audit(s) must determine whether Data Security policies, procedures, and controls are in place to ensure compliance with all Data Security Requirements set forth herein and as required by state and federal law.
- 10.3. Permissible Use Audits must demonstrate compliance with Permissible Use standards as set forth in this Contract and each Attachment A. Audit(s) must determine whether Permissible Use policies, procedures, and controls are in place to ensure compliance with all Permissible Use requirements in this Contract.
- 10.4. HCA may monitor, investigate, and audit the use of Personal Information received by Contractor through this Contract. The monitoring and investigating may include the act of introducing data containing unique but false information (commonly referred to as "salting" or "seeding") that can be used later to identify inappropriate use or disclosure of Data.
- 10.5. During the term of this Contract and for six (6) years following termination or expiration of this Contract, HCA will have the right at reasonable times and upon no

less than five (5) business days prior written notice to access the Contractor's records and place of business for the purpose of auditing, and evaluating the Contractor's compliance with this Contract and applicable laws and regulations.

11. Data Breach Notification and Obligations

- 11.1. The Breach or potential compromise of Data shared under this Contract must be reported to the HCA Privacy Officer at PrivacyOfficer@hca.wa.gov within one (1) business day of discovery.
- 11.2. If the Breach or potential compromise of Data includes PHI, and the Contractor does not have full details, it will report what information it has and provide full details within 15 business days of discovery. To the extent possible, these reports must include the following:
 - a. The identification of each individual whose PHI has been or may have been improperly accessed, acquired, used, or disclosed;
 - b. The nature of the unauthorized Use or disclosure, including a brief description of what happened, the date of the event(s), and the date of discovery;
 - c. A description of the types of PHI involved;
 - d. The investigative and remedial actions the Contractor or its Subcontractor took or will take to prevent and mitigate harmful effects and protect against recurrence;
 - e. Any details necessary for a determination of the potential harm to Clients whose PHI is believed to have been Used or disclosed and the steps those Clients should take to protect themselves; and
 - f. Any other information HCA reasonably requests.
- 11.3. The Contractor must also take actions to mitigate the risk of loss and comply with any notification or other requirements imposed by law or HCA including but not limited to 45 C.F.R. Part 164 Subpart D; RCW 42.56.590; RCW 19.255.010; or WAC 284-04-625.
- 11.4. If notification must, in the sole judgement of HCA, must be made Contractor will further cooperate and facilitate notification to necessary individuals, to the U.S. Department of Health and Human Services (DHHS) Secretary, and to the media. At HCA's discretion, Contractor may be required to directly perform notification

requirements, or if HCA elects to perform the notifications, Contractor must reimburse HCA for all costs associated with notification(s).

- 11.5. Contractor is responsible for all costs incurred in connection with a security incident privacy Breach, or potential compromise of Data, including:
- a. Computer forensics assistance to assess the impact of a Data Breach, determine root cause, and help determine whether and the extent to which notification must be provided to comply with Breach notification laws;
 - b. Notification and call center services for individuals affected by a security incident or privacy Breach, including fraud prevention, credit monitoring, and identify theft assistance; and
 - c. Regulatory defense, fines, and penalties from any claim in the form of a regulatory proceeding resulting from a violation of any applicable privacy or security law(s) or regulation(s).
- 11.6. Any breach of this section may result in termination of the Contract and the demand for return or disposition, as described in Section **Error! Reference source not found.**, of all HCA Data.
- 11.7. Contractor's obligations regarding breach notification survive the termination of this Contract and continue for as long as Contractor maintains the Data and for any Breach or potential compromise, at any time.

12. HIPAA Compliance

Use below to include BAA language in this Contract (only if no separate stand-alone BAA exists) – Delete paragraph after 12.9

This section of the Schedule is the Business Associate Agreement required by HIPAA. The Contractor is a "Business Associate" of HCA as defined in the HIPAA Rules.

- 12.1. HIPAA Point of Contact. The point of contact for the Contractor for all required HIPAA-related reporting and notification communications from this Section **Error! Reference source not found.**, HIPAA Compliance, and all required Data Breach notification communications from Section **Error! Reference source not found.**, Data Breach Notification and Obligations, is:

HCA Privacy Officer
Washington State Health Care Authority
626 8th Avenue SE
Olympia, WA 98504-2700
Telephone: (360) 725-1116
E-mail: PrivacyOfficer@hca.wa.gov

- 12.2. Compliance. Business Associate must perform all Contract duties, activities, and tasks in compliance with HIPAA, the HIPAA Rules, and all attendant regulations as

promulgated by the U.S. Department of Health and Human Services, Office for Civil Rights, as applicable.

- 12.3. Use and Disclosure of PHI. Business Associate is limited to the following permitted and required uses or disclosures of PHI:
- a. Duty to Protect PHI. Business Associate must protect PHI from, and will use appropriate safeguards, and comply with Subpart C of 45 C.F.R. Part 164, Security Standards for the Protection of Electronic Protected Health Information, with respect to ePHI, to prevent the unauthorized Use or disclosure of PHI for as long as the PHI is within its possession and control, even after the termination or expiration of this Contract.
 - b. Minimum Necessary Standard. Business Associate will apply the HIPAA Minimum Necessary standard to any Use or disclosure of PHI necessary to achieve the purposes of this Contract (45 C.F.R. § 164.514(d)(2) through (d)(5)).
 - c. Disclosure as Part of the Provision of Services. Business Associate will only Use or disclose PHI as necessary to perform the services specified in this Contract or as required by law, and will not Use or disclose such PHI in any manner that would violate Subpart E of 45 C.F.R. 164, Privacy of Individually Identifiable Health Information, if done by Covered Entity, except for the specific Uses and disclosures set forth below.
 - d. Use for Proper Management and Administration. Business Associate may Use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.
 - e. Disclosure for Proper Management and Administration. Business Associate may disclose PHI for the proper management and administration of Business Associate, subject to HCA approval, or to carry out the legal responsibilities of Business Associate, provided the disclosures are required by law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that the information will remain confidential and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been Breached.
 - f. Impermissible Use or Disclosure of PHI. Business Associate must report to the contact identified in subsection **Error! Reference source not found.**, in writing, all Uses or disclosures of PHI not provided for by this Contract within one business day of becoming aware of the unauthorized Use or disclosure of PHI, including Breaches of unsecured PHI as required at 45 C.F.R. § 164.410, Notification by a Business Associate, as well as any Security Incident of which it becomes aware. Upon request by HCA, Business

Associate will mitigate, to the extent practicable, any harmful effect resulting from the impermissible Use or disclosure.

- g. Failure to Cure. If HCA learns of a pattern or practice of Business Associate that constitutes a violation of the Business Associate's obligations under the terms of this Contract and reasonable steps by the Business Associate do not end the violation, HCA may terminate this Contract, if feasible. In addition, if Business Associate learns of a pattern or practice of its Subcontractors that constitutes a violation of the Business Associate's obligations under the terms of their contract and reasonable steps by Business Associate do not end the violation, Business Associate must terminate the Subcontract, if feasible.
- h. Termination for Cause. Business Associate authorizes immediate termination of this Contract by HCA, if HCA determines that Business Associate has violated a material term of this Business Associate Agreement. HCA may, at their sole option, offer Business Associate an opportunity to cure a violation of this Business Associate Agreement before exercising a termination for cause.
- i. Consent to Audit. Business Associate must give reasonable access to PHI, its internal practices, records, books, documents, electronic data, and all other business information received from, or created or received by Business Associate on behalf of, HCA to the Secretary of DHHS and/or to HCA for use in determining compliance with HIPAA privacy requirements.
- j. Obligations of Business Associate Upon Expiration or Termination. Upon expiration or termination of this Contract for any reason, with respect to PHI received from HCA, or created, maintained, or received by Business Associate or any Subcontractors on behalf of HCA, Business Associate must:
 - i. Retain only that PHI which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities;
 - ii. Return to HCA or destroy the remaining PHI that the Business Associate or any Subcontractors still maintain in any form;
 - iii. Continue to use appropriate safeguards and comply with Subpart C of 45 C.F.R. Part 164, Security Standards for the Protection of Electronic Projected Health Information, with respect to ePHI to prevent Use or disclosure of the PHI, other than as provided for in this Section, for as long as Business Associate or any Subcontractors retain the PHI.
 - iv. Not Use or disclose the PHI retained by the Business Associate or any Subcontractors other than for the purposes for which such PHI was retained and subject to the same conditions set out in

subsection **Error! Reference source not found.**, *Use and Disclosure of PHI*, that applied prior to termination; and

- v. Return to HCA or destroy the PHI retained by Business Associate, or any Subcontractors, when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities.
- k. Survival. The obligations of Business Associate under this section will survive the termination or expiration of this Contract.

12.4. Individual Rights

a. Accounting of Disclosures

- i. Business Associate will document all disclosures, except those disclosures that are exempt under 45 C.F.R. § 164.528, of PHI and information related to such disclosures.
- ii. Within ten business days of a request from HCA, Business Associate will make available to HCA the information in Business Associate's possession that is necessary for HCA to respond in a timely manner to a request for an accounting of disclosures of PHI by the Business Associate (45 C.F.R. §§ 164.504(e)(2)(ii)(G) and 164.528(b)(1)).
- iii. At the request of HCA or in response to a request made directly to the Business Associate by an Individual, Business Associate will respond, in a timely manner and in accordance with HIPAA and the HIPAA Rules, to requests by Individuals for an accounting of disclosures of PHI.
- iv. Business Associate record keeping procedures will be sufficient to respond to a request for an accounting under this section for the six years prior to the date on which the accounting was requested.

b. Access

- i. Business Associate will make available PHI that it holds that is part of a Designated Record Set when requested by HCA or the Individual as necessary to satisfy HCA's obligations under 45 C.F.R. § 164.524, Access of Individuals to Protected Health Information.
- ii. When the request is made by the Individual to the Business Associate or if HCA asks the Business Associate to respond to a request, the Business Associate must comply with the requirements in 45 C.F.R. § 164.524, Access of Individuals to Protected Health Information, on form, time, and manner of access. When the request is made by HCA, the Business Associate will provide the records to HCA within ten business days.

c. Amendment

- i. If HCA amends, in whole or in part, a record or PHI contained in an Individual's Designated Record Set and HCA has previously provided the PHI or record that is the subject of the amendment to Business Associate, then HCA will inform Business Associate of the amendment pursuant to 45 C.F.R. § 164.526(c)(3), Amendment of Protected Health Information.
 - ii. Business Associate will make any amendments to PHI in a Designated Record Set as directed by HCA or as necessary to satisfy HCA's obligations under 45 C.F.R. § 164.526, Amendment to Protected Health Information.
- 12.5. Subcontracts and other Third Party Agreements. In accordance with 45 C.F.R. §§ 164.502(e)(1)(ii), 164.504(e)(1)(i), and 164.308(b)(2), Business Associate must ensure that any agents, Subcontractors, independent contractors, or other third parties that create, receive, maintain, or transmit PHI on Business Associate's behalf, enter into a written contract that contains the same terms, restrictions, requirements, and conditions as the HIPAA compliance provisions in this Contract with respect to such PHI. The same provisions must also be included in any contracts by a Business Associate's Subcontractor with its own business associates as required by 45 C.F.R. §§ 164.314(a)(2)(b) and 164.504(e)(5).
- 12.6. Obligations. To the extent the Business Associate is to carry out one or more of HCA's obligation(s) under Subpart E of 45 C.F.R. Part 164, Privacy of Individually Identifiable Health Information, Business Associate must comply with all requirements that would apply to HCA in the performance of such obligation(s).
- 12.7. Liability. Within ten business days, Business Associate must notify the contact identified in subsection **Error! Reference source not found.** of any complaint, enforcement, or compliance action initiated by the Office for Civil Rights based on an allegation of violation of the HIPAA Rules and must inform HCA of the outcome of that action. Business Associate bears all responsibility for any penalties, fines, or sanctions imposed against the Business Associate for violations of the HIPAA Rules and for any imposed against its Subcontractors or agents for which it is found liable.
- 12.8. Breach Notification. Data Breach Notification and Obligations are detailed in Section **Error! Reference source not found.**
- 12.9. Miscellaneous Provisions
 - a. Regulatory References. A reference in this Schedule to a section in the HIPAA Rules means the section as in effect or as amended.
 - b. Interpretation. Any ambiguity in this Schedule will be interpreted to permit compliance with the HIPAA Rules.

13. Privacy Breach Response Coverage Requirements

For the term of this Contract and 3 years following its termination or expiration, Contractor must maintain insurance to cover costs incurred in connection with a security incident, privacy Breach, or potential compromise of Data, including:

- a. Computer forensics assistance to assess the impact of a Data Breach, determine root cause, and help determine whether and the extent to which notification must be provided to comply with Breach notification laws;
- b. Notification and call center services for individuals affected by a security incident, or privacy Breach;
- c. Breach resolution and mitigation services for individuals affected by a security incident or privacy Breach, including fraud prevention, credit monitoring, and identity theft assistance; and
- d. Regulatory defense, fines, and penalties from any claim in the form of a regulatory proceeding resulting from a violation of any applicable privacy or security law(s) or regulation(s).

14. Survival Clauses

The terms and conditions contained in this Schedule that by their sense and context are intended to survive the expiration or other termination of this Schedule must survive. Surviving terms include, but are not limited to: *Constraints on Use of Data / Limited License, Security of Data, Data Confidentiality and Non-Disclosure of Data, Audit, HIPAA Compliance, Data Breach Notification and Obligations, Dispute Resolution, Inspection, Insurance, Maintenance of Records, and Responsibility.*

Attachment A1: Data Licensing Statement

1. Background

2. Justification and Authority for Data Sharing

The Data to be shared under this DSA are necessary to comply with

3. Purpose / Use / Description of Data

The purpose of this DSA is to provide terms and conditions under which HCA will allow the restricted use of its Data to the Contractor, and under which the Contractor may receive and use the Data. This DSA ensures that HCA Data is provided, protected, and used only for purposes authorized by state and federal law governing such Data use.

The scope of this DSA only provides the Contractor with access and Permissible Use of Data; it does not establish an agency relationship or independent contractor relationship between HCA and the Contractor.

- a. Permissible Use: Contractor may only use the Data for the purposes of [Permissible Use]
- b. File Layout: The Parties will exchange Data using the mutually agreed upon file layouts below. The Parties may edit and/or change the *File Layout* as considered necessary.
 - i. Method of Access/Transfer: Once an established Secure Data Transfer connection with the host computer at Contractor's location is confirmed, HCA will provide Data listed in *File Layout* list below, to Contractor.
 - ii. Delivery Method: Secure File Transfer
 - iii. Frequency of Data Delivery: HCA will transmit Data [Frequency].
 - iv. Costs: [(This will likely be N/A)]

Element Name	Friendly Name	Length	Type	Data Descriptions and Usages

Attachment 1: Data Security Requirements

1. Definitions

In addition to the definitions set out in the Data Use, Security, and Confidentiality Schedule, the definitions below apply to this Attachment.

- a. "Hardened Password" means a string of characters containing at least three of the following character classes: upper case letters; lower case letters; numerals; and special characters, such as an asterisk, ampersand or exclamation point.
 - i. Passwords for external authentication must be a minimum of 10 characters long.
 - i. Passwords for internal authentication must be a minimum of 8 characters long.
 - ii. Passwords used for system service or service accounts must be a minimum of 20 characters long.
- b. "Portable/Removable Media" means any data storage device that can be detached or removed from a computer and transported, including but not limited to: optical media (e.g. CDs, DVDs); USB drives; or flash media (e.g. CompactFlash, SD, MMC).
- c. "Portable/Removable Devices" means any small computing device that can be transported, including but not limited to: handhelds/PDAs/Smartphones; Ultramobile PCs, flash memory devices (e.g. USB flash drives, personal media players); and laptop/notebook/tablet computers. If used to store Confidential Information, devices should be Federal Information Processing Standards (FIPS) Level 2 compliant.
- d. "Secured Area" means an area to which only Authorized Users have access. Secured Areas may include buildings, rooms, or locked storage containers (such as a filing cabinet) within a room, as long as access to the Confidential Information is not available to unauthorized personnel.
- e. "Transmitting" means the transferring of data electronically, such as via email, SFTP, webservices, AWS Snowball, etc.
- f. "Trusted System(s)" means 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.
- g. "Unique User ID" means a string of characters that identifies a specific user and which, in conjunction with a password, passphrase, or other mechanism, authenticates a user to an information system.

2. Data Transmission

- a. When transmitting HCA's Confidential Information electronically, including via email, the Data must be encrypted using NIST 800-series approved algorithms

(<http://csrc.nist.gov/publications/PubsSPs.html>). This includes transmission over the public internet.

- b. When transmitting HCA's Confidential Information via paper documents, the Contractor must use a Trusted System and must be physically kept in possession of an authorized person

3. Protection of Data

The Contractor agrees to store and protect Confidential Information as described:

a. Data at Rest:

- i. Data will be encrypted with NIST 800-series approved algorithms. Encryption keys will be stored and protected independently of the data. Access to the Data will be restricted to Authorized Users through the use of access control lists, a Unique User ID, and a Hardened Password, or other authentication mechanisms which provide equal or greater security, such as biometrics or smart cards. Systems which contain or provide access to Confidential Information must be located in an area that is accessible only to authorized personnel, with access controlled through use of a key, card key, combination lock, or comparable mechanism.

i. Data stored on Portable/Removable Media or Devices:

- (A) Confidential Information provided by HCA on Removable Media will be encrypted with NIST 800-series approved algorithms. Encryption keys will be stored and protected independently of the Data.
- (B) HCA's data must not be stored by the Contractor on Portable Devices or Media unless specifically authorized within the DSA. If so authorized, the Contractor must protect the Data by:
 - (1) Encrypting with NIST 800-series approved algorithms. Encryption keys will be stored and protected independently of the data;
 - (2) Control access to the devices with a Unique User ID and Hardened Password or stronger authentication method such as a physical token or biometrics;
 - (3) Keeping devices in locked storage when not in use;
 - (4) Using check-in/check-out procedures when devices are shared;
 - (5) Maintain an inventory of devices; and
 - (6) Ensure that when being transported outside of a Secured Area, all devices with Data are under the physical control of an Authorized User.

- b. **Paper documents.** Any paper records containing Confidential Information must be protected by storing the records in a Secured Area that is accessible only to authorized personnel. When not in use, such records must be stored in a locked container, such as a file cabinet, locking drawer, or safe, to which only authorized persons have access.

4. Data Segregation

HCA's Data received under this DSA must be segregated or otherwise distinguishable from non-HCA Data. This is to ensure that when no longer needed by the Contractor, all of HCA's Data can be identified for return or destruction. It also aids in determining whether HCA's Data has or may have been compromised in the event of a security breach.

- a. HCA's Data must be kept in one of the following ways:
 - i. on media (e.g. hard disk, optical disc, tape, etc.) which will contain only HCA Data; or
 - i. in a logical container on electronic media, such as a partition or folder dedicated to HCA's Data; or
 - ii. in a database that will contain only HCA Data; or
 - iii. within a database and will be distinguishable from non-HCA Data by the value of a specific field or fields within database records; or
 - iv. when stored as physical paper documents, physically segregated from non-HCA Data in a drawer, folder, or other container.
- b. When it is not feasible or practical to segregate HCA's Data from non-HCA data, then both HCA's Data and the non-HCA data with which it is commingled must be protected as described in this Attachment.
- c. Contractor must designate and be able to identify all computing equipment on which they store, process and maintain HCA Data. No Data at any time may be processed on or transferred to any portable storage medium. Laptop/tablet computing devices are not considered portable storage medium devices for purposes of this DSA provided it is installed with end-point encryption.

5. Data Disposition

Consistent with Chapter 40.14 RCW, Contractor shall erase, destroy, and render unrecoverable all HCA Confidential Data and certify in writing that these actions have been completed within thirty (30) days of the disposition requirement or termination of this DSA, whichever is earlier. At a minimum, media sanitization is to be performed according to the standards enumerated by NIST SP 800-88r1 Guidelines for Media Sanitization.

- a. For HCA's Confidential Information stored on network disks, deleting unneeded Data is sufficient as long as the disks remain in a Secured Area and otherwise meet the requirements listed in Section **Error! Reference source not found.**, above. Destruction of the Data as outlined in this section of this Attachment may be deferred until the disks are retired, replaced, or otherwise taken out of the Secured Area.

6. Network Security

Contractor's network security must include the following:

- a. Network firewall provisioning;
- b. Intrusion detection;
- c. Quarterly vulnerability assessments; and

d. Annual penetration tests.

7. Application Security

Contractor must maintain and support its software and subsequent upgrades, updates, patches, and bug fixes such that the software is, and remains secure from known vulnerabilities.

8. Computer Security

Contractor shall maintain computers that access Data by ensuring the operating system and software are updated and patched monthly, such that they remain secure from known vulnerabilities. Contractor computer device(s) must also be installed with an Anti-Malware solution and signatures updated no less than monthly.

9. Offshoring

Contractor must maintain all hardcopies containing Confidential Information only from locations in the United States.

Contractor may not directly or indirectly (including through Subcontractors) transport any Data, hardcopy or electronic, outside the United States unless it has advance written approval from HCA.

Attachment 2: HCA Small Numbers Standard

1. Why do we need a Small Numbers Standard?

It is the Washington State Health Care Authority's (HCA) legal and ethical responsibility to protect the privacy of its clients and members. However, HCA also supports open data and recognizes the ability of information to be used to further HCA's mission and vision. As HCA continues down the path of Data Governance maturity, establishing standards such as this is key in helping HCA analysts and management meet the needs of external data requestors while maintaining the trust of our clients and members and complying with agency, state and federal laws and policies.

Publishing data products that include small numbers creates two concerns. As a reported number gets smaller, the risk of re-identifying an HCA client or member increases. This is especially true when a combination of variables are included in the data product to arrive at the small number (e.g. location, race/ethnicity, age, or other demographic information).

Small numbers can also create questions around statistical relevance. When it comes to publicly posting data products on HCA's internet site, or sharing outside the agency, the need to know the exact value in a cell that is less than 11 must be questioned.

As the agency moves away from traditional, static reports to a dynamic reporting environment (e.g. Tableau visualizations), it is easier for external data consumers to arrive at small numbers. Further, those external consumers have an increasing amount of their own data that could be used to re-identify individuals. As a result, more rigor and a consistent approach needs to be in place to protect the privacy of HCA's clients and members. Until now, some HCA data teams have elected to follow small numbers guidelines established by the Department of Health, which include examples of suppression methods for working with small numbers. HCA is now establishing its own standard, but is planning to work with DOH and other agencies dealing with healthcare data to try and develop a consistent small numbers methodology at a statewide level.

2. Scope

HCA often uses Category 4 data to create summary data products for public consumption. This Standard is intended to define one of the requirements for a summary data product to be considered Category 1. Specifically, it is intended to define the level of suppression that must be applied to an aggregated data product derived from Category 4 data for the data product to qualify as Category 1. Category 1 products are data products that are shared external to the agency, in large part those products that are posted on HCA's Internet website (www.hca.wa.gov). The primary scope of this Standard is for those data products posted publicly (e.g. on the website), or, shared as public information.

The following are examples of when this Standard **does not** apply to data products are:

- a. Those shared directly with an external entity outside HCA, the Standard suppression of small numbers would not be required. However, you should notify the recipient that the data products contains sensitive information and should not be shared or published.
- b. Those exchanged under a data share agreement (DSA) that will not be posted or shared outside the Contractor.
- c. Those created for HCA-only internal use.

This standard does not supersede any federal and state laws and regulation.

3. Approach

In 2017, an impromptu workgroup was formed to tackle the issue of small numbers and determine what the general approach for handling data products that contain them would be. This initial effort was led by the agency's Analytics, Interoperability and Measurement (AIM) team who had an immediate need for guidance in handling and sharing of data products containing small numbers. The result of that work was a set of Interim Small Numbers Guidelines, which required suppression of cells containing values of less than 10. In addition, data products that contain small numbers are considered Category 2 under HCA's Data Classification Guidelines.

In spring 2018, a new cross-divisional and chartered Small Numbers Workgroup was formed to develop a formal agency standard. Representatives from each of the major HCA divisions that produce data and analytic products were selected. The charter, complete with membership, can be found here (available to internal HCA staff only). The Workgroup considered other state agency standards, and national standards and methods when forming this standard. The Workgroup also consulted business users and managers to determine the potential impact of implementing a small numbers suppression standard. All of this information was processed and used to form the HCA Small Numbers Standard.

4. State and National Small Numbers Standards Considered

When developing these standards, HCA reviewed other organizations' small numbers standards at both a state and federal level. At the state level, DOH recently published a revised Small Numbers Standard, which emphasizes the need for suppression for both privacy concerns and statistical relevance. HCA also convened a meeting of other state agencies to discuss their approach and policies (if any) around Small Numbers. Feedback from that convening was also taken into consideration for this Standard as well.

Federal health organizations such as the Centers for Disease Control and Prevention (CDC) and the National Center for Health Statistics (NCHS) also maintain small numbers standards. HCA's federal oversight agency and funding partner, the Centers for Medicare and Medicaid Services (CMS) adopts suppression of any cell with a count of 10 or less.

5. WA Health Care Authority Small Numbers Standard

Any HCA external publication of data products are to be compliant with both HIPAA and Washington State privacy laws. Data products are not to contain small numbers that could allow re-identification of individual beneficiaries. HCA analysts are to adhere to the following requirements when developing Category 1 data products for distribution and publication. Category 1 data is information that can be released to the public. These products do not need protection from unauthorized disclosure, but do need integrity and availability protection controls. Additionally, all contractors (state and private) that use HCA's data to produce derivative reports and data products are required to adhere to this standard as well. HCA's Contracts team will ensure that proper contractual references are included to this and all HCA Data Release and Publishing Standards. The requirements discussed herein are not intended for Category 2, Category 3, or Category 4 data products.

6. HCA's Small Number Standard:

- a. There are no automatic exemptions from this standard
- b. (See Exception Request Process section below)
- c. Standard applies for all geographical representations, including statewide.

- d. Exceptions to this standard will be considered on a case-by-case basis (see *Exception Request Process* section later in this document for more information).
- e. Ensure that no cells with $0 < n < 11$ are reported ($0 < n < 11$ suppressed)
- f. Apply a marginal threshold of 1 - 10 and cell threshold of 1 - 10 to all tabulations
- g. ($0 < n < 11$ suppressed).
- h. To protect against secondary disclosure, suppress additional cells to ensure the primary suppressed small value cannot be recalculated.
- i. Suppression of percentages that can be used to recalculate a small number is also required.
- j. Use aggregation to prevent small numbers but allow reporting of data. Age ranges are a very good example of where aggregation can be used to avoid small numbers but avoid suppressing data (see example below).

7. Small Numbers Examples

a. Example (Before Applying Standard)

Client Gender	County	Accountable Community of Health (ACH)	Statewide
Male	6	8	14
Female	11	15	26
TOTAL	17	23	40

b. Example (After Applying Standard)

Client Gender	County	ach	Statewide
Male	---	---	14
Female	11	15	26
TOTAL	---	---	40

¹In order to protect the privacy of individuals, cells in this data product that contain small numbers from 1 to 10 are not displayed.

The above examples show in order to comply with the standard, analysts must not only suppress directly those cells where $n < 11$, but also in this case secondary suppression is necessary of the county and ACH totals in order to avoid calculation of those cells that contained small numbers.

c. Example (Suppression with no aggregation)

Age Range	County	ach	Statewide
-----------	--------	-----	-----------

0-3	5 (would be suppressed)	8 (would be suppressed)	13 (would be suppressed)
4-6	7 (would be suppressed)	18	25 (would be suppressed)
	15	23	38
10-12	24	33	57
TOTAL	51 (would be suppressed)	82 (would be suppressed)	133

d. Example (Using aggregation instead of suppression)

Age Range	County	ach	Statewide
0-6	12	26	38
7-9	15	23	38
10-12	24	33	57
TOTAL	51	82	133

The above examples provide guidance for using aggregation to avoid small number suppression and still provide analytic value to the end user. Aggregation is an excellent method to avoid presenting information with many holes and empty values.

Attachment 3: User Agreement on Non-Disclosure of Confidential Information

(To Be Signed By Each Individual User with Access to Confidential HCA Data)

Your organization has entered into a Data Share Agreement with the state of Washington Health Care Authority (HCA) that will allow you access to data and records that are deemed Confidential Information as defined below. Prior to accessing this Confidential Information you must sign this *User Agreement on Non-Disclosure of Confidential Information*.

Confidential Information

“Confidential Information” means information that is exempt from disclosure to the public or other unauthorized persons under Chapter 42.56 RCW or other federal or state laws. Confidential Information includes, but is not limited to, Protected Health Information and Personal Information. For purposes of the pertinent Data Share Agreement, Confidential Information means the same as “Data.”

“Protected Health Information” means information that relates to: the provision of health care to an individual; the past, present, or future physical or mental health or condition of an individual; or the past, present or future payment for provision of health care to an individual and includes demographic information that identifies the individual or can be used to identify the individual.

“Personal Information” means information identifiable to any person, including, but not limited to, information that relates to a person’s name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, credit card numbers, any other identifying numbers, and any financial identifiers.

Regulatory Requirements and Penalties

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

User Assurance of Confidentiality

In consideration for HCA granting me access to the Confidential Information that is the subject of this Agreement, I agree that I:

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

Signature

Print User’s Name	User Signature	Date

Attachment 4: Certification of Destruction/Disposal of Confidential Information

(To Be Filled Out and Returned to HCA Upon Termination of DSA)

NAME OF CONTRACTOR:	DATA SHARE AGREEMENT (DSA) #:
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_____ (Contractor) hereby certifies that the data elements listed below or attached, received as a part of the data provided in accordance with DSA have been:

DISPOSED OF/DESTROYED ALL COPIES

You certify that you returned or destroyed all identified confidential information received from HCA, or created, maintained, or received by you on behalf of HCA. You certify that you did not retain any copies of the confidential information received by HCA.

Description of Information Disposed of/ Destroyed

Date of Destruction: _____

Method(s) of destroying/disposing of Confidential Information:

Disposed of /Destroyed by:

Signature	Date
Printed Name:	
Title:	