

## **AGREEMENT FOR TRANSFER AND USE OF INFORMATION**

### **Section 1. Parties to the Agreement.**

1.1 This agreement for the transfer and use of information ("this Agreement") is entered into by and between the Montana Department of Labor and Industry, Unemployment Insurance Division ("the Division") and Department of Corrections ("the Recipient").

### **Section 2. Purpose of the Agreement.**

2.1 The Recipient is a governmental agency that is authorized to use for its official duties certain information gathered by the Division, in accordance with Section 39-51-603, Montana Code Annotated. The Recipient will use that information to verify addresses of persons sentenced or subject to the custody of, or supervision by, the Recipient, and to verify Unemployment Insurance benefit and wage information for those persons. The purpose of this Agreement is for the Division to transfer those certain data elements or information described in Section 4 of this Agreement to the Recipient for the Recipient's specific intended use.

2.2 The Recipient agrees that it will only use the information transferred pursuant to this Agreement for the purposes described in paragraph 2.1.

### **Section 3. Limited license granted.**

3.1 The information transfer that is the subject of this Agreement creates only a limited license for the use of the information transferred, and does not give the Recipient any ownership interests in the information itself. The license granted extends only to the Recipient's use as described in this Agreement. The Recipient is prohibited from granting access to the information transferred by this Agreement to any other persons that are not the employees of Recipient without the express, written consent of the Division.

3.2 The information that is transferred pursuant to this Agreement may only be used for the expressed purpose as originally intended.

3.3 The Recipient may not disclose the information transferred pursuant to this Agreement to any non-employee agent of Recipient without the express, written consent of the Division. The Division may grant or withhold that consent in its sole discretion. The Division may impose reasonable conditions on the Recipient and the agent regarding confidentiality as a condition of granting consent for the agent's access to the transferred information.

3.4 In accordance with 20 CFR § 603.9(c), the Recipient may re-disclose information transferred pursuant to this agreement:

- 3.4.1 to the individual or employer who is the subject of the information;
- 3.4.2 to an attorney representing the individual or the employer who is the subject of the information; or
- 3.4.3 in any civil or criminal proceedings for or on behalf of the Recipient.

3.5 The Recipient shall, by means of an agency-issued agreement or protective order, prohibit the subsequent re-disclosure of information by any person receiving information pursuant to the paragraph 3.4.2 or 3.4.3.

**Section 4. Description of information being transferred.**

4.1 The information being transferred pursuant to this Agreement is wage, benefits and employment data about Montana workers, based on wages reported to the Division for unemployment insurance purposes. The wage and employment information being transferred is found on the MISTICS screens listed in Appendix A.

4.2 The information will be transferred to the Recipient via online access.

**Section 5. Non-disclosure of personal identifiers.**

5.1 To the extent that any of the information being transferred pursuant to this Agreement includes or consists of personal identifiers (including, but not limited to name, address, telephone number, social security number or taxpayer identification number), Recipient agrees that it will take all necessary steps to protect that personal identifier information from intentional or accidental disclosure to any person or entity not authorized by this Agreement. Those steps must include, but are not limited to providing:

- 5.1.1 locked file cabinets or safes to store written copies of the information when that information is not being actively used;
- 5.1.2 password protection for any information stored in an electronic database; and
- 5.1.3 training of those employees or agents with access to the information, concerning the acceptable uses of the information, and the securing and safeguarding of that information.
- 5.1.4 information is not to be copied, removed, or stored outside of the Recipient's offices unless there is a business requirement approved by management.
- 5.1.5 access based on business requirements and limited solely to users authorized by request to the Division.

5.2 The Recipient acknowledges that it and its agents and employees may be subject to state and/or federal civil and criminal penalties in the event it makes unauthorized disclosures of legally protected information. Each of the Recipient's users will be required to sign a confidentiality statement. The Recipient is responsible for notifying the Division to terminate access when employment of a user ends.

5.3 In the event of a breach of confidentiality or possible security breach, the Recipient agrees to notify the Internal Security officer of the Division within 24 hours of discovery.

5.4 In the event a third party attempts to compel by way of legal process the disclosure of any of the information that is being transferred pursuant to this Agreement, the Recipient agrees to immediately notify the Division of that fact. The Recipient must reasonably cooperate with the Division in the event the Division elects to resist that legal compulsion. The Recipient, however, is not required to (although it may do so at its own expense) retain counsel to resist that legal

compulsion, once the Recipient has notified the Division as provided by this paragraph.

5.5 The Recipient agrees that it will maintain a system sufficient to allow an audit of the Recipient's compliance with the security requirements imposed by this Agreement and 20 CFR § 603. The Recipient agrees to cooperate with the Division in the performance of security audits performed pursuant to 20 CFR § 603.

**Section 6. Indemnity.**

6.1 The Recipient agrees to defend, indemnify and hold harmless the Division, the Department of Labor and Industry, and the State of Montana from any claims arising out of the transfer of the information that is the subject of this Agreement, or arising out of the use, misuse or disclosure by the Recipient of that information.

6.2 The Recipient agrees to indemnify the Division and the Department of Labor and Industry for any losses or damages arising out of Recipient's violation of any of the terms of this Agreement.

**Section 7. No warranty regarding the information.**

7.1 Although the Division uses reasonable care in collecting the data or information in its records, the Division makes no express or implied warranty of the accuracy of the information that is being transferred to the Recipient. The Recipient acknowledges that it takes the information "as is", and that there is no express or implied warranty of accuracy or fitness for any purpose associated with the use of the data or information.

**Section 8. Consideration.**

8.1 The consideration for this Agreement consists of the mutual promises and obligations of the parties, as reflected in this Agreement.

8.2 In addition to the consideration described in this Section, the Recipient promises to reimburse the Division for the reasonable costs of accessing UID information and inquiry transactions incurred in the performance of this Agreement, in the amount of \$5 per user per month. The Division will bill the Recipient on a quarterly basis. The user list maintained by the Division will be used to compute the monthly cost.

**Section 9. Term of the contract.**

9.1 The term of this Agreement runs from July 1, 2016 through June 30, 2018.

9.2 In the event of a material breach of this Agreement, either the Division or the Recipient may terminate this Agreement upon 10 days written notice to the other party.

9.3 The Recipient agrees to maintain the confidentiality of the information transferred pursuant to this Agreement after the termination of this Agreement.

**Section 10. Entire document and modifications.**

10.1 Except as provided by paragraph 10.2, this Agreement constitutes the entire agreement between the Division and the Recipient with respect to the information transfer that is the subject of this Agreement. No other statements, understandings or promises serve to modify or explain the terms of this Agreement.

10.2 Only a document or writing, specifically referred to and identified as an exhibit to this Agreement, and attached as an exhibit to this Agreement, is incorporated by reference in this Agreement. Such an exhibit does not need to be signed by the parties, but must be attached to this Agreement at the time of signing by both parties.

10.3 This Agreement may not be modified, except in a writing signed by both parties.

**Section 11. Good faith and further cooperation.**

11.1 The parties agree to act in good faith with respect to one another in the performance of this Agreement.

11.2 The parties agree to further cooperate as reasonably necessary to carry out the provisions of this Agreement.

11.3 The parties designate the following individuals as their respective points of contact for the purposes of communications regarding this Agreement:

11.3.1 For the Division:

Janet Lauf  
1315 Lockett  
PO Box 8020  
Helena MT 59620-8020  
(406) 444-4336  
(406) 444-2993 fax  
jlauf@mt.gov  
For MISTICS additions and deletions: DLIUIDSecurityManager @mt.gov

11.3.2 For the Recipient:

Theresa Davis  
Financial & Program Services Supervisor  
Youth Community Corrections Division  
Department of Corrections  
5 S Last Chance Gulch  
Helena MT 59601  
PO Box 201301  
(406) 444-9738  
(406) 444-0522 fax  
tdavis@mt.gov

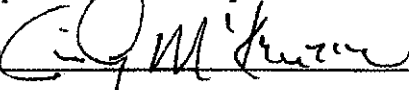
**Section 12. Choice of law and venue.**

12.1 The Division and the Recipient agree that in the event of litigation concerning the terms of this Agreement, this Agreement will be construed in accordance with Montana law and venue will be in the First Judicial District of Montana, Lewis and Clark County.

**Section 13. Execution of counterpart originals.**

13.1 This Agreement will be executed in two counterpart originals, any and all of which are to be deemed an "original" of this Agreement. The person executing this Agreement on behalf of the Recipient specifically represents to the Division that the person is authorized to act on behalf of the Recipient and to bind the Recipient in contract.

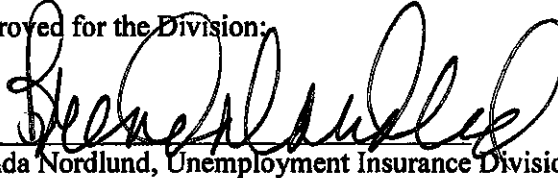
Approved for the Recipient:

by: 

Cindy McKenzie, Administrator

date: 6-22-16

Approved for the Division:

by: 

Brenda Nordlund, Unemployment Insurance Division Administrator

date: 6/28/16

Reviewed for form and content:

by:   
attorney for the Recipient

date: 6-20-16

by:   
attorney for the Division

date: 6/28/16

**Appendix A MISTICS Screens for Department of Corrections:**

**Role Access Report Results - EXT\_COR\_CF\_REST\_OFCR**

06/01/2016 13:45:31

View	Edit	Screen	Object	Obj Type
X		Business Search		
X		Child Support Intercepts		
X		Claimant Claim Query		
X		Individual Search		
X		Individuals		
X		Payment Summary		
X		UI Wage Display (5 years previous records)		

**Role Access Report Results - EXT\_COR\_CO\_YOUTH\_SERV**

06/01/2016 13:46:22

View	Edit	Screen	Object	Obj Type
X		Business Search		
X		Child Support Intercepts		
X		Claimant Claim Query		
X		Individual Search		
X		Individuals		
X		Payment Summary		
X		UI Wage Display (5 years previous records)		

**Role Access Report Results - EXT\_COR\_MSP\_INVSTGTR**

06/01/2016 13:48:14

View	Edit	Screen	Object	Obj Type
X		Business Search		
X		Child Support Intercepts		
X		Claimant Claim Query		
X		Individual Search		
X		Individuals		
X		Payment Summary		
X		UI Wage Display (5 years previous records)		