

HIPAA AGREEMENT

This Business Associate Agreement (hereinafter referred to as "Agreement"), effective the day and year first written above, is made and entered into by and between the Georgia Department of Juvenile Justice (hereinafter referred to as "DJJ") and ___, the Contractor (hereinafter referred to as "Business Associate").

WHEREAS, DJJ is required by the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), to obtain satisfactory assurances that its Business Associates will provide appropriate safeguards of Protected Health Information ("PHI") that a business associate may receive or create on behalf of DJJ pursuant to this Contract and to document those assurances by entering into Business Associate Agreements with certain entities that provide functions, activities, or services involving the use of PHI;

WHEREAS, Business Associate 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, DJJ and Business Associate (each individually a "Party" and collectively the "Parties") hereby agree as follows:

- A. 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").
- B. Except as limited in this Agreement, Business Associate 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 DJJ.
- C. Unless otherwise Required by Law, Business Associate agrees:
 1. 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.
 2. To establish, maintain and use appropriate safeguards to prevent use or disclosure of the PHI other than as provided for by this Agreement.
 3. To mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this Agreement.
 4. That its agents or sub business Associates are subject to the same obligations that apply to Business Associate under this Agreement and Business Associate agrees to ensure that its agents or sub business Associates comply with the conditions, restrictions, prohibitions and other limitations regarding the request for, creation, receipt, use or disclosure of PHI, that are applicable to Business Associate under this Agreement.

5. To report to DJJ any use or disclosure of PHI that is not provided for by this Agreement of which it becomes aware. Business Associate agrees to make such report to DJJ in writing in such form as DJJ may require within twenty-four (24) hours after Business Associate becomes aware.
6. To make any amendment(s) to PHI in a Designated Record Set that DJJ directs or agrees to pursuant to 45 CFR 164.526 at the request of DJJ or an Individual, within five (5) business days after request of DJJ or of the Individual. Business Associate also agrees to provide DJJ with written confirmation of the amendment in such format and within such time as DJJ may require.
7. To provide access to PHI in a Designated Record Set to DJJ upon request, within five (5) business days after such request, or, as directed by DJJ to an Individual. Business Associate also agrees to provide DJJ with written confirmation that access has been granted in such format and within such time as DJJ may require.
8. To give DJJ, the Secretary of the U.S. Department of Health and Human Services (the "Secretary") or their designees access to Business Associate's books and records and policies, practices or procedures relating to the use and disclosure of PHI for or on behalf of DJJ within five (5) business days after DJJ, the Secretary or their designees request such access or otherwise as DJJ, the Secretary or their designees may require. Business Associate also agrees to make such information available for review, inspection and copying by DJJ, 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 DJJ, the Secretary or their designees in such form, format or manner as DJJ, the Secretary or their designees may require.
9. To document all disclosures of PHI and information related to such disclosures as would be required for DJJ 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.
10. To provide to DJJ or to an Individual, information collected in accordance with Section 3. I. of this Agreement, above, to permit DJJ to respond to a request by an Individual for an accounting of disclosures of PHI as provided in the Privacy Rule.

D. Unless otherwise required by Law, DJJ agrees:

1. That it will notify Business Associate of any new limitation in DJJ's Notice of Privacy Practices in accordance with the provisions of the Privacy Rule if, and to the extent that, DJJ determines in the exercise of its sole discretion that such limitation will affect Business Associate's use or disclosure of PHI.
2. That it will notify Business Associate of any change in, or revocation of, permission by an Individual for DJJ to use or disclose PHI to the extent that DJJ determines in the exercise of its sole discretion that such change or revocation will affect Business Associate's use or disclosure of PHI.

3. That it will notify Business Associate of any restriction regarding its use or disclosure of PHI that DJJ has agreed to in accordance with the Privacy Rule if, and to the extent that, DJJ determines in the exercise of its sole discretion that such restriction will affect Business Associate's use or disclosure of PHI.
- E. The Term of this Agreement shall commence on the day and year first written above, and shall terminate when all of the PHI provided by DJJ to Business Associate, or created or received by Business Associate on behalf of DJJ, is destroyed or returned to DJJ, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Annex.
1. Termination for Cause. Upon DJJ's knowledge of a material breach by Business Associate, DJJ shall either:
 - a. Provide an opportunity for Business Associate to cure the breach or end the violation, and terminate this Agreement if Business Associate does not cure the breach or end the violation within the time specified by DJJ;
 - b. Immediately terminate this Agreement if Business Associate has breached a material term of this Agreement and cure is not possible; or
 - c. If neither termination nor cure is feasible, DJJ shall report the violation to the Secretary.
 2. Effect of Termination:
 - a. Except as provided in paragraph (A.) (2) of this Section, upon termination of this Agreement, for any reason, Business Associate shall return or destroy all PHI received from DJJ, or created or received by Business Associate on behalf of DJJ. This provision shall apply to PHI that is in the possession of sub business Associates or agents of Business Associate. Neither Business Associate nor its agents nor sub business Associates shall retain copies of the PHI.
 - b. In the event that Business Associate determines that returning or destroying the PHI is not feasible, Business Associate shall send DJJ detailed written notice of the specific reasons why it believes such return or destruction is 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 DJJ determines, in the exercise of its sole discretion, that the return or destruction of such PHI is not feasible, Business Associate agrees that it will limit its further use or disclosure of PHI only to those purposes DJJ 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 DJJ may require for the protection of patient privacy or the safeguarding, security and protection of such PHI.
 - c. If neither termination nor cure is feasible, DJJ shall report the violation to the Secretary.

d. Section E. 2. of this Agreement, regarding the effect of termination or expiration, shall survive the termination of this Agreement.

F. **Interpretation:** Any ambiguity in this Agreement shall be resolved to permit DJJ to comply with applicable state and federal 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 federal laws, rules and regulations and the laws of the State of Georgia shall supersede the Privacy Rule if, and to the extent that, they impose additional requirements, have requirements that are more stringent than or provide greater protection of patient privacy or the security or safeguarding of PHI than those of HIPAA and its Privacy Rule.

All other terms and conditions contained in the Contract and any amendment thereto, not amended by this Annex, shall remain in full force and effect. The undersigned Business Associate agrees, by signing this Agreement below, that it will comply with all provisions of HIPAA and the federal "Standards for Privacy of Individually Identifiable Health Information" promulgated thereunder at 45 CFR Parts 160 and 164, and that it assures to DJJ that it will provide appropriate safeguards of Protected Health Information ("PHI") as an entity that provides functions, activities, or services involving the use of PHI;

For the Contractor:

Departmental Execution:

Signature and Title of Contractor's Authorized Representative

Commissioner

Date Signed by Contractor

Date Signed by the Department