

**STATE OF ILLINOIS
DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES
AGREEMENT FOR FINANCIAL INSTITUTIONS DATA MATCH SERVICES**

WHEREAS, both Illinois and federal law require that _____ (“Institution”) and the Illinois Department of Healthcare and Family Services (“Agency”) enter into an agreement for data exchanges for the purpose of locating accounts that can be used to satisfy past-due child support obligations of non-custodial responsible relatives (“Financial Institution Data Match Program”); and

WHEREAS, the parties desire to re-establish the terms and conditions under which Institution will provide such information to Agency and be reimbursed for the costs of providing such information;

WHEREAS, the previous agreement prohibited data exchanges with other states’ child support agencies; the parties desire that the previous agreement be superseded by a new Agreement that allows data exchanges with other states’ child support agencies;

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

1. RELATIONSHIP OF THE PARTIES

Institution and Agency are entering into this Agreement and performing hereunder pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act (42 U.S.C. 666(a)(17)) and Illinois law regarding the Financial Institution Data Match Program (305 ILCS 5/10-24.5). No provision of this Agreement is intended to create or to be construed as creating any agency, partnership, joint venture, employer/employee, independent contractor, subcontractor or competitive bidding relationship.

2. OBLIGATIONS OF INSTITUTION

(a) For purposes of this Section 2, the term “**Account**” means a demand deposit account, checking or negotiable withdrawal order account, savings account, time deposit account, or money market mutual fund account. An “**Account**” includes individual accounts, joint accounts, and sole proprietorship accounts. In the case of a joint account, the account holder or owner will be deemed to be the primary account holder or owner established by Institution in accordance with federal 1099 reporting requirements.

(b) Institution will provide the information required below by one of the two methods set forth below, which will be selected at the sole option of Institution:

(1) Method 1. Institution will provide to Agency the social security number or tax identification number of all applicable Account holders, Account owners, and Account customers who maintain an Account at Institution.

(2) Method 2. Agency will provide Institution with a list of individuals identified as being Illinois non-custodial responsible relatives who owe past-due child support. This list will also include non-Illinois non-custodial responsible relatives who

owe past-due child support to another state's child support agency, if that state has an agreement with the Agency to exchange data for the sole purpose of collecting past-due child support. For each such individual, Agency will provide Institution the name, record address, and social security number or tax identification number. Institution will compare this data against all applicable Account holders, Account owners, and Account customers who maintain an Account at Institution. Institution will forward the names and either the social security numbers or tax identification numbers of all applicable Account holders, Account owners and Account customers who match a social security number or tax identification number provided by Agency. This information will be provided by Institution for each calendar quarter in which the individual is identified by Agency as a responsible relative who owes past-due child support.

(c) (1) Institution will provide to the Agency a schedule for the exchange of the data required in Subsection 2(b) on a quarterly calendar basis. The format for the exchange of such data will be in the form set forth in Exhibit A, which is attached hereto and incorporated by reference herein. Agency may amend the form attached as Exhibit A in a manner consistent with this Agreement, in which case Agency will provide an amended form to Institution, which then will be incorporated by reference herein.

(2) Notwithstanding any other provision of this Agreement, in the event that Institution is non-automated, Institution may provide Agency with the data required by Subsection 2(b)(1) or Subsection 2(b)(2) in a paper format. Such institutions will not have the non-Illinois non-custodial responsible relatives included on their list.

(d) Upon execution of this Agreement, Institution will select the method of exchanging data (Method 1 or Method 2) below the signature line of this Agreement.

(e) Institution will provide thirty (30) days written notice to Agency of a change in the selected method of exchanging data.

(f) Institution will provide to the Agency the name, mailing address, telephone number, fax number, and e-mail address of a contact person at Institution, for the purpose of assisting in the implementation of this Agreement, in Exhibit B, which is attached hereto and incorporated by reference herein.

(g) Institution will provide information to Agency as available on Institution's records.

3. OBLIGATIONS OF AGENCY

(a) Agency will provide Institution with the information required in Subsection 2(b)(1) or Subsection 2(b)(2) (Method 1 or Method 2), depending on which method is selected by Institution.

(b) Agency intends to contract with a third party to perform certain of Agency's responsibilities under this Agreement ("Agency's Vendor"). Agency's agreement with Agency's Vendor will include the following:

(1) Agency's Vendor will be prohibited from assigning the Agreement or subcontracting any of the work or obligations provided for herein unless first approved by the Institution in writing;

(2) Agency's Vendor will be required to comply with all of the provisions in this Agreement that are applicable to Agency; and

(3) If Agency has direct contact with Institution's data processor, Agency will provide the data match specifications required under this Agreement to the data processor. Such data exchange will be furnished in accordance with the requirements of Section 2(b) and in the format consistent with the specifications contained in Exhibit A, which is attached hereto and incorporated by reference herein.

4. REIMBURSEMENT

Agency will reimburse Institution for its performance under this Agreement, as well as the prior Agreement, in an amount not to exceed the lesser of: (a) Institution's actual cost for performing the data exchange required by this Agreement, or (b) the schedule of costs set forth in Exhibit C, which is attached hereto and incorporated by reference herein ("Cost Reimbursements").

5. BILLING PROCEDURES

(a) Institution will provide Agency or Agency's Vendor a quarterly invoice for Cost Reimbursements. This invoice will include Institution's calculation of its costs and will not include any taxes. This invoice also will contain a statement which reads substantially as follows: *"Institution hereby certifies that the data exchange performed and expenses incurred as stated in the attached invoice have met all of the requirements set forth in the Agreement for Financial Institution Data Match Services."* This invoice will be signed by an officer of Institution and will set out Institution's Federal Taxpayer Identification Number (TIN).

(b) Notwithstanding any other provision of this Agreement, all invoices for data exchanges performed and expenses incurred by Institution prior to July 1st of each year must be presented to Agency or Agency's Vendor no later than August 10th of each year in order to ensure payment under this Agreement. Failure by Institution to present such invoices by August 10 may require Institution to seek payment of such invoices through the Illinois Court of Claims or the Illinois General Assembly.

(c) Agency will expeditiously process all invoices received from Institution within 30 days of receipt. Notwithstanding the preceding sentence, the parties recognize that payments at the beginning of the State's fiscal year (July and August payments) are often delayed because of the Illinois General Assembly's appropriation process, and such delayed payments for the months of July and August will not constitute a breach of this Agreement. Institution will be entitled to interest on any late payments pursuant to the State Prompt Payment Act (30 ILCS 540/1 *et seq.*).

(d) If Institution is paid an amount in excess of its actual costs, Institution will return such overpayment amount to Agency or Agency's Vendor within 90 days of receiving notice of the overpayment from Agency, Agency's Vendor or any governmental entity conducting an audit of Institution on behalf of Agency under Section 6 of this Agreement.

In the event of an overpayment, Agency may, in its sole discretion, withhold an equivalent amount of any future payments required under this Agreement in lieu of requesting repayment by Institution.

6. RECORDS AND AUDITS

(a) To the extent permitted by federal and Illinois law, Agency, the Illinois Auditor General or the United State's Department of Health and Human Services, Office of Child Support Enforcement may audit Institution or otherwise cause Institution to be audited by the appropriate federal or state banking regulator for the limited purpose of verifying the accuracy of the Cost Reimbursements paid to Institution pursuant to Section 4 of this Agreement.

(b) Institution will maintain for a minimum of three (3) years after the date of each payment of Cost Reimbursements such adequate books, records, and supporting documents as may verify the correct payment of such Cost Reimbursements, which Institution will make available for review and audit by Agency, the Illinois Auditor General or the appropriate federal or state banking regulator, as may be applicable. Failure to maintain the books, records, and supporting documents required by this Section 6 will establish a presumption in favor of Agency for the recovery of any payments paid by Agency under this Agreement for which adequate books, records, and supporting documentation are not available to support their payment.

7. CONFIDENTIAL INFORMATION

(a) Except as provided by law or as provided in this Agreement, the parties and their respective directors, officers, employees and agents will not disclose any of the data exchanged under this Agreement to third parties and will hold all such data in confidence and in accordance with federal and Illinois law. This obligation of confidentiality will survive the termination of this Agreement.

(b) Each party will execute a confidentiality agreement consistent with the terms of this Section 7 with any third party that is engaged to perform services for the party pursuant to this Agreement. Each party will provide immediate notice of any breach of confidentiality or other misuse of confidential information obtained under this Agreement. In the event that a party seeks a court judgment enjoining or prohibiting the other party from improperly disclosing confidential information, the prevailing party will be entitled to recover its attorneys' fees and costs from the other party.

(c) All data files and the data contained therein will be and will remain the property of the party providing them. No data exchanged will be utilized by the parties for any purpose other than that of child support collections as required under federal or Illinois law. Upon completion of the data match process each calendar quarter, the original data file supplied by Institution (for Method 1) or Agency (for Method 2) will be returned or destroyed in a manner no less restrictive than set forth in the requirements for "Purge" contained in NIST Special Publication 800-88, Appendix A (<https://www.nist.gov/publications/nist-special-publication-800-88-revision-1-guidelines-media-sanitization>).

(d) Each party shall implement and maintain reasonable security measures to protect the data exchanged under this Agreement from unauthorized access, acquisition, destruction, use, modification or disclosure.

8. TERM AND TERMINATION

(a) This Agreement commences 90 days after its execution by both parties. This Agreement will continue as long as the Financial Institution Data Match Program is required by federal and Illinois law, and as long as Agency is the agency charged with administering the Financial Institution Data Match Program in Illinois.

(b) If either party breaches this Agreement, the non-breaching party may give the breaching party thirty (30) days written notice of termination of this Agreement, setting forth the breach in such notice. If such breach is not cured within such thirty (30) day notice period, the termination will become effective at the conclusion of the thirty (30) day notice period. If such breach is cured within the thirty (30) day notice period, this Agreement will remain in effect.

(c) This Agreement will terminate immediately upon written notice by Agency that:

(i) The Illinois General Assembly failed to make an appropriation sufficient to pay the Cost Reimbursements required under this Agreement. Agency will give Institution notice of such termination for funding as soon as practicable after Agency becomes aware of the lack of appropriated funds. Institution's obligation to perform under this Agreement will cease upon notice by Agency of the lack of appropriated funds.

(ii) Legislation has been enacted, a regulation has been adopted, or a court of competent jurisdiction has issued an opinion that prohibits or is inconsistent with the data exchange required under this Agreement.

(d) Termination of this Agreement does not release either party of its obligations that accrued prior to the date of termination. The provisions of Section 7 of this Agreement will survive the termination of the Agreement.

(e) This Agreement may be amended by a written agreement signed by both parties.

9. GENERAL PROVISIONS

(a) **Authority to Execute the Agreement.** Institution hereby represents and warrants to Agency that the individual or individuals executing this Agreement on behalf of Institution are duly authorized to execute the Agreement and to bind Institution to its terms and conditions.

(b) **Non-Assignability.** Neither party may assign its duties, rights and interests under this Agreement.

(c) **Entire Agreement.** This Agreement, together with the attached exhibits, constitutes the entire understanding of the parties and supersedes all prior negotiations, discussions, undertakings and agreements between the parties. This Agreement may

be amended or modified only by a writing executed by the duly authorized officers of the parties hereto.

(d) **Notices.** All notices, requests, demands and other communications hereunder will be in writing and will be deemed to have been duly given when delivered in person or carrier, or two (2) business days after it is mailed:

If to Institution, addressed to:

With a copy to:

If to Agency, addressed to:

Illinois Department of Healthcare and Family Services
Attn: Judy Keran
607 E. Adams Street, 4th Floor
Springfield, IL 62701

With a copy to Agency's Vendor at:

Informatix Inc.- FIDM Operations
Attn: IL Specialist
3120 Sovereign Drive, Ste. 4A
Lansing, MI 48911

Any party hereto may, by written notice to the other party, designate a different address, which will be substituted for the one specified above for such party.

(e) **Severability.** If any provision of this Agreement will be found illegal, invalid and unenforceable by any court of law, the remaining provisions will be severable, valid and enforceable in accordance with their terms.

(f) **Waiver.** Any waiver by any party of any act, failure to act, or breach on the part of the other party will not constitute a waiver of such party of any prior or subsequent act, failure to act, or breach by such other party.

(g) **Headings.** The subject headings of the various sections of this Agreement are included for purposes of convenience only and will not affect the construction or interpretation of any of its provisions.

(h) **Regulatory Compliance.** Each party will comply with all applicable laws, regulations and requirements of Illinois and federal authorities now or hereafter in effect. In the event that any change in applicable law affects the validity of any portion of this

Agreement, the parties agree to negotiate in good faith to amend this Agreement to comply with applicable law.

(i) **Force Majeure.** Neither party will be considered in default of this Agreement on account of strikes, lockouts, accidents, fires, floods, delays in manufacturing, delays of carriers, acts of God, governmental actions, state of war, or any other causes beyond the control of such party, whether or not similar to those enumerated.

(j) **Federal Taxpayer Identification Number.** Institution has completed Exhibit D, the Federal Taxpayer Identification Number Certification, which is attached hereto and incorporated by reference herein.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives.

**ILLINOIS DEPARTMENT OF HEALTHCARE
AND FAMILY SERVICES:**

FINANCIAL INSTITUTION:

Name: _____

By: Elizabeth M. Whitehorn
Title: Director
Date:

By:
Title:
Date:

Data Exchange Option (Select One): _____ **Method 1** _____ **Method 2**

EXHIBIT A

TIME FRAMES AND DATA FORMAT

Type of media to be used :

FTP CD Paper Internet

Week of the Quarter to exchange information: _____

EXHIBIT B
CONTACT INFORMATION FOR THE PARTIES

If to Institution, addressed to:

Address for a Service Agent (if applicable):

Address for service of a lien or levy:

Technical contact person:

If to Agency, addressed to:

Illinois Department of Healthcare and Family Services
Attn: Judy Keran
607 E. Adams Street, 4th Floor
Springfield, IL 62701

With a copy to Agency's Vendor at:

Informatix Inc.- FIDM Operations
Attn: IL Specialist
3120 Sovereign Drive, Ste. 4A
Lansing, MI 48911

EXHIBIT C

COST REIMBURSEMENT SCHEDULE

Method 1

____ Institution agrees to a quarterly payment of a reasonable amount that shall not exceed Institution's actual cost of providing the data (305 ILCS 5/10-24.5(c)).

____ Institution agrees to waive the quarterly fee payment.

Method 2

____ Institution agrees to a quarterly payment of a reasonable amount that shall not exceed Institution's actual cost of performing the data comparison (305 ILCS 5/10-24.5(c)).

____ Institution agrees to waive the quarterly fee payment.

EXHIBIT D

FEDERAL TAXPAYER IDENTIFICATION NUMBER CERTIFICATION

Under penalties of perjury, I certify that the name and taxpayer identification number listed below are correct.

Name of Financial Institution:

Taxpayer Identification Number:

Official authorized to sign on behalf of the Financial Institution:

Official's Name (printed):

Title:

Signature:

Date: