



**STATE OF GEORGIA**

**MASTER AGREEMENT**

**BETWEEN**

**THE GEORGIA DEPARTMENT OF PUBLIC HEALTH**

**AND**

**BABIES CAN'T WAIT PROGRAM SERVICE PROVIDERS**

**FOR**

**The provision of quality early intervention services to eligible children and their families**

**CONTRACT NUMBER: 40500-040-17171926**

**Agreement Effective Date: July 1, 2016**

**Agreement End Date: June 30, 2017**

**THIS MASTER AGREEMENT (“Master Agreement” or “Agreement”)**, with an effective date of July 1, 2016, (hereinafter referred to as the “Effective Date”), is made and entered into by and between the Georgia Department of Public Health (hereinafter referred to as “the Department” or “Department”) and participating service providers.

**WHEREAS**, the Department is empowered to safeguard and promote the health of the people of this state and is empowered to employ all legal means appropriate to that end pursuant to the Official Code of Georgia Annotated (O.C.G.A.) § 31-2A-1, et. seq.;

**WHEREAS**, pursuant to O.C.G.A. § 31-2A-2, the Georgia Department of Public Health was established; and

**WHEREAS**, it is the purpose of this Agreement to establish a relationship and outline the obligations, expectations, and conditions of participation between the Georgia Department of Public Health and the Service Provider and to ensure quality services are made available to eligible children and their families, in accordance with Part C of the Individuals with Disabilities Education Improvement Act of 2004 (IDEA), Public Law 108-446 [otherwise known as Part C or the Early Intervention Program for Infants and Toddlers with Disabilities] and Georgia’s Babies Can’t Wait/Part C program.

**NOW, THEREFORE**, in consideration of the mutual covenants herein set forth, it is agreed by and between the parties hereto as follows:

**I. PARTICIPATION AGREEMENT:**

Service providers may join as an additional party to this Agreement by signing the attached Attachment “1” – Participation Agreement and agreeing to comply with all the terms and conditions of this Agreement.

**II. CONDITIONS OF PARTICIPATION:**

Service Provider agrees to fully and faithfully perform the services and comply with the conditions described in Attachment “2” – Conditions of Participation and its exhibits, which have been attached and incorporated into this Agreement.

**III. NOTICES AND LIAISONS**

The parties will coordinate and conduct communications through their respective liaisons identified below. Any communication in writing, or any oral communication confirmed in writing, from the respective liaisons will be deemed communications and notices from the party.

**For the Department:**

**Contract Administration:**

Angela Knight, Contract Specialist  
Georgia Department of Public Health  
Address: 2 Peachtree Street, Suite 9-205  
Atlanta, Georgia 30303  
Phone #: 404-232-1140  
E-mail: [Angela.Knight@dph.ga.gov](mailto:Angela.Knight@dph.ga.gov)

**Business Owner:**

DeMetria Clark Barnes, Provider Outreach Coordinator  
Georgia Department of Public Health  
Address: 2 Peachtree Street, 11<sup>th</sup> Floor  
Atlanta, Georgia 30303  
Phone #: 404-657-5622; 404-657-2850  
E-mail: [DeMetria.Barnes@dph.ga.gov](mailto:DeMetria.Barnes@dph.ga.gov)

**For SERVICE PROVIDER:**

Service Provider must complete and submit the Provider Information Form (PIF), provided by the Department, which includes the name and contact information of the Service Provider or entity designated to receive notices under this agreement. The PIF must be submitted to the District Early Intervention Coordinator (EIC) and Contract Business Owner, with the signed agreement.

The Service Provider must notify the EIC and Contract Business Owner of any changes to the contact information within thirty (30) business days of the change.

**IV. PERIOD OF AGREEMENT:**

This Agreement shall begin on July 1, 2016 and shall continue until June 30, 2017. The Department is hereby granted four options to renew this Agreement for four additional terms each up to one year, which shall begin July 1 and end at midnight on June 30 of the following year, each upon the same terms and conditions. Pursuant to O.C.G.A. § 50-5-64(a) (2), the renewal option shall be exercisable solely and exclusively by the Department.

**V. COMPENSATION**

The Service Provider shall be paid for eligible services on a fee-for-service basis, in accordance with and as described in **Attachment “2” – Conditions of Participation**.

**VI. TERMINATION FOR CONVENIENCE**

Following thirty days’ written notice, the Department or Service Provider may terminate the Agreement in whole or in part without the payment of any penalty or incurring any further obligation. Following termination for convenience, the Service Provider shall be entitled to compensation, upon submission of invoices and proper proof of claim, for Services provided under the Agreement to the Department up to and including the date of termination. In no event will the Department be obligated to pay for any services performed by the Service Provider after the effective date of termination. After sending or receiving notice of termination, the Service Provider agrees to continue to provide services up to 12:01 a.m. on the effective date of termination.

**VII. TERMINATION FOR CAUSE**

The Department may terminate this Agreement immediately, notwithstanding the advance-notice provisions specified above, if:

- A. The Service Provider breaches any of the terms or conditions of this Agreement;

- B. The Department determines, in its sole discretion, that appropriated and otherwise unobligated funds are no longer able to satisfy the obligations of the Department under this Agreement;
- C. The Department discovers a petition in bankruptcy or similar proceeding has been filed by or against the Service Provider;
- D. The Service Provider is convicted of misconduct, fraud, or abuse;
- E. Adverse findings per the criminal history;
- F. The Department determines that the actions, or failure to act, of the Contractor, its agents, employees or subcontractors have caused, or reasonably could cause, a risk to life, health, or safety;
- G. The Contractor fails to comply with confidentiality laws or obligations; or
- H. Professional license revocation.

### **VIII. SUSPENSION**

The Department may suspend this Agreement immediately if:

- A. Service Provider loses their certification;
- B. Service Provider incurs a lapse in licensure;
- C. Service Provider incurs a lapse in liability insurance;
- D. Service Provider is under investigation for misconduct, fraud, or abuse;
- E. Service Provider is a Service Coordinator or non-licensed provider and does not obtain the required number of continuing education units (CEUs);
- F. There is a loss of funding under which the Department funds the BCW program; or
- G. Service Provider has a criminal history check and is “not eligible” to contract with the Department. Pending adverse finding resolution, suspension can last no longer than 90 calendar days from date of Applicant Eligibility Status notification letter.

### **IX. CONFLICT RESOLUTION**

- A. The parties agree to make good faith efforts through personal negotiations to resolve any dispute that may arise between them. The laws of the State of Georgia shall govern all matters arising out of or in connection with this Contract without regard to the choice of law provisions of State law. In the event any civil action is commenced in connection with this Agreement, such civil action shall be brought in the State or Superior Court of Fulton County, Georgia. This provision shall not be construed as waiving any immunity to suit or liability, including without limitation sovereign immunity, which may be available to the State.
- B. In the event of a dispute, the Department may, in its discretion, elect to refer any dispute to non-binding mediation, or to binding arbitration under the auspices of the American Arbitration Association.

**X. ORDER OF PRECEDENCE**

In the case of any inconsistency or conflict among the specific provisions of the Master Agreement and its attachments, such conflict shall be resolved by giving precedence to the documents in the following order: the Master Agreement, Attachments.

**XI. USE OF NAME OR INTELLECTUAL PROPERTY**

Service Provider agrees it will not use the name of the Georgia Department of Public Health or any intellectual property owned by the State of Georgia, including but not limited to State trademarks or logos, in any manner, including commercial advertising or as a business reference, without the express prior written consent of the Department.

**XII. AMENDMENT**

No amendment, waiver, termination or discharge of this Agreement, or any of the terms or provisions hereof, shall be binding upon either Party unless confirmed in writing by both Parties.

**XIII. CONTRACT ASSIGNMENT**

The Parties to this Agreement shall not assign this Agreement, in whole or in part, without the prior written consent of the Georgia Department of Public Health, and any attempted assignment without such approval shall be null and void.

**XIV. SEVERABILITY**

If any provision of this Agreement is declared to be unenforceable, the remainder of this Agreement shall continue to be of full force and effect.

**XV. ENTIRE AGREEMENT**

This Agreement constitutes the entire Agreement between the Parties and supersedes all prior negotiations, representations, or contracts.

## **XVI. ATTACHMENTS**

The parties agree to comply with the terms and conditions of the following attachments that are by this reference made a part of this Agreement:

Attachment 1	Participation Agreement
Attachment 2	Conditions of Participation
	Exhibit A – District Served/Service Provided
Attachment 3	Vendor Lobbyist Disclosure
Attachment 4	Contractor Affidavit
Attachment 5	Business Associate Agreement
Attachment D-1	Individuals, Permitted to Receive, Use, and Disclose DPH PHI
Attachment D-2	List of Individuals Authorized to Access a DPH Information System Containing PHI
Attachment 6	Agency Master List
Attachment 7	Provider Information Form with Instructions
Attachment 8	Browser Update

IN WITNESS WHEREOF, the duly authorized representatives of the parties hereto have executed this Agreement as of the date signed by both parties.

**STATE OF GEORGIA**

**DEPARTMENT OF PUBLIC HEALTH**

\_\_\_\_\_  
**James C. Howgate, Chief of Staff**

\_\_\_\_\_  
Date

**SERVICE PROVIDER**

\_\_\_\_\_  
**SEE SUBSEQUENT SIGNATURE PAGES**

**Signature**

SEE SUBSEQUENT

\_\_\_\_\_  
**SIGNATURE PAGES**

Date

\_\_\_\_\_  
**SEE ATTACHMENT 1 SERVICE PROVIDERS**

**Printed or Typed Name of Signing Authority**

SEE SUBSEQUENT

\_\_\_\_\_  
**SIGNATURE PAGES**

Title

IN WITNESS WHEREOF, the duly authorized representatives of the parties hereto have executed this Agreement as of the date signed by both parties.

**STATE OF GEORGIA  
DEPARTMENT OF PUBLIC HEALTH**

SEE INITIAL SIGNATURE PAGE

\_\_\_\_\_  
**James C. Howgate, Chief of Staff**

SEE INITIAL SIGNATURE  
PAGE

\_\_\_\_\_  
Date

**SERVICE PROVIDER**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
Date

\_\_\_\_\_  
**Printed or Typed Name of Signing Authority**

\_\_\_\_\_  
Title



## Attachment 1

### PARTICIPATION AGREEMENT

This **PARTICIPATION AGREEMENT** is entered into by and between \_\_\_\_\_ (hereinafter referred to as “Service Provider”) and the Georgia Department of Public Health (hereinafter called “the Department” or “Department”) under the Master Agreement, Contract No. 40500-040-17171926, dated \_\_\_\_\_ (hereinafter referred to as “Master Agreement” or “Agreement”) for purposes of the provision of quality early intervention services to eligible children and their families (“Babies Can’t Wait Program”).

1. **Authority to Perform.** As of the date on which the Service Provider has executed and delivered this Participation Agreement to the Department, the Service Provider represents to the Department that each of the following statements is true and correct: (a) the Service Provider is validly existing and in good standing under the laws of the State of Georgia (see Attachment 2 Conditions of Participation); and (b) execution, delivery, and performance by the Service Provider of the Master Agreement, including the terms and conditions in this Participant Agreement, is within the Service Provider’s powers and has been duly authorized by the laws of the State of Georgia. During the Term, the Service Provider agrees to promptly provide any documentation or certifications that the Department may reasonably require in order to substantiate the representations set forth in this Section 1.
2. **Term and Renewal.** Pursuant to Paragraph IV. Period of Agreement of the Master Agreement, this Agreement shall be effective when executed by DPH and the undersigned parties for the remaining period of the contract term of the Master Agreement unless terminated earlier in accordance with the Agreement. At the sole discretion of the Department, the Department may exercise its option to renew the Agreement at the end of the term.
3. **Incorporation by Reference.** Service Provider acknowledges and agrees that all services provided by Service Provider are subject to the terms of the Master Agreement. The Master Agreement, as amended from time-to-time, including all Attachments, is hereby incorporated by reference into this Participation Agreement with the same force and effect as if it were given in full text. This Participation Agreement (and the incorporation of the Master Agreement and its attachments) is the Service Provider’s legal, valid, and binding obligation, enforceable against Service Provider in accordance with its terms and conditions and enforceable under the laws of the State of Georgia.
4. **Entire Agreement.** This Participation Agreement, including the terms and conditions in the Master Agreement and its attachments, constitutes the entire agreement between the parties with respect to its subject matter and supersedes all other representations, understandings or agreements that are not expressed herein, whether oral or written. Except as otherwise set forth herein, no amendment to this Participation Agreement shall be valid unless in writing and signed by both parties.

(Signatures on next page)

IN WITNESS WHEREOF, the duly authorized representatives of the parties hereto have executed this Participation Agreement as of the date signed by both parties.

**STATE OF GEORGIA**

**DEPARTMENT OF PUBLIC HEALTH**

\_\_\_\_\_  
**Ruben Brambila, MPH**  
**Deputy Director, Child Health**

\_\_\_\_\_  
Date

**SERVICE PROVIDER**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
Date

\_\_\_\_\_  
**Printed or Typed Name of Signing Authority**

\_\_\_\_\_  
Title

## ATTACHMENT 2

### CONDITIONS OF PARTICIPATION

#### I. DEFINITIONS. The following words shall be defined as set forth below:

- A. **ADA** means Americans with Disabilities Act of 1990, 42 U.S.C. Section 12101 et seq. The ADA prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, State and local government services, public accommodations, commercial facilities, and transportation. It also mandates the establishment of Telecommunication Device for the Deaf (TDD)/telephone relay service.
- B. **BIBS** means Babies Information and Billing System utilized by the Department's contractor or fiscal agent to process and pay provider claims on behalf of the Department and Babies Can't Wait program.
- C. **Child** means an individual, birth to three years of age, referred to or determined eligible for the Babies Can't Wait program with a confirmed disability or established developmental delay, as defined by the State, in one or more of the following areas of development: physical, cognitive, communication, social-emotional, or adaptive.
- D. **Claim** means a bill for services, a line item of service, or all services for one client within a bill.
- E. **Clean claim** means one that can be processed without obtaining additional information from the provider of the service or from a third party. It includes a claim without errors originating in the BIBS claims system. It does not include a claim from a provider who is under investigation for fraud or abuse, or a claim under review for medical necessity.
- F. **Early Intervention Coordinator (EIC)** is an individual who is responsible for the management and administration of one of the local BCW programs.
- G. **Fee-For-Service (FFS) Medicaid** means the joint Federal and State program of medical assistance established by Title XIX of the Social Security Act, administered by the Georgia Department of Community Health.
- H. **FERPA** means the Family Education Rights and Privacy Act and is a federal statute. FERPA deals with the parental right to inspect and review records. The purpose of FERPA is two-fold, to ensure that parents have access to their children's educational records and to protect the privacy rights of parents and children by limiting access to these records without parental consent.
- I. **Fiscal Agent** means a contractor that processes or pays provider claims on behalf of the Department and the Babies Can't Wait program.
- J. **HIPAA** means the Health Insurance Portability and Accountability Act of 1996, 29 U.S.C. Section 1181 et seq., a federal law that includes requirements to protect patient privacy, security, and data integrity of electronic medical records, to prescribe methods and formats

for exchange of electronic medical information, and to uniformly identify providers and participating hospitals.

**K. Medicaid Care Management Organization (CMO)** refers to one of three partnerships (Amerigroup Community Care, Peach State Health Plan, and WellCare) between the CMOs and the Georgia Department of Community Health, Medical Assistance Plans Division.

**L. Parent**, in accordance with 34 C.F.R § 303.27, means

- 1) A biological or adoptive parent of a child;
- 2) A foster parent;
- 3) A guardian generally authorized to act as the child’s parent, or authorized to make early intervention, educational, health or developmental decisions for the child (but not the State if the child is a ward of the State);
- 4) An educational surrogate appointed by the Office of Special Education;
- 5) An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child’s welfare or destruction of records.

**M. Payor of Last Resort** means the Service Provider or representing provider agency/entity is billing BCW/Part C as the “payor of last resort”, acknowledging that Service Provider will not bill BCW through BIBS if the services would have otherwise been paid for out of any other public or private sources of payment, in accordance with Part C of the Individuals with Disabilities Education Improvement Act of 2004 (IDEA).

**N. Suspension** means the temporary interruption of the Agreement by the Department subject to a period of time determined by the Department. Reinstatement is contingent on compliance with the provisions of the Agreement as determined by the Department.

**O. Termination** means the ending of the Agreement by the Department or service provider, prior to the end of the Agreement term pursuant to paragraphs VI or VII of the Master Agreement.

**P. Transport Layer Security (TSL)** is a protocol that ensures privacy between communicating applications and their users on the Internet.

**Q. Secure Sockets Layer (SSL)** is a standard security technology for establishing an encrypted link between a server and a client—typically a web server (website) and a browser.

## **II. GENERAL INFORMATION**

Service provider shall render quality services to eligible children, birth through two years, as described in this Agreement, the Babies Can’t Wait Manual, and the Part C Fiscal Policy Manual, and in accordance with Part C of the Individuals with Disabilities Education Improvement Act of 2004 (IDEA), Public Law 108-446.

The intent of IDEA is to ensure participating Service Providers plan and provide services collaboratively in order to deliver a comprehensive, coordinated and quality program of

services to each eligible child and family. Interagency coordination and communication are essential to achieving programmatic outcomes for children and families.

By signing this agreement, the Service Provider represents to the Department that it is willing and able to provide the support and resources needed to implement the BCW service delivery model and adhere to the terms and conditions outlined in this Agreement.

### **III. INDEPENDENT CONTRACTOR**

The Service Provider in an independent contractor for whom no federal or state income tax will be withheld by the Department. Service Provider understands and agrees that, as an independent contractor, he or she will not be entitled to any retirement benefits, workers' compensation, survivor benefit insurance, health or life insurance, vacation, sick leave, unemployment benefits, liability protection, or similar benefits available to State or county employees. Service Provider is responsible for establishing the time, method, and manner of his or her work in accordance with applicable professional standards. The Department and its District staff will not provide office space, equipment, supplies, or compensation for registration or travel expenses to meetings or conferences."

### **IV. HOLD HARMLESS**

The Service Provider will indemnify, defend, and hold harmless the State of Georgia, the Georgia Department of Public Health, and the Local Board of Health, its officers, agents, and employees from any claims and losses sustained by any person or entity who may be injured or damaged by the Service Provider in the performance of this Agreement, as well as any claims and losses sustained by any contractors, subcontractors, or entities furnishing services or materials at the request of the Service Provider in connection with the performance of this Agreement.

### **V. SERVICE PROVIDER RESPONSIBILITIES**

The Service Provider agrees to:

#### **A. Standards and Credentialing**

1. Enroll as a provider in the Georgia Fee-for-Service (FFS) Medicaid/Peachcare for Kids Program, pursuant to the Georgia Department of Community Health policies and procedures, if providing a FFS Medicaid reimbursable service. *Exclusions from FFS Medicaid enrollment include special instructors, nurses who only review medical records, interpreters and translators, non-licensed family trainers, parent educators and vision teachers.*
2. Enroll as a provider in one (1) or more Georgia Medicaid Care Management Organizations (CMO) pursuant to the CMO's policies and procedures. Independent providers, sole proprietors, or corporate entities (herein referred to as "Agency Providers") employing one (1) service provider must enroll within 60 days of executing this Participation Agreement. Agency Providers have 60 days to enroll after their start date on the Agency's Provider Master List. Providers cannot service children or seek reimbursement from BCW if the provider is not enrolled in the same CMO as the child, unless written permission is granted from the local EIC. Provider must contact local

EIC if authorization with CMO is delayed and provide documentation of due diligence in obtaining enrollment. *Exclusions from Medicaid CMO enrollment include: service coordinators, special instructors, interpreters and translators, vision teachers, nurses in BCW who only review medical records, non-licensed family trainers and transportation company providers.*

3. Enroll in the Babies Information and Billing System (BIBS) as a Service Provider by completing the required forms as listed on the BIBS website <https://www.bcw-bibs.com/Login.aspx>
4. Refer all potentially eligible children to the BCW system point of entry within two (2) days of identification. The District will determine eligibility for BCW and perform intake and other supportive services prior to the Individualized Family Service Plan (IFSP).
5. Meet and maintain all applicable and necessary standards and regulations for licensing, credentialing, program licensure, and funding requirements for services provided and the physical facilities, in accordance with the ADA standards, where services are made available as applicable.
6. All Service Providers must complete a national fingerprint-based criminal history record check and obtain a satisfactory determination through the Georgia Department of Public Health's Office of Inspector General, prior to contracting with BCW and providing services to children. The Service Provider must renew the national fingerprint-based criminal history check **annually** through the Georgia Department of Public Health's Office of Inspector General prior to expiration of the prior year's criminal history record check on record. **The Service Provider is responsible for all cost associated with obtaining the criminal history record check.**
7. Ensure that the EIC has received the following documents 30 calendar days prior to Agreement execution:
  - a) Copy of professional license, if applicable, for new providers
  - b) Proof of Medicaid identification number, if applicable, for new providers
  - c) Copy of service coordinator certificate, if applicable, for new providers
  - d) Copy of Liability Insurance (Interpreters and Translators are exempt)
  - e) Copy of Proof of CMO enrollment, when approved, if applicable
  - f) Copy of college transcript for non-licensed providers and service coordinators, for new providers
  - g) Provider Information Form
  - h) Agency Master Provider List, if applicable
8. Warrant that neither Service Provider nor any of its subcontractors has been debarred, suspended, or declared ineligible by any agency of the State of Georgia, or as defined in the Federal Acquisition Regulation (FAR) 48 C.F.R. Ch.1 Subpart 9.4. Service Provider will immediately notify the Department if Service Provider is debarred by the State or placed on the Consolidated List of Debarred, Suspended, and Ineligible Service Providers by a federal entity.

9. Ensure that its agents or subcontractors are subject to at least the same obligations that apply to the Service Provider 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 protected health information (PHI), that are applicable to this agreement.
10. Comply with all applicable federal, state, and local laws, rules, ordinances, regulations and orders now or hereafter in effect when performing under this Agreement. Service Provider and Service Provider's personnel shall also comply with all State and Department policies and standards in effect during the performance of this Agreement, including but not limited to the Department's policies and standards relating to personnel conduct, security, safety, confidentiality, and ethics.
11. Comply with all applicable state and federal laws, rules and regulations regarding a drug-free workplace - (e.g. the Drug-Free Workplace Act of 1988 (34 CFR Part 85, Subpart F); Executive Order 12549, Debarment and Suspension (34 CFR Part 85).
12. Comply with all standards, guidelines, and program policies set forth by the Department for Part C implementation in Georgia as described in the BCW Policy Manual and supporting bulletins, located on the Department website at <http://dph.georgia.gov/Babies-Cant-Wait> and periodically updated by the Department.
13. Comply with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and its amendments, rules, procedures, and regulations and the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99), regarding confidentiality of information about individuals receiving services. Treat all information about the children and families served by BCW as confidential information and shall not use any information so obtained, in any manner, except as may be necessary for the proper discharge of their legal obligations. Refrain at all times from divulging any information concerning the child or family to an unauthorized person without the informed, written consent of the parent(s) and protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages pursuant to the Family Educational Rights and Privacy Act (FERPA 20 U.S.C. § 1232g; 34 C.F.R. Part 99) and the Individuals with Disabilities Education Act (IDEA, 34 C.F.R. Part 300).
14. Notify the Department and the District in writing within thirty (30) calendar days of a change in ownership, corporate name, tax identification number, licensure, certification, registration status, mailing address, email address (used for BCW), contact phone number or change in certification/licensure status, CMO enrollment, and insurance coverage.
15. Notify the Department and the District in writing, within thirty (30) calendar days of the filing, if at any time during the contractual period, there is a bankruptcy or similar proceeding by or against the Service Provider.
16. Notify the Department within ten (10) business days of notification for any investigation of misconduct, fraud, abuse, termination by Medicaid/CMOs or revocation of professional license.

17. Implement the use of universal safety precautions when providing direct service with each child to assist in controlling the spread of infectious disease;
18. Not in any manner discriminate against any person because of ancestry, color, creed, disability (mental or physical) including HIV and AIDS, handicap, marital or domestic partner status, medical condition (including cancer and genetic characteristics), national origin, race, religion, sex (including gender and gender identity), sexual orientation, or veteran status pursuant to Title VII of the Civil Rights Act of 1964, as amended, or in Section 504 of the Rehabilitation Act of 1973, as amended, and in any subsequent legislation pertaining to civil rights.
19. Not engage in any form of unlawful harassment, including sexual harassment or power abuse, with respect to any persons with whom Service Provider may interact in the performance of this Agreement, and Service Provider will take all reasonable steps to prevent harassment from occurring.
20. Update Browser to meet BIBS security requirement to use latest recommended version. As of March 7, 2016, the latest versions are:

**Internet Explorer:** IE/Edge 11

**Firefox:** 44.0.2

**Chrome:** 49.0.2623.75

**Safari:** Mac- version 9 in OS X10.11

iPhones and iPads- version 9 in iOS 9

**B. Services and Documentation**

1. Provide the Services indicated on the attached **Exhibit A, District Services/Services Provided**, at the locations specified on Exhibit A.
2. Respond to the family of the child within three (3) business days from the receipt of a referral.
3. Documentation Timelines

<b>Action</b>	<b>Service Provider Time Frame</b>	<b>Service Coordinator Time Frame</b>
Enter provider notes and progress notes; coordination notes, eligibility evaluations and assessments into BIBS.	Within fourteen (14) calendar days of completion of service	Within seven (7) calendar days of completion of service
Enter all IFSP, initial, annual, inter-periodic, 6 months, and transition meeting notes into BIBS.		Within seven (7) calendar days of completion of service



4. Participate in six (6) month and annual IFSP reviews and provide written progress summary for each individual child/family receiving early intervention services and enter written progress summary, evaluation and assessment documentation into BIBS.
5. Provide early intervention services to any BCW eligible child upon referral by the District or by any authorized agent of the Department as set forth in the IFSP, within 45 days of parental consent.
6. Render early intervention services in accordance with accepted professional standards and policies established by the Department pursuant to pertinent federal statutes and regulations. The services provided on behalf of children eligible for BCW Part C Early Intervention Services shall be provided in accordance with the Individual Family Service Plan (IFSP) as defined in the BCW Standards & Implementation Manual and the Notice of Infant/ Toddler & Family Rights under BCW.
7. Provide BCW eligibility evaluations and assessments at no cost to the family, as required by federal Part C regulations. If consent to use personally identifiable information has been obtained, Service Provider is required to verify eligibility and bill FFS Medicaid, and Medicaid CMOs for initial eligibility evaluations or initial assessments for program planning. Service Provider is also required to verify eligibility and bill private insurance for evaluations or assessments for program planning that occur after the initial eligibility evaluations or initial assessments for program planning.
8. Complete a parent signed voucher documenting the services rendered and maintain this documentation in the Service Provider records. Vouchers are available on the Department website at <http://dph.georgia.gov/Babies-Cant-Wait>
9. Recommend changes in the delivery of the services to eligible children under this Agreement. Service Coordinator will schedule a team meeting to discuss recommendations. No changes to the IFSP can be made without a consensus from the team.

**C. Claim Submission and Billing**

Service Provider must:

1. Submit claims for services rendered to Department as described in the BCW Manual.
2. Verify all applicable insurance coverage and the child's eligibility with all payors, including FFS Medicaid, CMO, and private insurance, no less than once a month but prior to service delivery and maintain documentation of coverage.
3. Obtain prior authorization from the primary payor prior to beginning services with the child and family; and maintain all required documentation needed for authorizations and entering claims information into the BIBS. Provider must contact local EIC if prior authorization for services will be delayed and provide documentation of due diligence and continued efforts to obtain authorization.
4. Appeal directly to the appropriate Medicaid/CMO, prior authorization denial of eligible services. Prior authorization denials for eligible services not resolved by Medicaid/CMO, within 25-calendar days of the initial request, must be submitted to the

Department for approval, in accordance with the BCW Fiscal Policy manual and supporting bulletins, which requires therapy providers to begin providing eligible early intervention services within 45 calendar days of the parental consent

5. Service Coordinators and Special Instructors: Submit claims for eligible services, not otherwise covered by the primary payor, directly to the Department, via BIBS, not more than ninety (90) calendar days following the date(s) of service.
6. Accept the FFS Medicaid and Medicaid CMO rate (or any portion) as payment in full for Medicaid billable services.
  - a) Unless otherwise agreed upon in writing by the Department and the Service Provider, the Service Provider shall not be entitled to receive any other payment or compensation from the Department and/or Family for services provided by or on behalf of the Service Provider under the Agreement
  - b) Agrees not to direct bill the family for any services covered by another pay source. Refer to the BCW Policy Manual and Fiscal Policies.
7. Adhere to BCW Policy Manual, Fiscal Policy, and BCW Billing Manual regarding Family Cost Participation (FCP).
8. Appeal directly to the primary payor(s), all claims denied due to circumstances within the provider's control, including but not limited to filing errors, missing or incorrect information, initial or corrected claims filed past the timely filing deadline, etc. The Department will not process or provide reimbursement for claims denied for circumstances within the provider's control.
9. Submit claim's denied and appeal upheld by the primary payor(s), and the Explanation of Benefits /Remittance Advice (EOB/RA) to the Department via the BIBS, not more than ninety (90) calendar days following the primary payor's last denial. This also includes claims partially paid by private insurance and payments going towards deductible. The Department will not process or provide reimbursement claims submitted to the Department past the timely filing deadline.
10. Only bill one claim per month per child for services rendered if Service Provider is a Service Coordinator. Service Coordinator must document at least one face-to-face and three (3) ancillaries that relate to the IFSP, per calendar month in order to file a claim. Refer to BCW Policy and Procedure regarding billing. See Medicaid Case Management Manual.
11. Refund to the Department any duplicate payment, overpayment, or otherwise incorrect payment, via check or money order, within thirty (30) business days of receipt of the payment or written notification of the incorrect payment, whichever is sooner. If applicable, funds may be recouped from future payments.

#### **D. Records and Record Keeping**

Maintain accurate clinical records for a period of at least five years from discharge from early intervention services, or until any audit is completed and every exception resolved, whichever

is longer. Permit access to these records by the Department, the District, the federal Departments of Health and Human Services and of Education or their assignees.

**E. Training**

Attend and participate in any training that is mandatorily required by the Department or District.

**F. Insurance Requirements**

Procure and maintain, while contracting services to children on behalf of DPH, at least the following minimum insurance coverage and furnish the Department with proof of such insurance 30 days prior to execution of this Agreement:

1. Professional Liability Insurance –a minimum of \$1,000,000.00 per claim and a minimum of \$3,000,000.00 in the aggregate. This certificate must list Georgia Department of Public Health as certificate holder, which means the insurance company will notify BCW if the policy is cancelled/lapsed prior to the expiration date. Interpreters and Translators are exempt from professional liability insurance.
2. Worker’s Compensation Insurance – if required by and to ensure the statutory limits established by Georgia law.
3. Commercial General Liability Insurance – Sole proprietors or corporate entities employing one (1) service provider shall be exempt from this requirement.
  - a) General Aggregate Limit - \$1,000,000.00
  - b) Products and Completed Operations Limit - \$1,000,000.00
  - c) Each Occurrence - \$2,000,000.00
  - d) Personal & Advertising Injury Limit - \$2,000,000.00

**G. Termination Duties**

Upon termination of Agreement, the Service Provider must:

1. Not accept any new client assignments upon the receipt of termination letter from BCW.
2. Ensure all claims, for services rendered, are entered into the BIBS for processing within 30 days
3. Submit all applicable documentation in BIBS and provide hard copies to the District EIC for approval
4. Submit all outstanding administrative paperwork to the EIC within time period specified in termination letter
5. Collaborate directly with the EIC(s) and Service Coordinator(s) to assist with caseload transition prior to termination.
6. Follow all procedures outlined in “Notice of Termination” letter received from BCW.

## V. RESPONSIBILITIES OF THE DEPARTMENT

The Department agrees to:

1. Inform the Service Provider of the requirements and procedures to become an enrolled BCW Service Provider and of changes in those requirements and procedures.
2. Provide access to all appropriate policies and procedures, including complete copies of the Department's Babies Can't Wait Policy and Procedure Manual ("BCW Manual") - which includes the BCW fiscal policies; BCW Billing Manual; relevant training notices; and other necessary items in a timely manner.
3. Provide payment for eligible early intervention services at the BCW rate in accordance with and as described in the BCW Manual and fee schedule. The BCW Manual and applicable fee schedule is accessible via the DPH website, at [http://dph.georgia.gov/sites/dph.georgia.gov/files/related\\_files/site\\_page/Draft%20Fiscal%20Policies%20-February%202015%20v2.pdf](http://dph.georgia.gov/sites/dph.georgia.gov/files/related_files/site_page/Draft%20Fiscal%20Policies%20-February%202015%20v2.pdf) and <https://www.bcw-bibs.com>
  - a) As payor of last resort, the Department shall ONLY provide reimbursement for eligible early intervention services, not otherwise covered by the primary payor (FFS Medicaid, Medicaid CMO, or private insurance), in accordance with the BCW Manual and applicable Family Cost Participation.
  - b) The Department shall ONLY provide reimbursement for the difference between the private insurance payment and the BCW rate, where the private insurance rate is less than the BCW rate minus any applicable Family Cost Participation.
  - c) Unless otherwise agreed upon in writing by the Department and the Service Provider, the Service Provider shall not be entitled to receive any other payment or compensation from the Department for services provided by or on behalf of the Service Provider under the Agreement.
4. Make every effort to pay all non-third party reimbursable services at the established BCW rates, for eligible services provided and delivered to children and their families as set forth in their IFSPs, or authorized in BIBS, within thirty (30) calendar days of submission of accurate claims to the Department, via BIBS, contingent upon the following:
  - a) The Service Provider has entered all supporting documentation of the services delivered and upon receipt of an acceptance and confirmation from BIBS.
  - b) Claims, progress notes and other supporting documentation entered in BIBS, as specified in this agreement. The Department may deny claims due to, but not limited to, filing errors, missing or incorrect information,

untimely filed initial or corrected claims, etc. per established billing standards.

5. Provide and maintain an updated list of BCW Providers with date of most recent criminal history check on the BCW website.

**Exhibit A  
DISTRICTS SERVED/SERVICES PROVIDED**

**A. District/Counties Served**

Service Provider will provide approved services in the following district(s). Check where therapy services will be provided:

<input type="checkbox"/> <b>District 1-1 Northwest (Rome)</b>	<input type="checkbox"/> <b>District 5-1 South Central (Dublin)</b>	<input type="checkbox"/> <b>District 8-2 Southwest (Albany)</b>
<input type="checkbox"/> <i>All Counties</i>	<input type="checkbox"/> <i>All Counties</i>	<input type="checkbox"/> <i>All Counties</i>
<input type="checkbox"/> Bartow <input type="checkbox"/> Gordon	<input type="checkbox"/> Bleckley <input type="checkbox"/> Pulaski	<input type="checkbox"/> Baker <input type="checkbox"/> Lee
<input type="checkbox"/> Catoosa <input type="checkbox"/> Haralson	<input type="checkbox"/> Dodge <input type="checkbox"/> Telfair	<input type="checkbox"/> Calhoun <input type="checkbox"/> Miller
<input type="checkbox"/> Chattooga <input type="checkbox"/> Paulding	<input type="checkbox"/> Johnson <input type="checkbox"/> Treutlen	<input type="checkbox"/> Colquitt <input type="checkbox"/> Mitchell
<input type="checkbox"/> Dade <input type="checkbox"/> Polk	<input type="checkbox"/> Laurens <input type="checkbox"/> Wheeler	<input type="checkbox"/> Decatur <input type="checkbox"/> Seminole
<input type="checkbox"/> Floyd <input type="checkbox"/> Walker	<input type="checkbox"/> Montgomery <input type="checkbox"/> Wilcox	<input type="checkbox"/> Dougherty <input type="checkbox"/> Terrell
<input type="checkbox"/> <b>District 1-2 North GA (Dalton)</b>	<input type="checkbox"/> <b>District 5-2 North Central (Macon)</b>	<input type="checkbox"/> Early <input type="checkbox"/> Thomas
<input type="checkbox"/> <i>All Counties</i>	<input type="checkbox"/> <i>All Counties</i>	<input type="checkbox"/> Grady <input type="checkbox"/> Worth
<input type="checkbox"/> Cherokee <input type="checkbox"/> Murray	<input type="checkbox"/> Baldwin <input type="checkbox"/> Monroe	<input type="checkbox"/> <b>District 9-1 Coastal (Savannah)</b>
<input type="checkbox"/> Fannin <input type="checkbox"/> Pickens	<input type="checkbox"/> Bibb <input type="checkbox"/> Peach	<input type="checkbox"/> <i>All Counties</i>
<input type="checkbox"/> Gilmer <input type="checkbox"/> Whitfield	<input type="checkbox"/> Crawford <input type="checkbox"/> Putnam	<input type="checkbox"/> Bryan <input type="checkbox"/> Glynn
<input type="checkbox"/> <b>District 2 North (Gainesville)</b>	<input type="checkbox"/> Hancock <input type="checkbox"/> Twiggs	<input type="checkbox"/> Camden <input type="checkbox"/> Liberty
<input type="checkbox"/> <i>All Counties</i>	<input type="checkbox"/> Houston <input type="checkbox"/> Washington	<input type="checkbox"/> Chatham <input type="checkbox"/> Long
<input type="checkbox"/> Banks <input type="checkbox"/> Lumpkin	<input type="checkbox"/> Jasper <input type="checkbox"/> Wilkinson	<input type="checkbox"/> Effingham <input type="checkbox"/> McIntosh
<input type="checkbox"/> Dawson <input type="checkbox"/> Rabun	<input type="checkbox"/> <b>District 6 East Central (Augusta)</b>	<input type="checkbox"/> <b>District 9-2 Southeast (Waycross)</b>
<input type="checkbox"/> Forsyth <input type="checkbox"/> Stephens	<input type="checkbox"/> <i>All Counties</i>	<input type="checkbox"/> <i>All Counties</i>
<input type="checkbox"/> Franklin <input type="checkbox"/> Towns	<input type="checkbox"/> Burke <input type="checkbox"/> Lincoln	<input type="checkbox"/> Appling <input type="checkbox"/> Coffee
<input type="checkbox"/> Habersham <input type="checkbox"/> Union	<input type="checkbox"/> Columbia <input type="checkbox"/> McDuffie	<input type="checkbox"/> Atkinson <input type="checkbox"/> Evans
<input type="checkbox"/> Hall <input type="checkbox"/> White	<input type="checkbox"/> Emanuel <input type="checkbox"/> Richmond	<input type="checkbox"/> Bacon <input type="checkbox"/> Jeff Davis
<input type="checkbox"/> Hart	<input type="checkbox"/> Glascock <input type="checkbox"/> Taliaferro	<input type="checkbox"/> Brantley <input type="checkbox"/> Pierce
<input type="checkbox"/> <b>District 3-1 Cobb/Douglas</b>	<input type="checkbox"/> Jefferson <input type="checkbox"/> Warren	<input type="checkbox"/> Bulloch <input type="checkbox"/> Tattnall
<input type="checkbox"/> <i>All Counties</i>	<input type="checkbox"/> Jenkins <input type="checkbox"/> Wilkes	<input type="checkbox"/> Candler <input type="checkbox"/> Toombs
<input type="checkbox"/> Cobb <input type="checkbox"/> Douglas	<input type="checkbox"/> <b>District 7 West Central (Columbus)</b>	<input type="checkbox"/> Charlton <input type="checkbox"/> Ware
<input type="checkbox"/> <b>District 3-2 Fulton</b>	<input type="checkbox"/> <i>All Counties</i>	<input type="checkbox"/> Clinch <input type="checkbox"/> Wayne
<input type="checkbox"/> Fulton	<input type="checkbox"/> Chattahoochee <input type="checkbox"/> Quitman	<input type="checkbox"/> <b>District 10 Northeast (Athens)</b>
<input type="checkbox"/> <b>District 3-3 Clayton (Jonesboro)</b>	<input type="checkbox"/> Clay <input type="checkbox"/> Randolph	<input type="checkbox"/> <i>All Counties</i>
<input type="checkbox"/> Clayton	<input type="checkbox"/> Crisp <input type="checkbox"/> Schley	<input type="checkbox"/> Barrow <input type="checkbox"/> Madison
<input type="checkbox"/> <b>District 3-4 East Metro (Lawrenceville)</b>	<input type="checkbox"/> Dooly <input type="checkbox"/> Stewart	<input type="checkbox"/> Clarke <input type="checkbox"/> Morgan
<input type="checkbox"/> <i>All Counties</i>	<input type="checkbox"/> Harris <input type="checkbox"/> Sumter	<input type="checkbox"/> Elbert <input type="checkbox"/> Oconee
<input type="checkbox"/> Gwinnett <input type="checkbox"/> Rockdale	<input type="checkbox"/> Macon <input type="checkbox"/> Talbot	<input type="checkbox"/> Greene <input type="checkbox"/> Oglethorpe
<input type="checkbox"/> Newton	<input type="checkbox"/> Marion <input type="checkbox"/> Taylor	<input type="checkbox"/> Jackson <input type="checkbox"/> Walton
<input type="checkbox"/> <b>District 3-5 DeKalb</b>	<input type="checkbox"/> Muscogee <input type="checkbox"/> Webster	
<input type="checkbox"/> DeKalb	<input type="checkbox"/> <b>District 8-1 South (Valdosta)</b>	
<input type="checkbox"/> <b>District 4 LaGrange</b>	<input type="checkbox"/> <i>All Counties</i>	
<input type="checkbox"/> <i>All Counties</i>	<input type="checkbox"/> <i>All Counties</i>	
<input type="checkbox"/> Butts <input type="checkbox"/> Lamar	<input type="checkbox"/> Ben Hill <input type="checkbox"/> Irwin	
<input type="checkbox"/> Carroll <input type="checkbox"/> Meriwether	<input type="checkbox"/> Berrien <input type="checkbox"/> Lanier	
<input type="checkbox"/> Coweta <input type="checkbox"/> Pike	<input type="checkbox"/> Brooks <input type="checkbox"/> Lowndes	
<input type="checkbox"/> Fayette <input type="checkbox"/> Spalding	<input type="checkbox"/> Cook <input type="checkbox"/> Tift	
<input type="checkbox"/> Heard <input type="checkbox"/> Troup	<input type="checkbox"/> Echols <input type="checkbox"/> Turner	
<input type="checkbox"/> Henry <input type="checkbox"/> Upson		

Provider/Agency Name \_\_\_\_\_

Date \_\_\_\_\_

**B. SERVICES PROVIDED**

The Service Provider has represented to the Department the ability to provide the following approved service(s) that have been credentialed by the Early Intervention Coordinator (EIC) in the district(s), which they provide services:

Assistive Technology Services

Assistive Technology Provider

Audiology Services

Audiologist

Family Training (FT) and Counseling Services

- FT Counseling-Licensed Provider
- FT Social Worker-Licensed Provider
- FT Speech Pathologist-Licensed Provider
- FT Early Interventionist- Non-Licensed Provider

Health Services

- Physician
- Physician Assistant

Language Interpreters/Translators Services

- Interpreters for the Deaf
- Translator – Non Spanish Foreign Language
- Translator – Spanish Language

Nursing Services

- Registered Nurse
- Licensed Practical Nurse
- Licensed Nurse Practitioner

Nutrition Services

Dietitian

Occupational Therapy Services

Occupational Therapist

Physical Therapy Services

Physical Therapist

Psychological Services

Psychologist

Service Coordination Services

- Service Coordinator
- Intake Coordinator

Social Work Services

Social Worker

Special Instruction Services

- Early Intervention Assistant
- Early Interventionist
- Early Intervention Specialist

Speech-Language Pathology Services

- Speech Language Pathologist
- Clinical Fellowship Year (CFY)

Transportation Services

Transportation Company Provider

Vision Services

- Optometrist
- Ophthalmologist
- Vision Teacher
- Vision Educator

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**SERVICE DESCRIPTION:**

Service Provider agrees to perform all services selected in Section B (Services Provided) in all districts selected in Section A (Districts/Counties Served).

OR

Service Provider will perform certain services selected in Section B (Services Provided) in different districts selected in Section A (Districts/Counties Served) as follows:

District \_\_\_\_\_ Services approved to perform

District \_\_\_\_\_ Services approved to perform

District \_\_\_\_\_ Services approved to perform

(If performing services in more than 3 Districts, attach a separate page with the remaining information.)

Provider/Agency Name \_\_\_\_\_

Date \_\_\_\_\_

### ATTACHMENT 3

#### VENDOR LOBBYIST DISCLOSURE AND REGISTRATION CERTIFICATION FORM

Pursuant to Executive Order Number 10.01.03.01 (the "Order"), which was signed by Governor Sonny Perdue on October 1, 2003, Contractors with the state are required to complete this form. The Order requires "Vendor Lobbyists," defined as those who lobby state officials on behalf of businesses that seek a contract to sell goods or services to the state or those who oppose such a contract, to certify that they have registered with the State Ethics Commission and filed the disclosures required by Article 4 of Chapter 5 of Title 21 of the Official Code of Georgia Annotated. Consequently, every vendor desiring to enter into a contract with the state must complete this certification form. False, incomplete, or untimely registration, disclosure, or certification shall be grounds for termination of the award and contract and may cause recoupment or refund actions against Contractor.

In order to be in compliance with Executive Order Number 10.01.03.01, please complete this Certification Form by designating only one of the following:

Contractor *does not have any* lobbyist employed, retained, or affiliated with the Contractor who is seeking or opposing contracts for it or its clients. Consequently, Contractor has not registered anyone with the State Ethics Commission as required by Executive Order Number 10.01.03.01 and any of its related rules, regulations, policies, or laws.

Contractor *does have* lobbyist(s) employed, retained, or affiliated with the Contractor who are seeking or opposing contracts for it or its clients. The lobbyists are:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Contractor states, represents, warrants, and certifies that it has registered the above named lobbyists with the State Ethics Commission as required by Executive Order Number 10.01.03.01 and any of its related rules, regulations, policies, or laws.

Contractor is a Georgia state agency.

**CONTRACTOR NAME** (*print*): \_\_\_\_\_

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

SIGNATURE DATE

\_\_\_\_\_



**ATTACHMENT 4**

**Contractor Affidavit under O.C.G.A. § 13-10-91(b) (1)**

The following Service Providers are exempt from completing this affidavit: Individuals who are licensed pursuant to Title 26 or Title 43 of the Official Code of Georgia Annotated, including Audiologist, Counselor, Social Worker, Speech Pathologist, Physician, Physician Assistant, Registered Nurse, Practical Nurse, Nurse Practitioner, Dietitian, Occupational Therapist, Physical Therapist, Psychologist, Optometrist, and Ophthalmologist. Individuals with no employees may submit a driver's license in lieu of this affidavit.

By executing this affidavit, the undersigned Service Provider verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm or corporation which seeks to bid or sign a contract for the performance of labor or services on behalf of the Georgia Department of Public Health, has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91. Furthermore, the undersigned Service Provider will continue to use the federal work authorization program throughout the contract period and the undersigned Service Provider will contract for the performance of labor or services in satisfaction of such contract only with subcontractors who present an affidavit to the Service Provider with the information required by O.C.G.A. § 13-10-91(b). Service Provider hereby attests that its federal work authorization user identification number and date of authorization are as follows:

\_\_\_\_\_  
Federal Work Authorization User Identification Number

\_\_\_\_\_  
Date of Authorization

\_\_\_\_\_  
Name of Service Provider

\_\_\_\_\_  
Name of Project

\_\_\_\_\_  
Name of Public Employer

I hereby declare under penalty of perjury that the foregoing is true and correct.

This \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
Signature of Authorized Officer or Agent

\_\_\_\_\_  
Printed Name and Title of Authorized Officer or Agent

Subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_

[DPH Form CG09008A (Rev. 7.2013): For use with contracts for labor or services of \$2500 or more]

## ATTACHMENT 5

### BUSINESS ASSOCIATE AGREEMENT

**WHEREAS**, the Georgia Department of Public Health (“DPH”) and \_\_\_\_\_ (“Contractor”) have entered into the attached Contract, whereby Contractor will provide functions, activities, or services to DPH involving the use of Protected Health Information (“PHI”) as defined by Health Insurance Portability and Accountability Act of 1996 (“HIPAA”);

**WHEREAS**, DPH is required by HIPAA to enter into a Business Associate Agreement with entities which provide functions, activities, or services on behalf of DPH involving the use of PHI;

**NOW, THEREFORE**, in consideration of the mutual promises contained herein, DPH and Contractor agree as follows:

1. Terms used but not otherwise defined in this Agreement shall have the same meaning as those terms in HIPAA and Title XIII of the American Recovery and Reinvestment Act of 2009 (the Health Information Technology for Economic and Clinical Health Act, or “HITECH”), and in the implementing regulations of HIPAA and HITECH, now and as they may be amended in the future. Together HIPAA, HITECH, and their implementing regulations are referred to in this Agreement as the “Privacy Rule and the Security Rule.”
2. Subject to the limitations of 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 DPH.
3. Contractor warrants that the individuals described on Attachment D-1 require access to PHI in order to perform services under the Contract. Contractor shall update Attachment D-1 as necessary.
4. Contractor warrants that the individuals described on Attachment D-2 require access to a DPH information system in order to perform services under the Contract. Contractor shall notify the DPH Project Leader no less than 24 hours in advance if any other individuals will need access to the DPH information system
5. Contractor warrants that only individuals designated by title or name on Attachments D-1 and D-2 will request or access PHI from DPH, that they will only do so in the performance of services under the Contract, and that these individuals will only request the minimum necessary amount of information in order to perform those services.
6. The parties agree that Contractor is a “Business Associate” to DPH within the meaning of the Privacy and Security Rule. Contractor shall comply with all obligations of the Privacy Rule and Security Rule that apply to DPH, and shall comply with all Privacy Rule and Security Rule requirements that apply to Business Associates. Contractor further warrants that it maintains and follows written policies and procedures to achieve and maintain compliance with the Privacy and Security Rules that apply to Business Associates, and that it will update such policies and procedures as necessary in order to comply with the and changes to the Privacy and Security Rules. These policies and procedures, and evidence of their implementation, shall be provided to DPH upon request.

7. All communications related to compliance with this Agreement will be forwarded to the following Privacy and Security Contacts:

A. At DPH: Meredith Grant  
Office of General Counsel  
2 Peachtree Street, NW, 9<sup>th</sup> Floor  
Atlanta, Georgia 30303  
[meredith.grant@dph.ga.gov](mailto:meredith.grant@dph.ga.gov)  
404-232-1682

Paul Ruth  
Chief Information Officer, Office of Information Technology  
2 Peachtree Street, NW, 12<sup>th</sup> Floor  
Atlanta, Georgia 30303  
[paul.ruth@dph.ga.gov](mailto:paul.ruth@dph.ga.gov)  
404-657-6390

B. At Contractor: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

8. Contractor further agrees:

- A. Contractor will not request, create, receive, use or disclose PHI other than as permitted or required by this Agreement, the Contract, or law.
- B. Contractor will establish, maintain and use appropriate administrative, physical, and technical safeguards to prevent loss, use, or disclosure of the PHI other than as provided for by this Agreement, the Contract, or law.
- C. Contractor will implement and use administrative, physical, and technical safeguards that protect the confidentiality, integrity and availability of the electronic PHI that it creates, receives, maintains, or transmits on behalf of DPH.
- D. In addition to the safeguards described above, Contractor shall impose access controls that restrict access to PHI to the individuals listed on D-1 and D-2, as amended from time to time.
- E. Contractor will password-protect and encrypt all electronic PHI for transmission and for storage on portable computers and media devices.
- F. Contractor will mitigate, to the extent practicable, any harmful effect that result from a loss, use, or disclosure of PHI by Contractor in violation of the requirements of this Agreement, the Contract, or law. Contractor shall bear the costs of mitigation, which shall include the reasonable costs of credit monitoring or credit restoration when the use or disclosure results in exposure of information commonly used in identity theft (including name, date of birth, and Social Security Number.)
- G. Contractor will maintain a written Business Associate Agreement with any agent or

subcontractor that will create, receive, maintain, or transmit on Contractor's behalf any PHI pertaining to DPH. Such Agreement shall provide that Contractor's agent or subcontractor agrees to the same restrictions and conditions of this Agreement with respect to PHI that Contractor receives from DPH, and that Contractor's agent or subcontractor assumes the same duties with regard to the PHI that Contractor has assumed under this Agreement. Contractor further agrees that if it becomes aware of a pattern of activity or practice of its agent or subcontractor that constitutes a material breach or violation of its agreement with Contractor, then Contractor shall take reasonable steps to cure the breach or end the violation, and if such steps are unsuccessful, terminate the agreement.

- H. Contractor will immediately report to DPH any "Breach" as defined by 45 CFR 164.402, and any known or suspected loss, use, or disclosure of PHI that is not authorized by this Agreement, the Contract, or law.
- I. Make an initial report to DPH in writing in such form as DPH may require within three business days after Contractor learns of a suspected unauthorized loss, use, or disclosure of PHI. This report will include the following:
  - i. The nature of the loss, use, or disclosure, a brief description of what happened, the date it occurred, and the date Contractor discovered the incident;
  - ii. The specific data points of PHI involved in the loss, use, or disclosure;
  - iii. The names of all persons with knowledge of the loss, use, or disclosure, and the names or categories of persons who may have obtained access to the PHI as a result;
  - iv. The corrective or investigative actions taken or to be taken in order to mitigate harmful effects, and to prevent further losses, uses, or disclosures;
  - v. Recommended protective actions to be taken by individuals whose PHI may have been lost, used, or disclosed; and
  - vi. Whether Contractor believes that the loss, use, or disclosure constitutes a Breach.
- J. Contractor will, upon request by the DPH Privacy Officer or the DPH Information Security Officer, provide a complete report of the Breach to DPH including a root cause analysis and a proposed corrective action plan. Upon request by DPH, Contractor shall implement the corrective action plan and provide proof of implementation.
- K. Contractor will report to the DPH Privacy Officer and the DPH 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 business days of discovery.
- L. Contractor will cooperate with DPH and provide assistance necessary for DPH to determine whether a Breach has occurred, and whether notification of the Breach is legally required or otherwise appropriate.

- M. If DPH determines that a Breach has occurred as a result of Contractor's loss, use, or disclosure of PHI or failure to comply with obligations set forth in this Agreement or in the Privacy or Security Rule, then Contractor will provide all required notices to affected individuals, the Secretary of the U. S. Department of Health and Human Services, and the media, at Contractor's expense and in accordance with 45 C.F.R. Part 164 subpart D. Such notices shall be submitted in advance to the DPH Privacy Officer for approval.
  - N. Contractor will honor requests by DPH or by an individual for access to the individual's own PHI in accordance with 45 CFR 164.524; to make PHI available for amendment, and to incorporate such amendments into a designated record set in accordance with 45 CFR 164.526; to provide an accounting of all disclosures of the individual's PHI in accordance with 45 CFR 164.528; to document any such requests and the Contractor's response; and to notify DPH as soon as practicable of any such requests.
  - O. Contractor will provide access to the Secretary of the U.S. Department of Health and Human Services to Contractor's books and records and policies, practices, or procedures relating to the use and disclosure of PHI received from DPH, or created or received by Contractor on behalf of DPH.
  - P. In addition to any indemnification provisions in the Contract, Contractor will indemnify DPH from any loss or 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 employees, agents, or subcontractors. Such liability will include without limitation all actual and direct costs, settlement payments, damages awarded, civil penalties, litigation expenses, and attorneys' fees incurred by DPH.
9. Unless otherwise provided by law, DPH agrees that it will:
- A. Notify Contractor of any new limitation in DPH's Notice of Privacy Practices in accordance with the provisions of the Privacy Rule if such limitation will affect Contractor's use or disclosure of PHI.
  - B. Notify Contractor of any change in, or revocation of, permission by an individual for DPH to use or disclose PHI if 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 DPH has agreed to in accordance with the Privacy Rule if such restriction will affect Contractor's use or disclosure of PHI.
  - D. Before agreeing to any changes in or revocation of permission by an individual, or any restriction to use or disclose PHI, DPH will contact Contractor to determine feasibility of compliance. DPH agrees to assume all costs incurred by Contractor in compliance with such special requests.
10. The effective date of this Agreement shall be the same as that of the Contract. Unless otherwise terminated, this Agreement shall continue until all of the PHI provided by DPH to Contractor, or created or received by Contractor on behalf of DPH, is destroyed or returned to DPH.

- A. Termination for Cause. Upon violation of a material term of this Agreement by Contractor, DPH may provide an opportunity for Contractor to cure the breach and, if Contractor fails to cure the breach, terminate the contract upon 30 calendar days' notice.
- B. Termination for Convenience. In the event that the Contract is terminated for any reason, then DPH may terminate this Agreement for convenience.
- C. Effect of Termination.
  - i. Upon termination of this Agreement, DPH shall determine whether return or destruction of PHI is feasible. If so, then Contractor shall at the direction of DPH either destroy the PHI or to return it to DPH, keeping no copies. If DPH determines that return or destruction is not feasible, then Contractor shall continue to extend the protections of this Agreement to the PHI for as long as Contractor maintains the PHI, and shall limit the use and disclosure of the PHI to those purposes that make the return or destruction of the PHI infeasible.
  - ii. The obligations imposed upon Contractor with respect to its care, use, and disclosure of PHI, and its duty to comply with the Privacy and Security Rule with regard to such PHI, shall survive the termination of this Agreement and the termination or completion of the Contract.

11. Nothing in this Agreement is intended to confer any rights, remedies, obligations, or liabilities upon anyone other than DPH and Contractor.

12. This Agreement is intended to supplement, and not to diminish or alter, the terms and conditions of the Contract.

BY: \_\_\_\_\_  
 Contractor SIGNATURE

\_\_\_\_\_  
 TITLE

\_\_\_\_\_  
 DATE

**ATTACHMENT D-1**

**Individuals Permitted to Receive, Use, and Disclose DPH PHI**

The following individual, as employees or agents of Contractor (including Billing personnel), need access to DPH Protected Health Information in order for Contractor to perform the services described in the Contract:

- \_\_\_\_\_ Title: \_\_\_\_\_
- \_\_\_\_\_ Title: \_\_\_\_\_
- \_\_\_\_\_ Title: \_\_\_\_\_
- \_\_\_\_\_ Title: \_\_\_\_\_
- \_\_\_\_\_ Title: \_\_\_\_\_
- \_\_\_\_\_ Title: \_\_\_\_\_
- \_\_\_\_\_ Title: \_\_\_\_\_
- \_\_\_\_\_ Title: \_\_\_\_\_

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

- Secure FTP file transfer (preferred)
- Encrypted email or email sent through “secure tunnel” approved by DPH 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 the DPH Project Leader. Use of DPH Protected Health Information by individuals who are not described on this Attachment D-1, as amended from time to time, is a violation of the Agreement.

DPH Project Leader Contact Information:

DeMetria Clark Barnes

2 Peachtree Street, NW 11<sup>th</sup> Floor

Atlanta, Georgia 30303

**ATTACHMENT D-2**

**Part 1:**

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

\_\_\_\_\_ Contractor **DOES NOT** need any user accounts to access DPH Information Systems. **Do not complete Part 2 of this form.**

\_\_\_\_\_ Contractor **DOES** need user accounts to access DPH 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 DPH Information Systems. Please attach additional pages if needed.

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

The following individuals, as employees or agents of Contractor (including Billing personnel), need access to DPH Information Systems containing DPH Protected Health Information in order for Contractor to perform the services described in the Contract:

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

The DPH Project Leader must submit a completed DPH Network Access Request Form for each individual listed above, and for anyone who might later be added to this list.

Contractor must notify the Project Leader identified in the Contract 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.

Contractor must update this Attachment D-2 as needed and provide the updated form to the DPH Project Leader.

[DPH Form GC-00901A (Rev. 3.22.16)]