

OLYMPIC REGIONAL TRIBAL-PUBLIC HEALTH COLLABORATION  
AND  
MUTUAL AID AGREEMENT

This Olympic Regional Tribal-Public Health Collaboration and Mutual Aid Agreement (“Agreement” or “MAA”) is made and entered into by the signatory Health Department or signatory Health District, or signatory County within the State of Washington that operates a public health department or division within its county government, (“Party HD”), and the signatory Tribal Government(s) (“Party TG”), individually with all other signatory Party HDs and Party TGs legally joining the Agreement.

PURPOSE

The undersigned Party HDs and Party TGs confront numerous threats to public health, including but not limited to, Public Health Incidents, Emergencies and/or Disasters that could overwhelm the capabilities of an immediate local or regional response. None of the Party HDs or Party TGs to this Agreement possesses all of the necessary resources to cope with every possible Public Health Incident, Emergency or Disaster by itself, and a more efficient, effective response can best be achieved by the application and leveraging of collective resources.

Each Party HD and Party TG desires to voluntarily aid and assist each other by the interchange of public health resources and services in the event that a Public Health Incident, Emergency or Disaster situation should occur. The Party HDs and Party TGs find it necessary and desirable to execute this Agreement for the interchange of such Assistance on a regional basis.

The Party HDs and Party TGs desire to have the option to provide or receive day to day public health services, isolation and quarantine public health services, or any other public health service permitted by law. This Agreement will facilitate the provision and reception of such optional public health services between or among any two or more parties to this Agreement.

The Party HDs and Party TGs to this Agreement have determined it is in their collective best interest to develop and implement a Plan, and incorporate mutual aid response into their existing emergency response plans. Training and exercising mutual aid protocols, in advance of a Public Health Incident, Emergency or Disaster, will enhance the efficiency and effectiveness of each responding party.

The Party HDs and Party TGs desire to cooperate with one another to receive state and/or federal resources provided such cooperation does not compromise a Party HD’s or Party TG’s public health response. The Party HDs and Party TGs desire to engage in frequent consultation and to allow free exchange of information, health information, plans, and resource records related to Assistance activities.

## ARTICLE I

### AUTHORITY

Each Party TG has non-exclusive authority over public health measures that affect certain People on Tribal Lands, whether Indian or Non-Indian, and has authority under its constitution, tribal codes and other applicable laws to enter into this Agreement.

Each Party HD's health officer has authority pursuant to RCW 70.05.070 and WAC 246-100 et seq., among other laws, to control and prevent the spread of any dangerous, contagious or infectious diseases that may occur within its jurisdiction and to order isolation or quarantine, if necessary. WAC 246-100-036(4) provides that a local health department may make agreements with tribal governments that empower the local health officer to conduct investigations and institute control measures in accordance with WAC 246-100-040 on tribal lands.

## ARTICLE II

### DEFINITIONS

**Assistance:** Assistance means personnel, equipment, materials, supplies, facilities, services, and/or related resources.

**Authorized Representative:** The person or persons designated by each Party HD and Party TG in the Plan to request Assistance from or grant Assistance to another Party HD or Party TG pursuant to the terms of this Agreement.

**Health Information:** Written, electronic, oral, telephonic, or visual information, identifiable or population based, that relates to an individual's or population's past, present or future physical or mental health status condition, treatment, service or products purchased, and includes, but is not limited to laboratory test data or samples.

**Identifiable data or information:** The exchange or sharing of identifiable data or information that is specific to an individual or that there is a reasonable basis to believe could be used to identify an individual, as governed by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), and including, but not limited to, its public health related exceptions.

**Local Health Officer:** The legally qualified physician who has been appointed as the health officer for the county or district public health department, whose qualifications are set forth in RCW 70.05.and RCW 70.08 et seq..

**Mutual Aid:** A prearranged written Agreement and Plan whereby Assistance is requested and may be provided under the terms of this Agreement between two or more jurisdictions during a Public Health Incident, Emergency or Disaster, or related to day to day public health services, communicable disease outbreak, isolation and quarantine public health services, or any other public health service or action permitted by law.

People on Tribal Lands: Members of each Tribe whose Party TG is a signatory to this Agreement, members of other federally recognized tribes who reside on that signatory Party TG's Tribal Lands, and all of that signatory Tribe's employees, residents, visitors, and guests, and all other people on its Tribal Lands (collectively, "People on Tribal Lands").

Period of Assistance: The period of time beginning with the departure of any personnel, equipment, materials, supplies, services, and/or related resources of the Responding Party HD or Party TG from any point for the purpose of traveling to provide Assistance exclusively to the Requesting Party HD or Party TG , and ending on the return of all of the Responding Party HD's or Party TG's personnel, equipment, materials, supplies, services, and/or related resources to their regular place of work or assignment, or otherwise terminated through written or verbal notice of the Authorized Representative of the Responding Party HD or Party TG . With respect to facility use, the Period of Assistance shall commence on the date agreed upon between the Requesting and Responding Party HD or Party TG and shall end when the Requesting Party HD or Party TG returns possession of the facility to the Responding Party HD or Party TG, or when otherwise terminated through written or verbal notice of the Authorized Representative of the Responding Party HD or Party TG.

Plan: a written Tribal-Public Health Collaboration and Mutual Aid Plan that meets the requirements set forth in Article VIII, and sets forth protocols and procedures related to MAA activation, staging and deployment, field support, demobilization, reimbursement, other MAA matters, and standard operating procedures.

Public Health Incident, Emergency, or Disaster: Any occurrence, or threat thereof, whether natural or caused by man, in war or in peace, to which any Party HD may respond pursuant to its authority under chapter 70.05 or 70.46 RCW, or other applicable law, or to which any Party TG may respond pursuant to its authority under its constitution, codes, or other applicable law, and that, in the judgment of the Requesting Party HD or Party TG, results or may result in circumstances sufficient to exceed the capabilities of immediate local, tribal or regional public health response.

Requesting Party HD or Party TG: A Party HD or Party TG that has requested Assistance from a Party HD or Party TG from another jurisdiction participating in this Agreement.

Responding Party HD or Party TG: A Party HD or Party TG providing Assistance to a Requesting Party HD or Party TG from another jurisdiction participating in this Agreement.

Tribal Lands: With respect to each individual Tribal Government signatory to this Agreement, tribal lands shall mean land within that Tribe's Tribal Reservation boundary, its Tribal Trust Lands, its Tribal Member Trust Lands, lands governed by any and all of its Tribal Settlement Agreement(s), and any other tribal or non-tribal lands or buildings under the ownership, leasehold, or other supervision or control of its Tribal Government or its agents, and collectively, as those lands may be added to or subtracted from, from time to time.

Tribal Health Officer: The person designated by a Party TG to exercise health officer authority.

### ARTICLE III

#### IMPLEMENTATION

This Agreement shall become effective immediately upon its execution by any one Party HD and one Party TG. After the first two such executions, this Agreement shall become effective as to any other Party HD or Party TG upon its execution by such Party HD or Party TG. The Agreement shall remain in effect as between each and every Party HD and Party TG until participation in this Agreement is terminated by a withdrawing Party HD or Party TG in writing pursuant to Article XVIII. Termination of participation in this Agreement by a withdrawing Party HD or Party TG shall not affect the continued operation of this Agreement as between the remaining Party HDs and Party TGs, so long as at least one Party HD and one Party TG continue to participate.

### ARTICLE IV

#### PARTICIPATION

The Party HDs and Party TGs have a desire to be of help to one another in response to a request for Mutual Aid Assistance. The Party HDs and Party TGs agree that this Agreement, however, does not create a legal duty to provide Mutual Aid Assistance. The Party HDs and Party TGs agree that any and all actions taken pursuant to this Agreement shall be voluntary and in each Party HD's or Party TG's sole discretion. A Party HD or Party TG may elect to voluntarily furnish such Mutual Aid Assistance to another Party HD or Party TG as is available, and shall take into consideration whether such actions might unreasonably diminish its capacity to provide basic public health services to its own jurisdiction.

### ARTICLE V

#### HOW TO INVOKE ASSISTANCE

The Authorized Representative of a Party HD or of a Party TG may request Mutual Aid Assistance of another Party HD or Party TG by contacting the Authorized Representative of that Party HD or Party TG. The provisions of this Agreement shall only apply to requests for Assistance made by and to Authorized Representatives or their designee. Requests may be verbal or in writing. If verbal, the request shall be confirmed in writing before the Period of Assistance begins to the extent it is practical.

### ARTICLE VI

#### LIABILITY RELATED TO DELAY OR FAILURE TO RESPOND

No Party HD or Party TG shall be liable to another Party HD or Party TG for, or be considered in breach of or default under this Agreement on account of, any delay in or failure to perform any obligation under this Agreement, except to make payment as specified herein.

Nothing in this Agreement shall be construed to create any rights in or duties to any third party, nor any liability to or standard of care with reference to any third party. This Agreement shall not confer any right or remedy upon any person other than the Party HDs and Party TGs. This Agreement shall not release or discharge any obligation or liability of any third party to any Party HD or Party TG.

## ARTICLE VII

### WITHDRAWAL FROM ASSISTANCE

A Responding Party HD or Party TG may withdraw Mutual Aid Assistance by giving verbal or written notice to the Requesting Party HD or Party TG. Each Responding Party HD or Party TG that is providing Mutual Aid Assistance to a Requesting Party HD or Party TG agrees to give reasonable notice to the Requesting Party HD or Party TG under the circumstances as they exist at the time before withdrawing such Assistance. No Party HD or Party TG shall be liable to another Party HD or Party TG for, or be considered in breach of or default under this Agreement on account of, any withdrawal of assistance.

## ARTICLE VIII

### PLANNING, MEETING AND TRAINING

Party HDs and Party TGs are expected to:

- 1) ensure that other Party HDs and Party TGs have their most current contact information;
- 2) participate in an initial regional exercise to coordinate operational and implementation matters, and
- 3) participate in the creation of a Tribal-Public Health Mutual Aid Plan.

Party HDs and Party TGs agree to incorporate protocols related to this Agreement into regular emergency preparedness exercises and trainings, and will train in accordance with the Plan. Party HDs and Party TGs agree to exchange their emergency preparedness plans, and other documents that may be beneficial in preparing personnel from another Party HD or Party TG to respond to a request for Mutual Aid Assistance.

## ARTICLE IX

### COMMAND AND CONTROL

The parties recognize the need for a qualified and experienced person to function in the role of a public health local health officer in Party HDs' jurisdictions and Party TGs' jurisdictions, and for public health laws to govern the response. Party TGs may not have Tribal Health Officers on their staffs or on contract at the time that a Public Health Incident, Emergency or Disaster occurs. Party TGs also may not have adopted public health codes, or may have adopted codes that govern certain public health issues but not others. Until such time that a Party TG hires or

contracts with its own Tribal Health Officer, and adopts a public health code(s) governing the specific public health issue necessitating response, the Party TG and Party HDs agree that in the event of a Public Health Incident, Emergency or Disaster, communicable disease outbreak, or isolation or quarantine event, Party TGs will choose to exercise tribal public health authority in one of the following manners:

Option One:

1. The Party TG may decide to grant to the Party HD in its closest geographical proximity permission to exercise public health authority, in consultation with the Party TG's health director, over the Party TG's Tribal Lands, People on Tribal Lands and members off Tribal Lands but within the respective Party HD's county.
2. In the event the Party TG has not yet adopted a public health code(s) that addresses the specific public health response, then the Party HD and Party TG agree that the Party HD will exercise this grant of authority in conformance with federal, state and local public health laws that address the specific public health response, and such public health laws shall be deemed applicable as if adopted as tribal code. Party TGs shall be responsible to take such actions as are necessary to implement this provision, if any. Examples of the types of Washington State laws that a Party TG might agree to voluntarily invoke include those related to tuberculosis control, sexually transmitted disease control, substantial exposure to bodily fluids, communicable disease control, isolation and quarantine, biomedical wastes, emergency response, or other law.
3. If the Party TG has adopted a public health code(s) that addresses the specific public health response, then the Party HD and Party TG agree that the Party HD will exercise this grant of authority in conformance with applicable tribal, federal, state and local public health laws. If there is a conflict between or among tribal public health code requirements, federal, state or local law, the Party HD may decline to accept, or withdraw its acceptance of, the authority.
4. Either the Party TG or Party HD may withdraw, rescind, decline, or refuse this grant of authority at any time. Such withdrawal, rescission, declination or refusal of authority must be in writing directed to each respective Party HD's or Party TG's Authorized Representative.

Option Two:

1. The Party TG will exercise its own public health authority. The Party TG may seek technical assistance from the Party HD. The parties understand and agree that in such event, the ability or willingness of Party HD personnel to respond within the tribal jurisdiction may be limited, however, technical assistance may still be available.
2. Either the Party TG or Party HD may withdraw, rescind, decline, or refuse the request for technical assistance at any time. Such withdrawal, rescission, declination or refusal of technical assistance must be in writing directed to each respective Party HD's or Party TG's Authorized Representative.

Party TGs will select Option One or Option Two at the time of a Public Health Incident, Emergency or Disaster, communicable disease outbreak, or isolation or quarantine event. The Plan will create procedures and forms for implementing option selection, and for issues related to isolation and quarantine procedures.

Under either Option One or Option Two, any resources and non-medical personnel from the Responding Party HD or Party TG shall be under the operational control of the Requesting Party HD's or Party TG's public health leadership. All medical personnel provided by a Responding Party HD or Party TG will be under the clinical supervision of the Responding Party HD's Local Health Officer or the Responding Party TG's Tribal Health Officer unless the Local Health Officer or Tribal Health Officer delegates such supervision to the Requesting Party's appropriately licensed medical provider. The Party HDs and Party TGs intend to follow the National Incident Management System's "Incident Command System" when such system is activated.

Party TGs may choose to contract with Party HDs or others for day to day public health services to the full extent permitted by law.

## ARTICLE X

### RESPONDING PARTY EMPLOYEES

Employees of a Responding Party HD or Party TG shall at all times while performing Mutual Aid Assistance continue to be employees of the Responding Party HD or Party TG for any purpose. Wages, hours and other terms and conditions of employment of Responding Party HD or Party TG shall remain applicable to all of its employees who perform Mutual Aid Assistance under this Agreement. Responding Party HD or Party TG shall be solely responsible for payment of its employees' wages, any required payroll taxes and any benefits or other compensation. Requesting Party HD or Party TG shall not be responsible for paying any wages, benefits, taxes or other compensation to Responding Party HD's or Party TG's employees.

## ARTICLE XI

### INJURY COMPENSATION AND DEATH BENEFITS

Each Party HD and Party TG shall provide for the payment of Workers' Compensation benefits to its own injured personnel and/or to representatives of its own personnel in case such personnel sustain injuries or are killed while rendering aid under this Agreement, in the same manner and on the same terms as if the injury or death were sustained within its own jurisdiction. Nothing in this Agreement shall abrogate or waive any Party HD's or Party TG's right to reimbursement or other payment available from any local, state or federal governments or abrogate or waive the effect of any waiver, indemnity or immunity available to a Party HD or Party TG under local, state or federal law or other governmental action. To the extent that such reimbursement, payment, waiver, indemnity or immunity does not apply, then each Party HD or Party TG shall remain fully responsible as employer for all taxes, assessments, fees, premiums, wages, withholdings, Workers' Compensation, and other direct and indirect compensation, benefits, and

related obligations with respect to its own employees. Each Party HD and Party TG shall provide Workers' Compensation if required by the laws of the State of Washington, or any other law or agreement.

## ARTICLE XII

### REIMBURSEMENT OF COSTS AND CONDITIONS OF LOAN

The Requesting Party HD or Party TG agrees to reimburse the Responding Party HD or Party TG for the costs of personnel, equipment, materials, supplies, facilities, services, and/or related resources used during the Period of Assistance on the basis of mutually accepted costs associated with these resources. When a Responding Party HD or Party TG deploys employees under the terms of this Agreement to a Requesting Party HD or Party TG, the Responding Party HD or Party TG will be reimbursed by the Requesting Party HD or Party TG equal to the Responding Party HD's or Party TG's full cost, including employee's salary or hourly wages, call back or overtime costs, benefits and overhead, and consistent with the Responding Party HD's or Party TG's personnel union contracts, if any, or other conditions of employment. Reusable materials and supplies that are returned to the Responding Party HD or Party TG in clean, damage free condition, excepting normal wear and tear, shall not be charged to the Requesting Party HD or Party TG and no rental fee shall be charged. The Responding Party HD or Party TG shall determine whether items are returned in clean and damage free condition, and any items found to be damaged shall be treated as partially consumed and/or as non-returnable materials and supplies. The Responding Party HD or Party TG shall be entitled to receive payment for the cost of repair or replacement of damaged and consumed materials and supplies. The Responding Party HD or Party TG shall send the Requesting Party HD or Party TG an invoice or invoices for all valid Assistance Costs and the Requesting Party HD or Party TG shall pay the invoice(s) within sixty (60) days of receipt of each invoice.

Notwithstanding the above, nothing shall prevent any party from waiving a request for reimbursement.

To the extent that any third party payer, such as the United States Government or the State of Washington, has funds or processes available for reimbursement of a party's activities under this Agreement, the parties agree to cooperate fully with one another in submitting any appropriate claim(s) for reimbursement and providing copies of records necessary to submit claims.

## ARTICLE XIII

### WORKER REGISTRATION, LIABILITY AND DISPUTE RESOLUTION

1. **WORKER REGISTRATION AND LIABILITY.** The Party HDs and Party TGs to this Agreement agree that each will take all actions necessary to qualify and maintain qualification of its own personnel, employees and volunteers as emergency workers, or covered volunteer emergency workers, as appropriate, pursuant to RCW 38.52 et seq., WAC 118-04 et seq., and any other applicable statute, regulation or law. The Party HDs

and Party TGs agree that prior to invoking a request for Assistance under this Agreement, the Requesting Party HD or Party TG, through its own or its nearest local department of emergency management, will request the issuance of a mission number from the Washington military department, emergency management division. A Party HD or Party TG may condition its willingness to respond and the continuance of its response under this Agreement on the issuance of a mission number, and compliance with RCW 38.52 et seq., WAC 118-04 et seq., or other law, by the Responding and Requesting Party HDs or Party TGs.

2. In the event local, state and/or federal governments or laws provide waiver, immunity, indemnification, reimbursement or other payment related to liability that would otherwise be the responsibility of a Party HD or Party TG, then such waiver, immunity, indemnification, reimbursement or other payment shall limit a Party HD's or a Party TG's liability. The Party HDs and Party TGs agree to exhaust their rights to waiver, immunity, indemnification, reimbursement or other payment from local, state, and/or federal governments. However, to the extent that local, state or federal governments or laws do not provide complete waiver, immunity, indemnification, reimbursement or other payment related to Party HD or Party TG liability, then the following provisions will apply:
  - A. Each party to this Agreement shall be legally responsible for its own acts and omissions arising under this Agreement, and that of its respective appointed and elected officials, employees, officers, agents, agencies, assigns and representatives. Each party agrees to defend, indemnify, and hold harmless the other party, and its respective appointed and elected officials, employees, officers, agents, agencies, assigns and representatives from and against any and all liability, loss, cost, damage and expense arising or alleged to have arisen directly or indirectly out of or in consequence of the performance of this Agreement by the indemnitor.
  - B. **GROSS NEGLIGENCE OR WILLFUL OR WANTON MISCONDUCT.** Any Party HD or Party TG shall not be required under this Agreement to release, indemnify, hold harmless or defend any other Party HD or Party TG from any claim, loss, harm, liability, damage, cost or expense caused by or resulting from the activities of any Party HD's or Party TG's officers, employees, or agents acting in such a manner that constitutes willful misconduct, gross negligence or bad faith.
  - C. **LIABILITY FOR PARTICIPATION.** In the event of any liability, claim, demand, action or proceeding, of whatever kind or nature arising out of the rendering of Assistance through this Agreement, the Requesting Party HD or Party TG agrees to indemnify, hold harmless, and defend, to the fullest extent of the law, each signatory to this Agreement, whose only involvement in the transaction or occurrence which is the subject of such claim, action, demand, or other proceeding, is the execution and approval of this Agreement.

- D. **LEGAL PROCEEDINGS COOPERATION.** Party HD's or Party TG's personnel shall cooperate and participate in mediation, arbitration or other legal proceedings if so requested by another Party HD or Party TG, and/or required by a court of competent jurisdiction.
- E. **TORT CLAIMS ACT.** No provision of this Agreement shall remove from any Party HD or Party TG any protection provided by any applicable Tort Claims Act.
- F. **WAIVER OF RIGHTS.** Any waiver at any time by any Party HD or Party TG of its rights with respect to a default under this Agreement, or with respect to any other matter arising in connection with this Agreement, shall not constitute or be deemed a waiver with respect to any subsequent default or other matter arising in connection with this Agreement. Any delay in asserting or enforcing any right, except those related to the statutes of limitations, shall not constitute or be deemed a waiver.
3. **DISPUTE RESOLUTION.** This Section shall govern the resolution of all disputes arising from the implementation of this Agreement.

Purpose. The parties intend to resolve their disputes through direct discussion and, if such is not possible, then through the dispute resolution framework established below. All stated time frames for resolving disputes may be lengthened by mutual consent.

Direct Discussions. To initiate dispute resolution under this subsection, the complaining party shall first provide notice by submitting a written complaint letter to the representative of the party (as identified in this Agreement) against whom a dispute is lodged, stating therein the nature of the dispute, the requested resolution, and the factual basis supporting the requested resolution. The responsive party shall, within ten (10) business days of receiving the complaint letter, provide a written response, stating its agreement or disagreement with the nature of the dispute and the requested resolution. If the responsive party disagrees with the complaint or the proposed resolution, the written response must provide at least one alternate resolution and the factual basis supporting such resolution(s). Thereafter, the representatives of each party will, for fifteen (15) business days, make a good faith attempt to resolve the dispute through one or more direct discussions. If no mutually acceptable resolution is reached, the lead representatives will prepare a joint statement within 5 business days, which includes a chronology, a synopsis of the discussions that took place and the last stated positions of each party.

Mediation. If direct discussions between the parties fail to resolve the dispute, any participating party may, within five business days of completing the direct discussion process, make a written request for mediation to be conducted at a place as the parties may agree in writing. If all participating parties agree to engage in mediation, the parties shall seek a mutually acceptable mediator. If the parties cannot reach agreement on the selection of the mediator within fifteen (15) business days of the date the written mediation request letter was received by the other party or parties, the mediation will be

administered by J.A.M.S., Seattle, Washington Office using a J.A.M.S. mediator and protocol. Enforcement of a mediation agreement reached shall be the same as enforcement of an arbitration decision as set forth herein. If a party objects to proceeding with mediation, then mediation may be bypassed, and the dispute resolved pursuant to arbitration as set forth herein.

Binding Arbitration. Should direct discussions prove unsuccessful in resolving the dispute, and either mediation is not requested, is bypassed, or is also unsuccessful, either the complaining or responsive party may make a written demand for arbitration before a single arbitrator in Seattle, Washington or at another place as the parties may agree in writing. If the parties cannot reach agreement on the selection of the single arbitrator within fifteen (15) business days of the date the written demand letter was received, the arbitration will be administered by J.A.M.S., Seattle, Washington Office using a J.A.M.S. arbitrator. Any arbitrator selected must have a fundamental knowledge of and at least five (5) years' legal experience working with contract law and a working knowledge of Indian law, public health law, and municipal law. The arbitrator shall have the power to establish a schedule for the hearing which hearing shall be limited to no more than 2 consecutive business days to be equally divided between the parties, including preliminary discovery to the extent he or she deems necessary and proper under the circumstances and to make reasonable rules and issue orders necessary for a fair and efficient conduct of the hearing, and to conduct the hearing and administer oaths and affirmations. The arbitrator's decision shall be accompanied by an explanation as to the basis for the award. Each party will pay for its own attorneys' fees. All arbitration awards shall be binding upon the parties and non-appealable. Relief may include temporary, injunctive or other provisional remedies, along with all other remedies available in equity or at law, except as expressly limited in this Agreement.

Enforcement of Arbitration Award. Upon the issuance of an arbitration award or mediation agreement, the prevailing party may seek the entry of judgment upon the award in any court of competent jurisdiction which for purposes of Party HD's enforcement against a Party TG means the Tribal Court, and for a Party TG's enforcement against a Party HD means federal court, or if federal court jurisdiction is not available, the Party TGs agree to submit to Kitsap, Clallam or Jefferson County Superior Court, as appropriate, in Washington for enforcement of the award against a Party HD. The court of competent jurisdiction shall enforce the decision of the arbitrator and shall not modify, correct, alter or vacate said decision in any way unless the court finds after notice and hearing upon application of a party to the arbitration, one or more of the following: (1) the arbitration decision was procured by corruption, fraud or undue means, (2) there was evident corruption in the arbitrator, or (3) the arbitrator was guilty of the specific misconduct of refusing to hear evidence pertinent and material to the controversy which prejudiced the rights of a party. No court shall have jurisdiction to interfere in any way with any pending arbitration. No party may seek from such court any provisional remedy pending appointment of the arbitrator or the arbitrator's rendition of the award. If the court vacates the arbitration decision, then the court shall direct a rehearing either before the same arbitrator or before a new arbitrator to be chosen in the manner provided in this section.

Limited Waiver of Sovereign Immunity by the Tribe. Except for the limited waiver of sovereign immunity provided in this Dispute Resolution subsection, nothing in this Agreement shall be construed as a general or specific waiver of a Party TG's sovereign immunity, which immunities are expressly asserted. The Party TGs hereby grant to the Party HDs a limited waiver of sovereign immunity solely for the purpose of dispute resolution as provided in this Agreement and such waiver shall not be extended to any other person, agency or entity ("Limited Waiver"). This Limited Waiver applies only to claims arising out of or under this Agreement and does not apply to any other claims under any other agreements among the parties. Furthermore, nothing contained in this Limited Waiver shall be construed to create a contractual relationship with or a cause of action in favor of any third party against any Party TG. This Limited Waiver applies only to the enforcement of a mediation agreement or an arbitration award against the a Party TG, provided such mediation agreement or arbitration award has been secured in accordance with this Agreement.

No Requirement of Exhaustion of Tribal Court Remedies. The parties acknowledge that under the limited waiver of sovereign immunity provided for herein, the assumption of jurisdiction by any arbitrator or court of competent jurisdiction shall not be delayed or curtailed by any doctrine requiring exhaustion of Tribal court remedies.

No Consent to State Court For Any Purpose. The Party TGs expressly state and the Party HDs understand and acknowledge that the Party TGs do not consent to the jurisdiction of the Superior Court of the State of Washington or any other state court for any purpose except if necessary to enforce an arbitration or mediation award, or by mutual consent.

#### ARTICLE XIV

##### LICENSES AND PERMITS

When invoking Assistance, the Requesting Party HD or Party TG shall define as precisely as possible the licensure requirements of personnel being requested from the Responding Party HD or Party TG. The Responding Party HD or Party TG agrees to exercise reasonable diligence in verifying personnel's licensure and in responding to the specific licensure requirements requested by the Requesting Party HD or Party TG.

#### ARTICLE XV

##### RECORD KEEPING AND INFORMATION SHARING

Time sheets and/or daily logs showing hours worked and equipment and materials used or provided by the Assisting Party HD or Party TG will be recorded on a shift by shift basis by the Requesting Party HD or Party TG and/or the loaned employee(s) and will be provided to the Responding Party HD or Party TG as needed. Additionally, the Responding Party HD or Party TG will provide shipping records for materials, supplies, equipment and/or related resources, and the Requesting Party HD or Party TG is responsible for any required documentation of use of

materials, supplies, equipment, facilities, services, and/or related resources for state or federal reimbursement. Under all circumstances, the Requesting Party HD or Party TG remains responsible for ensuring that the amount and quality of all documentation is adequate to enable state or federal reimbursement.

The Parties agree to share disease or contaminant information, including but not limited to health care information and protected health information, as permitted under RCW 70.02.050 and 45 CFR 164.512. The Parties shall maintain their own records and reports concerning the provision of any support or services under this Agreement, and patients' medical records shall be maintained at the Requesting Party HD or Party TG facility.

## ARTICLE XVI

### OTHER OR PRIOR AGREEMENTS

This Agreement is not intended to be exclusive among the Party HDs and Party TGs. Any Party HD or Party TG may enter into separate agreements with any other entity. No such separate agreement shall terminate any responsibility under this Agreement.

## ARTICLE XVII

### EFFECT OF DECLARATION OF EMERGENCY

The Party HDs and Party TGs recognize that state or federal declarations of emergency, or orders related thereto, may supercede the arrangements made or actions taken for rendering Assistance pursuant to this Agreement.

## ARTICLE XVIII

### MODIFICATION/TERMINATION OF AGREEMENT

No provision of this Agreement may be modified, altered or rescinded by any individual Party HD or Party TG without the unanimous concurrence of the Party HDs and Party TGs. Modifications to this Agreement must be in writing and will become effective upon the approval of the modification by Party HDs and Party TGs. Modifications must be signed by each Party HD and Party TG.

A Party HD or Party TG opting to terminate this Agreement shall provide written termination notification to the Authorized Representatives of all Party HDs and Party TGs. Notice of termination becomes effective upon receipt by all Authorized Representatives. Any terminating Party HD or Party TG shall remain liable for all obligations incurred during its Period of Assistance until the obligation is satisfied.

ARTICLE XIX

ENTIRE AGREEMENT

This Agreement constitutes the entire agreement amongst the Party HDs and Party TGs.

ARTICLE XX

SUCCESSORS AND ASSIGNS

This Agreement is not transferable nor assignable, in whole or in part, and any Party HD or Party TG may terminate its participation in the Agreement pursuant to Article XVIII.

ARTICLE XXI

GOVERNING LAW

This Agreement shall be interpreted and construed in accordance with the laws of the State of Washington and the United States.

ARTICLE XXII

INVALID PROVISION

The provisions of this Agreement are severable. If any portion of this Agreement is determined by a court to be void, unconstitutional or otherwise unenforceable, the remainder of this Agreement will remain in full force and effect.

ARTICLE XXIII

NOTICES

Except as otherwise provided herein, any notice, demand, information, report, or item otherwise required, authorized or provided for in this Agreement shall be given in writing and shall be deemed properly given if (i) delivered personally, (ii) transmitted and received by telephone facsimile device and confirmed by telephone, (iii) sent by United States Mail, postage prepaid, to the Authorized Representatives of all affected Party HDs and Party TGs at the address designated by such Authorized Representative, or (iv) sent by email with electronic signature of the Party HD's or Party TG's Authorized Representative.

ARTICLE XXIV

NO DEDICATION OF FACILITIES

No undertaking by one Party HD or Party TG to the other Party HD or Party TG under any provision of this Agreement shall constitute a dedication of the facilities or assets of such Party HD or Party TG, or any portion thereof, to the public or to the other Party HD or Party TG. Nothing in this Agreement shall be construed to give a Party HD or Party TG any right of ownership, possession, use or control of the facilities or assets of the other Party HD or Party TG.

ARTICLE XXV

NO PARTNERSHIP

This Agreement shall not be interpreted or construed to create an association, joint venture or partnership among the Party HDs or Party TGs or to impose any partnership obligation or liability upon any Party HD or Party TG. Further, no Party HD or Party TG shall have any undertaking for or on behalf of, or to act as or be an agent or representative of, or to otherwise bind any other Party HD or Party TG.

THIS AGREEMENT may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. For purposes hereof, a facsimile copy of this Agreement, including the signature pages hereto, shall be deemed to be an original.

IN WITNESS WHEREOF, this Agreement has been executed and approved and is effective and operative as to each of the Party HDs and Party TGs as herein provided.

\_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_