

DATA SHARING AGREEMENT

TABLE OF CONTENTS

Sections	Page #
1. INTRODUCTION	2
2. DEFINITIONS.....	2
3. PURPOSE	2
4. STATEMENT(S) OF WORK.....	3
5. TERMS AND CONDITIONS.....	3
6. PERIOD OF PERFORMANCE.....	3
7. CONSIDERATION.....	3
8. AGREEMENT MANAGEMENT	3
9. LIMITATION ON ACCESS AND USE	4
10. PHYSICAL SAFEGUARDS.....	5
11. REDISCLOSURE OF INFORMATION.....	6
12. DATA CLASSIFICATION	6
13. NO GUARANTEE OF ACCURACY	7
14. TERMINATION OF ACCESS.....	7
15. SUBCONTRACTING	7
16. NONDISCRIMINATION.....	7
17. RECORDS MAINTENANCE.....	8
18. INDEMNIFICATION AND INSURANCE	8
19. DISPUTES	9
20. NONDISCLOSURE AGREEMENT	9
21. RIGHT OF INSPECTION	9
22. WAIVER	10
23. SEVERABILITY	10
24. TERMINATION	10
25. TERMINATION FOR CAUSE.....	10
26. JURISDICTION.....	10
27. AGREEMENT AMENDMENTS.....	10
28. ASSURANCES	11
29. ASSIGNMENT	11
30. ORDER OF PRECEDENCE	11
31. ALL WRITINGS CONTAINED HEREIN	11

EXHIBIT A: NUMBERED STATEMENT(S) OF WORK

EXHIBIT B: NOTICE OF NONDISCLOSURE

EXHIBIT C: SECURITY REQUEST 2010 C

**DATA SHARING AGREEMENT
BETWEEN
WASHINGTON
EMPLOYMENT SECURITY DEPARTMENT
AND
OTHER NON-GOVERNMENTAL PARTY'S LEGAL NAME**

1. INTRODUCTION

This Agreement is made and entered into by and between the Washington State Employment Security Department (hereinafter “ESD”) and the other non-governmental party’s legal name (hereinafter called “Other Party Acronym”), pursuant to authority granted in chapters -, 50.13 and 50.38 delete any that do not apply and include any other authority statutes of the Revised Code of Washington (RCW), other relevant federal statutes, and related regulations.

2. DEFINITIONS

- 2.1** Define data to be shared. If UI use the paragraph, otherwise delete and insert new paragraph “Confidential Unemployment Insurance Data” or “UI data” means information in the records of ESD collected from employers and individuals for the administration of the state unemployment insurance program as set forth in the federal law (20 CFR 603) and state statutes (chapters 50.13 and 50.38 RCW). “UI data” is classified as Category 4 data under Washington’s OCIO Standards No. 141.10.
- 2.2** “Authorized user” means any Other Party Acronym employee approved by both parties to receive confidential insert program name (i.e., Unemployment Insurance, SKIES...) data.

3. PURPOSE

The purpose of this Agreement is to:

- 3.1** Set out the Terms and Conditions under which ESD will share Confidential insert program name (i.e., Unemployment Insurance, SKIES...)Data with Other Party Acronym (insert correct statute) as set forth in the federal law (20 CFR 603) and state statutes (chapter50.13 RCW).
- 3.2** Define the safeguards against unauthorized use and re-disclosure of insert program name (i.e., Unemployment Insurance, SKIES...) data by Other Party Acronym.
- 3.3** (Use if applicable) Supersedes the ESD data sharing agreements list all agreements that this agreement supercedes, and all amendments thereof, between ESD and Other Party Acronym and is replaced with this single agreement.

4. STATEMENT(S) OF WORK

- 4.1 The parties shall share data based on the specifications of each numbered *Statement of Work* incorporated into this agreement by reference as Exhibit A.
- 4.2 Each numbered *Statement of Work* shall specifically identify the data requested, the purpose for which it will be used, the legal authority for the disclosure by ESD to Other Party Acronym, and will be authorized and signed by both parties.

5. TERMS AND CONDITIONS

All rights and obligations of the parties to this Agreement shall be subject to and governed by the Terms and Conditions contained in this Agreement.

6. PERIOD OF PERFORMANCE

- 6.1 This Agreement shall commence on the insert start date and shall continue through insert end date, unless terminated sooner by either party as provided herein.
- 6.2 Each Statement of Work, incorporated into this Agreement as Exhibit A, shall terminate on the date stated in the PERIOD OF PERFORMANCE clause of the respective Statement of Work, unless amended or modified as provided herein.

7. CONSIDERATION

Other Party Acronym agrees to adhere to the requirements of the Consideration clause stated in each of the numbered *Statements of Work* incorporated into this agreement as Exhibit A.

8. AGREEMENT MANAGEMENT

Other Party Acronym staff member responsible for the management of this Agreement is:	ESD staff member responsible for the management of this Agreement is:
Name: Title Address Address Address <i>Phone:</i> <i>FAX number:</i> <i>Email address:</i>	Name: Title Address Address Address <i>Phone:</i> <i>FAX number:</i> <i>Email address:</i>

The Agreement Manager or their successor shall provide the assistance and guidance necessary for the performance of this agreement.

9. LIMITATION ON ACCESS AND USE

Other Party Acronym agrees to the following limitations on the use of the information provided by ESD:

- 9.1 The information provided by ESD will remain the property of ESD and will be returned to ESD according to the following procedures when the work for which the information was required, as fully described in Exhibit A, numbered *Statement(s) of Work*, has been completed:
 - 9.1.1 All ESD data records or screen prints not admitted as exhibits will be purged from mainframe systems and individual Personal Computers (PC).
 - 9.1.2 All paper or compact disc copies will be shredded to a size no larger than 1/8 by 1 1/8 inch size in a crosscut shredder or deposited into a locked shredder bin to be shredded by a company contractually bound to maintain confidentiality of materials being shredded.
 - 9.1.3 Other Party Acronym shall be responsible for the destruction of confidential insert program name (i.e., Unemployment Insurance, SKIES...) data after the work for which the data was required, as fully described in Exhibit A, numbered *Statement(s) of Work*, has been completed. The Other Party Acronym's Statement of Work Manager identified in the respective Statements of Work shall inform the ESD Statement of Work Manager identified in the Statement of Work as to the method and frequency of which insert program name (i.e., Unemployment Insurance, SKIES...) is destroyed.
- 9.2 The information provided by ESD shall be used and accessed only for the limited purposes of carrying out activities pursuant to this Agreement as described in the applicable numbered *Statement(s) of Work*.
- 9.3 The information provided by ESD will not be duplicated or re-disclosed without the written authority of ESD.
- 9.4 Other Party Acronym shall not use the information provided for any purpose not specifically authorized under this Agreement.
- 9.5 Other Party Acronym shall protect the confidentiality of the information as required by the laws cited in this Agreement. Other Party Acronym shall protect the confidentiality of the information when sharing insert program name (i.e., Unemployment Insurance, SKIES...) data as provided under this Agreement.
- 9.6 Other Party Acronym shall notify ESD immediately of becoming aware of any unauthorized access, use or disclosure. If a breach of security occurs that meets the definition in RCW 42.56.590, Personal information – Notice of security breaches, Other Party Acronym is responsible for any

notifications to the affected individuals as required by the law and the cost thereof. Any breach of this clause may result in termination of this Agreement and the demand for return of all personal information. Other Party Acronym shall provide detailed information, including the nature of the unauthorized activity, names of individuals involved, work locations where the incident occurred, and the actions taken by Other Party Acronym. The information provided by Other Party Acronym will enable ESD to conduct its own investigation, if necessary.

10. PHYSICAL SAFEGUARDS

Other Party Acronym agrees to the following minimum safeguards for the information provided by ESD as follows:

- 10.1** Access to the information provided by ESD will be restricted to only those authorized personnel who need it to perform their official duties in the performance of the scope of work fully detailed in Exhibit A, numbered *Statement(s) of Work*.
- 10.2** The information will be stored in areas that are safe from access by unauthorized persons during regular business hours as well as non-business hours or when not in use.
- 10.3** The information will be protected in a manner that prevents unauthorized persons from retrieving the information by means of computer, remote terminal or other means.
- 10.4** Other Party Acronym shall take precautions to ensure that only authorized personnel are given access to data files. Electronic access is to be authorized using hardened passwords that are changed at least every 90 days.
- 10.5** When applicable Other Party Acronym shall furnish encryption and decryption software compatible with ESD's software to ensure security and confidentiality.
- 10.6** Other Party Acronym will have up-to-date anti-virus software installed and shall be diligent in the timely updating of this software. This includes the timely installation of security patches for all information technology assets, hosts, and networks that process ESD confidential information.
- 10.7** Other Party Acronym shall establish an audit trail that logs the activities of authorized users. Other Party Acronym shall grant ESD access to the audit trail upon request for investigative and compliance monitoring purposes.
- 10.8** Other Party Acronym shall instruct all authorized personnel regarding the confidential nature of the information, the requirements of the LIMITATION ON ACCESS AND USE and PHYSICAL SAFEGUARDS clauses of this Agreement, and the sanctions specified in chapter 50.13 RCW and other federal and state laws against unauthorized disclosure of information covered by this Agreement.

- 10.9** Other Party Acronym employees shall only access the ESD data provided through hardware owned by Other Party Acronym which is located on Other Party Acronym premises. Data will not be accessed via the following devices, including but not limited to: cell phones, blackberries, or at wireless hotspots.

11. REDISCLOSURE OF INFORMATION

- 11.1** Redisclosure of confidential information received from ESD is prohibited by chapter 50.13 RCW unless authorized by ESD for the official purpose for which the information was originally requested.
- 11.2** Redisclosure of ESD confidential data is authorized for judicial, formal administrative, or discovery proceedings only by subpoena pursuant to RCW 50.13.070.
- 11.3** Parties or individuals redisclosing confidential information in violation of chapter 50.13 RCW are subject to civil penalty. ESD may pursue criminal charges against individuals engaged in unauthorized redisclosure of insert program name (i.e., Unemployment Insurance, SKIES...) data.
- 11.4** Other Party Acronym agrees to reimburse ESD for all costs associated with the criminal referral and conviction of any Other Party Acronym employee engaged in any form of unauthorized redisclosure of insert program name (i.e., Unemployment Insurance, SKIES...) data.

12. DATA CLASSIFICATION

According to the Office of the Chief Information Officer (OCIO) Standard No.141.10, Section 4.2, agencies must classify data into categories based on the sensitivity of the data. Agency data classifications must translate to or include the following classification categories:

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.

The information provided to Other Party Acronym under this Agreement is classified as **Category 4 – Confidential Information Requiring Special Handling**.

13. NO GUARANTEE OF ACCURACY

ESD does not guarantee the accuracy of the data provided.

14. TERMINATION OF ACCESS

- 14.1** ESD may at its discretion disqualify any individual authorized by Other Party Acronym from gaining access to insert program name (i.e., Unemployment Insurance, SKIES...) data. Notice of termination of access to insert program name (i.e., Unemployment Insurance, SKIES...) data will be by written notice and become effective upon receipt by Other Party Acronym. Termination of access of one individual by ESD does not affect other individuals authorized under this Agreement.
- 14.2** ESD Agreement Manager identified in Section 8 of this Agreement shall be responsible for informing the Other Party Acronym Agreement Manager of the termination of access.

15. SUBCONTRACTING

Other Party will not subcontract work or services contemplated under this Agreement and/or use an outside consultant except as provided for in the individual Statement of Work(s) without obtaining the prior written approval of ESD. Other Party acknowledges that such approval does not relieve its responsibility for Subcontractor compliance with all the terms and conditions of this Agreement.

16. NONDISCRIMINATION

No individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with any provision of this Agreement because of race, color, creed, marital status, religion, sex, national origin, Vietnam-Era or disabled veteran's status, age, the presence of any sensory, mental or physical disability, or political affiliation or belief, provided that the prohibition against discrimination in employment because of disability shall not apply if the particular disability

prevents the individual from performing the essential functions of his or her employment position, even with reasonable accommodation. The parties agree to abide by the standards of responsibility toward the disabled as specified by the Americans with Disabilities Act and applicable state law. In the event that one of the parties refuses to comply with the above provision, this Agreement may be canceled, terminated, or suspended in whole or in part by the other party.

17. RECORDS MAINTENANCE

Both parties shall retain all records, books or documents related to this Agreement for six (6) years beyond the expiration/termination of this Agreement. Federal auditors and any persons duly authorized by the parties shall have full access to and the right to examine any of these materials during this period.

18. INDEMNIFICATION AND INSURANCE

18.1 To the fullest extent permitted by law, Other Party Acronym shall indemnify, defend, and hold harmless the state of Washington, the Agency, and all officials, agents, and employees of State, from and against all claims for injuries or death arising out of or resulting from the performance of this Agreement. Other Party Acronym's obligation to indemnify, defend, and hold harmless includes any claim by Other Party Acronym's agents, employees, representatives, or any Subcontractor, or its employees.

Other Party Acronym expressly agrees to indemnify, defend, and hold harmless the State for any claim arising out of or incident to Other Party Acronym's or any Subcontractor's performance or failure to perform this Agreement. Other Party Acronym's obligation to indemnify, defend and hold harmless the State shall not be eliminated or reduced by any actual or alleged concurrent negligence of State or its agents, agencies, employees or officials.

Other Party Acronym waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless State and its agencies, officials, agents or employees.

18.2 Other Party Acronym shall provide insurance coverage, which shall be maintained in full force and effect during the term of this Agreement, as follows:

18.2.1 Commercial General Liability Insurance Policy. Provide a Commercial General Liability Insurance Policy, including contractual liability, in adequate quantity to protect against legal liability arising out of Agreement activity but no less than One Million dollars (\$1,000,000) per occurrence. Additionally, the Other Party Acronym is responsible for ensuring that any Subcontractors provide adequate insurance coverage for the activities arising out of subcontracts.

18.2.2 Automobile Liability. In the event that services delivered pursuant to this Agreement involve the use of vehicles, either owned or unowned by the Other Party Acronym, automobile liability

insurance shall be required. The minimum limit for automobile liability is:

One millions dollars per occurrence, using a Combined Single Limit for bodily injury and property damage

18.2.3 The insurance required shall be issued by an insurance company/ies authorized to do business within the state of Washington, and shall name the state of Washington, its agents and employees as additional insureds under the insurance policy/policies. All policies shall be primary to any other valid and collectable insurance. Other Party Acronym shall instruct the insurers to give Agency thirty (30) days' advance notice of any insurance cancellation.

18.3 If self-insured, the Other Party Acronym warrants that it will maintain coverage sufficient to cover any liability specified above that may arise from the performance of this Agreement, and that the Other Party Acronym's Risk Officer or appropriate individual will provide to the Agency evidence of such insurance.

18.4 The Other Party Acronym will provide the Agency with a copy of the applicable insurance facesheet(s) or certification of self-insurance reflecting these coverage's and limits defined in this section. Insurance coverage(s) must be effective no later than the effective date of this Agreement and for the term of this Agreement. Other Party Acronym shall submit renewal certificates as appropriate during the term of this Agreement.

19. DISPUTES

Except as otherwise provided in this Agreement, when a dispute arises between the parties and it cannot be resolved by direct negotiation, the parties agree to participate in mediation in good faith. The mediator shall be chosen by agreement of the parties. If the parties cannot agree on a mediator, the parties shall use a mediation service that selects the mediator for the parties. Nothing in this Agreement shall be construed to limit the parties' choice of a mutually acceptable alternative resolution method such as a disputes hearing, a Dispute Resolution Board, or arbitration.

20. NONDISCLOSURE AGREEMENT

Other Party Acronym agrees that all their authorized personnel who will have access to the information provided by ESD will sign a Nondisclosure statement, identical to that in Exhibit B, Nondisclosure Statement. The statement is consistent with the chapter 50.13 RCW and the Terms and Conditions of this Agreement. No data may be released to any Other Party Acronym personnel until ESD receives the completed Nondisclosure Statement for that individual.

21. RIGHT OF INSPECTION

Other Party Acronym shall provide access to ESD, or any of its officers, or to any other authorized agent or official of the state of Washington or the federal

government at all reasonable times, in order to monitor, evaluate and ensure the requirements of the state and federal statutes, related regulations, and this Agreement are being met. Other Party Acronym agrees to accommodate ESD's request for inspection, electronic monitoring, review, or audit and to allow on-site audits during regular business hours.

22. WAIVER

Any waiver by any party with regard to any of its rights shall be in writing and shall not constitute a waiver to any other or future rights of the party.

23. SEVERABILITY

If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, and to this end the provisions of this Agreement are declared to be severable.

24. TERMINATION

24.1 This Agreement shall remain in full force and effect until terminated as provided in this Agreement. Either party may terminate this Agreement by giving ten (10) calendar days' written notice to the other party. The obligations of confidentiality shall continue and survive this Agreement.

24.2 In the event of termination of this Agreement, Other Party Acronym shall be liable to ESD for payment of services rendered by ESD that met the requirements of Exhibit A, Statement of Work and shall return insert program name (i.e., Unemployment Insurance, SKIES...) data to ESD on or before the effective date of termination, unless destroyed according to section 9.1 of this Agreement.

25. TERMINATION FOR CAUSE

Either party may terminate this Agreement in whole or in part at any time prior to the date of completion when it is determined that the other party has failed to comply with the conditions of this Agreement. The cancelling party shall immediately notify the other party in writing of the termination and the reasons for termination, together with the effective date of termination.

26. JURISDICTION

This Agreement shall be construed and interpreted in accordance with the laws of the State of Washington. The venue of any legal action pertaining to this agreement shall be the Washington State Superior Court for Thurston County.

27. AGREEMENT AMENDMENTS

This Agreement may be waived, changed, modified, or amended only by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

28. ASSURANCES

The parties agree that all activity pursuant to this Agreement will be in accordance with all applicable current or future federal, state and local laws, rules and regulations.

29. ASSIGNMENT

Neither party shall assign this Agreement in whole or in part.

30. ORDER OF PRECEDENCE

In the event of an inconsistency in this Agreement, unless otherwise provided, the inconsistency shall be resolved by giving precedence in the following order:

1. Applicable Federal and State Statutes and Regulations;
2. Terms and Conditions as contained in this Agreement;
3. Any other provisions of this Agreement, including the attached Exhibits.

31. ALL WRITINGS CONTAINED HEREIN

This Agreement sets forth in full the entire agreement of the parties; and any other agreement, representation, or understanding, verbal or otherwise, is hereby deemed null and void and of no force and effect whatsoever.

By signing this Agreement, both parties certify that their policies and procedures comply with the confidentiality requirements of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement.

Washington State
Employment Security Department

[Other Party Legal Name]

(Type name)

By (print name)

By

Title

(Type Title)

Title

Signature

Signature

Date

Date

EXHIBIT A

(Below is an outline of a Statement of Work. Modify to fit the circumstances. Delete all blue statements before finalizing this statement of work.)

STATEMENT OF WORK # _____

1. PURPOSE

This Statement of Work establishes the terms and conditions under which ESD will share confidential insert program name, i.e. Unemployment Insurance, SKIES data with Other Party Acronym for purpose of describe purpose. (If necessary, provide additional detail regarding the activities that will be carried out by the other party. Delete this note and any other unnecessary elements.)

Other Party Acronym will:

- 1.1 list specifics
- 1.2 list specifics
- 1.3 list specifics

2. DATA ELEMENTS TO BE DISCLOSED

ESD shall provide the following data to authorized Other Party Acronym employees for the purposes of carrying out activities described in this Statement of Work, Section 1. **PURPOSE**

Describe the origin of the data and specifics as to the data elements or data sets

3. FREQUENCY OF DATA TRANSFER AND SECURITY

Describe means and frequency of data transfer

Confidential data must be provided to Other Party Acronym on a secured medium such as a secured FTP server. Confidential data stored on Other Party Acronym system will be maintained in a secured manner and destroyed after use as specified in Section 9, LIMITATION ON ACCESS AND USE of the Data Sharing Agreement.

4. NON DISCLOSURE STATEMENT

Authorized Other Party Acronym staff that review or work with insert program name, i.e. Unemployment Insurance, SKIES data must read and sign the ESD Non-Disclosure statement prior to viewing or working with the data. Signed copies of Non-Disclosure statements shall be returned to ESD Statement of Work Manager. The ESD Non-Disclosure statement is attached hereto and incorporated by reference to this Agreement as Exhibit "B".

5. ONLINE REQUEST FORM (Delete this section if not required)

Authorized Other Party Acronym staff that request online access to ESD systems (GUIDE, NGTS) must complete and submit ESD security request form 2010C to ESD Statement of Work Manager. ESD 2010C is attached hereto and incorporated in the Data Sharing Agreement as Exhibit C. When an authorized user terminates employment, changes name or moves to a different position where access is no

longer needed, Other Party Acronym must notify ESD by submitting a new 2010C form to the ESD Statement of Work Manager reflecting the change.

6. PERIOD OF PERFORMANCE

The Period of performance for this Statement of Work shall commence on the insert start date and shall continue through insert end date unless terminated sooner as provided in the Data Sharing Agreement.

7. STATEMENT OF WORK AMENDMENTS

This Statement of Work may be waived, changed, modified, or amended only by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

8. CONSIDERATION

Identify any costs.

9. STATEMENT OF WORK MANAGEMENT

The work described herein shall be performed under the coordination of the following Statement of Work Managers or their successors, who will provide the assistance and guidance necessary for the performance of this Statement of Work.

Other Party Acronym staff member responsible for the management of this Statement of Work is:	ESD staff member responsible for the management of this Statement of Work is:
Name: Title Address Address Address <i>Phone:</i> <i>FAX number:</i> <i>Email address:</i>	Name: Title Address Address Address <i>Phone:</i> <i>FAX number:</i> <i>Email address:</i>

10. APPROVAL

Now, therefore, in consideration of the mutual promises and undertakings contained herein and in the Data Sharing Agreement it supplements, the parties hereto consent to the provisions of Exhibit A, Statement of Work # ____.

Washington State
Employment Security Department

[Other Party Legal Name]

(Type name)

By
(Type Title)

Title

Signature

Date

By (print name)

Title

Signature

Date

EXHIBIT B

**WASHINGTON STATE EMPLOYMENT SECURITY DEPARTMENT
NOTICE OF NONDISCLOSURE**

As a non-Employment Security Department (ESD) employee, you may be given access to records or information that is deemed private and confidential by statute.

You may not make any unauthorized disclosure of private or confidential information about employers, clients/claimants or employees to any person or entity.

Confidential information includes but is not limited to employee's wages or hours, unemployment insurance benefit records, and standard industrial classification (sic) codes of individual employers.

The unauthorized disclosure or abuse of information deemed private and confidential may subject you to a civil penalty of Five Thousand dollars (\$5,000) and other applicable sanctions under state and federal law. (RCW 50.13)

I have read and understand the above Notice of Nondisclosure.

Printed Name

Job Title or User ID (AAAA000)

(Signature)

(Date)

The above individual has been informed of the obligations of the above referenced agreement and Statement of Work including any limitations, use or publishing of Confidential Data.

Supervisor's Name

Agency Name

Supervisor's Signature

(Date)

(An original of this notice must be returned to the Employment Security Department.)

