

**V.A.L.U.E. SPECIFICATIONS
FOR CONFIDENTIAL SHREDDING SERVICES
ON-SITE**

NOTE: BIDDERS ARE REMINDED TO CAREFULLY EXAMINE THE BID AND SPECIFICATIONS UPON RECEIPT. IF NECESSARY, BIDDERS SHOULD MAKE A WRITTEN REQUEST TO THE PURCHASING AGENT WHOSE NAME APPEARS ON PAGE 1 OF THE BID, FOR INTERPRETATION OR CORRECTION OF ANY AMBIGUITY, INCONSISTENCY OR ERROR DISCOVERED.

ADDITIONALLY, IF IN YOUR OPINION, ANY OF THE TERMS AND CONDITIONS OF THIS SPECIFICATION OR BID PREVENT YOU FROM BIDDING, CONSIDERATION WILL BE GIVEN TO A BIDDER'S REQUEST FOR CHANGE.

ANY REQUESTS FOR CHANGES, CLARIFICATIONS, ETC. **MUST** BE SUBMITTED TO WAUKESHA COUNTY PURCHASING DIVISION **IN WRITING** AT LEAST **FIVE WORKING DAYS** PRIOR TO BID OPENING. REQUESTS RECEIVED AFTER THAT TIME **WILL NOT** BE CONSIDERED.

ANY CHANGES MADE AS A RESULT OF A WRITTEN REQUEST WILL BE ISSUED VIA A BID AMENDMENT TO ALL PROSPECTIVE BIDDERS AND IF NECESSARY, AN EXTENSION WILL BE MADE TO THE BID OPENING DATE. **AMENDMENTS WILL BE POSTED TO THE WAUKESHA COUNTY PURCHASING WEBSITE (<https://purchasing.waukeshacounty.gov>).** BIDDERS ARE RESPONSIBLE FOR CHECKING THIS WEBSITE FOR ANY FUTURE AMENDMENTS, ETC., PRIOR TO THE OPENING DATE. **ALL AMENDMENTS MUST BE ACKNOWLEDGED ON THE SIGNATURE PAGE IN THE SPACE PROVIDED. BIDDERS WHO DO NOT ACKNOWLEDGE THE AMENDMENTS MAY HAVE THEIR BIDS REJECTED. IF YOU ARE UNABLE TO ACCESS THE INTERNET, CONTACT THE BUYER LISTED FOR A HARD COPY.**

BIDDERS ARE CAUTIONED NOT TO CHANGE ANY OF THE TERMS OR CONDITIONS IN THE BID AND/OR SPECIFICATIONS WITHOUT THE WRITTEN APPROVAL OF THE PURCHASING DIVISION. ANY UNAUTHORIZED CHANGES WILL CONSTITUTE A COUNTER OFFER AND WILL SUBJECT THE BID TO REJECTION.

General: It is the intent of this specification to describe the minimum requirements for confidential shredding and disposal services for participating V.A.L.U.E. agencies as identified herein. All items, details of construction, services or features not specifically mentioned which are regularly furnished in order to provide these services shall be furnished at the bid price and shall conform in quality and workmanship to that usually provided by the practice indicated in the Invitation to Bid.

Bid Modifications: The Waukesha County Purchasing Division as the lead agency for V.A.L.U.E. has the sole authority for the modification of this specification and/or bid. Information provided verbally by any V.A.L.U.E. Agency official shall not be considered binding or relevant.

Award Authority: Award will be made to lowest responsible, responsive bidder who complies with the specifications and can meet the requirements. V.A.L.U.E.'s preference is to award the bid in the aggregate; however, we reserve the right to award by location, whichever is in its best interest.

Services Provision: Bids will not be considered for contractors who have previously failed to perform satisfactorily.

Professional Workmanship: Professional Workmanship shall meet or exceed existing industry
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standards.

State Sales Tax/Federal Excise Tax: Bids should not include Federal Excise and Wisconsin Sales Taxes as the County exempt from payment of such taxes. State Statute No. 77.54(9a).

Special Conditions: Purchases by each participating agency are contingent upon the appropriation of funds by the governing bodies of each agency.

Contracting Authority: Each agency that is a party to this joint bid has authority to issue a contract and/or purchase order, make payments and handle disputes involving services to this jurisdiction.

There shall, however, be no obligation under this joint bid for the agencies to contract for the services specified.

Piggybacking: It is possible that after contract commencement, additional member V.A.L.U.E. agencies may wish to "piggyback" on this award. Respondents should indicate whether they would offer the same pricing, discount, terms and conditions as for the agencies included in this bid.

Insurance Requirements: The successful contractor shall agree that it will, at all times during the term of the agreement, keep in force and effect insurance policies required by the contract as noted below, issued by a company or companies authorized to do business in the State of Wisconsin and satisfactory to the County. Such insurance shall be primary. Prior to execution of the written contract, the successful respondent shall furnish the County with a Certificate of Insurance and upon request, certified copies of the required insurance policies. The Certificate shall reference the contract and provide for thirty -(30) days advance notice of cancellation or non-renewal during the term of the agreement.

General Liability Insurance - Policy shall provide coverage for Premises and Operations, Products and Completed Operations, Broad Form Property Damage Endorsement, Personal Injury and Blanket contractual coverage. Limit of liability not less than \$1,000,000 each occurrence and aggregate, \$1,000,000 Products and Completed Operations aggregate, and \$1,000,000 Personal Injury.

Automobile Liability Insurance – Comprehensive Automobile Liability or Business Auto Policy Form covering all owned, hired, and non-owned private passenger autos and commercial vehicles. Limits of liability – combined single limit of \$500,000 each accident.

Worker's Compensation and Employers Liability Insurance - Statutory Worker's Compensation Benefits and Employers Liability insurance with a limit of liability not less than \$100,000 each accident. Contractor shall require subcontractors not protected under its insurance to take out and maintain Worker's Compensation Insurance as specified above and Contractor shall submit evidence of the Worker's' Compensation Insurance required.

The County shall not be liable to Contractor or its employees for any injuries to Contractor's employees arising out of the performance of work under this agreement. Contractor and its worker's compensation insurance carrier agree to waive any and all rights of recovery from the County for worker's compensation claims made by its employees. The Contractor agrees that the indemnification and hold harmless provision within this contract extends to any claims brought by or on behalf of any employee of the Contractor.

Inland-Marine Floater Insurance – Contractor shall carry sufficient All Risk Insurance on both

owned and leased equipment at site of work and en route to and from site to fully protect him. Contractor shall require same coverage of his subcontractors. It is expressly understood and agreed that the County shall have no responsibility therefore.

Fidelity/Employee Dishonesty Insurance – Contractor shall carry employee fidelity/dishonesty coverage to cover dishonest acts of their employees and agents, including but not limited to theft of vehicles, materials, supplies, equipment, tools, money, securities, etc. which result in loss to Waukesha County.

Failure to submit an insurance certificate, as required, can make the contract void at the County's discretion. Additionally, the Contractor shall not allow any subcontractor to commence work until the aforementioned documents, where applicable, have been obtained from the subcontractor and approved by Waukesha County.

Proven Experience: Each bidder must complete Exhibit A and include it with their bid that will certify that they are experienced with or meet the requirements of this specification. This will include the names of companies for which similar work was performed along with the name of a person to contact, their phone number and e-mail address. At a minimum, vendor must have been performing this service for at least three (3) years, or be certified by either ISO or NAID (National Association for Information Destruction). **Evidence of certification must be included with your bid response.**

Pricing: Pricing must be firm for the first year term of the contract, approximately 2/12/07 thru 2/11/2008. This contract may be extended by mutual consent for two (2) additional one (1) year periods with all terms and conditions remaining the same.

Note: Exact quantities cannot be determined, however, estimates are noted within. These estimates may be increased or decreased to meet the requirements of the each participating agency during the period of this contract. **A minimum is not guaranteed.**

Cancellation: Participating agencies reserve the right to cancel their contract upon thirty days written notice if vendor deviates from the requirements of this bid/specification.

Background Checks

V.A.L.U.E. requires a complete and thorough background check by the vendor, at the vendor's expense, on all personnel prior to starting any activity. This background check will include, but is not limited to, a criminal history check, verification of employment history, and a credit check. The successful provider shall confirm in writing, to V.A.L.U.E., that they have conducted the background check in accordance with the above requirements prior to commencement of work, and that there is no information that would render the individual unsuitable for the position. V.A.L.U.E. reserves the right to request and examine all related paperwork and reports generated as a result of the background check performed in accordance with this agreement. V.A.L.U.E. Agency's may perform their own background check on individuals performing work under this agreement, and the contractor shall cooperate with each agency's efforts. V.A.L.U.E. reserves the right to reject the candidate, or remove one already on site, as a result of our review of the background check or information that we uncover on our own.

Confidentiality

Specific to Waukesha County, the successful Contractor(s) shall establish and maintain procedures and controls for the purpose of assuring that information in records obtained from Waukesha County, or from others, in carrying out its functions under the contract, shall be considered confidential. Contractor and its employees assigned to this account will be required to sign Attachments A, Waukesha County Confidentiality Agreement and Attachment B, Waukesha County HIPPA Agreement. Confidentiality and

HIPPA agreements similar to Attachments A and B may also be executed at the option of each V.A.L.U.E. agency.

General

1. V.A.L.U.E. is soliciting written bids for CONFIDENTIAL on-site shredding at various locations (Reference Attachment C). This also includes estimated annual volumes for each agency. All shredded materials to be disposed of by vendor.
2. The need for confidential shredding ranges from monthly, to quarterly and/or semi-annually and on an "as-needed" basis. Nearly half of the total volume would be destroyed in one or two large volume shredding processes.
3. Vendor will dispose of cardboard that is left over at the after purge jobs at no cost to the Agency.
4. If the Agency chooses to preserve/retain/reuse the records storage box there should be no additional charge to the Agency.
5. Employees assigned to perform work under this contract must wear a ID Badge and/or uniform of their company at all times and may be required to sign in and out on a log provided by the department.
6. Vendors are to include, **with their bid response**, an attachment that outlines any recycling programs as well as any rebates for same that may be credited to the requesting agency as an offset to the shredding costs they have in place for shredded materials

Requirements for Shredding

1. Participating agencies and the successful bidder will develop destruction schedules on those shredding projects that can be pre-determined.
2. Participating agencies reserve the right to request other shredding processes on as needed basis, and the successful bidder must complete the shredding of any such request within a one (1) week of notification from the agency or as mutually agreed to.
3. If prior to the actual confidential shredding, should an agency require temporary storage for confidential records to be disposed of, the successful bidder must provide, **at no additional cost**, bins, barrels, sacks, or the like. These provisions must be of sufficient size to accommodate the needs of the respective department or agency, and must be secured with locking devices. Designated staff individuals within each respective department/agency must be given keys for these locks containers.
4. All confidential material to be shredded must be physically witnessed by an agency representative during the entire shredding process.
5. The successful bidder must provide any and all equipment required to confidentially shred agency materials, and must be able to bring that respective equipment to the appropriate agency site.
6. V.A.L.U.E. agency departments will not be required to sort materials (i.e. by color, paper type) earmarked for confidential shredding unless they feel it is warranted by benefiting from potential credits that may be given by the successful bidder.

7. V.A.L.U.E. agency personnel shall not be required to pre-prepare material. Documents may contain paper clips, rubber bands, binders, staples, etc., unless they feel it is warranted by benefiting from potential credits that may be given by the successful bidder.
8. The successful bidder shall provide a certificate of destruction to the respective department/division of each V.A.L.U.E. agency, indicating the date of destruction, quantity and the type of record(s) shredded and signed by an authorized representative of the successful bidder. **Please include a sample copy of the document you use for this purpose, with your bid response.** The agency representative who witnessed the destruction process must further sign the certificate.
9. The successful bidder must have the capability to shred materials in pieces small enough that makes it impossible to read or reconstruct information.
10. The successful bidder must be able to assure each agency that all of their employees involved in the destruction process of V.A.L.U.E. agency materials are bonded.
11. On-site confidential shredding must be done at any V.A.L.U.E. agency facility Monday through Friday, during the hours indicated on Attachment C. Exceptions being any V.A.L.U.E. agency observed holidays.

Cleaning

During the course of the project, the successful bidder shall clean the area daily to avoid unnecessary hazards. Upon completion of the project, the area shall be returned to its original condition.

Technical/Service Requirements: Supply all information requested. Check each section to verify that specifications are met. All exceptions or equivalencies must be fully explained or documented in the comments area provided.

Note: VR = Vendor Response

Comments: The comments field is restricted to 250 characters. If necessary, upload/add an additional document when submitting your response to provide additional information. **Be sure to label it with the bid number and reference the information back to the specification item number.**

Electronic Responses: Please note that if you are responding electronically, you must check either Complies or Does not Comply for every requirement listed. When you have finished, click on the Submit button at the bottom of the document. If you receive an error message, you did not complete all fields. Comments are optional.

Hard Copy Responses: Vendors who are submitting the documents manually must also check either Complies or Does not Comply for every requirement listed.

4	All confidential material to be shredded must be physically witnessed by a V.A.L.U.E. Agency representative during the entire shredding process.	
VR	Complies	Does Not Comply
Comments		
5	The successful bidder must provide any and all equipment required to confidentially shred V.A.L.U.E. Agency materials, and must be able to bring that respective equipment to the appropriate V.A.L.U.E. Agency site.	
VR	Complies	Does Not Comply
Comments		
6	V.A.L.U.E. Agency departments will not be required to sort materials (i.e. by color, paper type) earmarked for confidential shredding unless they feel it's warranted by benefiting from potential credits that may be given by the successful bidder. (If you are willing to provide credit to the agency if they sort materials, please indicate the percentage of discount you will credit on the pricing document only.)	
VR	Complies	Does Not Comply
Comments		
7	V.A.L.U.E. Agency personnel shall not be required to pre-prep material. Documents may contain paper clips, rubber bands, binders, staples, etc. (If you are willing to provide credit to the agency if they prep materials, please indicate the percentage of discount you will credit on the pricing document only.)	
VR	Complies	Does Not Comply

Comments		
8	The successful bidder shall provide a certificate of destruction to the respective department/division of each V.A.L.U.E. Agency, indicating the date of destruction, the type of record(s) shredded and signed by an authorized representative of the successful bidder. The V.A.L.U.E. Agency representative who witnessed the destruction process must further sign the certificate.	
VR	Complies	Does Not Comply
Comments		
9	The successful bidder must have the capability to shred materials in pieces small enough that makes it impossible to read or reconstruct information.	
VR	Complies	Does Not Comply
Comments		
10	The successful bidder must be able to assure the V.A.L.U.E. Agency that all of their employees involved in the destruction process of agency materials are bonded.	
VR	Complies	Does Not Comply
Comments		
11	On-site confidential shredding must be done at any V.A.L.U.E. Agency facility Monday through Friday, during the hours indicated on Attachment C. Exceptions being any V.A.L.U.E. Agency observed holidays.	
VR	Complies	Does Not Comply

Comments		
12	All shredded materials to be disposed of by vendor. If a job lasts more than one day, indicate in the comments section below whether your firm disposes of materials as they accumulate or does your firm dispose of materials after the completion of the job?	
VR	Complies	Does Not Comply
Comments		
13	Vendor will dispose of cardboard that is left over at the after purge jobs at no cost to the Agency.	
VR	Complies	Does Not Comply
Comments		
14	If the Agency chooses to preserve/retain/reuse the records storage box there should be no additional charge to the Agency.	
VR	Complies	Does Not Comply
Comments		
15	Piggybacking: It is possible that after contract commencement; additional member V.A.L.U.E. agencies may wish to "piggyback" on this award. Respondents should indicate whether they would offer the same pricing, discount, terms and conditions as for the agencies included in this bid.	
VR	Complies	Does Not Comply
Comments		

16	Vendors are to include, with their bid response , an attachment that outlines any recycling programs as well as any rebates for same that may be credited to the requesting agency as an offset to the shredding costs they have in place for shredded materials. Cost of rebates should be indicated in the pricing document only.	
VR	Complies	Does Not Comply
Comments		

**EXHIBIT A
PROVEN EXPERIENCE**

Name of Firm: _____

Number of Years in Business: _____

Number of Years performing similar services: _____

List the name of company, contact name and phone number for a minimum of three (3) references:

Reference 1:

Name of Company: _____

Contact Name: _____

Phone Number: _____

E-Mail: _____

Reference 2:

Name of Company: _____

Contact Name: _____

Phone Number: _____

E-Mail: _____

Reference 3:

Name of Company: _____

Contact Name: _____

Phone Number: _____

E-Mail: _____

ATTACHMENT A

WAUKEHSA COUNTY CONFIDENTIALITY AGREEMENT FOR SHREDDING SERVICES

THIS AGREEMENT is made and entered into as of the ____ day of _____, 20____, by and between _____, and Waukesha County are subject to the following terms and conditions:

- 1.) For purposes of this agreement, the point of contact for the Waukesha County Records Management Division is ***INSERT CONTACT***
- 2.) The Contractor shall provide Waukesha County with the name of an individual who will serve as the point of contact. This individual may be subject to a background investigation under the provisions of this access agreement.
- 3.) The initial terms of this access agreement shall be for the period of _____ through _____ inclusive. ***ENTER DATES OF AGREEMENT***
- 4.) As a part of this agreement, the Contractor will provide Waukesha County with a copy of its corporate security policy.
- 5.) As used herein, "Confidential Information" shall mean information of a proprietary or non-public nature of the disclosing party (including, without limitation, personal information, financial data; costs; margins; price lists; sources of supply; customer, mailing or marketing lists; business plans, concepts and proposals; technology; computer programs and other software; techniques; and methods) that is marked or otherwise designated as "confidential" or "proprietary" and may not be disclosed to business partners, subcontractors or any other entity without the prior written approval of an appropriate official of Waukesha County. "Confidential Information" shall not include any information that (a) is now or becomes publicly known, other than as a result of a breach of this Agreement; (b) was already in the possession of the receiving party without restriction on use or disclosure at the time it is obtained from the disclosing party hereunder; (c) is subsequently obtained by the receiving party from a third party that owes no obligation of confidentiality to the disclosing party hereunder; or (d) is lawfully and independently developed by the receiving party hereunder without reference to Confidential Information.
- 6.) Each party shall, for a period of five years after the disclosure thereof pursuant to this Agreement, hold in confidence, and refrain from disclosing to third parties, or using or copying the Confidential Information disclosed hereunder. The means employed by the Contractor to maintain the confidentiality of the Waukesha County's Confidential Information shall be at least as stringent as those used by Contractor to protect its own most valuable proprietary information. Contractor shall be responsible for the compliance by its own directors, officers, agents and employees with the terms of this Agreement.

- 7.) The Contractor acknowledge that breach of any of the provisions of this Agreement is likely to cause the Waukesha County irreparable injury, for which no adequate remedy at law exists. Accordingly, Waukesha County shall be entitled, in addition to any other rights it may have, to obtain injunctive or other equitable relief to enjoin violations of this Agreement by the Contractor.
- 8.) By signing the agreement, Contractor agrees to compensate Waukesha County Government for any loss, damage or denial of service caused through its service to Waukesha County. Contractor shall also agree to participate fully in any security; privacy or acceptability of use investigation such as may be required during the course of this contract, whether or not fault or liability has been established.
- 9.) This Agreement constitutes the entire agreement, superseding all prior discussions, representations and understandings, between the parties in connection with use and disclosure of Confidential Information of the other party disclosed pursuant hereto. This Agreement shall be construed and enforced in accordance with the internal laws of the State of Wisconsin. The parties hereby submit to the personal jurisdiction of the courts located in the State of Wisconsin in connection with any action arising out of this Agreement or any breach hereof. The prevailing party in any action brought to enforce this Agreement shall be entitled to recover, in addition to any other available relief, its reasonable attorneys' fees and costs. This Agreement shall not be amended or modified except through writing signed by both parties. The provisions hereof shall survive the termination of this Agreement and any return of Confidential Information to the Disclosing Party.
- 10.) Waukesha County hereby identifies the method of notification to be used to notify us of changes or incidents:

Email: ssander@waukeshacounty.gov
Phone: (262) 896-8222

Failure to comply with any of the terms listed in this section may result in the termination of this agreement and/or prosecution or litigation for damages if circumstances warrant.

Waukesha County

Contractor

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

ATTACHMENT B

Waukesha County HIPAA AGREEMENT

1. Definitions:
 - a. *Protected Health Information* (PHI) means any information, whether oral or recorded in any form or medium, that: (i) relates to the past, present or future physical or mental condition of any Individual; the provision of health care to an Individual; or the past, present or future payment of the provision of health care to an Individual; and (ii) identifies the Individual, or with respect to which there is a reasonable basis to believe the information can be used to identify the Individual. PHI includes demographic information unless such information is de-identified according to the Privacy Rule.
 - b. *Individual* means the person who is the subject of PHI, and shall include a person who qualifies under the Privacy Rule as a personal representative of the Individual.
 - c. *Capitalized terms* used in this Agreement, but not otherwise defined, shall have the same meaning as those terms in the Privacy Rule.
2. Prohibition on Unauthorized Use or Disclosure of PHI: CONTRACTOR shall not use or disclose any PHI received from or on behalf of Waukesha County except as permitted or required by the CONTRACT, as required by law, or as otherwise authorized in writing by Waukesha County.
3. Use and Disclosure of Protected Health Information: Except as described in Section 4, CONTRACTOR may use or disclose PHI only if a written request is submitted to the Waukesha County Sheriff's Department delineating the reasons and upon their approval of the written request.
4. Use of PHI for Certain of CONTRACTOR's Operations: CONTRACTOR may use and/or disclose PHI it creates for, or receives from, Waukesha County to the extent necessary for CONTRACTOR's proper management and administration, or to carry out CONTRACTOR's legal responsibilities, only if:
 - a. The disclosure is required by law; or
 - b. CONTRACTOR obtains reasonable assurances, evidenced by written contract, from any person or organization to which CONTRACTOR shall disclose such PHI that such person or organization shall:
 - i. hold such PHI in confidence and use or further disclose it only for the purpose for

which CONTRACTOR disclosed it to the person or organization, or as required by law; and

- ii. notify CONTRACTOR, who shall in turn promptly notify Waukesha County, of any instance which the person or organization becomes aware of in which the confidentiality of such PHI was breached.
5. Safeguarding of PHI: CONTRACTOR shall develop, implement, maintain, and use appropriate administrative, technical, and physical safeguards to prevent the improper use or disclosure of all PHI, in any form or media, received from or created or received by CONTRACTOR on behalf of, Waukesha County. CONTRACTOR shall document and keep these security measures current.
 6. Subcontractors and Agents: If CONTRACTOR provides any PHI which was received from, or created for, Waukesha County to a subcontractor or agent, then CONTRACTOR shall require such subcontractor or agent to agree to the same restrictions and conditions as are imposed on CONTRACTOR by this CONTRACT.
 7. Maintenance of the Security of Electronic Information: CONTRACTOR shall develop, implement, maintain and use appropriate administrative, technical and physical security measures to preserve the confidentiality, integrity and availability of all electronically maintained or transmitted Health Information received from, or on behalf of, Waukesha County which pertains to an Individual. CONTRACTOR shall document and keep these security measures current and available for inspection, upon request. CONTRACTOR's security measures must be consistent with HIPAA's Security regulations, Title 45, Part 142 of the Code of Federal Regulations ("Security Rule"), once these regulations are effective.
 8. Compliance with Electronic Transactions and Code Set Standards: If CONTRACTOR conducts any Standard Transaction for, or on behalf, of Waukesha County, CONTRACTOR shall comply, and shall require any subcontractor or agent conducting such Standard Transaction to comply, with each applicable requirement of Title 45, Part 162 of the Code of Federal Regulation. CONTRACTOR shall not enter into, or permit its subcontractors or agents to enter into, any Agreement in connection with the conduct of Standard Transactions for or on behalf of Waukesha County that:
 - a. changes the definition, Health Information condition, or use of a Health Information element or segment in a Standard;
 - b. adds any Health Information elements or segments to the maximum defined Health Information Set;
 - c. uses any code or Health Information elements that are either marked "not used" in the

Standard's Implementation Specification(s) or are not in the Standard's Implementation Specifications(s); or

d. changes the meaning or intent of the Standard's Implementations Specification(s).

9. Access to PHI: At the direction of Waukesha County, CONTRACTOR agrees to provide access to any PHI held by CONTRACTOR which Waukesha County has determined to be part of Waukesha County's Designated Record Set, in the time and manner designated by Waukesha County. This access will be provided to Waukesha County or, as directed by Waukesha County, to an Individual, in order to meet the requirements under the Privacy Rule.
10. Amendment or Correction to PHI: At the direction of Waukesha County, CONTRACTOR agrees to amend or correct PHI held by CONTRACTOR and which Waukesha County has determined to be part of Waukesha County's Designated Record Set, in the time and manner designated by Waukesha County.
11. Reporting of Unauthorized Disclosures or Misuse of PHI: CONTRACTOR shall report to Waukesha County any use or disclosure of PHI not authorized by this CONTRACT or in writing by Waukesha County. CONTRACTOR shall make the report to Waukesha County's Privacy Official not less than one (1) business day after CONTRACTOR learns of such use or disclosure. CONTRACTOR's report shall identify: (i) the nature of the unauthorized use or disclosure, (ii) the PHI used or disclosed, (iii) who made the unauthorized use or received the unauthorized disclosure, (iv) what CONTRACTOR has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure, and (v) what corrective action CONTRACTOR has taken or shall take to prevent future similar unauthorized use or disclosure. CONTRACTOR shall provide such other information, including a written report, as reasonably requested by Waukesha County's Privacy Official.
12. Mitigating Effect of Unauthorized Disclosures or Misuse of PHI: CONTRACTOR agrees to mitigate, to the extent practicable, any harmful effect that is known to CONTRACTOR of a misuse or unauthorized disclosure of PHI by CONTRACTOR in violation of the requirements of this CONTRACT.
13. Tracking and Accounting of Disclosures: So that Waukesha County may meet its accounting obligations under the Privacy Rule:
 - a. *Disclosure Tracking*. Starting April 14, 2003, for each disclosure not excepted under subsection (b) below, CONTRACTOR will record for each disclosure of PHI it makes to Waukesha County or a third party of PHI that CONTRACTOR creates or receives for or from Waukesha County (i) the disclosure date, (ii) the name and (if known) address of

the person or entity to whom CONTRACTOR made the disclosure, (iii) a brief description of the PHI disclosed, and (iv) a brief statement of the purpose of the disclosure. For repetitive disclosures which CONTRACTOR makes to the same person or entity, including the Waukesha County, for a single purpose, CONTRACTOR may provide (i) the disclosure information for the first of these repetitive disclosures, (ii) the frequency, periodicity or number of these repetitive disclosures, and (iii) the date of the last of these repetitive disclosures. CONTRACTOR will make this log of disclosure information available to the Waukesha County within five (5) business days of the Waukesha County's request.

b. *Exceptions from Disclosure Tracking.* CONTRACTOR need not record disclosure information or otherwise account for disclosures of PHI that meet each of the following conditions:

- i. the disclosures are permitted under this CONTRACT, or are expressly authorized by Waukesha County in another writing; and,
- ii. the disclosure is for one of the following purposes:
 1. Waukesha County's Treatment, Payment, or Health Care Operations;
 2. in response to a request from the Individual who is the subject of the disclosed PHI, or to that Individual's Personal Representative;
 3. made to persons involved in that individual's health care or payment for health care;
 4. for notification for disaster relief purposes; or
 5. for national security or intelligence purposes;

14. Disclosure Tracking Time Periods. CONTRACTOR must have available for Waukesha County the disclosure information required by this section for the six-year period preceding Waukesha County's request for the disclosure information (except CONTRACTOR need have no disclosure information for disclosures occurring before April 14, 2003).

15. Accounting to Waukesha County and to Government Agencies. CONTRACTOR shall make its internal practices, books, and records relating to the use and disclosure of PHI received from or on behalf of, or created for, Waukesha County available to Waukesha County, or at the request of Waukesha County, to the Secretary of the Department of Health and Human Services (HHS) or his/her designee, in a time and manner designated by Waukesha County or the Secretary or his/her designee, for the purpose of determining Waukesha County's compliance with the Privacy Rule. CONTRACTOR shall promptly notify Waukesha County of communications with HHS regarding PHI provided by or created by Waukesha County and shall provide Waukesha County with copies of any information CONTRACTOR has made available to HHS under this provision.

16. Term and Termination:

- a. In addition to the rights of the parties established by the underlying Agreement, if Waukesha County reasonably determines in good faith that CONTRACTOR has materially breached any of its obligations under this CONTRACT, Waukesha County, in its sole discretion, shall have the right to:
 - i. exercise any of its rights to reports, access and inspection under this CONTRACT; and/or
 - ii. require CONTRACTOR to submit to a plan of monitoring and reporting, as Waukesha County may determine necessary to maintain compliance with this CONTRACT; and/or
 - iii. provide CONTRACTOR with a 20 (twenty) day period to cure the breach; or
 - iv. terminate the Agreement immediately.
- b. Before exercising any of these options, Waukesha County shall provide written notice to CONTRACTOR describing the violation and the action it intends to take.

17. Return or Destruction of PHI: Upon termination, cancellation, expiration or other conclusion of the Agreement, CONTRACTOR shall:

- a. Return to Waukesha County or, if return is not feasible, destroy all PHI and all Health Information in whatever form or medium that CONTRACTOR received from or created on behalf of Waukesha County. This provision shall also apply to all PHI that is in the possession of subcontractors or agents of CONTRACTOR. In such case, CONTRACTOR shall retain no copies of such information, including any compilations derived from and allowing identification of PHI. CONTRACTOR shall complete such return or destruction as promptly as possible, but not less than thirty (30) days after the effective date of the conclusion of this Agreement. Within such thirty (30) day period, CONTRACTOR shall certify on oath in writing to Waukesha County that such return or destruction has been completed.

- b. If CONTRACTOR believes that the return or destruction of PHI or Health Information is not feasible, CONTRACTOR shall provide written notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the Parties that return or destruction is not feasible, CONTRACTOR shall extend the protections of this CONTRACT to PHI and Health Information received from or created on behalf of Waukesha County, and limit further uses and disclosures of such PHI, for so long as CONTRACTOR maintains the PHI.

18. Miscellaneous:

- a. *Automatic Amendment:* Upon the effective date of any amendment to the regulations promulgated by HHS with regard to PHI, this CONTRACT shall automatically amend so that the obligations imposed on CONTRACTOR remain in compliance with such regulations.

b. *Interpretation.* Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Waukesha County to comply with the Privacy Rule.

Waukesha County

Contractor

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____