

**EXECUTED**  
*AW*

**ORIGINAL**

INTERAGENCY MASTER AGREEMENT

BETWEEN

THE GEORGIA DEPARTMENT  
OF COMMUNITY HEALTH

AND

THE GEORGIA DEPARTMENT OF  
HUMAN RESOURCES

FOR

SERVICES IN SUPPORT  
OF THE  
MEDICAID PROGRAM FOR THE  
STATE OF GEORGIA

## TABLE OF CONTENTS

|     |  |    |
|-----|--|----|
| 1.  | SCOPE AND PURPOSE OF AGREEMENT .....                     | 1  |
|     | A. DCH Responsibilities.....                             | 2  |
|     | B. DHR Responsibilities .....                            | 3  |
|     | C. DHR Deliverables .....                                | 3  |
| 2.  | TERM OF AGREEMENT.....                                   | 3  |
| 3.  | REIMBURSEMENT.....                                       | 4  |
| 4.  | REIMBURSEMENT FOR ADMINISTRATION COST .....              | 4  |
| 5.  | REIMBURSEMENT FOR BENEFIT COST .....                     | 5  |
| 6.  | INCORPORATION BY REFERENCE AND CONFLICT IN LANGUAGE..... | 6  |
| 7.  | INSPECTION OF WORK.....                                  | 6  |
| 8.  | OWNERSHIP OF WORK PRODUCT AND DATA .....                 | 7  |
| 9.  | SAFEGUARDING INFORMATION .....                           | 7  |
| 10. | DHR STAFFING REQUIREMENTS.....                           | 7  |
| 11. | RECORDS AND REPORTS .....                                | 7  |
| 12. | FINANCIAL DATA .....                                     | 8  |
| 13. | STATUTORY COMPLIANCE.....                                | 8  |
| 14. | CONFIDENTIALITY REQUIREMENTS .....                       | 9  |
| 15. | TERMINATION OF AGREEMENT .....                           | 9  |
|     | A. Termination for Default .....                         | 9  |
|     | B. Termination for Convenience .....                     | 10 |
|     | C. Termination for Unavailability of Funds.....          | 10 |
|     | D. Termination Procedures.....                           | 10 |

|  |    |
|--|----|
| E. Termination Claims .....                                  | 11 |
| 16. COMPLIANCE WITH ALL LAWS .....                           | 11 |
| 17. CONFLICTS OF INTEREST AND PROHIBITION OF GRATUITIES..... | 12 |
| 18. DRUG-FREE WORKPLACE .....                                | 12 |
| 19. NOTICES .....  | 12 |
| 20. MISCELLANEOUS .....                                      | 13 |
| A. Entire Agreement.....                                     | 13 |
| B. Choice of Law.....  | 13 |
| C. Assignment .....  | 13 |
| D. Binding.....  | 14 |
| E. Authority .....   | 14 |
| F. Severability .....  | 14 |
| G. Waiver .....  | 14 |
| H. Force Majeure .....                                       | 14 |
| I. Time is of the Essence .....                              | 14 |
| 21. AMENDMENTS IN WRITING .....                              | 14 |
| 22. SURVIVABILITY .....                                      | 15 |
| SIGNATURE .....  | 16 |
| APPENDIX I .....   | 17 |
| PAYMENT SCHEDULE .....                                       | 17 |
| APPENDIX II.....   | 18 |
| CONFIDENTIALITY STATEMENT.....                               | 20 |
| APPENDIX III .....   | 21 |
| DRUG FREE WORKPLACE CERTIFICATE .....                        | 21 |

**APPENDIX IV..... 23**

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND  
OTHER RESPONSIBILITY MATTERS..... 23**

**APPENDIX V ..... 25**

**LISTING OF SUPPLEMENTS..... 25**

**APPENDIX VI .....28**

**BUSINESS ASSOCIATE AGREEMENT.....28**

**THIS Interagency Master Agreement** (hereinafter “Agreement”) effective this 1<sup>st</sup> day of July, 2003, is made and entered into by and between the Georgia Department of Community Health (hereinafter “DCH”) and the Georgia Department of Human Resources (hereinafter “DHR”). It amends, restates, and supercedes all of the Agreements and Contracts entered into between DHR and DCH heretofore.

**WHEREAS**, DCH, as the agency for all health planning issues in the State, provides a broad range of governmental services aimed at improving the lives of Georgia’s citizens pursuant to the Official Code of Georgia Annotated (O.C.G.A.) § 31-5A-4 et. seq.; and

**WHEREAS**, DHR, administers numerous programs, and the operations of some of those programs are directly related to the Georgia Medical Assistance Program, and

**WHEREAS**, DCH and DHR, acknowledging a common interest in the study and improvement of health care for Georgia citizens, are partners in a series of innovative projects that assist the State in designing, implementing and evaluating healthcare programs and initiatives, particularly with regard to Medicaid members, women, children and the uninsured; and

**WHEREAS**, the effective and efficient administration of the Georgia Medical Assistance Program requires a close coordination and a clear delineation of responsibilities between DCH and DHR.

**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, DCH and DHR hereby agree as follows:

**1. Scope and Purpose of Agreement**

The primary goal of this Agreement is to provide the various support services described in this Agreement and found at Supplements to this Agreement. For said services, DCH agrees to provide to DHR the Federal Financial Participation (FFP) payments received by DCH that are attributable to the administrative cost of these services on a quarterly basis. For the Community Care Service Program and state-operated Intermediate Care Facility/Mental Retardation (ICF/MR), nursing facilities, Mental Retardation Waiver, Mental Health Case Management, community Mental Health and Mental Retardation, DHR agrees to pay DCH the appropriate non-federal share of the benefit cost on a monthly basis. For Child Protective Services Case Management, Adult Protective Services Case Management, Therapeutic Residential Intervention Service and Rehabilitation Services, DHR agrees to pay DCH the appropriate non-federal share of the benefit cost on a quarterly basis. DHR agrees to fund the non federal share of such costs from State or other funds eligible for use in matching the federal share for all other services. DCH agrees to provide both FFP payments and Indigent Care Trust Fund dollars for services related to PeachCare Vaccine, Resource Mothers and Right from the Start Medicaid Workers. DCH and

DHR mutually agree that the level and extent of services provided in this Agreement are contingent upon the availability of both State, federal and other funds. In the event either party determines that a service or activity provided for in this Agreement cannot be performed, a formal written notice will be provided to the Commissioner of the other party no less than thirty (30) days prior to deletion of the service or activity.

The specific services and deliverables provided by DHR are defined in Supplements (each supplement, as it may be amended, modified, extended or restated from time to time, a "Supplement" and, collectively, the "Supplements") attached to this Agreement which are hereby incorporated by reference into this Agreement as if fully written herein. In the event the parties desire to create additional projects, the parties will enter into a Supplement or Supplements to this Agreement. Each (existing and newly created) project will be governed by the terms and conditions contained in this Agreement and in the Supplement relating to that project. In addition to the specific responsibilities set forth in the Supplements, the parties agree to the following general requirements.

Pursuant to the requirements of 42 CFR 431.615, DHR and DCH have established a coordinating committee consisting of the Commissioner or his or her designee from DCH, the Commissioner or his or her designee from DHR, and a representative of each appropriate program division of DHR and DCH. Said committee shall meet no less than once per quarter to review and evaluate the services provided for in this Agreement, to explore other avenues of interaction between the parties, and to otherwise meet the requirements of 42 CFR 431.615. The committee, at its discretion, may set up subcommittees to research and develop recommendations for solutions to pertinent issues.

#### **A. DCH Responsibilities**

Pursuant to the terms and conditions set forth in this Agreement, DCH shall:

1. Provide a single point of contact for each project to provide on-going guidance and project coordination within DCH;
2. Provide the Director of the Office of Financial Services of DHR with ten (10) copies that he or she will distribute in DHR, of federal and State regulations, plans, standards, policy memoranda, guidelines, and other material related to the administration of the Medical Assistance Program which are necessary and pertinent to DHR's provision of the services outlined in this Agreement. Such material will be delivered to DHR in a timely manner and in no event shall delivery be later than thirty (30) days after receipt and discovery of said materials' applicability by DCH.
3. Agrees to send to DHR and its involved Division(s) copies of all materials prepared for distribution to members that make direct reference to the DHR Division(s), at least ten (10) working days in advance of distribution of the materials by DCH.
4. Agrees to work with DHR and its specific Divisions on agreements related to

any service delivery Agreement to be entered into with an outside vendor related to a DHR responsibility under this Agreement. Selection of the Agreementor is the responsibility of DCH.

5. Review all deliverables submitted by DHR for approval to pay invoices and ensure compliance with terms of the Agreement; and
6. Reimburse DHR in accordance with the terms of this Agreement.

## **B. DHR Responsibilities**

1. Pursuant to the terms and conditions set forth in this Agreement, DHR agrees to perform all of the services and submit all of the deliverables specified in the Supplements.
2. DHR agrees to provide federal and State regulations, plans, standards, policy memoranda, guidelines, assistance payment manual (20 copies), SS manual and updates, and other materials necessary and pertinent to DCH's provision of the services outlined in this Agreement. All materials required under the provision of this paragraph shall be delivered to DCH in a timely manner and in no event shall delivery be later than thirty (30) days after receipt and discovery of said materials' applicability by DHR.

## **C. DHR Deliverables**

In addition to the specific deliverables set forth in the Supplements, DHR shall deliver to DCH an annual report detailing all projects. Such report shall be provided to DCH no later than ninety (90) days after the end of the fiscal year and shall include the following: the status of all projects (complete or incomplete); a general summary of the results of completed projects or preliminary findings for incomplete projects; and a financial report summarizing the status of all funding provided under this Agreement.

## **2. Term of Agreement**

This Agreement shall begin on the date of issuance and shall continue until the close of the then current State fiscal year (June 30<sup>th</sup>) unless renewed in writing as hereinafter provided. DCH is hereby granted four (4) options to renew this Agreement for an additional term of up to one fiscal year each upon the same terms, conditions, and price stated in this Agreement and any amendments. Each renewal option shall be exercisable solely and exclusively by DCH. DCH shall notify DHR, in writing, of such option to renew this Agreement at least thirty (30) days before the expiration of the current term. Specific projects described in the Supplements will terminate upon the termination of this Agreement unless terminated earlier pursuant to the terms specified in the Supplement or Supplements.

### **3. Reimbursement**

DHR and DCH agree that this is a cost reimbursement Agreement. DHR agrees to provide the State portion of matching funds necessary to receive Federal Financial Participation (FFP) for all applicable supplements. DHR agrees that reimbursable costs will be determined in accordance with applicable provisions of 45 CFR Part 74, "Administration of Grants" and the approved DHR Cost Allocation Plan filed pursuant to such regulations. The reimbursable costs are for administrative and support services required under this Agreement and for certain medical services that are provided to members.

DHR agrees that the applicable provisions of 45 CFR Part 74 shall govern the administration of funds under this Agreement and that DHR will observe and adhere to such requirements as detailed in Part 74, sub-parts A, B, C, D, E, F, G, H, O, P, and Q.

Any disallowance of FFP by the Centers for Medicare and Medicaid Services (CMS) is the ultimate responsibility of DCH; however, DHR is responsible for all disallowances resulting from failure to comply with rules, regulations, policies and procedures, and all other requirements relative to the terms of this administrative agreement to include disallowance of FFP if disallowance results from a DHR failure. DCH will notify DHR promptly of any audits, financial reviews, relative to DHR responsibilities under this Agreement. DCH will provide draft findings and recommendations to DHR with adequate time for input before DCH's response, to assure both agencies' concerns and comments are addressed. DHR will respond promptly when notified by DCH. Financial responsibility for any repayments, sanctions, or other penalties will be determined on a case by case basis, depending on the circumstances and State budgetary requirements and restrictions.

Disallowances by CMS relative to areas where DHR is functioning, as a service provider, will be handled by DCH in the same manner as that of any other Medicaid service provider.

### **4. Reimbursement for Administration Cost**

DCH shall reimburse DHR using the appropriate methodology or formula associated with each supplement to include payment based upon: random moment sampling; percentage of Medicaid members which populate the universe; or using funding-driven provisions and requirements from funding source or sources. Payment is not to exceed that amount necessary to fund and provide for services outlined in this Agreement and its Supplements restricted to the budget amounts to this Agreement found at Appendix I, Payment Schedule by the applicable Federal Financial Participation (FFP) percentage for each service covered by this Agreement as provided in the State Medicaid Plan, and by Indigent Care Trust Fund dollars or other funding as allocated.

The total of all payments made by DCH to DHR under this Agreement shall not exceed the sum of the total amounts due aggregately as defined in the Supplements. DCH shall have no responsibility whatsoever for payment beyond that amount.

DHR agrees to submit financial statements detailing the costs incurred by DHR in carrying out the administrative provisions of this Agreement. Such financial statements shall be submitted for each quarter and shall indicate the particular service by the type and applicable FFP rate. DHR will ensure that charges for Skilled Professional Medical Personnel (SPMP) included in financial statements will be in accordance with Federal regulations regarding FFP for SPMP activities.

DHR agrees to reimburse DCH the State share of cost for providing inquiry access to the MMIS Eligibility and Prior Approval files and for on-line entry of Service Authorizations. DCH will invoice DHR for the State share of the cost of this service.

Each invoice for payment must include the Agreement Number, DHR's tax identification number, and an itemization of the activities being billed and deliverables must be submitted as required under this Agreement. Invoices shall be mailed to the following address:

Attn: Shawn Walker  
Administrative Services/Contract Administration  
Georgia Department of Community Health  
2 Peachtree Street, N.W. - 35<sup>th</sup> Floor  
Atlanta, Georgia 30303-3159

The relevant deliverables shall be mailed to the Project Leader named in the *Notice* provision of this Agreement or as provided for in Supplements where contact names are specific to the Supplement.

## **5. Reimbursement For Benefit Cost**

### **A. Community Care Services Program.**

1. DCH agrees to submit financial statements to DHR detailing the payments made to providers for services rendered under the Community Care Services Program. An invoice for the non-federal share of these payments will also be submitted.
2. DHR agrees to pay DCH the non-federal share of costs as detailed on the financial statement described in the previous paragraph within thirty (30) days of receipt of invoice. Payment of invoice of DHR will not be altered. Any amount of invoice altered or not paid within 30 days may be deducted from Administration payments due DHR. DHR agrees to notify DCH in writing of any payments included on this financial statement for which services are not authorized or any other disagreements in amounts of invoice. DCH will recoup unauthorized payments from providers. DHR's invoice

will be adjusted in subsequent periods when recoups or adjustments or both are made in the MMIS.

**B. State Operated Nursing Facilities:**

1. DCH agrees to submit financial statements to DHR detailing the payments made to providers for services rendered at State operated nursing facilities. An invoice for the non-federal share of these payments will also be submitted. Such financial statements and invoices shall be submitted within sixty (60) days after the end of each month and shall be in a mutually agreed upon format.
2. DHR agrees to pay DCH the non-federal share of cost as detailed on the financial statements described in the previous paragraph within thirty (30) days of receipt of invoice.

**C. Refugees:**

1. DCH agrees to submit an invoice to DHR detailing the number of claims processed and the total amount expended on a monthly basis for refugees and entrants who are eligible for Refugee Medical Assistance.
2. DHR agrees to reimburse DCH for the full costs of medical assistance provided to refugees and entrants who are eligible for Refugee Medical Assistance using federal funds from the Refugee Resettlement Program received by DHR for this purpose.

**6. Incorporation by Reference and Conflict in Language**

The Supplements, as amended from time to time, and Appendices to this Agreement are incorporated into this Agreement by reference and form an integral part of this Agreement. In the event of a conflict in language between the various documents incorporated into this Agreement, the provisions and requirements set forth in this Agreement shall govern.

**7. Inspection of Work**

DCH, the State Auditor, the Department of Health and Human Services, the General Accounting Office, the Comptroller General of the United States, if applicable, or their authorized representative(s) shall have the right to enter into the premises of DHR and all subAgreementors, or such other places where duties under this Agreement are being performed, to inspect, monitor or otherwise evaluate the services or any work performed pursuant to this Agreement. All inspections and evaluations shall be conducted with reasonable prior notice, during normal business hours, and in such a manner as will not unduly delay work.

## **8. Ownership of Work Product and Data**

All DCH data are owned by DCH. DHR is expressly prohibited from sharing or publishing DCH data or any information relating to Medicaid data without the written consent of DCH. DHR reserves the right to use the results of all services provided by DHR under this Agreement for its own teaching, research and publication purposes, as long as such use does not violate state or federal law.

## **9. Safeguarding Information**

DCH and DHR agree to comply with federal and State requirements regarding the safeguarding of information in their possession, or of information which they obtain knowledge of while performing services for this Agreement. These requirements shall also be applicable to third parties who receive such information from DHR or who are required by DHR to have such information in fulfilling other duties for DHR.

## **10. DHR Staffing Requirements**

DHR warrants and represents that all persons including independent Agreementors, subcontractors and consultants assigned by it to the performance of this Agreement shall be employees or formal agents of DHR and shall be fully qualified to perform the work required herein. DHR shall include a similar provision in any Agreement with any subAgreementor selected to perform work hereunder.

DCH, with the consent of DHR, has the right to approve or disapprove DHR's staff as defined in the Agreement and any incorporated documents, to approve or disapprove any proposed changes in key staff, or to require the removal or reassignment of any DHR employee or subAgreementor employee found unacceptable by DCH. DHR shall, upon request, provide DCH with a resume of any member of its staff or a subAgreementor's staff assigned to, or proposed to be assigned to, any aspect of the performance of this Agreement.

## **11. Records and Reports**

- A. DHR agrees to maintain and provide information descriptive of the services required under this Agreement necessary for DCH to meet the reporting requirements imposed by the U.S. Department of Health and Human Service (DHHS). Additionally, DHR agrees to make such information and records available to DCH for review and inspection upon DCH's written request within five (5) working days.
- B. DHR agrees to provide DCH with a copy of all random moment sample reports and summaries on a quarterly basis. These reports will be submitted to the DCH Accounting Officer.
- C. DHR will provide, as requested, copies of job descriptions for staff classified as skilled medical professional personnel for Title XIX purposes.

- D. DCH agrees to provide DHR with requested reports for program management and development.
- E. In the event, DCH decides to change the format for financial data being submitted by DHR, the exact change (example) in format shall be provided by DCH to the DHR Office of Financial Services (OFS).

## **12. Financial Data**

DHR agrees to maintain accounting records detailing the costs of performance of this Agreement. Part of the accounting records maintained by DHR will be based on random moment samples. These records are to be maintained in a manner and format meeting generally accepted accounting principles and the applicable provisions of 45 CFR Part 74, Administration of Grants and OMB Circular A-87. These records shall detail costs of administrative and support services required under this Agreement. Cost of medical services described in this Agreement shall be reimbursed in accordance with the appropriate DCH Policies and Procedures Manuals for those services or the agreement for reimbursement of Therapeutic Residential Intervention Services. These records shall be available for examination by Federal and State representatives during normal business hours at the appropriate office of DHR.

## **13. Statutory Compliance**

DHR agrees to assure compliance with Title VI of the Civil Rights Act of 1964 (hereinafter "Title VI"), Section 504 of Title V of the Rehabilitation of 1986 (hereinafter "Section 504"), and the Americans with Disabilities Act of 1990 (hereinafter "ADA") in all programs and activities covered by this Agreement. These responsibilities include but are not limited to investigation, resolution and enforcement to the extent mandated by the statutes.

- A. Title VI states that no person shall, on the basis of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subject to discrimination under any program receiving federal financial assistance.
- B. Section 504 states that no person shall, on the basis of disability, be excluded from participation in, be denied the benefits of, be subject to discrimination under any program, or be denied employment in connection with any program which receives or benefits from federal financial assistance.
- C. The ADA states that no qualified individual with a disability shall on the basis of disability, be excluded from participation on or be denied the benefits of the services, programs or activities of a public entry, or be subjected to discrimination by any public entity.

DHR as a State entity will comply as required with the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and its related amendments, rules, procedures, and regulations and shall require said compliance of any Agreementors and subcontractors.

#### **14. Confidentiality Requirements**

DHR shall treat all information which is obtained by it through its performance under the Agreement as confidential information to the extent allowed by the Georgia Open Records Act, and shall not use any information so obtained in any manner except as necessary for the proper discharge of its obligations herein. DCH, the Attorney General, and/or federal officials, or the authorized representatives of these parties, shall have access to all confidential information in accordance with the requirements of state and federal laws and regulations. DHR shall execute a “Confidentiality Statement for Safeguarding Information,” attached hereto as Appendix “II”, which is incorporated by reference into this Agreement as if fully written herein. This provision shall survive the termination or expiration of this Agreement.

The Contractor also agrees to assist DCH in its efforts to comply with the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and its related amendments, rules, procedures, and regulations. To that end, the Contractor will cooperate and abide by any requirements mandated by HIPAA or any other applicable law. The Contractor acknowledges that HIPAA may require the Contractor and DCH to sign a Business Associate Agreement or other documents for compliance purposes, including but not limited to “Appendix VI” (Business Associate Agreement). The Contractor agrees to cooperate with DCH on these matters and to sign whatever documents are required for HIPAA compliance and to abide by their terms and conditions.

#### **15. Termination of Agreement**

This Agreement may be terminated by DCH for any or all of the following reasons:

- For any default by DHR;
- For the convenience of DCH or DHR; or
- In the event sufficient appropriated, otherwise obligated funds no longer exist for the payment of DCH's obligation hereunder.

##### **A. Termination for Default**

The failure of DHR to perform or comply with any term, condition, or provision of this Agreement and any Supplement or Supplements shall constitute a default by DHR. In the event of default, DCH shall notify DHR by certified or registered mail, return receipt requested, of the specific act or omission of DHR which constitutes default. DHR shall have fifteen (15) calendar days from the date of receipt of such notification to cure such default or to provide a plan acceptable to

DCH to cure the default. In the event of default, and during the above-specified grace period, performance under the Agreement shall continue as though the default had never occurred. In the event the default is not cured in fifteen (15) calendar days, DCH may, at its sole option, terminate the Agreement for default. Such termination shall be accomplished by written notice of termination forwarded to DHR by certified or registered mail, return receipt requested, and shall be effective at the close of business on the date specified in the notice. If it is determined, after notice of termination for default, that DHR's failure was due to causes beyond the control of and without error or negligence of DHR, the termination shall be deemed a termination for convenience.

**B. Termination for Convenience**

Either party may terminate performance of work under the Agreement in whole or in part whenever, for any reason, when it is determined that such termination is in the best interest of the state. In the event that either party elects to terminate the Agreement pursuant to this provision, it shall so notify the non-terminating party by certified or registered mail, return receipt requested. The termination shall be effective as of the date specified in the notice.

**C. Termination for Unavailability of Funds**

Notwithstanding any other provision of this Agreement, the parties hereto agree that the charges hereunder are payable by DCH from appropriations received from the General Assembly of the State and matched by current percentages of federal financial participation (FFP) or appropriations resulting from grants or the Indigent Care Trust Fund. In the event such appropriations are determined, at the sole discretion of the Commissioner of DCH, to exist no longer or to be insufficient with respect to the charges payable hereunder, this Agreement shall terminate without further obligation of DCH as of that moment. In such event, the Commissioner of DCH shall certify to DHR the occurrence thereof and such certification shall be conclusive.

**D. Termination Procedures**

DHR shall:

1. Stop work under the Agreement on the date and to the extent specified in the notice of termination;
2. Place no further orders or subAgreement for materials, services, or facilities, except as may be necessary for completion of such portion of the work under the Agreement as is not terminated;
3. Terminate all orders and subAgreements related to the work specified in the notice of termination;
4. Assign to DCH, in the manner and to the extent directed by the DCH representative identified in Section 19, all of the rights, title, and interests of

DHR under the orders or subAgreements so terminated, in which case DCH shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subAgreements;

5. With the approval of DCH, settle all outstanding liabilities and all claims arising out of such termination or orders and subAgreements, the cost of which would be reimbursable in whole or in part, in accordance with the provisions of the Agreement;
6. Complete the performance of such part of the work as shall not have been terminated by the notice of termination; and
7. Take such action as may be necessary, or as DCH may direct, for the protection and preservation of any and all property or information related to the Agreement which is in the possession of DHR and in which DCH has or may acquire an interest.

#### **E. Termination Claims**

After receipt of a notice of termination, DHR shall submit to DCH any termination claim in the form and with the certification prescribed by the DCH representative identified in Section 19. Such claim shall be submitted promptly but in no event later than six (6) months from the effective date of termination. Upon failure of DHR to submit its termination claim within the time allowed, the DCH may, subject to any review required by the state procedures in effect as of the date of execution of the Agreement, determine, on the basis of information available, the amount, if any, due to DHR by reason of the termination and shall thereupon cause to be paid to DHR the amount so determined.

Upon receipt of notice of termination, DHR shall have no entitlement to receive any amount for lost revenues, anticipated profits, incidental or consequential damages or for expenditures associated with this Agreement or in any other Agreement. DHR shall be paid only by the following upon termination:

1. At the Agreement price(s) for completed deliverables and services delivered to and accepted by DCH; and/or
2. At a price mutually agreed by DHR and DCH for partially completed deliverables.

In the event of the failure of DHR and DCH to agree in whole or in part as to the amounts with respect to costs to be paid to DHR in connection with the total or partial termination of work pursuant to this Section 15, DCH shall determine on the basis of information available the amount, if any, due to DHR by reason of termination and shall pay to DHR the amount so determined.

#### **16. Compliance with All Laws**

DHR agrees that all work done as part of this Agreement will comply with applicable State and federal laws, rules, regulations and guidelines including, but not limited to,

Titles VI, VII and XIX of the Social Security Act, the Federal Rehabilitation Act of 1973, HIPAA, the Americans with Disabilities Act of 1993 and DCH Policies and Procedures. DHR further agrees to fully reimburse the State for any loss of funds or resources or overpayment resulting from non-compliance with laws by DHR, its staff, agents or subAgreementors, as revealed in subsequent audits.

DHR agrees to comply with applicable federal and State laws, rules and regulations, and the State's policy relative to nondiscrimination in employment practices because of political affiliation, religion, race, color, sex, physical handicap, age, or national origin. Nondiscrimination in employment practices is applicable to employees for employment, promotions, dismissal and other elements affecting employment. The provisions of the Fair Labor Standards Act of 1938 (29 U.S.C.S. § 201 et. seq.) as promulgated by the United States Department of Labor in Title XXIX of the Code of Federal Regulations are applicable to this Agreement.

#### **17. Conflicts of Interest and Prohibition of Gratuities**

DHR covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any material manner or degree with, or have a material adverse effect on the performance of its services hereunder. DHR further covenants that in the performance of the Agreement no person having any such interest shall be employed.

All of the parties hereby certify that the provisions of O.C.G.A. §45-10-20 through §45-10-28, which prohibit and regulate certain transactions between State Officials, employees and the State of Georgia, and O.C.G.A. § 45-1-6, which prohibits gratuities, have not been violated and will not be violated in any respect throughout the term of this Agreement.

#### **18. Drug-Free Workplace**

DHR shall certify to the State that a drug-free workplace will be provided for DHR's employees during the performance of the Agreement as required by the "Drug-Free Workplace Act" (O.C.G.A. § 50-24-1). Such certification is attached hereto as Appendix "IV" and is incorporated by reference into this Agreement as if fully written herein. DHR will secure a similar certification from any subAgreementor. Any false certification by DHR or violation of such certification, or failure to carry out the requirements set forth in the Code, may result in DHR being suspended, terminated or debarred from the performance of this Agreement.

#### **19. Notices**

All notices and statements provided for or required by this Agreement shall be in writing, and shall be hand delivered personally to the other party, or mailed by certified or registered mail, return receipt requested, or delivered by a recognized national overnight courier service, as follows:

For DCH:

Georgia Department of Community Health  
Attn: Mark Trail, Director  
Medical Assistance Plans  
2 Peachtree Street, NW  
37<sup>th</sup> Floor  
Atlanta, Georgia 30303-3159  
(404) 651-8681  
(404) 463-2495 (fax)

For DHR:

Georgia Department of Human Resources  
Attn: Arlanda Pickett  
2 Peachtree Street  
Suite 27-202  
Atlanta, GA 30303-3142  
Atlanta, Georgia 30303  
(404) 656-5739  
(404) 651-9337 (fax)

## **20. Miscellaneous**

### **A. Entire Agreement**

This Agreement, together with any documents incorporated herein, constitutes the entire agreement between the parties with respect to the subject matter hereof and supercedes all prior negotiations, representations or Agreements. No written or oral agreements, representations, statements, negotiations, understandings, or discussions which are not set out, referenced, or specifically incorporated into this Agreement shall in any way be binding or of effect between the parties.

### **B. Choice of Law**

This Agreement shall be governed in all respects by the laws of the State of Georgia. Any lawsuit or other action brought against DCH and the State based upon or arising from this Agreement shall be brought in a court or other forum of competent jurisdiction in Fulton County in the State of Georgia.

### **C. Assignment**

DHR shall not assign this Agreement, in whole or in part, without the prior written consent of DCH, and any attempted assignment not in accordance herewith shall be null and void and of no force or effect.

**D. Binding**

This Agreement shall be binding on DCH and DHR and their respective successors and permitted assigns.

**E. Authority**

DCH has full power and authority to sign this Agreement and DHR has full authority to enter into this Agreement and the person signing on behalf of DHR has been properly authorized and empowered to enter into this Agreement and to bind DHR to the terms of this Agreement. Each party further acknowledges that it has read this Agreement, understands it, and agrees to be bound by it.

**F. Severability**

Any Supplement, section, subsection, paragraph, term, condition, or provision or other part of this Agreement which is judged, held, found or declared to be voidable, void, invalid, illegal or otherwise not fully enforceable shall not affect any other part of this Agreement, and the remainder of this Agreement and its Supplements shall continue to be of full force and effect as set out herein.

**G. Waiver**

The waiver by DCH of any breach of any provision contained in this Agreement shall not be deemed to be a waiver of such provision on any subsequent breach of the same, or of any other provision contained in this Agreement, and shall not establish a course of performance between the parties contradictory to the terms hereof.

**H. Force Majeure**

Neither party to this Agreement shall be responsible for delays or failures in performance resulting from acts beyond the control of such party. Such acts shall include but not be limited to acts of God, strikes, riots, lockouts, acts of war, epidemics, fire, earthquakes, or other disasters.

**I. Time is of the Essence**

Time is of the essence in the performance of this Agreement. Any reference to "days" shall be deemed calendar days unless otherwise specifically stated.

**21. Amendments in Writing**

No amendment of this Agreement, or any of its Supplements, or any of the terms or provisions hereof, shall be binding upon either party except by a writing executed by both parties. Any Supplement to this Agreement may be amended separately, in writing, by

referencing this provision, provided that both parties sign or initial the Supplement as amended.

**22. Survivability**

The terms, provisions, representations, warranties and indemnifications contained in this Agreement are intended to and shall survive the delivery or provision of all services or deliverables hereunder as well as any expiration or termination of this Agreement.

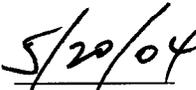
(Signatures on next page)

**SIGNATURE PAGE**

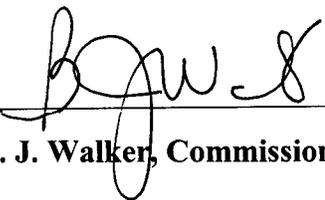
**IN WITNESS WHEREOF**, the parties hereto have agreed by their authorized officers as of the day and year indicated.

**GEORGIA DEPARTMENT OF COMMUNITY HEALTH**

  
\_\_\_\_\_  
Tim Burgess, Commissioner

  
\_\_\_\_\_  
Date

**GEORGIA DEPARTMENT OF HUMAN RESOURCES**

  
\_\_\_\_\_  
B. J. Walker, Commissioner

\_\_\_\_\_  
Date

**PAYMENT SCHEDULE**

(SEE ATTACHED)

\*Dates shown on Appendix "T", Payment Schedule and Budget, reflect the original dates of the Contract or Contracts replaced by the Interagency Master Agreement between the Georgia Department of Human Resources for Services in Support of the Medicaid Program for the State of Georgia.

## APPENDIX I

## PAYMENT SCHEDULE

| SUPPLEMENT                                  | PROJECT TITLE   | START DATE | Provider of State Funds | CONTRACT COST |
|---|---|------------|-------------------------|---------------|
| <b>TOTAL FUNDING FOR SUPPLEMENTS A - AM</b> |   |            |                         | \$68,819,000  |
| A   | Eligibility Determination                                   | 11/01/95   | DHR                     | *             |
| B   | Policies and Procedures                                     | 11/01/95   | DHR                     | *             |
| C   | Data Systems (SUCCESS, etc.)                                | 11/01/95   | DHR                     | *             |
| D   | Presumptive Eligibility – Pregnant Women                    | 11/01/95   | DHR                     | *             |
| E   | Refugee Resettlement Program                                | 11/01/95   | DHR                     | *             |
| F   | Training  | 11/01/95   | DHR                     | *             |
| G   | Medicaid Eligibility Quality Control                        | 11/01/95   | DHR                     | *             |
| H   | WIC Referrals   | 11/01/95   | DHR                     | *             |
| I   | Third Party Liability                                       | 11/01/95   | DHR                     | *             |
| J   | Fraud and Abuse and Overpayments                            | 11/01/95   | DHR                     | *             |
| K   | Community Care Services Program (CCSP)                      | 11/01/95   | DHR                     | *             |
| L   | Mental Retardation Waiver Program                           | 11/01/95   | DHR                     | *             |
| M   | Community Mental Health Program Services                    | 11/01/95   | DHR                     | *             |
| N   | Child Protective Services Case Management                   | 11/01/95   | DHR                     | *             |
| O   | Adult Protective Services Case Management                   | 11/01/95   | DHR                     | *             |
| P   | BLANK   | 11/01/95   | DHR                     | *             |
| Q   | Therapeutic Residential Intervention Services               | 11/01/95   | DHR and DJJ             | \$6,100,000   |
| R   | Health Information and Coordination Services                | 11/01/95   | DHR                     | *             |
| S   | Health Check  | 11/01/95   | DHR                     | *             |
| T   | Perinatal Case Management and Outreach Services             | 11/01/95   | DHR                     | *             |
| U   | Perinatal Epidemiology                                      | 11/01/95   | DHR                     | *             |
| V   | Newborn Genetic Metabolic Screening                         | 11/01/95   | DHR                     | *             |
| W   | Universal Newborn Hearing Screening                         | 11/01/95   | DHR                     | *             |
| X   | Hospital Certification and Survey                           | 11/01/95   | DHR                     | *             |
| Y   | Intermediate Care Facility/Mental Retardation (ICF/MR)      | 11/01/95   | DHR                     | *             |
| Z   | Community-Based Alternatives                                | 07/01/03   | DHR                     | \$170,000     |
| AA  | Relocation of ICF/MR and Nursing Facility Residents         | 11/01/95   | DHR                     | *             |
| AB  | Nursing Facilities Certification and Survey                 | 11/01/95   | DHR                     | *             |
| AC  | Preadmission Screening and Resident Review (PASRR Level II) | 11/01/95   | DHR                     | *             |
| AD  | BLANK   | 11/01/95   | DHR                     | *             |
| AE  | OBRA Hearings Arranged by the Department of Human Resources | 11/01/95   | DHR                     | *             |
| AF  | Georgia Better Health Care (GBHC)                           | 11/01/95   | DHR                     | *             |

| SUPPLEMENT            | PROJECT TITLE  | START DATE | Provider of State Funds |             |
|-----------------------|--|------------|-------------------------|-------------|
| AG                    | Regionalized Infant Intensive Care Program   | 11/01/95   | DHR                     | *           |
| AH                    | Regionalized Maternal High Risk Program  | 11/01/95   | DHR                     | *           |
| AI                    | BLANK  | 11/01/95   | DHR                     | *           |
| AJ                    | Presumptive Eligibility-Women's Health Medicaid Program  | 11/01/95   | DHR                     | *           |
| AK                    | Recipient Hearings   | 11/01/95   | DHR                     | *           |
| AL                    | BLANK  | 11/01/95   | DHR                     | *           |
| AM                    | Children's Initiative/Family Connection  | 11/01/95   | DHR                     | *           |
| <b>ICTF CONTRACTS</b> |  |            |                         |             |
| BA                    | Vaccines for PeachCare   | 11/01/98   | DCH                     | \$3,000     |
| BB                    | Resource Mothers   | 06/30/95   | DCH                     | \$687,566   |
| BC                    | Right from the Start (RSM) Medicaid  | 07/01/00   | DCH                     | \$7,431,808 |
| <b>OTHER</b>          |  |            |                         |             |
| CA                    | Medicaid Eligibility Workers stationed @ Mental Health, Mental Retardation and Substance Abuse sites | 01/01/02   | DHR                     | \$1,857,952 |
|                       |  |            |                         |             |

\* Varies, not to exceed total amount of contract alone or in aggregate

CONFIDENTIALITY STATEMENT

STATE OF GEORGIA

THE GEORGIA DEPARTMENT OF COMMUNITY HEALTH  
2 PEACHTREE STREET, N.W.  
ATLANTA, GEORGIA 30303-3159

CONFIDENTIALITY STATEMENT FOR SAFEGUARDING INFORMATION

I, the undersigned, understand and by my signature agree to comply with federal and state requirements (**References: 42 CFR 431.300 – 431.306. Chapter 350-5 of Rules of Georgia Department of Medical Assistance**) regarding the safeguarding of Medicaid information in my possession, including but not limited to information that is electronically obtained from the Medicaid Management Information System (MMIS) while performing Agreemental services for or with the Georgia Department of Community Health, its agents or Agreementors.

Individual's Name: (typed or printed): Monica C. Daniels

Signature: Monica C. Daniels Date: \_\_\_\_\_

Telephone No.: 404/656-4613

Company or Agency Name and Address: Department of Human Resources  
Two Peachtree Street, N.W., 27th Floor  
Atlanta, Georgia 30303-3142

**DRUG FREE WORKPLACE CERTIFICATE****U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)  
CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS  
GRANTEES OTHER THAN INDIVIDUALS**

By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

This certification is required by regulations implementing the Drug-Free Workplace Act of 1988, 45 CFR Part 76, Subpart F. The regulations, published in the January 31, 1989 Federal Register, require certification by grantees that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when HHS makes a determination regarding the award of the grant. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or government wide suspension or debarment.

The grantee certifies that it will provide a drug-free workplace by:

1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
2. Establishing a drug-free awareness program to inform employees about:
  - a) The dangers of drug abuse in the workplace;
  - b) The grantee's policy of maintaining a drug-free workplace;
  - c) Any available drug counseling, rehabilitation, and employee assistance programs; and
  - d) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
3. Making it a requirement that each employee who will be engaged in the performance of the grant be given a copy of the statement required by paragraph 1;
4. Notifying the employee in the statement required by paragraph 1 that, as a condition of employment under the grant, the employee will:
  - a) Abide by the terms of the statement; and
  - b) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;

5. Notifying the agency within ten days after receiving notice under subparagraph 4. b) from an employee or otherwise receiving actual notice of such conviction;
6. Taking one of the following actions, within 30 days of receiving notice under subparagraph 4. b), with respect to any employee who is so convicted;
  - a) Taking appropriate personnel action against such an employee, up to and including termination; or
  - b) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency;
7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs 1, 2, 3, 4, 5, and 6.

\_\_\_\_\_  
Agreementor

Monica C. Daniel  
Signature

\_\_\_\_\_  
Date

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS**



Federal Acquisition Regulation 52.209-5, Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters (March 1996)

- (a) (1) The Offeror certifies, to the best of its knowledge and belief, that—
  - (i) The Offeror and/or any of its Principals—
    - A. Are  are not  presently debarred, suspended, proposed for debarment, or declared ineligible for award of Agreements by any Federal agency;
    - B. Have  have not  within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) Agreement or subAgreement; violation of federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, evasion, or receiving stolen property; and
    - C. Are  are not  presently indicted for, or otherwise criminally or civilly charged by a governmental entity with commission of any of the offenses enumerated in subdivision (a)(1)(i)(B) of this provision.
  - (ii) The Offeror has  has not  within a three-year period preceding this offer, had one or more Agreements terminated for default by any federal agency.
- (2) “Principals,” for purposes of this certification, means officers, directors, owners, partners, and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager, plant manager, head of a subsidiary, division, or business segment; and similar positions).

This certification concerns a matter within the jurisdiction of an Agency of the United States and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under 18 U.S.C. § 1001.

- (b) The Offeror shall provide immediate written notice to the Agreementing Officer if, at any time prior to Agreement award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

- (c) A certification that if any of the items in paragraph (a) of this provision exist will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Offeror's responsibility. Failure of the Offeror to furnish a certification or provide such additional information as requested by the Agreeing Officer may render the Offeror nonresponsible.
- (d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- (e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available to the Government, the Agreeing Officer may terminate the Agreement resulting from this solicitation for default.

Offeror:

By: Monica C. Daniels

Monica C. Daniels  
Signature

\_\_\_\_\_  
Date

Contract Liaison  
Name and Title

**LISTING OF SUPPLEMENTS**

|              |   |   |
|--------------|---|---|
| SUPPLEMENT A | - | Eligibility Determination                       |
| SUPPLEMENT B | - | Policies and Procedures                         |
| SUPPLEMENT C | - | Data Systems (SUCCESS)                          |
| SUPPLEMENT D | - | Presumptive Eligibility – Pregnant Women        |
| SUPPLEMENT E | - | Refugee Resettlement Program                    |
| SUPPLEMENT F | - | Training  |
| SUPPLEMENT G | - | Medicaid Eligibility Quality Control            |
| SUPPLEMENT H | - | WIC Referrals                                   |
| SUPPLEMENT I | - | Third Party Liability                           |
| SUPPLEMENT J | - | Fraud and Abuse and Overpayments                |
| SUPPLEMENT K | - | Community Care Services Program (CCSP)          |
| SUPPLEMENT L | - | Mental Retardation Waiver Program               |
| SUPPLEMENT M | - | Community Mental Health Program Services        |
| SUPPLEMENT N | - | Child Protective Services Case Management       |
| SUPPLEMENT O | - | Adult Protective Services Case Management       |
| SUPPLEMENT P | - | Exceptional Transportation                      |
| SUPPLEMENT Q | - | Therapeutic Residential Intervention Services   |
| SUPPLEMENT R | - | Health Information and Coordination Services    |
| SUPPLEMENT S | - | Health Check                                    |
| SUPPLEMENT T | - | Perinatal Case Management and Outreach Services |
| SUPPLEMENT U | - | Perinatal Epidemiology                          |

- SUPPLEMENT V - Newborn Genetic Metabolic Screening
- SUPPLEMENT W - Universal Newborn Hearing Screening
- SUPPLEMENT X - Hospital Certification and Survey
- SUPPLEMENT Y - Intermediate Care Facility/Mental Retardation (ICF/MR)
- SUPPLEMENT Z - Community-Base Alternatives
- SUPPLEMENT AA - Relocation of ICF/MR and Nursing Facility Residents
- SUPPLEMENT AB - Nursing Facilities Certification and Survey
- SUPPLEMENT AC - Preadmission Screening and Resident Review (PASRR Level II)
- SUPPLEMENT AD - BLANK
- SUPPLEMENT AE - OBRA Hearings Arranged by the Department of Human Resources
- SUPPLEMENT AF - Georgia Better Health Care (GBHC)
- SUPPLEMENT AG - Regionalized Infant Intensive Care Program
- SUPPLEMENT AH - Regionalized Maternal High Risk Program
- SUPPLEMENT AI - BLANK
- SUPPLEMENT AJ - Presumptive Eligibility-Women's Health Medicaid Program
- SUPPLEMENT AK - Recipient Hearings
- SUPPLEMENT AL - BLANK
- SUPPLEMENT AM - Children's Initiative/Family Connection

---

**ITCF Funded Supplements**

- SUPPLEMENT BA - Vaccines for PeachCare
- SUPPLEMENT BB - Resource Mothers
- SUPPLEMENT BC - Right from the Start Medicaid (formerly Eligibility Expansion Caseworkers)

---

**OTHER**

SUPPLEMENT CA - Medicaid Eligibility Workers stationed @  
Mental Health, Mental Retardation and Substance Abuse sites

**BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement (hereinafter referred to as "Agreement"), effective this 1<sup>st</sup> day of July, 2003 is made and entered into by and between the Georgia Department of Community Health (hereinafter referred to as "DCH") and the Georgia Department of Human Resources (hereinafter referred to as "Contractor") as Contract No. S599 between DCH and Contractor dated July 1, 2003 ("Contract").

**WHEREAS**, DCH 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");

**WHEREAS**, Contractor, under Contract No. S599 (hereinafter referred to as "Contract"), may provide functions, activities, or services involving the use of PHI;

**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, DCH 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 in the Privacy Rule, published as the Standards for Privacy of Individually Identifiable Health Information in 45 CFR Parts 160 and 164 ("Privacy Rule");
2. Except as limited in this Agreement, Contractor may use or disclose PHI only to extent necessary to meet its responsibilities as set forth in the Contract provided that such use or disclosure would not violate the Privacy Rule if done by DCH.
3. **Unless otherwise required by Law, Contractor agrees:**
  - A. That it will not request, create, receive, use or disclose PHI other than as permitted or required by this Agreement or as required by law.
  - B. To establish, maintain and use appropriate safeguards to prevent use or disclosure of the PHI other than as provided for by this Agreement.
  - C. To mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of PHI by Contractor in violation of the requirements of this Agreement.
  - D. That its agents or subcontractors are subject to the same obligations that apply to Contractor under this Agreement and Contractor agrees to 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.

- E.** To report to DCH any use or disclosure of PHI that is not provided for by this Agreement of which it becomes aware. Contractor agrees to make such report to DCH in writing in such form as DCH may require within twenty-four (24) hours after Contractor becomes aware.
- F.** To make any amendment(s) to PHI in a Designated Record Set that DCH directs or agrees to pursuant to 45 CFR 164.526 at the request of DCH or an Individual, within five (5) business days after request of DCH or of the Individual. Contractor also agrees to provide DCH with written confirmation of the amendment in such format and within such time as DCH may require.
- G.** To provide access to PHI in a Designated Record Set, to DCH upon request, within five (5) business days after such request, or, as directed by DCH, to an Individual. Contractor also agrees to provide DCH with written confirmation that access has been granted in such format and within such time as DCH may require.
- H.** To give DCH, the Secretary of the U.S. Department of Health and Human Services (the "Secretary") or their 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 DCH within five (5) business days after DCH, the Secretary or their designees request such access or otherwise as DCH, the Secretary or their designees may require. Contractor also agrees to make such information available for review, inspection and copying by DCH, the Secretary or their designees during normal business hours at the location or locations where such information is maintained or to otherwise provide such information to DCH, the Secretary or their designees in such form, format or manner as DCH, the Secretary or their designees may require.
- I.** To document all disclosures of PHI and information related to such disclosures as would be required for DCH to respond to a request by an Individual or by the Secretary for an accounting of disclosures of PHI in accordance with the requirements of the Privacy Rule.
- J.** To provide to DCH or to an Individual, information collected in accordance with Section 3. I. of this Agreement, above, to permit DCH to respond to a request by an Individual for an accounting of disclosures of PHI as provided in the Privacy Rule.

**4. Unless otherwise required by Law, DCH agrees:**

That it will notify Contractor of any new limitation in DCH's Notice of Privacy Practices in accordance with the provisions of the Privacy Rule if, and to the extent that, DCH determines in the exercise of its sole discretion that such limitation will affect Contractor's use or disclosure of PHI.

That it will notify Contractor of any change in, or revocation of, permission by an Individual for DCH to use or disclose PHI to the extent that DCH determines in the exercise of its sole discretion that such change or revocation will affect Contractor's use or disclosure of PHI.

That it will notify Contractor of any restriction regarding its use or disclosure of PHI that DCH has agreed to in accordance with the Privacy Rule if, and to the extent that, DCH determines in the exercise of its sole discretion that such restriction will affect Contractor's use or disclosure of PHI.

**5. The Term of this Agreement shall be effective as of July 1, 2003, and shall terminate when all of the PHI provided by DCH to Contractor, or created or received by Contractor on behalf of DCH, is destroyed or returned to DCH, 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 DCH's knowledge of a material breach by Contractor, DCH shall either:

- (1) Provide an opportunity for Contractor to cure the breach or end the violation, and terminate this Agreement if Contractor does not cure the breach or end the violation within the time specified by DCH;
- (2) Immediately terminate this Agreement if Contractor has breached a material term of this Agreement and cure is not possible; or
- (3) If neither termination nor cure is feasible, DCH shall report the violation to the Secretary.

**B. Effect of Termination.**

- (1) Except as provided in paragraph (A.) (2) of this Section, upon termination of this Agreement, for any reason, Contractor shall return or destroy all PHI received from DCH, or created or received by Contractor on behalf of DCH. This provision shall apply to PHI that is in the possession of subcontractors or agents of Contractor. Neither Contractor nor its agents nor subcontractors shall retain copies of the PHI.

- (2) In the event that Contractor determines that returning or destroying the PHI is not feasible, Contractor shall send DCH detailed written notice of the specific reasons why it believes such return or destruction not feasible and the factual basis for such determination, including the existence of any conditions or circumstances which make such return or disclosure infeasible. If DCH determines, in the exercise of its sole discretion, that the return or destruction of such PHI is not feasible, Contractor agrees that it will limit its further use or disclosure of PHI only to those purposes DCH 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 action as DCH may require for the protection of patient privacy or the safeguarding, security and protection of such PHI.
- (3) If neither termination nor cure are feasible, DCH shall report the violation to the Secretary.
- (4) Section 5. B. of this Agreement, regarding the effect of termination or expiration, shall survive the termination of this Agreement.

**C. Conflicting Termination Provisions.**

In the event of conflicting termination provisions or requirements, with respect to PHI, the termination provisions of Section 5 in this Business Associate Agreement shall control and supercede and control those in the underlying Contract.

6. **Interpretation.** Any ambiguity in this Agreement shall be resolved to permit DCH to comply with applicable Medicaid laws, rules and regulations, and the Privacy 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 Medicaid laws, rules and regulations and the laws of the State of Georgia shall supercede 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 HIPAA and its Privacy Rule.
7. All other terms and conditions contained in the Contract and any amendment thereto, not amended by this Amendment, shall remain in full force and effect.

*Signatures on following page*

## SIGNATURE PAGE

Individual's Name: (typed or printed): Monica C. Daniels

\*Signature: Monica C. Daniels Date: \_\_\_\_\_

Title: Contract Liaison

Telephone No.: (404)656-4613 Fax No. (404)651-9337

Company or Agency Name and Address: Department of Human Resources  
Two Peachtree Street, N. W., 27th Floor  
Atlanta, Georgia 30303-3142

---

\* Must be President, Vice President, CEO or other authorized officer

\*\*Must be Corporate Secretary