

**BUSINESS ASSOCIATE AGREEMENT**  
**PRIVACY AND SECURITY OF PROTECTED HEALTH INFORMATION**

**THIS BUSINESS ASSOCIATE AGREEMENT** is made as of \_\_\_\_\_, 2022, by [INSERT COVERED ENTITY NAME] (herein referred to as “Covered Entity”), with an office at [INSERT COVERED ENTITY ADDRESS] and Strategic Solutions Group (here in referred to as “Business Associate”), a corporation, department or other entity with an office at 300 First Avenue, Suite 103, Needham, MA 02494.

This BUSINESS ASSOCIATE AGREEMENT (herein referred to as the “Agreement”) constitutes a non-exclusive agreement between the Covered Entity and the Business Associate named above.

The Business Associate has entered into services agreement (the “Services Agreement”) with the Commonwealth of Virginia Department of Behavioral Health and Developmental Service (“DBHDS”) pursuant to which the Business Associate will develop and host an Early Intervention Part C Data System (the “Data System”) (the “Underlying Services”). In connection with the Services Agreement, Business Associate executed a business associate agreement with DBHDS (the “DBHDS BAA”). In connection with the Underlying Services, Covered Entity will enter data, which may constitute Protected Health Information, into the Data System. Covered Entity and Business Associate have entered into this Business Associate Agreement to comply with the Health Insurance Portability and Accountability Act (HIPAA). The parties signing this Agreement shall comply fully with the provisions of the HIPAA Rules.

NOW THEREFORE, the parties, intending to be legally bound, agree as follows:

- I. Definitions:** As used in this contract, the terms below will have the following meanings:
- a. Business Associate shall generally have the same meaning as the term “business associate” at 45 CFR 160.103, and in reference to the party to this agreement, shall mean Strategic Solutions Group.
  - b. Covered Entity shall generally have the same meaning as the term “covered entity” at 45 CFR 160.103.
  - c. Protected Health Information (PHI): Any information that is created or received by a Covered Entity that relates to the past, present, or future physical or mental health or condition of an individual, limited to the information received by Business Associate from or on behalf of Covered Entity.
  - d. HIPAA Rules shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.
- II. Obligations and Activities of Business Associate:**
- a. Business Associate agrees to not use or disclose Protected Health Information other than as permitted or required by the Services Agreement or as required by law.
  - b. Business Associate agrees to use appropriate safeguards and comply with Subpart C of 45 C.F.R. Part 164 to prevent use or disclosure of the Protected Health Information other than as provided for by this Agreement.
  - c. Business Associate agrees to report to Covered Entity any use or disclosure of the Protected Health Information not provided for by this Agreement of which it becomes aware, including breaches of unsecured protected health information, as required at 45 C.F.R. 164.410.
  - d. Business Associate, shall, in accordance with 45 C.F.R. 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any subcontractors that create, receive, maintain, or transmit protected health information on behalf of the Business Associate agree to the same restrictions,

conditions, and requirements that apply to the Business Associate with respect to such information.

- e. Business Associate shall report to the Covered Entity any security incident of which it becomes aware.
- f. Business Associate shall notify the Covered Entity of a breach of unsecured PHI no later than ten (10) days following the day on which such breach is known by Business Associate or an employee, officer or agent of Business Associate other than the person committing the breach, or first day on which Business Associate or an employee, officer or agent of Business Associate other than the person committing the breach should have known by exercising reasonable diligence of such breach. Notification shall include, to the extent possible, the identification of each individual whose unsecured PHI has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, used or disclosed during the breach. Business Associate shall also provide the Covered Entity with any other available information at the time Business Associate makes notification to the Covered Entity or promptly thereafter as information becomes available. Such additional information shall include (i) a brief description of what happened, including the date of the breach; (ii) a description of the types of unsecured PHI that were involved in the breach; (iii) any steps the Business Associate believes individuals should take to protect themselves from potential harm resulting from the breach; and (iv) a brief description of what Business Associate is doing to investigate the breach, mitigate harm to individuals, and protect against any future breaches.

*For purposes of this paragraph, unsecured PHI means protected health information that is not rendered unusable, unreadable, or indecipherable to unauthorized persons through the use of a technology or methodology specified by the U.S. Secretary of Health and Human Services.*

Covered Entity agrees that Business Associate is also obligated to provide notice of any breach of unsecured PHI to DBHDS. Notice to the Covered Entity may be provided through a notification system maintained by DBHDS for local agency providers. Covered Entity agrees that such notice may be delivered through the notification system or directly to Covered Entity at the following address:

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

- g. To the extent authorized to do so by DBHDS, Business Associate agrees to provide access, at the request of Covered Entity to Protected Health Information in a designated record set to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 CFR 164.524.
- h. Business Associate agrees to make internal practices, books, and records, including policies and procedures and Protected Health Information, available to the Secretary of the U.S. Department of Health and Human Services for the purpose of determining compliance with the HIPAA Rules.
- i. To the extent Business Associate and not DBHDS controls the disclosure process within the Data System, Business Associate agrees to document and provide to Covered Entity such disclosures of Protected Health Information and information as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.
- j. To the extent authorized to do so by DBHDS, Business Associate agrees to make any amendment(s) to Protected Health Information in a designated record set as directed or agreed to by the covered entity pursuant to 45 C.F.R. 164.526, or take other measures as necessary to satisfy covered entity's obligations under 45 C.F.R. 164.526.

**III. General Use and Disclosure Provisions:**

- a. Business Associate may only use or disclose Protected Health Information as provided in the Services Agreement.
- b. Business Associate may use or disclose Protected Health Information as required.
- c. Business Associate agrees to make uses and disclosures and requests for Protected Health Information consistent with Covered Entity's minimum necessary policies and procedures.
- d. Business Associate may not use or disclose Protected Health Information in a manner that would violate Subpart E of 45 CFR Part 164 if done by Covered Entity, except for the specific uses and disclosures set forth below.
- e. Business Associate may disclose Protected Health Information for the proper management and administration of the Business Associate, provided that disclosures are required by law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

**IV. Obligations of Covered Entity:**

- a. Covered Entity shall notify Business Associate of any limitations in its notice of privacy practices of Covered Entity in accordance with 45 CFR 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of Protected Health Information.
- b. Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, to the extent that such changes may affect Business Associate's use or disclosure of Protected Health Information.
- c. Covered Entity shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of Protected Health Information.

**V. Permissible Request by Covered Entity:**

Covered Entity shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by Covered Entity.

**VI. Termination:**

Either party may terminate this Agreement immediately if it determines that the other party has violated a material term of this Agreement. This Agreement shall remain in effect unless terminated for cause with immediate effect, or until terminated by either party with not less than thirty (30) days prior written notice to the other party, which notice shall specify the effective date of the termination; provided, however, that any termination shall not affect the respective obligations or rights of the parties arising under this Agreement before the effective date of termination. This Agreement will also terminate automatically upon the termination of the Services Agreement or at such time as Business Associate no longer has access to any PHI in the Data System. Should the Covered Entity cease to be a local agency participating in the DBHDS early intervention program, this Agreement will terminate automatically.

**VII. Effect of Termination:**

The parties agree that the return or destruction of the PHI entered into the Data System is infeasible and would be contrary to the purpose of the Underlying Services. Upon termination of this Agreement for any reason, the parties agree that the Protected Health Information entered into the

Data System by Covered Entity will remain in the Data System and will continue to be protected in accordance with HIPAA.

**VIII. Amendment:**

Upon the enactment of any law or regulation affecting the use or disclosure of PHI, or the publication of any decision of a court of the United States or of this state relating to any such law, or the publication of any interpretive policy or opinion of any governmental agency charged with the enforcement of any such law or regulation, the parties shall work in good faith to amend this Agreement in such manner as is necessary to comply with such law or regulation. If the parties are unable to agree on an amendment within thirty (30) days thereafter, either of them may terminate this Agreement by written notice to the other.

EACH PARTY has caused this Agreement to be properly executed on its behalf as of the date first above written.

FOR Local Agency: \_\_\_\_\_

FOR: Strategic Solutions Group

Print: \_\_\_\_\_

Print: \_\_\_\_\_

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

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

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_