

Wisconsin Department of Corrections

**Mail Processing
and Management System Services**

Contract: 410014-W22-RLH8289-GEN-01

This Agreement is made between the State of Wisconsin (the State) as represented by the Department of Corrections (DOC) and TextBehind, Inc. (Contractor) to provide a Mail Processing and Management System Services as described in the TextBehind Master Service Agreement.

This Agreement shall become effective commencing on the date this Agreement is signed by DOC. The initial contract period is October 1, 2021 through September 30, 2022 ("Initial Term"), including two (2) twelve (12) month optional renewal terms (each a "Renewal Term") upon mutual agreement of both parties unless terminated per Section 9 of the agreement.

The State agrees to acquire from the Contractor and the Contractor agrees to provide the Mail Processing and Management System Services as identified specifically in the Contractor's agreement and in accordance with the terms and conditions specified herein.

The following documents, which are listed in their order of precedence, comprise the entire Agreement and are hereby incorporated by reference. In the event of a conflict, this order of precedence will be used to resolve the conflict:

- Official Purchase Order, including State of Wisconsin standard and supplemental terms and conditions
- Final signed contract including any attachments or amendments
- BAA and QSO
- TextBehind Master Service Agreement
- DOC Rider

This Agreement constitutes the entire agreement between the parties regarding the above referenced transactions and replaces any prior oral and written communication between the parties. By signing below the parties agree to the terms of this Agreement.

For: **TextBehind, Inc.**

By: Zia Rana

Name: Zia Rana

Title: President/CEO

Date: 10/7/2021

For: **Wisconsin Department of Corrections**

By: Kevin A. Carr

Name: Kevin A. Carr

Title: Secretary

Date: 10/11/2021

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BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (“Agreement”) is made between the Wisconsin Department of Corrections (“Covered Entity”) and TextBehind, Inc. (“Business Associate”), collectively, the “Parties.”

This Agreement is specific to those services, activities, or functions performed by the Business Associate on behalf of the Covered Entity when such services, activities, or functions are covered by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), including all pertinent regulations (45 CFR Parts 160 and 164) issued by the U.S. Department of Health and Human Services. Services, activities, or functions covered by this Agreement include, but are not limited to:

The services, activities, and functions provided by TextBehind, Inc. to DOC in relation to the parties’ agreement identified as 410014-W22-RLH8289-GEN-01 (“Underlying Contract.”)

This Agreement is effective between the Covered Entity and Business Associate beginning on the date when all parties affixed their respective signatures to Underlying Contract and terminates any prior existing Business Associate Agreements between the two parties.

The Covered Entity and Business Associate agree to modify the Underlying Contract to incorporate the terms of this Agreement and to comply with the requirements of the Health Insurance Portability and Accountability Act of 1996, as amended by the Health Information Technology for Economic and Clinical Health Act, as incorporated in the American Recovery and Reinvestment Act of 2009 (“HITECH”), and all applicable implementing regulations, including, without limitation, the Standards for Privacy of Individually Identifiable Health Information (the “Privacy Rule”), Notification in the Case of Breach Of Unsecured Protected Health Information (“Breach Notification Rule”), and the Security Standards for the Protection of Electronic Protected Health Information (the “Security Rule”) found at Title 45, Parts 160 and 164 of the Code of Federal Regulations, dealing with the security, confidentiality, integrity and availability of protected health or health-related information, as well as breach notifications (all such laws and regulations shall be collectively referred to herein as “HIPAA”), addressing confidentiality, security and the transmission of individually identifiable health information created, used or maintained by the Business Associate during the performance of the Underlying Contract and after Contract termination. The parties agree that any conflict between provisions of the Underlying Contract and the Agreement will be governed by the terms of the Agreement.

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1. DEFINITIONSa. Catch-all definition:

The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information (“PHI”), Required By Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.

b. Specific definitions:

- (i) Business Associate. “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 TextBehind, Inc.
- (ii) Covered Entity. “Covered Entity” shall generally have the same meaning as the term “covered entity” at 45 CFR 160.103, and in reference to the party to this agreement, shall mean the Wisconsin Department of Corrections.
- (iii) HIPAA Rules. “HIPAA Rules” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.
- (iv) Related Data. Data Derived from PHI.

2. RESPONSIBILITIES OF THE BUSINESS ASSOCIATE

- a. At all times, the Covered Entity owns the PHI. Business Associate shall not use or disclose PHI other than as permitted or required by the Agreement or as required by law, or as otherwise authorized in writing by the Covered Entity, if done by the Covered Entity.
- b. Unless otherwise limited herein, Business Associate may use or disclose PHI to the extent necessary for Business Associate’s proper management and administrative services, to carry out legal responsibilities of Business Associate, and to provide data aggregation services relating to health care operations of the Covered Entity if required under the Agreement.
- c. Minimum Necessary. Business Associate shall not request, use or disclose more than the minimum amount of PHI necessary to accomplish the purpose of the Use, Disclosure, or request.
- d. Subcontractors and Agents. Business Associate shall in accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any subcontractors that create, receive, maintain, or transmit PHI on behalf of the Business Associate agree to the same restrictions, conditions, and requirements that apply to the Business Associate with respect to such

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information by requiring each subcontractor to agree in writing to the same restrictions and conditions as are imposed on Business Associate by this Agreement and applicable law.

- e. Access to PHI: The Business Associate shall make PHI held under this Agreement and Underlying Contract by Business Associate accessible to Covered Entity at all times. All costs related to this shall be assumed by the Business Associate. In addition to that, at the direction of the Covered Entity, the Business Associate agrees to provide access, in accordance with 45 CFR 164.524, to any PHI held by the Business Associate, which Covered Entity has determined to be part of Covered Entity's Designated Record Set, in the reasonable time and manner designated by the Covered Entity. This access will be provided to Covered Entity. All costs related to this shall be assumed by the Business Associate.
- f. Amendment or Correction to PHI: At the direction of the Covered Entity, the Business Associate agrees to amend or correct PHI held by the Business Associate, which the Covered Entity has determined is part of the Covered Entity's Designated Record Set, in the time and manner designated by the Covered Entity in accordance with 45 CFR 164.526. All costs related to this shall be assumed by the Business Associate.
- g. Audit: The Business Associate agrees to make internal practices, books, and records available to the Covered Entity, or to the federal Secretary of Health and Human Services (HHS) in a time and manner determined by the Covered Entity or the HHS Secretary, or designee, for purposes of determining compliance with the HIPAA Rules. The Business Associate agrees to promptly notify the Covered Entity of communications with HHS regarding PHI and will provide the Covered Entity with copies of any PHI or other information the Business Associate has made available to HHS under this provision at the Covered Entity's request.
- h. Destruction: The Business Associate shall not destroy PHI and Related Data absent express written consent from Covered Entity.

3. SAFEGUARDING PROTECTED HEALTH INFORMATION

- a. Business Associate shall use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information, to prevent use or disclosure of PHI other than as provided for by the Agreement.
- b. Business Associate shall, at its own cost, review and modify its privacy and security safeguarding measures as needed to continue providing reasonable and appropriate protection of PHI and maintain documentation of privacy and security safeguarding measures as required by HIPAA.

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- c. Business Associate shall cooperate in good faith in response to any reasonable requests from the Covered Entity to discuss, review, inspect, and/or audit Business Associate's safeguards.

4. IMPROPER USES OR DISCLOSURES, INCLUDING SECURITY INCIDENTS AND BREACHES

- a. Business Associate shall report by telephone and in writing to Covered Entity any improper use or disclosure of PHI not provided for by the Agreement of which it becomes aware, including breaches of unsecured protected health information as required at 45 CFR 164.410, and any security incident within one (1) business day following the discovery of the improper use or disclosure, including breach or incident.
 - (i) The notification shall be provided to:
DOC HIPAA Compliance Officer
Phone: 608 240-5152
Email: DOCHIPAABreachReport@wi.gov
 - (ii) The improper use or disclosure of PHI, including a security incident and breach, shall be "discovered" as of the first day on which the violation is known to the Business Associate or, by exercising reasonable diligence, would have been known to the Business Associate.
 - (iv) Notification reports, both oral and written, shall include the following:
 - (1) The date of the improper use or disclosure;
 - (2) The date of the discovery of the use or disclosure;
 - (3) Each Individual whose PHI has been or is reasonably to have been accessed, acquired, or disclosed;
 - (4) A complete description of the circumstances of the improper use or disclosure, including a brief description of probable causes of the improper use or disclosure;
 - (5) The name of persons assigned to review and investigate the use;
 - (6) A description of all PHI used or disclosed (such as a full name, social security number, date of birth, home address, account number);
 - (7) The names of persons and organizations involved in the improper use, including a description of unauthorized persons known or reasonably believed to have improperly used or disclosed PHI or confidential data;

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- (8) A description of where the PHI or confidential data is believed to have been improperly transmitted, sent, or utilized;
 - (9) The actions the Business Associate has undertaken or will undertake to mitigate any harmful effect of the improper use or disclosure;
 - (10) A corrective action plan that includes steps the Business Associate has taken or will take to prevent future similar incidents from occurring;
 - (11) Any other details necessary to complete an assessment of the risk of harm to the Individual; and
 - (12) Any other information requested by the Covered Entity related to the improper use or disclosure;
- b. Business Associate shall be responsible to immediately investigate the improper use or disclosure, cooperate with Covered Entity in the investigation, and supplement the notice with additional information as it becomes available.
 - c. Business Associate shall report any attempted, *unsuccessful* Security Incident(s) of which the Business Associate becomes aware of in writing at the reasonable written request of the Covered Entity.
 - d. The Business Associate shall take immediate steps to mitigate any harmful effects of any improper or unauthorized use, disclosure, loss, improper use, of ePHi and/or PHI and Related Data. The Business Associate shall reasonably cooperate with the Covered Entity's efforts to seek appropriate injunctive relief or otherwise prevent or curtail such threatened or actual breach, or to recover its Protected Health Information, including complying with a reasonable Corrective Action Plan and taking such steps as requested by the Covered Entity.
 - e. Notification of Breach by Business Associate. Upon request by the Covered Entity, Business Associate agrees to participate in, and to the extent requested by Covered Entity, provide the notification of Individuals, the media, and the Secretary of any Breach of Unsecured PHI. Business Associate agrees to pay actual costs for notification and of any associated mitigation costs incurred by the Covered Entity, such as credit monitoring, if the Covered Entity determines that the breach is significant enough to warrant such measures.

In that event, the Business Associate must obtain the Covered Entity's approval of the time, manner and content of any such notifications, provide the Covered Entity with copies of the notifications, and provide the notifications within thirty (30) days after discovery of the breach. The Business Associate shall have the burden of demonstrating to the Covered Entity that all notifications were made as required, including

any evidence demonstrating the necessity of any delay beyond the 30 day calendar notification requirement to affected individuals after the discovery of the breach by the Covered Entity or Business Associate.

5. DISCLOSURES OF PROTECTED HEALTH INFORMATION BY BUSINESS ASSOCIATE

Requests for access to PHI that Business Associate receives directly from Individuals, health providers, attorneys, agencies, and others should be redirected to covered entity for response within two (2) business days of receipt.

The notification shall be sent by mail to:

**Bureau of Health Services, DOC HIPAA Compliance Officer
Mail: 3099 E. Washington Avenue, PO BOX7925
Madison, WI 53707**

And notice shall be provided by phone to this number:

Phone: 608 240-5152

6. TERM AND TERMINATION OF AGREEMENT

- a. The Business Associate and the Covered Entity agree that this Agreement becomes effective on the date all parties have affixed their respective signatures to the Underlying Contract.
- b. The Business Associate agrees that if in good faith the Covered Entity determines that the Business Associate has materially breached any of its obligations under this Agreement, the Covered Entity at its sole discretion, may:
 - (i) Exercise any of its rights to reports, access and inspection under this Agreement,
 - (ii) Require the Business Associate to conduct monitoring and reporting, as the Covered Entity determines reasonably necessary to maintain compliance with this Agreement;
 - (iii) Provide the Business Associate with a defined time period to cure the breach; and/or
 - (iv) Terminate this Agreement immediately.
- c. Before exercising any of these options, the Covered Entity will provide written notice of preliminary determination to the Business Associate describing the violation and the action the Covered Entity intends to take.

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7. RETURN OR DESTRUCTION OF PROTECTED HEALTH INFORMATION

Upon termination, cancellation, expiration, or other conclusion of this Agreement as determined by the Covered Entity, the Business Associate shall, and shall ensure its Subcontractors that possess PHI or data derived from PHI, fulfill one of the following options with respect to PHI as directed by the Covered Entity:

- a. Return PHI, and any Related Data, to the Covered Entity in customary industry form or medium as directed within the sole discretion of the Covered Entity at the Business Associate's expense. During this time, the PHI, and Related Data, shall be continuously and without interruption accessible to Covered Entity. No copies of such PHI and Related Data shall be retained. PHI and Related Data shall be returned as promptly as possible, but not after the effective date of conclusion of this Agreement or the Underlying Contract. Within five (5) days after the effective date of the conclusion of this Agreement or the Underlying Contract, Business Associate shall certify on oath in writing to Covered Entity that such return has been completed.
- b. Destroy the PHI, and any Related Data, using technology or a methodology that renders the PHI, or Related Data, unusable, unreadable, or undecipherable to unauthorized individuals as specified by HHS in its guidance at:
<http://www.hhs.gov/ocr/privacy/hipaa/administrative/breachnotificationrule/brguidance.html>. Acceptable methods for destroying PHI or Related Data include: (A) paper, film, or other hard copy media shredded or destroyed in order that PHI or Related Data cannot be read or reconstructed; and (B) electronic media cleared, purged or destroyed consistent with the standards of the National Institute of Standards and Technology (NIST). Redaction as a method of destruction of PHI or Related Data is specifically excluded.
- c. If Business Associate believes that the return or destruction of PHI or Related Data is not feasible, Business Associate shall provide written notification of the conditions that make return or destruction infeasible. If the Covered Entity agrees that return or destruction is not feasible, Business Associate shall extend the protections of this Agreement to PHI and Related Data received from or created on behalf of Covered Entity, and limit further uses and disclosures of such PHI and Related Data, for so long as Business Associate maintains the PHI. If the Covered Entity does not agree that destruction is infeasible, the Business Associate must return the PHI in the format and within time frame as determined by the Covered Entity at Business Associate's expense.

8. MISCELLANEOUS PROVISIONS

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- a. State and Federal Law Compliance: The Business Associate acknowledges that PHI from the Covered Entity may be subject to state confidentiality laws and other federal confidentiality regulations. The Business Associate agrees to comply with all applicable federal and state laws. Business Associate shall comply with the more restrictive protection requirements between state and federal law for the protection of PHI.
- b. Automatic Amendment: The parties acknowledge that state and federal laws relating to electronic data security and privacy are rapidly evolving and that amendment of this Agreement may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement the standards and requirements of HIPAA, the HIPAA Regulations, the HITECH Act, other applicable state laws, and federal laws relating to this BAA and relating to the security or confidentiality of Health Information. This Agreement shall automatically incorporate any change or modification to HIPAA, the HITECH Act, any other applicable state law, or federal laws as of the effective date of the change or modification. The Business Associate agrees to maintain compliance with all changes or modifications to HIPAA, the HITECH Act, and any other applicable state laws, and federal laws, as required.
- c. Interpretation of Terms or Conditions of Agreement: Any ambiguity in this Agreement shall be construed and resolved in favor of a meaning that permits the Covered Entity and Business Associate to comply with HIPAA and the HITECH ACT.
- d. Submission of Compliance Plan: The Business Associate agrees that the Covered Entity may request a HIPAA compliance plan. If requested by the Covered Entity, the Business Associate agrees to provide periodic reports of the progress of the compliance plan. Further, the Business Associate agrees that the plan and progress reports will comply with the requirements of the Covered Entity.
- e. Prohibition of Offshore Disclosure. Nothing in this Agreement shall permit the Business Associate to share, use or disclose PHI in any form via any medium with any third party beyond the boundaries and jurisdiction of the United States without express written authorization from the Covered Entity.
- f. Indemnification. Business Associate shall indemnify the Covered Entity for costs associated with any Incident, improper or unauthorized use, disclosure, loss, of ePHi and/or PHI and Related Data in a manner not permitted by this Agreement or permitted under applicable laws.
- g. Survival. The obligations of Business Associate under this Section shall survive the termination of this Agreement.

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- h. Headings. Paragraph Headings used in this Agreement are for the convenience of the Parties and shall have no legal meaning in the interpretation of the Agreement.
- i. Capitalized terms used in this Agreement, but not otherwise defined, shall have the same meaning as those terms in the Privacy Rule or the Security Rule.

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

Kevin D. Carr

Title: Secretary
Department of Corrections
Dated: 10/11/2021

Zia Rana

Title: President/CEO
TextBehind, Inc.
Dated: 10/7/2021

QUALIFIED SERVICE ORGANIZATION AGREEMENT

The Qualified Service Organization Agreement (“QSO Agreement”) is made between TextBehind, Inc. (Contractor) and the Wisconsin Department of Corrections (DOC), as the parties to this QSO Agreement. This QSO Agreement is specific to the services, activities, and functions provided by TextBehind, Inc. to DOC in relation to the parties’ agreement identified as 410014-W22-RLH8289-GEN-01 (“Underlying Contract.”) This QSO Agreement is effective between the parties beginning on the date when all parties affixed their respective signatures to Underlying Contract and terminates any prior existing QSO Agreements between the parties.

The Contractor agrees to the following:

1. To receive Substance Use Disorder Records, defined as including information relating to the identity, diagnosis, prognosis, or treatment of any records created, received or acquired in connection with the performance of any federally assisted program or activity relating to a patient who has applied for or been given diagnosis, treatment, or referral for treatment for a substance use disorder at a Part 2 program as defined in 42 C.F.R s. 2.11, only for the purposes intended under this QSO Agreement and in conformity with all applicable provisions of 42 USC § 290dd-2 and the underlying federal regulations, 42 CFR Part 2; and
2. To resist any efforts in judicial proceedings to obtain access to the Substance Use Disorder Records except as expressly provided for in the regulations governing the Confidentiality of Substance Use Disorder Records, 42 C.F.R. Part 2.

Both parties agree to the following termination provisions related to the Substance Use Disorder Records:

1. Either party may terminate this QSO Agreement by mutual consent or unilaterally by providing 30 day’s written notice to the other party. In addition to that, the DOC may terminate this QSO Agreement immediately if it is determined that Contractor has violated any terms of this QSO Agreement.
2. Upon termination of this QSO Agreement for any reason, Contractor shall return or destroy all Substance Use Disorder Records received from DOC, or created or received by Contractor on behalf of DOC. This provision shall apply to Substance Use Disorder Records that is in the possession of subcontractors or agents of Contractor. The Contractor shall retain no copies of the protected information.

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3. In the event that Contractor determines that returning or destroying the Substance Use Disorder Records is infeasible, Contractor shall notify DOC of the conditions that make return or destruction infeasible within the time frame and in the manner as requested by the DOC.
4. Upon notification that return or destruction of Substance Use Disorder Records is infeasible, Contractor shall extend the protections of this QSO Agreement to such Substance Use Disorder Records and limit further uses and disclosures of the Substance Use Disorder Records to those purposes that make the return or destruction infeasible, as long as Contractor maintains the Substance Use Disorder Records.

In Witness Whereof, the undersigned have caused this QSO Agreement to be duly executed by their respective representatives.

Kevin D. Carr

Title: Secretary
Department of Corrections
Dated: 10/11/2021

Eva Rana

Title: President/CEO
TextBehind, Inc.
Dated: 10/7/2021

TextBehind Inmate Mail Processing and Management System Implementation Agreement

This Inmate Mail Management System Implementation Agreement (the “Agreement”) is made on the day as specified on the signature page of this agreement (the “Effective Date”) by and between the Wisconsin Department of Corrections (the “DOC”), with offices located at 3099 E Washington Ave, Madison, WI 53704, and TextBehind, Inc. (“TextBehind”) with offices located at 14315 Jarrettsville Pike, Phoenix, MD 21131, and provides as follows:

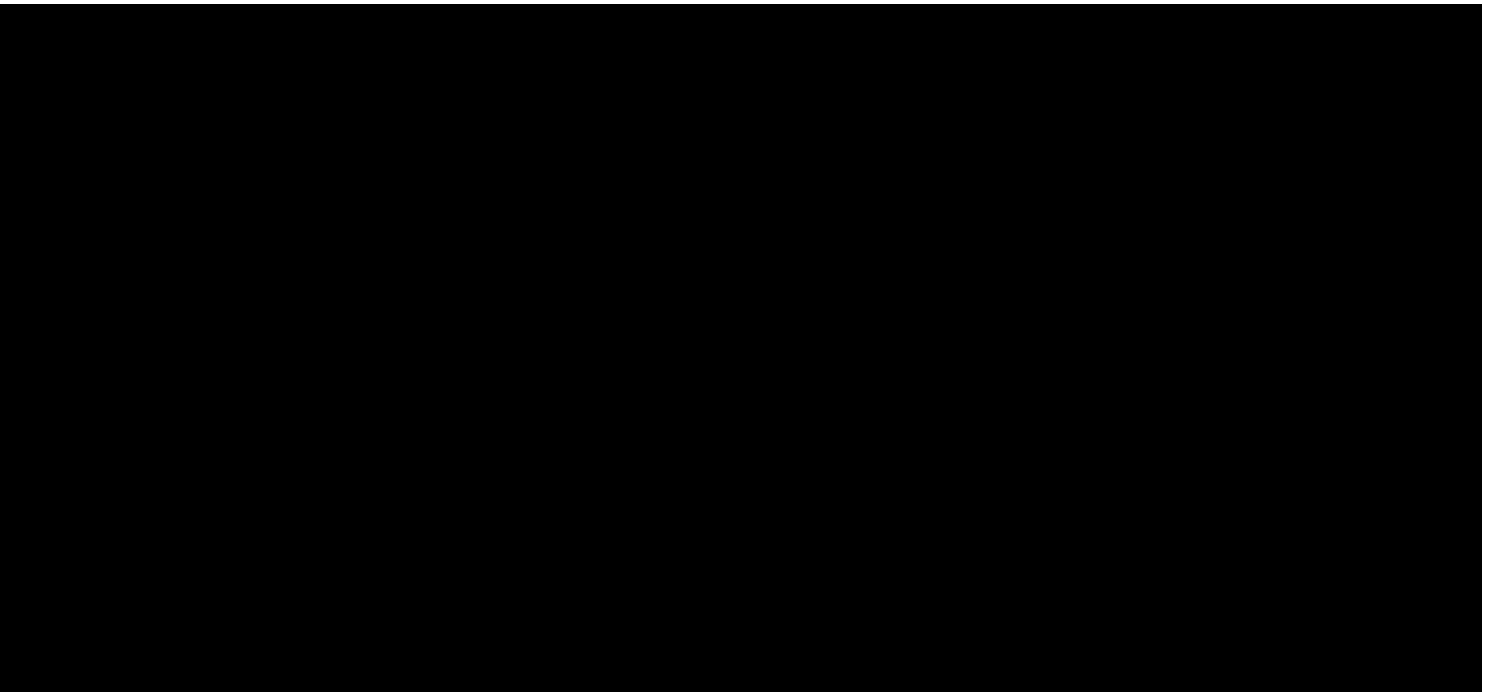
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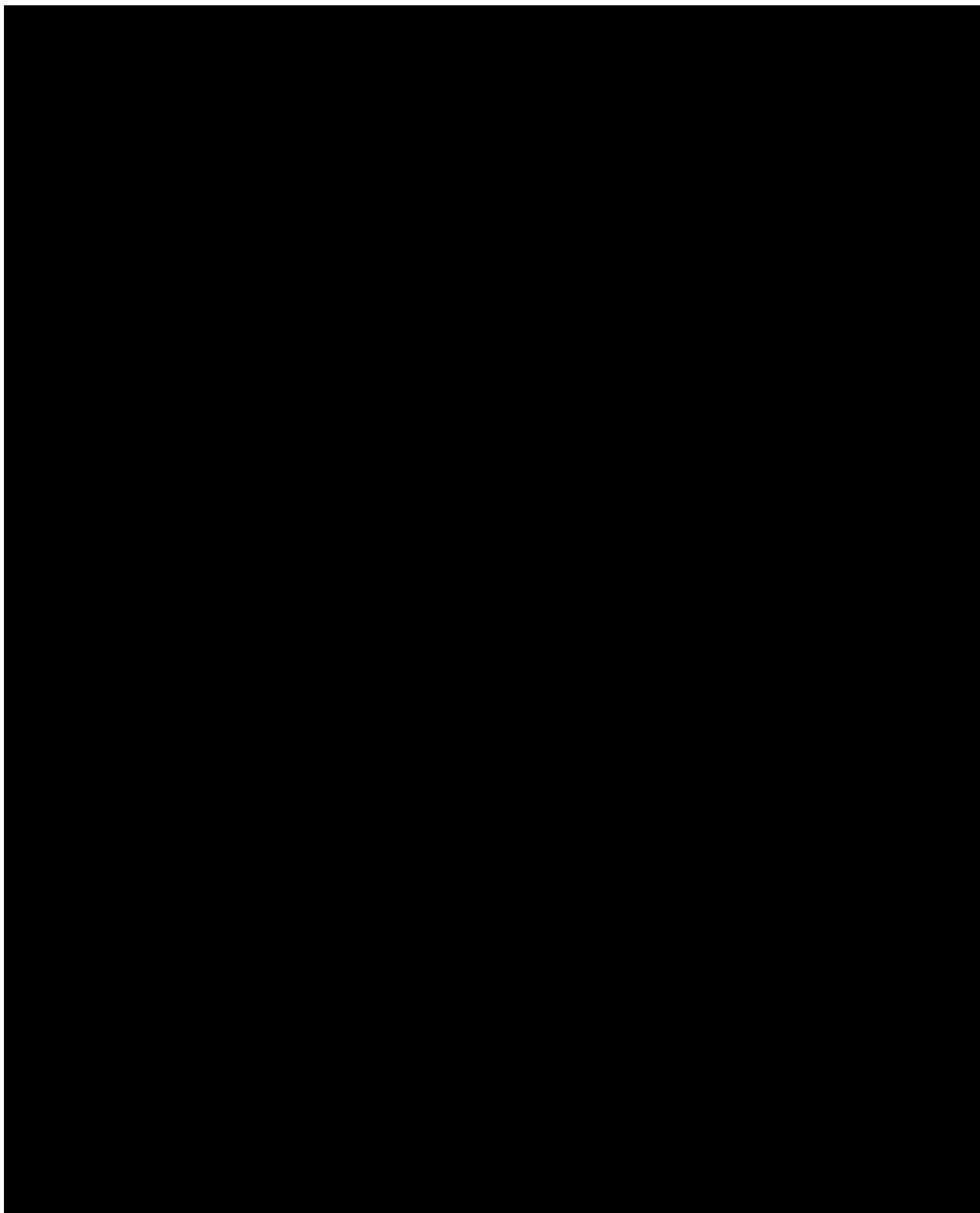
TextBehind has developed the Inmate Mail Management System, a cutting-edge technological solution that facilitates contraband-free communications between Inmates and their family and friends using printed mail generated using computers and hand-held devices with internet browsing capabilities (sometimes referred to as the “System”). The TextBehind system performs various mail-processing functions to ensure that no contraband items such as narcotics are transmitted to the prison mailroom. The System also enables correctional facilities to monitor and manage Inmate communications in real time, and incorporates robust investigative search features.

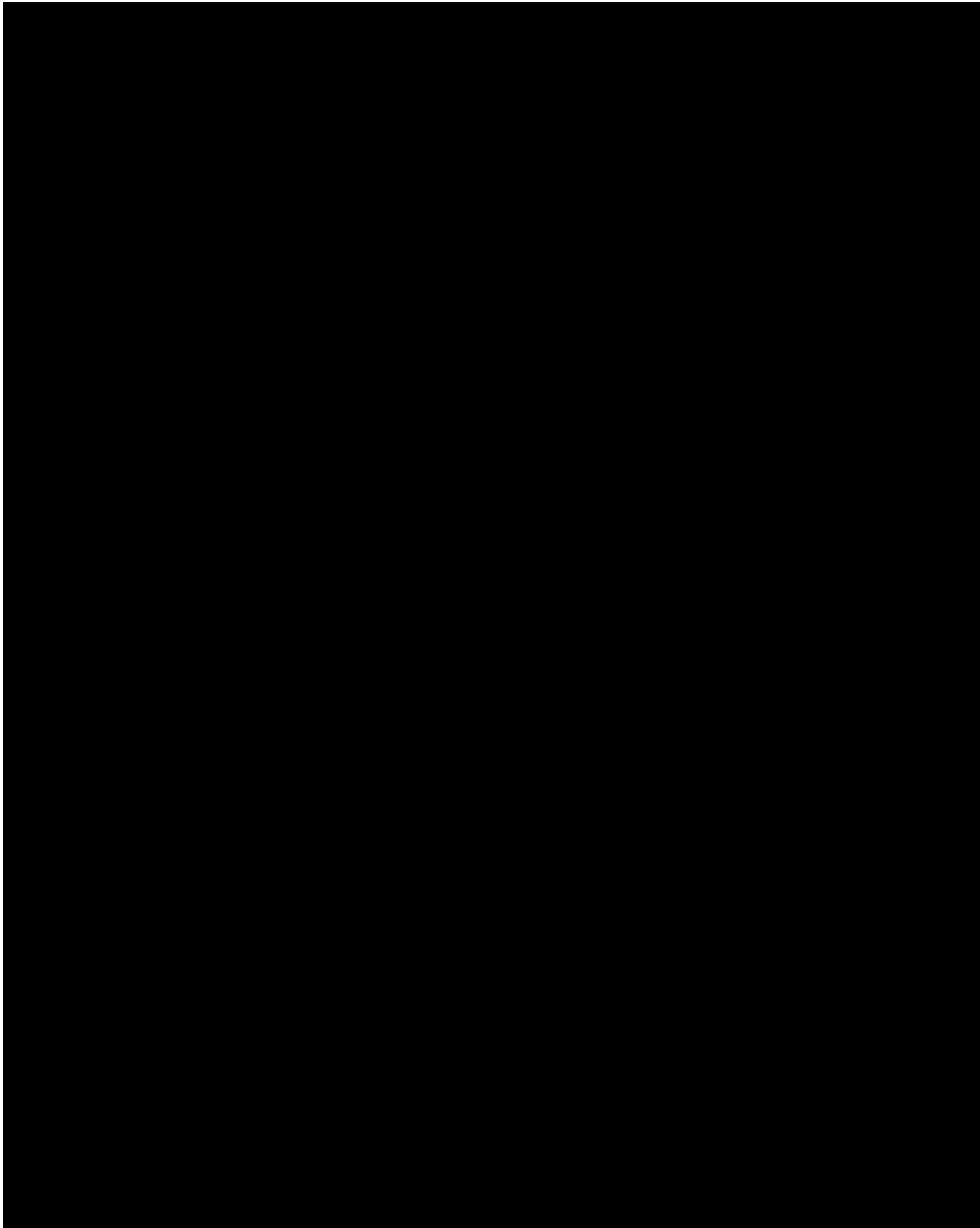
NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound, the Parties agree as follows:

1. Engagement.

The DOC hereby engages TextBehind, and TextBehind accepts such engagement, to implement and maintain its Inmate Non – Privileged Mail Management System at the DOC. After implementation is completed, the Inmate Mail Management System will perform the following functions (the “Services”):







1.5 Pricing.

TextBehind's Services will be provided at the below cost to the DOC. TextBehind shall have the right to revise its pricing to the DOC if any change to the daily inmate mail delivery model is requested by the DOC. The monthly invoice amount will fluctuate based on actual volume of mail received during the regular days, the holidays, and other special events throughout the year. The cost per piece will remain the same at \$1.49 per mailing, not per page. The unit cost will remain the same through any Renewal Term of this contract. This service cost is based on friends and family mail that includes letters, photos, greeting cards, crossword puzzles, coloring pages, and other types of content that can be scanned. All non-scannable items such as the Money Orders, checks and original vital documents shall be included as is in a separate container within the shipment for the applicable DOC institution.

MODEL ONE (Managed Print and Ship)	UNIT COST (Per Mailing)
Physical Inmate Mail Processing	\$1.49 per inmate mail processed

1.6 Payment Terms.

Based on the daily mail volume processed in the preceding month, TextBehind will send invoice to the DOC at the end of every month of service after processing all mail received in that month. TextBehind shall attach to the invoice a monthly report of the volume of mail processed. Payment shall be remitted by the DOC within 30 days from the date of invoice. The invoice submitted will include the 10% of NET REVENUE from the preceding month as CREDIT generated from the electronic communications created using the TextBehind.com website and mobile app for inmates in any of the DOC institutions. "Net Revenue" means the revenue generated from electronic transactions after subtracting credit card/transaction fees, VAT and other taxes.

1.7 Liquidated damages. Should TextBehind fail to deliver the mail to a carrier for Two-day priority mail within 24 hours after receipt Monday through Friday as noted in section 1.1, TextBehind shall be assessed liquidated damages equal to TextBehind's unit cost of \$1.49 per unit to process the affected piece of mail.

2. DOC's Implementation of TextBehind's Inmate Mail Processing and Management System.

2.1 Implementation of the System.

TextBehind agrees to implement its Mail Management System including all applicable hardware and software setup. No additional equipment is needed by DOC. TextBehind shall use the DOC's data transport method of consuming a REST service to accept daily inmate housing location data from DOC. The DOC will provide an initial baseline of the data format and methods to access the data. The frequency of the data sharing will be mutually agreed to by TextBehind and DOC. TextBehind will begin implementing the System at the DOC promptly after the Effective Date of this Agreement, and will complete the implementation within sixty (60) days after the contract signatures (the "Implementation Period").

The DOC may provide written communication to inmates and Outside Users during the term of this agreement. DOC may provide notice on personal non-privileged mail when delivered to the DOC institutions to help redirect physical mail to TextBehind. Upon request by the DOC, TextBehind will provide educational materials to the DOC. Any educational materials provided by TextBehind must be pre-approved by the DOC, and DOC will determine where, when, and how the educational materials will be distributed, placed, or posted to aide in the redirection of the mail under this new process. TextBehind will provide replacement and replenishment support when informed by the DOC. To reduce physical mail processing and applicable cost to the DOC, TextBehind's educational materials (inmate posters, and family and friends' brochures) may be posted publicly to continuously provide education of the mail management service at the discretion of the DOC.

2.2 Training of DOC Staff.

During the Implementation Period, TextBehind, at no cost to the DOC, shall provide training to the DOC's staff on how to use the TextBehind CAMMP portal if enabled

2.3 No Setup Cost for TextBehind CAMMP Implementation.

If and when requested, TextBehind will enable the TextBehind CAMMP System, and any of its available functions for any of the DOC institutions during the term of this agreement, at no additional cost to the DOC based on the selected service model of print and ship.

3. Warranty.

TextBehind warrants that Services will be performed by qualified personnel in a good and workmanlike manner in accordance with generally accepted industry standards and practices. TextBehind shall comply with all statutes, ordinances, regulations and laws of all federal, state, county, municipal or local governments applicable to performing the Services hereunder. **LIMITATION OF WARRANTY. THE WARRANTY SET FORTH IN THIS SECTION 3 IS EXCLUSIVE AND IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE WITH RESPECT TO THE SERVICES, WORK PRODUCT OR DELIVERABLES PROVIDED UNDER THIS AGREEMENT, OR AS TO THE RESULTS WHICH MAY BE OBTAINED THEREFROM. TEXTBEHIND DISCLAIMS ALL IMPLIED WARRANTIES INCLUDING, BUT NOT LIMITED TO, THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR AGAINST INFRINGEMENT.**

4. Ownership of Work Product.

This is not a work-for-hire agreement. The copyright in all deliverables created hereunder for the DOC shall belong to TextBehind. All intellectual property rights in all pre-existing works and derivative works of such pre-existing works and other deliverables and developments made, conceived, created, discovered, invented or reduced to practice in the performance of the Services hereunder are and shall

remain the sole and absolute property of TextBehind, subject to a non-exclusive license to the DOC for its internal use as intended under this Agreement, and TextBehind retains all other rights therein. This Agreement does not grant the DOC any license to any of TextBehind's other products, which products must be separately licensed.

5. Confidential Information

5.1. Confidential Information.

The Parties acknowledge that by reason of their relationship to the other hereunder, each may disclose or provide access (the "Disclosing Party") to the other Party (the "Receiving Party") certain Confidential Information related to electronic mail scanning provided by TextBehind. "Confidential Information" shall mean (i) information concerning a Party's products, business and operations including, but not limited to, information relating to TextBehind CAMMP System access credentials (log-in information), business plans, financial records, customers, suppliers, vendors, products, product samples, costs, sources, strategies, inventions, procedures, sales aids or literature, technical advice or knowledge, contractual agreements, pricing, price lists, product white paper, product specifications, trade secrets, procedures, distribution methods, inventories, marketing strategies and interests, algorithms, data, designs, drawings, work sheets, blueprints, concepts, samples, inventions, manufacturing processes, computer programs and systems and know-how or other intellectual property, of a Party and its affiliates that may be at any time furnished, communicated or delivered by the Disclosing Party to the Receiving Party, whether in oral, tangible, electronic or other form; (ii) the terms of any agreement, including this Agreement, and the discussions, negotiations and proposals related to any agreement; (iii) information acquired during any tours of or while present at a Party's facilities; and (iv) all other non-public information provided by the Disclosing Party hereunder (v) all incoming inmate mail and electronically created mail received by TextBehind. In no event shall TextBehind's use or disclosure of information regarding or relating to the development, improvement or use of any of TextBehind's products be subject to any limitation or restriction. All Confidential Information shall remain the property of the Disclosing Party. The access accounts for the DOC's authorized users of TextBehind CAMMP System can only be created using email addresses that are on official domain name of the DOC. 3rd party domain-based email addresses shall not be permitted due to security policies. The authorized users MUST NOT disclose or share their CAMMP account credentials with any other authorized user within CAMMP system or 3rd party unauthorized person(s) that are not cleared by TextBehind. After successful login, various activities of the CAMMP user are permanently recorded for professional accountability and transparency. Inmate mail shall be considered confidential information for purposes of the covenants provided in sections 5.1 through 5.7

5.2 Personal Identifiable Information (PII) and Personal Health Information (PHI).

The term Personal Identifiable Information, or PII, refers to information that can be used to distinguish or trace an individual's identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual. Protected Health Information, or PHI, is any personal health information that can potentially identify an individual, that was created, used, or disclosed in the course of providing healthcare services, whether it was a diagnosis or treatment. PII and PHI grouped together, whether part of a data store or contained in physical mail, shall be considered "Confidential Information" and subject to the provisions in Sections 5.3 through 5.7.

5.3. Use of Confidential Information; Standard of Care.

The Receiving Party shall maintain the Confidential Information in strict confidence and disclose the Confidential Information only to its employees, subcontractors, consultants and representatives who

have a need to know such Confidential Information to fulfill the business affairs and transactions between the Parties contemplated by this Agreement, and who are under confidentiality obligations no less restrictive as this Agreement. The Receiving Party further agrees to use appropriate administrative, physical, and technical safeguards to protect the confidentiality, integrity, and availability of any information provided pursuant to this contract from unauthorized physical and electronic access or disclosure. Confidential Information considered to be PHI shall be governed by the terms contained within the Business Associates Agreement between the DOC and TextBehind, Inc., which is incorporated herein, and when applicable, the Qualified Service Agreement between the parties, which is also incorporated herein. The Receiving Party shall always remain responsible for breaches of this Agreement arising from the acts of its employees, subcontractors, consultants and representatives. Receiving Party shall use the same degree of care as it uses with respect to its own similar information, but no less than a reasonable degree of care, to protect the Confidential Information from any unauthorized use, disclosure, dissemination, or publication. Receiving Party shall only use the Confidential Information in furtherance of its performance of its obligations under this Agreement, and agrees not to use the Disclosing Party's Confidential Information for any other purpose or for the benefit of any third party, without the prior written approval of the Disclosing Party. The Receiving Party shall not decompile, disassemble, or reverse engineer all or any part of the Confidential Information.

Confidential Information that is inmate mail or electronically created mail must be maintained consistent with applicable state and federal laws and regulations protecting the privacy of such mail. Confidential Information that is inmate mail shall not be disclosed to any third parties under any circumstances unless otherwise required by state or federal law or those exceptions and required disclosures included in this contract.

5.4. Exceptions.

Confidential Information does not include information that: (a) was lawfully in Receiving Party's possession before receipt from Disclosing Party; (b) at or after the time of disclosure, becomes generally available to the public other than through any act or omission of the Receiving Party; (c) is developed by Receiving Party independently of any Confidential Information it receives from Disclosing Party; (d) Receiving Party receives from a third party free to make such disclosure without, to the best of Receiving Party's knowledge, breach of any legal or contractual obligation, or (e) is disclosed by Receiving Party with Disclosing Party's prior written approval.

5.5. Required Disclosures.

If the Receiving Party is required to disclose Confidential Information through lawful means or in compliance with the public records law, including the provisions detailed in Section 12 of this Agreement, then they may do so and it will not be considered a breach.

5.6. Unauthorized Use or Disclosure of Confidential Information; Equitable Relief.

In the event the Receiving Party discovers that any Confidential Information has been used, disseminated or accessed in violation of this Agreement, it will immediately notify the Disclosing Party, which shall take all commercially reasonable actions available to minimize the impact of the use, dissemination or publication, and take all necessary steps to prevent any further breach of this Agreement. The Parties agree and acknowledge that any breach or threatened breach regarding the treatment of the Confidential Information may result in irreparable harm to the Disclosing Party for which there may be no adequate remedy at law. In such event the Disclosing Party shall be entitled to seek an injunction, without the

necessity of posting a bond, to prevent any further breach of this Agreement, in addition to all other remedies available in law or at equity.

5.7. Return of Confidential Information; Survival.

Receiving Party shall promptly include original vital documents with the mail package sent to the recipient's institution. TextBehind shall also return or, at DOC's option, certify destruction of all copies of Confidential Information at any time upon request or within Thirty (30) days following the expiration or earlier termination of this Agreement. TextBehind shall assist DOC in extracting and/or transitioning all Data in a format determined by the DOC. Notwithstanding any expiration or termination of this Agreement, Receiving Party's obligations to protect the Confidential Information pursuant to this Section will survive for Two (2) years after the expiration or earlier termination of this Agreement, with the exception of Confidential Information that is inmate mail or electronically created mail, which shall be maintained under the terms of Section 11 of this Agreement.

6. Indemnification and Insurance.

6.1 Indemnification.

Subject to the limitations of § 893.82 and § 895.46, Wis. Stats., each party agrees that it shall be responsible for any loss or expense (including costs and attorney's fees) arising from or incidental to the act or omission of its respective officers, officials, agents, or employees in performing work under this contract.

6.2 Insurance.

During the term of this Agreement, TextBehind, at its own expense, agrees to maintain policies of: (a) Worker's Compensation insurance with statutory limits; (b) Commercial General Liability insurance in the amount of One Million Dollars (\$1,000,000.00) per occurrence, and Two Million Dollars (\$2,000,000) in the aggregate; (c) Automobile Liability insurance covering all non-owned and hired vehicles with limits of One Million Dollars (\$1,000,000) combined single limit per accident for bodily injury and property damage; and (d) Excess Liability / Umbrella insurance in the amount of One Million Dollars (\$1,000,000.00) per occurrence, and in the aggregate .

7. Cooperation of the DOC.

The DOC agrees to comply with reasonable requests of TextBehind, limited to its contractual relationship with the DOC and shall provide TextBehind's personnel with access to all documents and facilities as may be reasonably necessary for the performance of the Services under this Agreement subject to applicable laws and DOC rules and policies.

8. Term.

This Agreement shall have an initial term of one (1) year from the Effective Date (the "Initial Term"), unless earlier terminated in accordance with the provisions in Section 9. Thereafter, the Agreement shall include two (2) twelve (12) month optional renewal terms (each a "Renewal Term") upon mutual agreement of both parties. The Initial Term and Renewal Terms, if any, are collectively referred to herein as the "Term".

9. Termination

9.1. Termination.

Notwithstanding anything in this Agreement to the contrary, either Party may terminate this Agreement with valid cause by providing not less than ninety (90) days advance written notice of intent to terminate to the other party, or, in the event of a breach by the other Party of a material provision of this Agreement that remains uncured after sixty (60) days following written notice thereof, immediately and automatically upon the expiration of the applicable notice period, without further notice or action by either Party. The Notice of Contract Cancellation without cause, must be issued to TextBehind no less than six (6) months in advance ("Notice of Contract Cancellation") for TextBehind to manage resource rearrangement and public notification processes.

9.2. Obligations upon Termination.

Termination of this Agreement for any reason shall not discharge either Party's liability for obligations incurred hereunder.

10. Relationship of the Parties.

The relationship of the Parties hereto is that of independent contractors. Nothing in this Agreement, and no course of dealing between the Parties, shall be construed to create or imply an employment or agency relationship or a partnership or joint venture relationship between the Parties or between one Party and the other Party's employees or agents. Each of the Parties is an independent contractor and neither Party has the authority to bind or contract any obligation in the name of or on account of the other Party or to incur any liability or make any statements, representations, warranties or commitments on behalf of the other Party, or otherwise act on behalf of the other. Each Party shall be solely responsible for payment of the salaries of its employees and personnel (including withholding of income taxes and social security), workers' compensation, and all other employment benefits.

11. Cloud-Hosting Storage Terms

TextBehind shall store and maintain electronic copies of the inmate's physical mail and electronically created mail after the mail scanning and printing process is complete and inmate mail has been shipped to the institution. TextBehind shall not destroy the scanned copies of the correspondence unless destruction is consistent with Wisconsin's Record Destruction Authorization ("RDA") laws. If or when the DOC receives an approval for an applicable RDA, then TextBehind shall retain a copy of the inmates scanned mail for the duration of the applicable RDA.

12. Public Record Requests

A. The Contractor agrees to immediately inform the Contract Administrator of any inquiry from outside entities or third parties regarding this Contract, including inquiries related to copies of inmate mail and electronically created incoming mail

B. The Contractor must report all public record requests, including those related to copies of inmate mail and electronically created incoming mail, immediately to the Contract Administrator. The Contractor agrees to comply and assist DOC with a coordinated response to public records including adhering to the timeline determined by DOC.

C. The Contract must cooperate with the DOC when the DOC receives a public records requests for records maintained or stored by Contractor, including those related to copies of inmate mail and electronically created incoming mail

D. Contractor agrees to comply with all Wisconsin public records laws and procedures.

13. Governing Law and Venue.

This Agreement will be governed by and interpreted in accordance with the laws of the State of Wisconsin, without giving effect to the principles of conflicts of law of such state. The Parties hereby agree that any action arising out of this Agreement will be brought solely in any state or federal court located in Wisconsin. Both Parties hereby submit to the exclusive jurisdiction and venue of any such court.

14. Severability.

If any provision or portion of this Agreement shall be rendered by applicable law or held by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remaining provisions or portions shall remain in full force and effect.

15. Headings; Construction.

The headings/captions appearing in this Agreement have been inserted for the purposes of convenience and ready reference, and do not purport to and shall not be deemed to define, limit or extend the scope or intent of the provisions to which they appertain. This Agreement is the result of negotiations between the Parties and their counsel. Accordingly, this Agreement shall not be construed more strongly against either Party regardless of which Party is more responsible for its preparation, and any ambiguity that might exist herein shall not be construed against the drafting Party.

16. Survival.

Each term and provision of this Agreement that should by its sense and context survive any termination or expiration of this Agreement, shall so survive regardless of the cause and even if resulting from the material breach of either Party to this Agreement.

17. Rights Cumulative.

The rights and remedies of the Parties herein provided shall be cumulative and not exclusive of any rights or remedies provided by law or equity.

18. Counterparts.

This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original, but all of which together will constitute one and the same instrument, without necessity of production of the others. An executed signature page delivered via facsimile transmission or electronic signature shall be deemed as effective as an original executed signature page.

19. Authorized Signatories.

It is agreed and warranted by the Parties that the individuals signing this Agreement on behalf of the respective Parties are authorized to execute such an agreement. No further proof of authorization shall be required.

20. Notices.

All notices or other communications required under this Agreement shall be in writing and shall be deemed effective when received and made in writing by either (i) hand delivery, (ii) registered mail, (iii) certified mail, return receipt requested, or (iv) overnight mail, addressed to the Party to be notified at the following address or to such other address as such Party shall specify by like notice hereunder:

If to the DOC:

Wisconsin Department of Corrections
3099 E Washington Ave., PO Box 7925
Madison, WI 53707-7925,

Attention: Ms. Wendy Monfils
Email: Wendy.Monfils@wisconsin.gov

Monthly Invoices to be paid by the DOC shall be emailed to:
docdcentralbusinessoffice@wisconsin.gov

WRC invoices shall be separated from DOC invoices and sent to the email address on the purchase order.

If to TextBehind:

TextBehind, Inc.
14315 Jarrettsville Pike
Phoenix, MD 21131

Attention: Mr. Zia Rana, President & CEO
Email: zia@textbehind.com

21. Waiver.

No waiver of any term or right in this Agreement shall be effective unless in writing, signed by an authorized representative of the waiving Party. The failure of either Party to enforce any provision of this Agreement shall not be construed as a waiver or modification of such provision, or impairment of its right to enforce such provision or any other provision of this Agreement thereafter.

22. Assignment.

TextBehind shall have the right to assign this Agreement with the DOC's consent, which shall not be unreasonably withheld or delayed.

In witness whereof, the Parties hereto have executed this Agreement on the date set forth below.

WITNESS/ATTEST:

TextBehind, Inc.

Zia Rana 10/7/2021 (SEAL and DATE)

By: Mr. Zia Rana, President & CEO

Wisconsin Department of Corrections

Kevin A. Carr 10/11/2021 (SEAL and DATE)

By: Kevin A. Carr, Secretary

Contract Effective Date:

**DOC Rider
(Request for Bids / Proposals / Contracts)**

The Department of Corrections (DOC) Executive Directives (ED) referenced within the applicable sections of this DOC Rider are available upon request through the DOC Contract Administrator for the Contract.

I. BACKGROUND CHECKS OF CONTRACTOR'S STAFF AND APPLICANTS

- A. The Contractor shall not employ a person who is on active probation, parole, extended supervision, lifetime supervision or an inmate/offender who is supervised by Intensive Sanctions for any position where the primary duties and responsibilities involve contact or work with inmates/offenders or involves access to inmates'/offender' records or funds.

Contractor shall implement policies and procedures to ensure that job applicants and its staff shall be dealt with as follows:

1. For a job applicant who has a pending criminal charge: Where the circumstances of said criminal charge substantially relate to the circumstances of a particular job or licensed activity, the applicant will not be hired for that job
 2. For a staff member who has a pending criminal charge: Where the circumstances of said criminal charge substantially relate to the circumstances of the current job or required licensure, the staff member will not be retained in that particular job; and
 3. For a job applicant who is convicted of a criminal offense or other offense: Where the circumstances of said conviction of a criminal or other offense that substantially relate to the circumstances of a particular job or required licensure, the applicant will not be hired for that job;
 4. For a staff member who is convicted of a criminal offense: Where the circumstances of said conviction of a criminal or other offense that substantially relate to the circumstances of the current job or licensed activity, the staff member will not be retained in that particular job; and
 5. For a job applicant who is required to use an Ignition Interlock Device (IID): Where the circumstances of a court ordered requirement substantially relate to the circumstances of a particular job or licensed activity, a job applicant will not be hired for that job;
 6. For a staff member who is required to use an Ignition Interlock Device (IID): Where the circumstances of a court ordered requirement substantially relate to the circumstances of a particular job or required licensure, the staff member will not be retained in that particular job.
- B. In hiring and retention decisions, Contractor may consider records of pending criminal charges and convictions when it can be demonstrated that the circumstances of the criminal offense substantially relate to the circumstances of the job or licensed activity. When determining whether the circumstances of a pending charge or conviction are substantially job related, Contractor should take into consideration the factors related to the position, the offense, and the individual.

Nothing in this section prohibits the Contractor from reassigning the staff member or reassigning job duties from this contract, or making other hiring and retention decisions.

Contractor bears the sole responsibility of requesting, receiving, and reviewing current and prospective staff members' criminal histories/background checks from the Wisconsin Department of Justice. Contractor shall have policies and procedures in place as to the

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frequency of background checks for existing staff and shall obtain and review criminal histories on all prospective staff. The Contractor's policies shall be akin to applicable sections of DOC Executive Directive (ED) 42. Contractor shall provide the Contract Administrator with a copy of their policies. A copy of ED 42 may be obtained from the Contract Administrator. No DOC staff, agent, or other person shall, on behalf of the Department of Corrections, offer any legal advice or any advice as to the interpretation of criminal history information received by the Contractor.

To make determinations on substantial relationships to the circumstances of the job, Contractor must have a written policy on how to review the applicant for employment and the existing staff member. Contractor shall submit a copy of this policy to the Contract Administrator.

Contractor shall have a written policy on current staff's reporting requirements, which details what a staff member must report (e.g. pertaining to a citation, arrest, charge, conviction), the timeframe in which s/he must do so, and the criteria used to determine how substantially the offense relates to the staff member's job. The Contractor's policy shall be akin to applicable sections of DOC Executive Directive 42. Contractor shall submit a copy of this policy to the Contract Administrator.

Contractor shall immediately notify the Contract Administrator via email upon discovery of any criminal charge pending or criminal conviction against the Contractor or the Contractor's current staff, and the DOC retains the right to bar that person's entry into its facilities and/or access to DOC records. DOC reserves the right to request reassignment of any existing staff/employee of the Contractor meeting any of the above qualifications so that they are not providing direct services to DOC offenders and or having direct access to DOC records.

- D. Contractor shall verify compliance with this entire section and paragraphs above by filing a "Contractor Compliance Agreement" form (DOC-2818) with the DOC every 12 months within 30 days of each contract year or date previously determined if already on file with DOC Purchasing Services.

II. FINGERPRINTING

Contractors shall ensure that its staff submit to the fingerprinting guidelines set forth by the DOC, including that the Contractor and its staff who will be on DOC premises must undergo fingerprinting prior to when the Contractor or its staff will report to the worksite. Upon fingerprint review, the Contractor or its staff may be cleared or not cleared to report to the worksite. If the Contractor or its staff is not cleared, then that individual will not be permitted to report to the worksite. The DOC will regularly require fingerprinting, and may require fingerprinting be retaken at different time intervals as determined by the DOC.

III. CONTRACTOR STRUCTURAL CHANGE

The Contractor is required to provide the Department with a minimum of 90 days written advance notice of any planned or potential structural change (merger, buyout, acquisition, consolidation, etc.). Contract may not be automatically assigned to the new entity (since the underlying procurement may be affected). Required reports shall be forwarded to the Contract Administrator according to the schedule agreed upon by the parties.

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IV. FRATERNIZATION

The Contractor agrees to have a written policy on fraternization which includes the following:

1. Prohibiting certain relationships and conduct between Contractor's employees, adult and juvenile offenders, and their relatives. This must also be substantially equivalent to DOC's policy as expressed in Executive Directive 16, August 2004 -Revised January 2019. A copy of Executive Directive 16 may be obtained from the DOC Contract Administrator.
2. The policy shall provide for the following definitions
 - a. Employee- definition must be consistent with DOC's definition of employee
 - b. Relationship
 - c. Offender
 - d. Social Media
 - e. Sexual Contact
 - f. Sexual Intercourse
 - g. Sexual Misconduct.
3. A statement detailing prohibited relationships.
4. A statement detailing prohibited sexual conduct.
5. The duty of an employee to inform Contractor of unplanned contacts with offenders.
6. A statement that Contractor-directed contacts or those which are part of the employee's job requirements are exempt from the policy.
7. An exception procedure/policy and approval process to be carried out by Contractor.
8. A provision requiring a signed standard employee statement is kept in the personnel file for every Contractor employee. The statement attests that the employee has read and received a copy of the Contractor's policy on fraternization.
9. DOC may request copies of or to inspect the original signed employee statements of a Contractor upon request.

V. ACCESS TO DOC INSTITUTIONS OR SECURE FACILITIES

The department requires that all Contractors providing services in its institutions and secure facilities submit and pass a criminal background check. Background checks will be conducted and paid for by the institution, and records will be maintained on site.

Execution of this contract requires access/entrance into DOC secure facilities. All Contractor staff will be required to submit to a Criminal Background Check, which must be successfully completed prior to arrival. Although specific policies vary somewhat between facilities, the following will apply:

- A. All vehicles shall be thoroughly searched entering and leaving the institution property to prevent introduction of contraband and the use of the vehicle as a means of escape by inmate/offenders.
- B. Within the fence, contraband items are prohibited in the vehicle as well as on the person. Contraband items include but are not limited to drugs, tobacco products, cell phones, adult or pornographic materials, explosives and weapons (including pocket knives and razor knives, unless a part of an inventoried tool box.) Tool boxes should be inventoried

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prior to arrival to facilitate security staff accounting. Items may be left with security, however illegal items may not be returned.

- C. Trucks to be loaded inside the institution must be loaded under the supervision of a staff member. In maximum security institutions, trucks shall never be left unsupervised while inside the institution. In medium and minimum institutions, unattended trucks must be locked.
- D. Vehicles leaving the institution shall have a designated position at which to stop before reaching the vehicle exit, so that the driver and passengers can be properly identified. All vehicles leaving the institution shall again be searched at the truck exit. Any vehicle that cannot be thoroughly searched must be held inside the institution through an official count.
- E. Contractor staff walking in may be required to pass through a metal detector and/or have all carry-in items x-rayed or searched.
- F. Fraternalization with inmate/offenders is prohibited. Nothing is to be given to inmate/offenders (e.g., food, mail, money, newspapers or magazines, etc.) without authorization and nothing is to be received from inmate/offenders for removal or transport from the institution.

VI. CONTRACTOR STAFF IDENTIFICATION

All Contractor staff, while working on DOC property, **must** wear a clearly displayed photo identification badge (provided by DOC) showing they are staff members of the Contractor. Badges must be available but will not be required to be worn when protective clothing and respiratory protection is required.

VII. CONFIDENTIALITY

The confidentiality of inmate/offender health information is protected by the federal Health Insurance Portability and Accountability Act (HIPAA) regulations (45 CFR, parts 160 & 164), federal Alcohol and other Substance Use Disorder Treatment Records regulations (42 CFR part 2), and by various Wisconsin laws governing the confidentiality of medical, mental health, developmental disability, and alcohol and drug information. As it relates to confidential offender health information, the Contractor shall adhere to HIPAA, 42 CFR part 2, Wisconsin laws, and other applicable federal laws. In addition, the department considers all personally identifiable information relating to DOC staff or offenders to be confidential, and such data is not to be released unless Contractor receives written approval from DOC unless it is permitted by law.

VIII. OUTSIDE INQUIRIES AND PUBLIC RECORDS REQUESTS

- A. The Contractor agrees to immediately inform the Contract Administrator of any inquiry from outside entities or third parties regarding this Contract.
- B. The Contractor must report all public requests immediately to the Contract Administrator. The Contractor agrees to comply and assist DOC with a coordinated response to public records including adhering to the timeline determined by DOC.
- C. Contractor agrees to comply with all public records laws and procedures.

IX. RECORDS

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- A. Contractor shall maintain such records as are required by State and Federal laws and shall comply with all applicable confidentiality laws and requirements. In addition to that, if required by the DOC, Contractor shall impose appropriate administrative and technical safeguards to maintain confidential information in a secure manner and shall also destroy or return the confidential information as directed by the DOC.
- B. Contractor shall comply with the requirement to retain all documents applicable to the Contract for a period of not less than six (6) years after the final Contract payment is made. This provision shall survive the termination, cancellation, or expiration of this Contract.
- C. To ensure confidentiality of records and safeguard access to these records, Contractor must maintain locked storage space for records.
- D. Contractor agrees to have a policy on confidential destruction of case records. The policy must adhere to federal and state laws governing the disposal of personal and confidential information. DOC may request a copy of the policy.

X. CARRYING A CONCEALED WEAPON

Contractor is prohibited under Executive Directive 80, signed October 31, 2011 from possession of any weapon by Contractor's employees while providing services for DOC.

XI. DRUG FREE WORKPLACE

Contractor, agents, employees, or subcontractors under this Contract shall follow the guidelines established by the Drug Free Workplace Act of 1988.

XII. SOCIAL MEDIA

When it is applicable and if services are provided, the Contractor must comply with Executive Directive 87, signed July 28, 2020 in its conduct both in and outside of the workplace if it is of a nature that it could affect the work environment, impair the DOC's ability to carry out its mission, impair relationships with DOC partners, or impair the public trust. This policy is not meant to infringe upon an individual's right to engage in personal interaction or commentary online or upon any right protected by federal or state law.

State of Wisconsin
 Department of Administration
 Division of Enterprise Operations
 DOA-3681 (1/2017)
 ss. 16, 19 and 51, Wis. Stats.



State Bureau of Procurement
 101 East Wilson Street, 6th Floor
 Post Office Box 7867
 Madison, WI 53707-7867
 FAX (608) 267-0600
<http://vendornet.state.wi.us>

Supplemental Standard Terms and Conditions for Procurements for Services

1.0 ACCEPTANCE OF BID/PROPOSAL CONTENT: The contents of the bid/proposal of the successful contractor will become contractual obligations if procurement action ensues.

2.0 CERTIFICATION OF INDEPENDENT PRICE DETERMINATION: By signing this bid/proposal, the bidder/proposer certifies, and in the case of a joint bid/proposal, each party thereto certifies as to its own organization, that in connection with this procurement:

2.1 The prices in this bid/proposal have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder/proposer or with any competitor;

2.2 Unless otherwise required by law, the prices which have been quoted in this bid/proposal have not been knowingly disclosed by the bidder/proposer and will not knowingly be disclosed by the bidder/proposer prior to opening in the case of an advertised procurement or prior to award in the case of a negotiated procurement, directly or indirectly to any other bidder/proposer or to any competitor; and

2.3 No attempt has been made or will be made by the bidder/proposer to induce any other person or firm to submit or not to submit a bid/proposal for the purpose of restricting competition.

2.4 Each person signing this bid/proposal certifies that: He/she is the person in the bidder's/proposer's organization responsible within that organization for the decision as to the prices being offered herein and that he/she has not participated, and will not participate, in any action contrary to 2.1 through 2.3 above; (or)

He/she is not the person in the bidder's/proposer's organization responsible within that organization for the decision as to the prices being offered herein, but that he/she has been authorized in writing to act as agent for the persons responsible for such decisions in certifying that such persons have not participated, and will not participate in any action contrary to 2.1 through 2.3 above, and as their agent does hereby so certify; and he/she has not participated, and will not participate, in any action contrary to 2.1 through 2.3 above.

3.0 DISCLOSURE OF INDEPENDENCE AND RELATIONSHIP:

3.1 Prior to award of any contract, a potential contractor shall certify in writing to the procuring agency that no relationship exists between the potential contractor and the procuring or contracting agency that interferes with fair competition or is a conflict of interest, and no relationship exists between the contractor and another person or organization that constitutes a conflict of interest with respect to a state contract. The Department of Administration may waive this provision,

in writing, if those activities of the potential contractor will not be adverse to the interests of the state.

3.2 Contractors shall agree as part of the contract for services that during performance of the contract, the contractor will neither provide contractual services nor enter into any agreement to provide services to a person or organization that is regulated or funded by the contracting agency or has interests that are adverse to the contracting agency. The Department of Administration may waive this provision, in writing, if those activities of the contractor will not be adverse to the interests of the state.

4.0 DUAL EMPLOYMENT: Section 16.417, Wis. Stats., prohibits an individual who is a State of Wisconsin employee or who is retained as a contractor full-time by a State of Wisconsin agency from being retained as a contractor by the same or another State of Wisconsin agency where the individual receives more than \$12,000 as compensation for the individual's services during the same year. This prohibition does not apply to individuals who have full-time appointments for less than twelve (12) months during any period of time that is not included in the appointment. It does not include corporations or partnerships.

5.0 EMPLOYMENT: The contractor will not engage the services of any person or persons now employed by the State of Wisconsin, including any department, commission or board thereof, to provide services relating to this agreement without the written consent of the employing agency of such person or persons and of the contracting agency.

6.0 CONFLICT OF INTEREST: Private and non-profit corporations are bound by ss. 180.0831, 180.1911(1), and 181.0831 Wis. Stats., regarding conflicts of interests by directors in the conduct of state contracts.

7.0 RECORDKEEPING AND RECORD RETENTION: The contractor shall establish and maintain adequate records of all expenditures incurred under the contract. All records must be kept in accordance with generally accepted accounting procedures. All procedures must be in accordance with federal, state and local ordinances.

The contracting agency shall have the right to audit, review, examine, copy, and transcribe any pertinent records or documents relating to any contract resulting from this bid/proposal held by the contractor.

It is the intention of the state to maintain an open and public process in the solicitation, submission, review, and approval of procurement activities. Bid/proposal openings are public unless otherwise specified. Records may not be available for public inspection prior to issuance of the notice of intent to award or the award of the contract. Pursuant to §19.36 (3), Wis. Stats., all records of the contractor that are produced or collected under this contract are subject to disclosure pursuant to a public records request. Upon receipt of notice from the State of Wisconsin of a public records request for records produced or collected under this contract, the contractor shall provide the requested records to the contracting agency. The

contractor, following final payment, shall retain all records produced or collected under this contract for six (6) years.

8.0 INDEPENDENT CAPACITY OF CONTRACTOR: The parties hereto agree that the contractor, its officers, agents, and employees, in the performance of this agreement shall act in the capacity of an independent contractor and not as an officer, employee, or agent of the state. The contractor agrees to take such steps as may be necessary to ensure that each subcontractor of the contractor will be deemed to be an independent contractor and will not be considered or permitted to be an agent, servant, joint venturer, or partner of the state.

Standard Terms and Conditions (Request for Bids / Proposals)

- 1.0 SPECIFICATIONS:** The specifications in this request are the minimum acceptable. When specific manufacturer and model numbers are used, they are to establish a design, type of construction, quality, functional capability and/or performance level desired. When alternates are bid/proposed, they must be identified by manufacturer, stock number, and such other information necessary to establish equivalency. The State of Wisconsin shall be the sole judge of equivalency. Bidders/proposers are cautioned to avoid bidding alternates to the specifications which may result in rejection of their bid/proposal.
- 2.0 DEVIATIONS AND EXCEPTIONS:** Deviations and exceptions from original text, terms, conditions, or specifications shall be described fully, on the bidder's/proposer's letter-head, signed, and attached to the request. In the absence of such statement, the bid/proposal shall be accepted as in strict compliance with all terms, conditions, and specifications and the bidders/proposers shall be held liable.
- 3.0 QUALITY:** Unless otherwise indicated in the request, all material shall be first quality. Items which are used, demonstrators, obsolete, seconds, or which have been discontinued are unacceptable without prior written approval by the State of Wisconsin.
- 4.0 QUANTITIES:** The quantities shown on this request are based on estimated needs. The state reserves the right to increase or decrease quantities to meet actual needs.
- 5.0 DELIVERY:** Deliveries shall be F.O.B. destination freight prepaid and included unless otherwise specified.
- 6.0 PRICING AND DISCOUNT:** The State of Wisconsin qualifies for governmental discounts and its educational institutions also qualify for educational discounts. Unit prices shall reflect these discounts.
- 6.1** Unit prices shown on the bid/proposal or contract shall be the price per unit of sale (e.g., gal., cs., doz., ea.) as stated on the request or contract. For any given item, the quantity multiplied by the unit price shall establish the extended price, the unit price shall govern in the bid/proposal evaluation and contract administration.
- 6.2** Prices established in continuing agreements and term contracts may be lowered due to general market conditions, but prices shall not be subject to increase for ninety (90) calendar days from the date of award. Any increase proposed shall be submitted to the contracting agency thirty (30) calendar days before the proposed effective date of the price increase and shall be limited to fully documented cost increases to the contractor which are demonstrated to be industrywide. The conditions under which price increases may be granted shall be expressed in bid/proposal documents and contracts or agreements.
- 6.3** In determination of award, discounts for early payment will only be considered when all other conditions are equal and when payment terms allow at least fifteen (15) days, providing the discount terms are deemed favorable. All payment terms must allow the option of net thirty (30).
- 7.0 UNFAIR SALES ACT:** Prices quoted to the State of Wisconsin are not governed by the Unfair Sales Act.
- 8.0 ACCEPTANCE-REJECTION:** The State of Wisconsin reserves the right to accept or reject any or all bids/proposals, to waive any technicality in any bid/proposal submitted, and to accept any part of a bid/proposal as deemed to be in the best interests of the State of Wisconsin.
- Bids/proposals MUST be date and time stamped by the soliciting purchasing office on or before the date and time that the bid/proposal is due. Bids/proposals date and time stamped in another office will be rejected. Receipt of a bid/proposal by the mail system does not constitute receipt of a bid/proposal by the purchasing office.
- 9.0 METHOD OF AWARD:** Award shall be made to the lowest responsible, responsive bidder unless otherwise specified.
- 10.0 ORDERING:** Purchase orders or releases via purchasing cards shall be placed directly to the contractor by an authorized agency. No other purchase orders are authorized.
- 11.0 PAYMENT TERMS AND INVOICING:** The State of Wisconsin normally will pay properly submitted vendor invoices within thirty (30) days of receipt providing goods and/or services have been delivered, installed (if required), and accepted as specified.
- Invoices presented for payment must be submitted in accordance with instructions contained on the purchase order including reference to purchase order number and submittal to the correct address for processing.
- A good faith dispute creates an exception to prompt payment.
- 12.0 TAXES:** The State of Wisconsin and its agencies are exempt from payment of all federal tax and Wisconsin state and local taxes on its purchases except Wisconsin excise taxes as described below.
- The State of Wisconsin, including all its agencies, is required to pay the Wisconsin excise or occupation tax on its purchase of beer, liquor, wine, cigarettes, tobacco products, motor vehicle fuel and general aviation fuel. However, it is exempt from payment of Wisconsin sales or use tax on its purchases. The State of Wisconsin may be subject to other states' taxes on its purchases in that state depending on the laws of that state. Contractors performing construction activities are required to pay state use tax on the cost of materials.
- 13.0 GUARANTEED DELIVERY:** Failure of the contractor to adhere to delivery schedules as specified or to promptly replace rejected materials shall render the contractor liable for all costs in excess of the contract price when alternate procurement is necessary. Excess costs shall include the administrative costs.
- 14.0 ENTIRE AGREEMENT:** These Standard Terms and Conditions shall apply to any contract or order awarded as a result of this request except where special requirements

are stated elsewhere in the request; in such cases, the special requirements shall apply. Further, the written contract and/or order with referenced parts and attachments shall constitute the entire agreement and no other terms and conditions in any document, acceptance, or acknowledgment shall be effective or binding unless expressly agreed to in writing by the contracting authority.

- 15.0 APPLICABLE LAW AND COMPLIANCE:** This contract shall be governed under the laws of the State of Wisconsin. The contractor shall at all times comply with and observe all federal and state laws, local laws, ordinances, and regulations which are in effect during the period of this contract and which in any manner affect the work or its conduct. The State of Wisconsin reserves the right to cancel this contract if the contractor fails to follow the requirements of s. 77.66, Wis. Stats., and related statutes regarding certification for collection of sales and use tax. The State of Wisconsin also reserves the right to cancel this contract with any federally debarred contractor or a contractor that is presently identified on the list of parties excluded from federal procurement and non-procurement contracts.
- 16.0 ANTITRUST ASSIGNMENT:** The contractor and the State of Wisconsin recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the State of Wisconsin (purchaser). Therefore, the contractor hereby assigns to the State of Wisconsin any and all claims for such overcharges as to goods, materials or services purchased in connection with this contract.
- 17.0 ASSIGNMENT:** No right or duty in whole or in part of the contractor under this contract may be assigned or delegated without the prior written consent of the State of Wisconsin.
- 18.0 WORK CENTER CRITERIA:** A work center must be certified under s. 16.752, Wis. Stats., and must ensure that when engaged in the production of materials, supplies or equipment or the performance of contractual services, not less than seventy-five percent (75%) of the total hours of direct labor are performed by severely handicapped individuals.
- 19.0 NONDISCRIMINATION / AFFIRMATIVE ACTION:** In connection with the performance of work under this contract, the contractor agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in s. 51.01(5), Wis. Stats., sexual orientation as defined in s. 111.32(13m), Wis. Stats., or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Except with respect to sexual orientation, the contractor further agrees to take affirmative action to ensure equal employment opportunities.
- 19.1** Contracts estimated to be over fifty thousand dollars (\$50,000) require the submission of a written affirmative action plan by the contractor. An exemption occurs from this requirement if the contractor has a workforce of less than fifty (50) employees. Within fifteen (15) working days after the contract is awarded, the contractor must submit the plan to the contracting state agency for approval. Instructions

on preparing the plan and technical assistance regarding this clause are available from the contracting state agency.

- 19.2** The contractor agrees to post in conspicuous places, available for employees and applicants for employment, a notice to be provided by the contracting state agency that sets forth the provisions of the State of Wisconsin's nondiscrimination law.
- 19.3** Failure to comply with the conditions of this clause may result in the contractor's becoming declared an "ineligible" contractor, termination of the contract, or withholding of payment.
- 19.4** Pursuant to s. 16.75(10p), Wis. Stats., contractor agrees it is not, and will not for the duration of the contract, engage in a prohibited boycott of the State of Israel as defined in s. 20.931(1)(b). State agencies and authorities may not execute a contract and reserve the right to terminate an existing contract with a company that is not compliant with this provision. This provision applies to contracts valued \$100,000 or over.
- 19.5** Pursuant to 2019 Wisconsin Executive Order 1, contractor agrees it will hire only on the basis of merit and will not discriminate against any persons performing a contract, subcontract or grant because of military or veteran status, gender identity or expression, marital or familial status, genetic information or political affiliation.
- 20.0 PATENT INFRINGEMENT:** The contractor selling to the State of Wisconsin the articles described herein guarantees the articles were manufactured or produced in accordance with applicable federal labor laws. Further, that the sale or use of the articles described herein will not infringe any United States patent. The contractor covenants that it will at its own expense defend every suit which shall be brought against the State of Wisconsin (provided that such contractor is promptly notified of such suit, and all papers therein are delivered to it) for any alleged infringement of any patent by reason of the sale or use of such articles, and agrees that it will pay all costs, damages, and profits recoverable in any such suit.
- 21.0 SAFETY REQUIREMENTS:** All materials, equipment, and supplies provided to the State of Wisconsin must comply fully with all safety requirements as set forth by the Wisconsin Administrative Code and all applicable OSHA Standards.
- 22.0 WARRANTY:** Unless otherwise specifically stated by the bidder/proposer, equipment purchased as a result of this request shall be warranted against defects by the bidder/proposer for one (1) year from date of receipt. The equipment manufacturer's standard warranty shall apply as a minimum and must be honored by the contractor.
- 23.0 INSURANCE RESPONSIBILITY:** The contractor performing services for the State of Wisconsin shall:
- 23.1** Maintain worker's compensation insurance as required by Wisconsin Statutes, for all employees engaged in the work.
- 23.2** Maintain commercial liability, bodily injury and property damage insurance against any claim(s) which might occur in carrying out this agreement/contract.

Minimum coverage shall be one million dollars (\$1,000,000) liability for bodily injury and property damage including products liability and completed operations. Provide motor vehicle insurance for all owned, non-owned and hired vehicles that are used in carrying out this contract. Minimum coverage shall be one million dollars (\$1,000,000) per occurrence combined single limit for automobile liability and property damage.

- 23.3** The state reserves the right to require higher or lower limits where warranted.
- 24.0 CANCELLATION:** The State of Wisconsin reserves the right to cancel any contract in whole or in part without penalty due to nonappropriation of funds or for failure of the contractor to comply with terms, conditions, and specifications of this contract.
- 25.0 VENDOR TAX DELINQUENCY:** Vendors who have a delinquent Wisconsin tax liability may have their payments offset by the State of Wisconsin.
- 26.0 PUBLIC RECORDS ACCESS:** It is the intention of the state to maintain an open and public process in the solicitation, submission, review, and approval of procurement activities. Bid/proposal openings are public unless otherwise specified. Records may not be available for public inspection prior to issuance of the notice of intent to award or the award of the contract. Pursuant to §19.36 (3), Wis. Stats., all records of the contractor that are produced or collected under this contract are subject to disclosure pursuant to a public records request. Upon receipt of notice from the State of Wisconsin of a public records request for records produced or collected under this contract, the contractor shall provide the requested records to the contracting agency. The contractor, following final payment, shall retain all records produced or collected under this contract for six (6) years.
- 27.0 PROPRIETARY INFORMATION:** Any restrictions on the use of data contained within a request, must be clearly stated in the bid/proposal itself. Proprietary information submitted in response to a request will be handled in accordance with applicable State of Wisconsin procurement regulations and the Wisconsin public records law. Proprietary restrictions normally are not accepted. However, when accepted, it is the vendor's responsibility to defend the determination in the event of an appeal or litigation.
- 27.1** Data contained in a bid/proposal, all documentation provided therein, and innovations developed as a result of the contracted commodities or services cannot be copyrighted or patented. All data, documentation, and innovations become the property of the State of Wisconsin.
- 27.2** Any material submitted by the vendor in response to this request that the vendor considers confidential and proprietary information, and which qualifies as a trade secret, as provided in s. 19.36(5), Wis. Stats., or material which can be kept confidential under the Wisconsin public records law, must be identified on a Designation of Confidential and Proprietary Information form (DOA-3027). Bidders/proposers may request the form if it is not part of the Request for Bid/Request for Proposal package. Bid/proposal prices cannot be held confidential.
- 28.0 DISCLOSURE:** If a state public official (s. 19.42, Wis. Stats.), a member of a state public official's immediate family, or any organization in which a state public official or a member of the official's immediate family owns or controls a ten percent (10%) interest, is a party to this agreement, and if this agreement involves payment of more than three thousand dollars (\$3,000) within a twelve (12) month period, this contract is voidable by the state unless appropriate disclosure is made according to s. 19.45(6), Wis. Stats., before signing the contract. Disclosure must be made to the State of Wisconsin Ethics Board, 44 East Mifflin Street, Suite 601, Madison, Wisconsin 53703 (Telephone 608-266-8123).
- State classified and former employees and certain University of Wisconsin faculty/staff are subject to separate disclosure requirements, s. 16.417, Wis. Stats.
- 29.0 RECYCLED MATERIALS:** The State of Wisconsin is required to purchase products incorporating recycled materials whenever technically and economically feasible. Bidders are encouraged to bid products with recycled content which meet specifications.
- 30.0 MATERIAL SAFETY DATA SHEET:** If any item(s) on an order(s) resulting from this award(s) is a hazardous chemical, as defined under 29CFR 1910.1200, provide one (1) copy of a Material Safety Data Sheet for each item with the shipped container(s) and one (1) copy with the invoice(s).
- 31.0 PROMOTIONAL ADVERTISING / NEWS RELEASES:** Reference to or use of the State of Wisconsin, any of its departments, agencies or other subunits, or any state official or employee for commercial promotion is prohibited. News releases pertaining to this procurement shall not be made without prior approval of the State of Wisconsin. Release of broadcast e-mails pertaining to this procurement shall not be made without prior written authorization of the contracting agency.
- 32.0 HOLD HARMLESS:** The contractor will indemnify and save harmless the State of Wisconsin and all of its officers, agents and employees from all suits, actions, or claims of any character brought for or on account of any injuries or damages received by any persons or property resulting from the operations of the contractor, or of any of its contractors, in prosecuting work under this agreement.
- 33.0 FOREIGN CORPORATION:** A foreign corporation (any corporation other than a Wisconsin corporation) which becomes a party to this Agreement is required to conform to all the requirements of Chapter 180, Wis. Stats., relating to a foreign corporation and must possess a certificate of authority from the Wisconsin Department of Financial Institutions, unless the corporation is transacting business in interstate commerce or is otherwise exempt from the requirement of obtaining a certificate of authority. Any foreign corporation which desires to apply for a certificate of authority should contact the Department of Financial Institutions, Division of Corporation, P. O. Box 7846, Madison, WI 53707-7846; telephone (608) 261-7577.
- 34.0 WORK CENTER PROGRAM:** The successful bidder/proposer shall agree to implement processes that allow the State agencies, including the University of Wisconsin System, to satisfy the State's obligation to purchase goods and services produced by work centers certified under the State Use Law, s.16.752, Wis. Stat. This shall result in requiring the successful bidder/proposer to include products provided by work centers in its catalog

for State agencies and campuses or to block the sale of comparable items to State agencies and campuses.

35.0 FORCE MAJEURE: Neither party shall be in default by reason of any failure in performance of this Agreement in accordance with reasonable control and without fault or negligence on their part. Such causes may include, but are not restricted to, acts of nature or the public enemy, acts of the government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes and unusually severe weather, but in every case the failure to perform such must be beyond the reasonable control and without the fault or negligence of the party.