

TITLE IV-E AGREEMENT  
BETWEEN  
GEORGIA DIVISION OF FAMILY AND CHILDREN SERVICES AND OFFICE OF THE  
CHILD ADVOCATE

**THIS AGREEMENT**, effective this 21st day of April, 2021, and shall terminate one year from the contract effective date, unless renewed annually by mutual agreement. This Agreement is made and entered into by and between the Georgia Division of Family and Children Services, hereinafter referred to as “DFCS,” and the Georgia Office of the Child Advocate, hereinafter referred to as “OCA.” DFCS and OCA hereinafter referred to as “parties.” This agreement will be the basis of the *Raise the Bar Title IV-E Legal Representation Project*.

**WHEREAS**, DFCS is the state agency charged by law with child welfare responsibilities for children and families;

**WHEREAS**, DFCS is the single state agency in Georgia responsible for administering the State Plan for Title IV-E of the Social Security Act and the funding with this plan (hereinafter referred to as Title IV-E). Section 472 of the Social Security Act requires that the placement and care of a child eligible for Title IV-E funding must be the responsibility of (i) the State agency administering the Title IV-E plan approved under section 471, or (ii) any other public agency with which the state agency administering or supervising the administration of the Title IV-E plan approved under section 471 has made an agreement which is still in effect;

**WHEREAS**, OCA is the state agency that provides independent oversight of persons, organizations, and agencies responsible for providing services to or caring for children who are victims of child abuse and neglect or whose domestic situation requires intervention by the state.

**WHEREAS**, OCA will assist DFCS with services pursuant to their mission of providing services to or caring for children who are victims of child abuse and neglect or whose domestic situation requires intervention by the state. OCA was created for the purpose of assisting, protecting, and restoring the security of children whose well-being is threatened, per O.C.G.A § 15-11-740 et seq. OCA is empowered to establish policies and procedures necessary to accomplish its purpose, and has the right to access all records and files of a child receiving protective services from the state where the child has been placed for care or received treatment per O.C.G.A §§ 15-11-743(5) and 15-11-744(a)(2). OCA has the authority to contract in the field of child welfare and juvenile justice, among others, as needed to support the work of the advocate per O.C.G.A § 15-11-742(e).

**WHEREAS**, OCA would like to serve as the administrator and pass-through agency for Title IV-E revenues to partially match expenditures for counties participating in the State’s IV-E Legal Representation Project;

**WHEREAS**, OCA intends to enter into individual contracts with participating counties that will outline all federal and state guidelines and requirements for the reimbursement of Title IV-E revenues;

**WHEREAS**, OCA shall ensure the expenditures made by the contracted counties will be accounted for as the required federal Title IV-E match and OCA shall ensure those expenditures are not considered or utilized for any other matching purposes;

**WHEREAS**, DFCS has determined that the contracted county expenditures are partially Title IV-E reimbursable by applying the Title IV-E penetration rate (varies by quarter) and the Title IV-E administrative reimbursement rate of 50%; and

**WHEREAS**, DFCS is a partner with OCA, and recognizes that the goals of safety, permanency, and well-being for children in foster care are primary outcomes sought by the child welfare system.

**NOW, THEREFORE, IN CONSIDERATION** of the mutual objectives shared by DFCS and OCA in seeking safety, permanency, and well-being for children in foster care, DFCS and OCA hereby agree as follows:

Pursuant to this Agreement, OCA shall receive from DFCS Federal Financial Participation Funds (hereinafter called FFPF) for allowable Title IV-E administrative costs for eligible children in foster care related court proceedings and shall then reimburse the contracted counties for any approved administrative costs related to Title IV-E Legal Representation. Such administrative costs may include preparation for and participation in judicial determinations by an attorney providing independent legal representation to a child who is a candidate for title IV-E foster care (as defined by DFCS) or is in title IV-E foster care, and his/her parent. Examples of such activities and expenses include, but are not limited to, preparation and participation in judicial hearings and any appeals, independent investigation of the facts of the case, meeting with clients, attending related meetings, supervising professionals, and other activities and expenses allowable under section 474(a)(3) of the Social Security Act (the Act), federal regulations at 45 CFR 1356.60(c), and any technical bulletins or other guidance.

## **I. PURPOSE**

The purpose of this Agreement is to facilitate cooperation between DFCS and OCA; to assure compliance with Title IV-E and all other federal laws and regulations governing the receipt of FFPF; and to define the responsibilities of the parties with respect to administrative claims for FFPF under Title IV-E and the distribution of reimbursable Title IV-E revenue to OCA.

## **II. BASIC AGREEMENT**

- A. This Agreement is at all times contingent upon the availability and receipt of Title IV-E funds that DFCS has allocated or which are available to be allocated by DFCS to OCA and any contracted counties, over and above the FFPF to which DFCS is entitled to under Title IV-E.
- B. DFCS agrees to make payments to OCA based upon claims for Title IV-E FFPF submitted by OCA to DFCS for which FFPF is received by DFCS from the U.S. Department of Health and Human Services (hereinafter called DHHS) as reasonable, necessary, and allowable expenses for Title IV-E foster care related administrative costs pertaining to children eligible for Title IV-E funds. DFCS is solely responsible for submitting all claims for Title IV-E FFPF to DHHS.
- C. OCA agrees to submit claims for Title IV-E FFPF to DFCS in accordance with this Agreement and shall comply with all federal and state laws, rules, and regulations pertaining to Title IV-E eligibility with regard to all of the claims for reimbursement.

### **III. TERMS OF THE AGREEMENT**

#### **A. Title IV-E Requirements**

1. OCA agrees to comply with all federal and state laws, regulations, rules or other requirements pertaining to the receipt of Title IV-E FFPF, including, but not limited to, Title IV-E of the Social Security Act as amended by the Adoption and Safe Families Act, Public Law 96-272, and all regulations, rules, policies or other requirements of DHHS interpreting Title IV-E of the Social Security Act.
2. OCA agrees to adopt internal policies and procedures to provide effective service delivery and assure compliance with all state or federal laws, regulations, rules, or other requirements to receive Title IV-E FFPF and shall modify such policies, as required, to maintain compliance with such state and federal law, regulations, rules, or other requirements. OCA agrees to provide reasonable access to its policies and procedures related to the receipt of Title IV-E FFPF to DFCS.
3. OCA agrees that all expenditures certified and forwarded to DFCS for Title IV-E claims will be direct costs associated with the contracted counties participating in the IV-E Legal Representation Project. OCA is responsible for complying with federal and state laws, regulations, rules, and policies necessary to claim Title IV-E FFPF for OCA. However, OCA shall alter the methods, policies and procedures by which it complies with Title IV-E FFPF requirements as reasonably requested by DFCS and provide to DFCS reasonable access to such modified methods, policies and procedures.

#### **B. Provision of Title IV-E Administrative Services by OCA**

1. The services certified by OCA and claimed by the contracted counties for partial Title IV-E administrative reimbursement will be the administrative costs of independent legal representation by an attorney for a child who is a candidate for title IV-E foster care (as defined by DFCS) or in foster care and his/her parent to prepare for and participate in all stages of foster care legal proceedings, such as court hearings related to a child's removal from the home. OCA is responsible for ensuring the lawyers meet applicable licensing requirements, child advocate training, and applicable child advocacy standards.

#### **C. Contact Persons for Program Matters**

1. For purposes of this Agreement, the contact persons for DFCS shall be:  
Clifford O'Connor, Fiscal Services Manager  
Division of Family and Children Services  
2 Peachtree Street, NW, 19th floor  
Atlanta, Georgia 30303  
404-463-1005
2. For purposes of this Agreement, the contact person for OCA shall be:  
Rachel Davidson  
Director of the Office of the Child Advocate

Georgia Office of Child Advocate  
7 Martin Luther King Jr. Drive, Suite 347  
Atlanta, GA 30334  
404-656-4200

#### **D. Financial Requirements**

1. OCA has identified its non-federal share for Title IV-E FFPF as being comprised of funds from the contracted counties. OCA shall ensure and confirm that these funds are not being used to match or meet maintenance of effort on any other federal grant.
2. OCA will bill DFCS on a quarterly basis for actual costs incurred by the contracted counties in the *Raise the Bar Title IV-E Representation Project*.

#### **E. Accountability and Records**

1. OCA remains liable as a recipient of Title IV-E FFPF and as the monitor of sub recipient or subcontractor claims and for all claims which it submits to DFCS. DFCS shall not be required to submit OCA claims to DHHS for Title IV-E FFPF which it reasonably believes are not accurate, allowable, and properly allocated or are otherwise not appropriate for Title IV-E FFPF.
2. OCA will fully cooperate with DFCS and DHHS in any fiscal or programmatic monitoring, audit, evaluation, or other reviews or studies pertaining to any claims for FFPF made by OCA, which is conducted by DFCS, DHHS or their representatives.
3. OCA will ensure that complete, accurate, timely, automated and manual Title IV-E FFPF records, including financial, program and supporting documents, statistical records, inventories of nonexpendable property acquired, and other records pertinent or required to substantiate Title IV-E FFPF claims under this Agreement are maintained for a minimum of six (6) years from the end of the Agreement term. These records will be kept as required for Title IV-E FFPF and consistent with 45 CFR Part 74.53, GAAP, OMB Circulars A-87, A-102, A-133, DHHS requirements, HIPAA, and other relevant state and federal rules, regulations and requirements. Such records include, but are not limited to, financial and service delivery reports, performance evaluations, and other reports requested by DFCS or DHHS, and shall be maintained in a format acceptable to DFCS and DHHS and readily accessible and available upon request to DFCS, DHHS or other authorities and their representatives. If any litigation, claim, or audit involving these records begins before the six-year period expires, OCA will keep the records and documents for not less than six years and until all litigation, claims or audit findings are resolved. A case is resolved when a final order issued in litigation and any appeal time has run, or a written and binding agreement is entered into between all the parties to the dispute.
4. OCA shall also make available to DFCS, DHHS or their authorized representatives, at reasonable times and for reasonable periods, client records and other programmatic or financial records, books, and supporting documents as are requested.
5. OCA shall provide to DFCS any policies or guidelines developed for, or as a result of, the reviews conducted pursuant to this Agreement to further understanding of and collaboration between OCA and DFCS in the area of safety, permanency, and well-being.

6. OCA shall provide to DFCS all information which is required to be provided by DFCS to DHHS or any other entity by Title IV-E of the Social Security Act or any other state or federal law or regulation.
7. It is understood and agreed that DFCS is a “covered entity” as defined by HIPAA of 1996 and the federal “Standards for Privacy of Individually Identifiable Health Information” promulgated thereunder at 45 CFR Parts 160 and 164. Further, it is agreed that as a business associate of DFCS that OCA’s use or disclosure of any person’s protected health information received from or on behalf of DFCS will be governed by the Business Associate Agreement, attached hereto as Attachment A, which the Contractor agrees to by signing this Agreement. Such Business Associate Agreement is executed and is effective simultaneously with this contract/amendment. However, the Business Associate Agreement will survive this contract/amendment pursuant to Section 4.3d of the Business Associate Agreement.

#### **F. Audit Exceptions, Disallowances, and Penalties**

OCA is responsible for paying all audit exceptions, disallowances, penalties, interest and any and all other costs and charges incurred as a result of inaccurate claims, unallowable claims or claims which are deemed inappropriate for any reason which it has submitted to DFCS, and for any and all OCA violations of state or federal law, regulations, or policies with which OCA is required to comply under Title IV-E in order to receive FFPF. Such charges and costs shall include, but not be limited to, any attorney’s fees or other amount which DFCS expends as a result of defending against any such exception, disallowance, or penalty. In the event of required repayment, DFCS may a) deduct the amount of the exception or disallowance and all penalties, interest and other costs and charges from the next scheduled payment, under this Agreement, and b) if such next payment is insufficient to satisfy recoupment of the amount of the exception or disallowance and all penalties, interest, costs and other charges, OCA will repay to DFCS the difference within thirty (30) business days after such next payment would have been made.

#### **G. Termination**

This Agreement may be canceled or terminated by either of the parties without cause; however, the party seeking to terminate or cancel this Agreement must give written notice of its intention to do so to the other party at least 30 calendar days prior to the effective date of cancellation or termination.

#### **H. Schedule for Submission and Payment of Claims**

1. OCA shall submit its quarterly billing for administrative and all other Title IV-E claims to DFCS by the 25<sup>th</sup> calendar day following the end of each quarter. Any invoice submitted ten (10) business days following the Agreement termination date will not be paid by DFCS. The invoice form to be used is attached to this contract as **Attachment B**. The first quarter begins on July 1 of each year.
2. OCA shall provide its estimate of the following quarter’s claim for Title IV-E costs to DFCS by the 25<sup>th</sup> calendar day following the end of each quarter.
3. OCA shall submit the quarterly billing and cost estimates to:

Ms. Sujata Tah  
Budget Manager  
Division of Family and Children Services  
2 Peachtree Street, N.W., 19<sup>th</sup> Floor  
Atlanta, Georgia 30303  
678-518-5615  
[Sujata.tah@dhs.ga.gov](mailto:Sujata.tah@dhs.ga.gov)

4. DFCS shall pay OCA the Title IV-E FFPF from the quarterly billing within 30 calendar days after receipt of the billing.
5. For the purposes of this Agreement, the OCA contact person for all billing and other financial matters shall be:

Rachel Davidson  
Director of the Office of the Child Advocate  
Georgia Office of Child Advocate  
7 Martin Luther King Jr. Drive, Suite 347  
Atlanta, GA 30334  
404-656-4200  
[rdavidson@oca.ga.gov](mailto:rdavidson@oca.ga.gov)

#### **IV. Amendment**

This Agreement may only be amended by the signed agreement of both parties.

#### **V. Counterparts/Electronic Signatures**

This Agreement may be executed in several counterparts, each of which shall be an original, and all of which shall constitute one and the same instrument. Any signature below that is transmitted by facsimile or other electronic means shall be binding and effective as the original.

#### **V. Execution**

**IN WITNESS WHEREOF**, the parties have hereunto affixed their signatures on the dates indicated,

#### **Georgia Division of Family and Children Services**

By  \_\_\_\_\_  
Tom Rawlings, Director

Date: 4/21/2021

#### **Georgia Office of the Child Advocate**

By  \_\_\_\_\_  
Rachel Davidson, Director

Date: 4/21/2021

ATTACHMENT A

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## BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (hereinafter referred to as “Agreement”) is made and entered into by and between the Georgia Division of Family and Children Services (hereinafter referred to as “DFCS”) and the Georgia Office of the Child Advocate (hereinafter referred to as “Contractor”) as an annex to **Contract No.** \_\_\_\_\_ between DFCS and Contractor. The effective date of this Agreement shall be the date the Contract referenced above is executed by Contractor.

**WHEREAS**, DFCS is required by the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (“HIPAA”), to enter into a Business Associate Agreement with certain entities that provide functions, activities, or services involving the use of Protected Health Information (“PHI”), as defined by HIPAA;

**WHEREAS**, Contractor, under the Contract provides functions, activities, or services involving the use of Protected Health Information, as defined by HIPAA, and individually identifiable information (“PHI”) protected by other state and federal law;

**NOW, THEREFORE**, for and in consideration of the mutual promises, covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, DFCS and Contractor (each individually a “Party” and collectively the “Parties”) hereby agree as follows:

1. Terms used but not otherwise defined in this Agreement shall have the same meaning as those terms have in HIPAA and in Title XIII of the American Recovery and Reinvestment Act of 2009 (the Health Information Technology for Economic and Clinical Health Act, or “HITECH”), Public Law 111-5, and in the implementing regulations of HIPAA and HITECH. Implementing regulations are published as the Standards for Privacy and Security of Individually Identifiable Health Information in 45 C.F.R. Parts 160 and 164. Together, HIPAA, HITECH, and their implementing regulations are referred to in this Agreement as the “Privacy Rule and Security Rule.” If the meaning of any defined term is changed by law or regulation, then this Agreement will be automatically modified to conform to such change. The term “NIST Baseline Controls” means the baseline controls set forth in National Institute of Standards and Technology (NIST) SP 800-53 established for “moderate impact” information.
2. Except as limited in this Agreement, Contractor may use or disclose PHI only to the extent necessary to meet its responsibilities as set forth in the Contract provided that such use or disclosure would not violate the Privacy Rule or the Security Rule, if done by DHS. Furthermore, except as otherwise limited in this Agreement, Contractor may:
  - A. Use PHI for internal quality control and auditing purposes.
  - B. Use or disclose PHI as Required by Law.

C. Use and disclose PHI to consult with an attorney for purposes of determining Contractor's legal options with regard to reporting conduct by DFCS that Contractor in good faith believes to be unlawful, as permitted by 45 C.F.R. § 164.502(j)(1).

3. Contractor warrants that only individuals designated by title or name on Attachments A-1 and A-2 will request PHI from DFCS or access DFCS PHI in order to perform the services of the Contract, and these individuals will only request the minimum necessary amount of information necessary in order to perform the services.
4. Contractor warrants that the individuals listed by title on Attachment A-1 require access to PHI in order to perform services under the Contract. Contractor agrees to send updates to Attachment A-1 whenever necessary. Uses or disclosures of PHI by individuals not described on Attachment A-1 are impermissible.
5. Contractor warrants that the individuals listed by name on Attachment LA-2 require access to a DFCS information system in order to perform services under the Contract. Contractor agrees to notify the Project Leader and the Access Control Coordinator named on Attachment A-2 immediately, but at least within 24 hours, of any change in the need for DFCS information system access by any individual listed on Attachment A-2. Any failure to report a change within the 24 hour time period will be considered a security incident and may be reported to Contractor's Privacy and Security Officer, Information Security Officer and the Georgia Technology Authority for proper handling and sanctions.
6. Contractor agrees that it is a Business Associate to DFCS as a result of the Contract, and warrants to DFCS that it complies with the Privacy Rule and Security Rule requirements that apply to Business Associates and will continue to comply with these requirements. Contractor further warrants to DFCS that it maintains and follows written policies and procedures to achieve and maintain compliance with the HIPAA Privacy and Security Rules and updates such policies and procedures as necessary in order to comply with the HIPAA Privacy and Security Rules that apply to Business Associates. These policies and procedures shall be provided to DFCS upon request.
7. The Parties agree that a copy of all communications related to compliance with this Agreement will be forwarded to the following Privacy and Security Contacts:
  - A. At DHS: Stephen Harris  
HIPAA Privacy Officer, Office of General Counsel  
Stephen.Harris@dhs.ga.gov  
404-656-9817  
  
Randy Coleburn  
DHS Chief Information Security Officer  
Randy.Coleburn@dhs.ga.gov  
404-651-9876
  - B. At Contractor: Rachel Davidson, Director  
Georgia Office of the Child Advocate  
[rdavidson@oca.ga.gov](mailto:rdavidson@oca.ga.gov)



**8. Contractor agrees that it will:**

- A.** Not request, create, receive, use or disclose PHI other than as permitted or required by this Agreement, the Contract, or as required by law.
- B.** Establish, maintain and use appropriate administrative, physical and technical safeguards to prevent use or disclosure of the PHI other than as provided for by this Agreement or the Contract. Such safeguards must include all NIST Baseline Controls, unless DFCS has agreed in writing that the control is not appropriate or applicable.
- C.** Implement and use administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the electronic protected health information that it creates, receives, maintains, or transmits on behalf of DFCS. Such safeguards must include all NIST Baseline Controls, unless DFCS has agreed in writing that the control is not appropriate or applicable.
- D.** In addition to the safeguards described above, include access controls that restrict access to PHI to the individuals listed on A-1 and A-2, as amended from time to time, and shall implement encryption of all electronic PHI during transmission and at rest.
- E.** Upon DFCS's reasonable request, but no more frequently than annually, obtain an independent assessment of Contractor's implementation of the NIST Baseline Controls and the additional safeguards required by this Agreement with respect to DFCS PHI, provide the results of such assessments to DFCS, and ensure that corrective actions identified during the independent assessment are implemented.
- F.** Mitigate, to the extent practicable, any harmful effect that may be known to Contractor from a use or disclosure of PHI by Contractor in violation of the requirements of this Agreement, the Contract or applicable regulations.
- G.** Ensure that its agents or subcontractors to whom it provides PHI are contractually obligated to comply with at least the same obligations that apply to Contractor under this Agreement, and ensure that its agents or subcontractors comply with the conditions, restrictions, prohibitions and other limitations regarding the request for, creation, receipt, use or disclosure of PHI, that are applicable to Contractor under this Agreement and the Contract.
- H.** Except for "Non-Reportable Incidents," report to DFCS any use or disclosure of PHI that is not provided for by this Agreement or the Contract of which it becomes aware. Non-Reportable Incidents are limited to the following:
  - i. The unintentional acquisition, access, or use of PHI by a workforce member of Contractor acting under the authority of Contractor, so long as the PHI is not further acquired, accessed, used or disclosed in an impermissible manner;
  - ii. The inadvertent disclosure of PHI from a person designated in A-1 or A-2 as authorized to access DFCS PHI to a workforce member of Contractor who is not designated in A-1 or A-2, but is authorized to access other Protected

Health Information maintained by Contractor, so long as the information is not further acquired, accessed, used or disclosed in an impermissible manner.

- I.** Make an initial report to DFCS in writing in such form as DFCS may require within three (3) business days after Contractor (or any subcontractor) becomes aware of the unauthorized use or disclosure. This report will require Contractor to identify the following:
- i. The nature of the impermissible use or disclosure (the “incident”), which will include a brief description of what happened, including the date it occurred and the date Contractor discovered the incident;
  - ii. The Protected Health Information involved in the impermissible use or disclosure, such as whether the full name, social security number, date of birth, home address, account number or other information were involved;
  - iii. Who (by title, access permission level and employer) made the impermissible use or disclosure and who received the Protected Health information as a result;
  - iv. What corrective or investigational action Contractor took or will take to prevent further impermissible uses or disclosures, to mitigate harmful effects, and to prevent against any further incidents;
  - v. What steps individuals who may have been harmed by the incident might take to protect themselves; and
  - vi. Whether Contractor believes that the impermissible use or disclosure constitutes a Breach of Unsecured Protected Health Information.

Upon request by the DFCS HIPAA Privacy and Security Officer or the DFCS Information Security Officer, Contractor agrees to make a complete report to DFCS in writing within two weeks of the initial report that includes a root cause analysis and a proposed corrective action plan. Upon approval of a corrective action plan by DFCS, Contractor agrees to implement the corrective action plan and provide proof of implementation to DFCS within five (5) business days of DFCS’s request for proof of implementation.

- J.** Report to the DFCS HIPAA Privacy and Security Officer and the DFCS Agency Information Security Officer any successful unauthorized access, modification, or destruction of PHI or interference with system operations in Contractor's information systems as soon as practicable but in no event later than three (3) business days of discovery. If such a security incident resulted in a use or disclosure of PHI not permitted by this Agreement, Contractor shall also make a report of the impermissible use or disclosure as described above.

Contractor agrees to make a complete report to DFCS in writing within two weeks of the initial report that includes a root cause analysis and, if appropriate, a proposed corrective action plan designed to protect PHI from similar security incidents in the future. Upon DFCS’s approval of Contractor's corrective action plan, Contractor agrees to implement the corrective action plan and provide proof of implementation to DFCS.

- K.** Upon DFCS’s reasonable request and not more frequently than once per quarter, report to the DFCS Agency Information Security Officer any (A) attempted (but unsuccessful) unauthorized access, use, disclosure, modification, or destruction of PHI or (B) attempted (but unsuccessful) interference with system operations in Contractor's information systems. Contractor does not need to report trivial incidents that occur on a daily basis, such as scans, “pings,” or other routine attempts that do not penetrate computer networks or servers or result in interference with system operations.
- L.** Cooperate with DFCS and provide assistance necessary for DFCS to determine whether a Breach of Unsecured Protected Health Information has occurred, and whether notification of the Breach is legally required or otherwise appropriate. Contractor agrees to assist DFCS in its efforts to comply with the HIPAA Privacy and Security Rules, as amended from time to time. To that end, the Contractor will abide by any requirements mandated by the HIPAA Privacy and Security Rules or any other applicable laws in the course of this Contract. Contractor warrants that it will cooperate with DFCS, including cooperation with DFCS privacy officials and other compliance officers required by the HIPAA Privacy and Security Rules and all implementing regulations, in the course of performance of this Contract so that both parties will be in compliance with HIPAA.
- M.** If DFCS determines that a Breach of Unsecured Protected Health Information has occurred as a result of Contractor's impermissible use or disclosure of PHI or failure to comply with obligations set forth in this Agreement or in the Privacy or Security Rules, provide all notifications to Individuals, DHHS and/or the media, on behalf of DFCS, after the notifications are approved by DFCS. Contractor shall provide these notifications in accordance with the security breach notification requirements set forth in 42 U.S.C. §17932, 45 C.F.R. Part 160, & 45 C.F.R. Part 164, Subparts A, D & E, as of their respective Compliance Dates, and shall pay for the reasonable and actual costs associated with such notifications.
- In the event that DFCS determines a Breach has occurred, without unreasonable delay, and in any event no later than thirty (30) calendar days after Discovery, Contractor shall provide the DFCS HIPAA Privacy and Security Officer a list of Individuals and a copy of the template notification letter to be sent to Individuals. Contractor shall begin the notification process only after obtaining DFCS’s approval of the notification letter.
- N.** Make any amendment(s) to PHI in a Designated Record Set that DFCS directs or agrees to pursuant to 45 C.F.R. §164.526 within five (5) business days after request of DFCS. Contractor also agrees to provide DFCS with written confirmation of the amendment in such format and within such time as DFCS may require.
- O.** In order to meet the requirements under 45 C.F.R. § 164.524, regarding an individual's right of access, within five (5) business days following DFCS’s request, or as otherwise required by state or federal law or regulation, or by another time as may be agreed upon in writing by DFCS, provide DFCS access to the PHI in an individual's Designated Record Set. However, if requested by DFCS, Contractor shall provide access to the PHI in a Designated Record Set directly to the individual to whom such information relates.
- P.** Give the Secretary of the U.S. Department of Health and Human Services (the “Secretary”) or the Secretary's designees access to Contractor’s books and records and

policies, practices or procedures relating to the use and disclosure of PHI for or on behalf of DFCS within five (5) business days after the Secretary or the Secretary's designees request such access or otherwise as the Secretary or the Secretary's designees may require. Contractor also agrees to make such information available for review, inspection and copying by the Secretary or the Secretary's designees during normal business hours at the location or locations where such information is maintained or to otherwise provide such information to the Secretary or the Secretary's designees in such form, format or manner as the Secretary or the Secretary's designees may require.

- Q.** Document all disclosures of PHI and information related to such disclosures as would be required for DFCS to respond to a request by an Individual or by the Secretary for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528. By no later than five (5) business days of receipt of a written request from DFCS, or as otherwise required by state or federal law or regulation, or by another time as may be agreed upon in writing by the DFCS HIPAA Privacy and Security Officer, Contractor shall provide an accounting of disclosures of PHI regarding an Individual to DFCS. If requested by DFCS, Contractor shall provide an accounting of disclosures directly to the individual. Contractor shall maintain a record of any accounting made directly to an individual at the individual's request and shall provide such record to DFCS upon request.
- R.** In addition to any indemnification provisions in the Contract, indemnify DFCS, its officers and employees from any liability resulting from any violation of the HIPAA Privacy and Security Rules or Breach that arises from the conduct or omission of Contractor or its employee(s), agent(s) or subcontractor(s). Such liability will include, but not be limited to, all actual and direct costs and/or losses, civil penalties and reasonable attorneys' fees imposed on DFCS.
- S.** For any requirements in this Agreement that include deadlines, pay performance guarantee payments of \$300.00 per calendar day, starting with the day after the deadline and continuing until Contractor complies with the requirement. Contractor shall ensure that its agreements with subcontractors enable Contractor to meet these deadlines.

**9. DFCS agrees that it will:**

- A. Notify Contractor of any new limitation in DFCS's Notice of Privacy Practices in accordance with the provisions of the Privacy Rule if, and to the extent that, DFCS determines in the exercise of its sole discretion that such limitation will affect Contractor's use or disclosure of PHI.
- B. Notify Contractor of any change in, or revocation of, authorization by an Individual for DFCS to use or disclose PHI to the extent that DFCS determines in the exercise of its sole discretion that such change or revocation will affect Contractor's use or disclosure of PHI.
- C. Notify Contractor of any restriction regarding its use or disclosure of PHI that DFCS has agreed to in accordance with the Privacy Rule if, and to the extent that, DFCS determines in the exercise of its sole discretion that such restriction will affect Contractor's use or disclosure of PHI.

D. Prior to agreeing to any changes in or revocation of permission by an Individual, or any restriction, to use or disclose PHI, DFCS agrees to contact Contractor to determine feasibility of compliance. Following the receipt by DFCS of a written cost estimate, DFCS agrees to assume all costs incurred by Contractor in compliance with such special requests.

**10. The Term of this Agreement** shall be effective on the Effective Date and shall terminate one year from the date of the effective date, unless otherwise renewed by the Parties based on written mutual renewal agreement. If said contract is terminated OCA shall ensure all the PHI provided by DFCS to Contractor, or created or received by Contractor on behalf of DFCS, is destroyed or returned to DFCS, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this section.

A. Termination for Cause. Upon DFCS's knowledge of a material breach of this Agreement by Contractor, DFCS shall either:

- i. Provide an opportunity for Contractor to cure the breach of Agreement within a reasonable period of time, which shall be within thirty (30) calendar days after receiving written notification of the breach by DFCS;
- ii. If Contractor fails to cure the breach of Agreement, terminate the Contract upon thirty (30) calendar days' notice; or
- iii. If neither termination nor cure is feasible, DFCS shall report the breach of Agreement to the Secretary of the Department of Health and Human Services.

**B. Effect of Termination.**

- i. Upon termination of this Agreement for any reason, DFCS and Contractor shall determine whether return of PHI is feasible. If return of the PHI is not feasible, Contractor agrees to continue to extend the protections of this Agreement to the PHI for so long as the Contractor maintains the PHI and shall limit the use and disclosure of the PHI to those purposes that made return or destruction of the PHI infeasible. If at any time it becomes feasible to return or destroy any such PHI maintained pursuant to this paragraph, Contractor must notify DFCS and obtain instructions from DHS for either the return or destruction of the PHI.
- ii. Contractor agrees that it will limit its further use or disclosure of PHI only to those purposes DFCS may, in the exercise of its sole discretion, deem to be in the public interest or necessary for the protection of such PHI, and will take such additional actions as DFCS may require for the protection of patient privacy and the safeguarding, security and protection of such PHI.
- iii. This Effect of Termination section survives the termination of the Agreement.

**11. Interpretation.** Any ambiguity in this Agreement shall be resolved to permit DFCS to comply with applicable laws, rules and regulations, the HIPAA Privacy Rule, the HIPAA Security Rule and any rules, regulations, requirements, rulings, interpretations, procedures

or other actions related thereto that are promulgated, issued or taken by or on behalf of the Secretary; provided that applicable laws, rules and regulations and the laws of the State of Georgia shall supersede the Privacy Rule if, and to the extent that, they impose additional requirements, have requirements that are more stringent than or have been interpreted to provide greater protection of patient privacy or the security or safeguarding of PHI than those of the HIPAA Privacy Rule.

- 12. No Third Party Beneficiaries. Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than the Parties and the respective successors or assigns of the Parties, any rights, remedies, obligations or liabilities whatsoever.
- 13. **All other terms and conditions contained in the Contract and any amendment thereto, not amended by this Agreement, shall remain in full force and effect.**

*(Signatures below)*

**IN WITNESS WHEREOF**, Contractor, through its authorized officer and agent, has caused this Agreement to be executed on its behalf as of the date indicated.

**CONTRACTOR'S NAME**

BY:  \_\_\_\_\_

SIGNATURE

\_4/21/2021\_\_\_\_\_

DATE

\_Rachel Davidson\_\_\_\_\_

NAME

\_Director\_\_\_\_\_

TITLE\*

***\*Must be President, Vice President, CEO or Other Officer Authorized to Execute on Behalf of and Bind the Entity to a Contract***

**ATTACHMENT A-1**

**List of Individuals Permitted to Receive, Use and Disclose DFCS PHI**

The following Position Titles, as employees and/or representatives of Contractor, need access to DFCS Protected Health Information in order for Contractor to perform the services described in the Contract. If this is not applicable please mark the first line below with N/A:

- Director – Georgia Office of the Child Advocate
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

Transfers of PHI must comply with DFCS Policy and Procedure 419: Appropriate Use of Information Technology Resources.

Approved methods of secure delivery of PHI between Contractor and DFCS:

- Secure FTP file transfer (preferred)
- Encrypted email or email sent through “secure tunnel” approved by DFCS Information Security Officer
- Email of encrypted document (password must be sent by telephone only)
- Encrypted portable media device and tracked delivery method

Contractor must update this list as needed and provide the updated form to DFCS. Use of DFCS Protected Health Information by individuals who are not described on this Attachment A-1, as amended from time to time, is impermissible and a violation of the Agreement. Contractor must update this Attachment A-1 as needed and provide the updated form to DFCS Project Leader Contact.

**ATTACHMENT A-2**

**Part 1:**

Please initial beside the correct option. Please select only one option.

RD Contractor **DOES NOT** need any user accounts to access DFCS Information Systems. Do not Complete Part 2 of this form.

\_\_\_\_\_ Contractor **DOES** need user accounts to access DFCS Information Systems. Please complete Part 2 of this form.

**Part 2:**

Please complete the table below if you indicated that Contractor DOES need any user accounts to access DFCS Information Systems. Please attach additional pages if needed.

**List of Individuals Authorized to Access a DFCS Information System Containing PHI**

The following individuals, as employees and/or representatives of Contractor, need access to DFCS Information Systems containing DFCS Protected Health Information in order for Contractor to perform the services described in the Contract:

| <b>Full Name</b> | <b>Employer</b> | <b>DFCS Information System</b> | <b>Type of Access (Read only? Write?)</b> |
|------------------|-----------------|--------------------------------|---|
|                  |                 |                                |   |
|                  |                 |                                |   |
|                  |                 |                                |   |
|                  |                 |                                |   |

The DFCS Project Leader must submit a completed DFCS Network Access Request Form for each individual listed above. Access will be granted and changed in accordance with DHS Policy and Procedure 435: Managing Authorization, Access and Control of Information Systems.

Contractor must notify the Project Leader identified in the Contract and the DHS Access Control Coordinator Stephen.Harris@dhs.ga.gov and Randy.Coleburn@dhs.ga.gov immediately, but at least within 24 hours, after any individual on this list no longer needs the level of access described. Failure to provide this notification on time is a violation of the Agreement and will be reported as a security incident.

Contractor must update this Attachment A-2 as needed and provide the updated form to DFCS Project Leader Contact.



QUARTERLY INVOICE

Please provide written notification of any change in address or contact person to the division or office representative.

|   |
|---|
| <p><u>Remit Checks or Remittance Advice to:</u></p> <p>Georgia Office of the Child Advocate<br/>         Attn: Rachel Davidson, Director<br/>         7 Martin Luther King Jr. Dr., Suite 347<br/>         Atlanta, Georgia 30334</p> <p>CONTRACTOR'S ACCOUNT/INVOICE<br/>         #: _____</p> |
|---|

MAIL INVOICE TO:

Department of Human Services  
Division of Family and Children Services  
Attn: Ms. Sujata Tah, Budget Officer  
2 Peachtree Street, NW, 19<sup>th</sup> floor  
Atlanta, Georgia 30303  
Sujata.tah@dhs.ga.gov

\*Attach additional sheets if needed.

| Dates of Service | Description of Accomplishments | Amount |
|------------------|--------------------------------|--------|
|------------------|--------------------------------|--------|

I, the undersigned, certify that the services or products shown above have been provided according to the terms of the contract and that the payment amount claimed accurately reflects the contracted rate:

**Approved for Payment:**

\_\_\_\_\_  
Signature

DFCS Payment Approval

\_\_\_\_\_  
Date

Date: