

2013  
PURCHASE OF SERVICES AGREEMENT

1. PARTIES

This agreement is made this 1st day of January, 2013, by and between the WAUKESHA COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES, whose principal address is 500 Riverview Avenue, Waukesha, WI 53188-3632, hereinafter referred to as Purchaser, and \_\_\_\_\_, whose principal address is \_\_\_\_\_,

hereinafter referred to as Provider. In consideration of the mutual covenants and promises contained herein, the parties hereby agree as follows:

2. PURCHASE AND COST OF SERVICES

A) Subject to the terms and conditions set forth in the 2013 State of Wisconsin/Waukesha County Contract covering Social Services and Community Programs, or the 2013 Greater Wisconsin Agency on Aging Resources Inc. (GWAAR) Grant Agreements for Older Americans Programs, as applicable, Purchaser agrees to purchase for, and Provider agrees to provide to clients during the period of January 1, 2013, to December 31, 2013, the services as described in the attached Program Description(s). Program Descriptions are considered to be incorporated by reference to this agreement in their entirety.

B) Provider shall not subcontract any portion of this agreement without the prior written consent of Purchaser, and consent to a subcontract shall not be deemed to be consent to any subsequent subcontract. Any such subcontract without such consent shall be void, and shall, at the option of Purchaser, terminate this agreement. If such subcontracting does occur, Provider remains responsible for fulfillment of all terms of this agreement.

C) The Provider agrees to provide the Purchaser with the services listed in the Program Description(s) at the agreed upon rates and units of service. The total amount Purchaser will pay Provider for services provided in accordance with this agreement shall not exceed the total amount set forth in the Funding Detail (when applicable) or the Program Service Pre-Authorization(s) (when applicable), any statutory or common law provisions to the contrary notwithstanding.

3. STAFFING AND DELIVERY OF SERVICES

A) Provider shall determine the methods, procedures, and personnel policies to be used in initiating and furnishing services to eligible clients or patients.

B) Purchaser shall not pay Provider unless Provider has returned a signed 2013 Purchase of Services agreement with the Purchaser, any Program Description(s) for the specific service(s), as well as any relevant items from the Contract Checklist, and said agreement provides for sufficient funds to pay for the services.

C) Provider shall furnish all personnel required to perform the services under this agreement. Such personnel shall not be employees of, or have any other contractual relationships with the Purchaser.

D) Whenever publicity or brochures are prepared by the Provider, it is recommended that the following statement be incorporated in them:

“The service(s) have been provided, totally or in part, through funding from the Waukesha County Health and Human Services Department.”

4. PAYMENT FOR SERVICE

A) Purchaser agrees to pay Provider for authorized services provided in accordance with this agreement on the basis of actual allowable costs or the unit rate as determined by Purchaser.

B) If services are funded through Children’s Long Term Support (CLTS) waivers, Provider must bill for services through the Third Party Administrator unless specifically exempted by Purchaser.

C) Payment will be made to Provider after invoice is received by the Purchaser and within the required time limit. All services shall be invoiced once per month, after the month is completed.

D) Where third party payment is involved, including, but not limited to, cases involving payment to the Provider by an insurance company, Medicare or HMO, Purchaser shall pay for Provider's approved client services up to the limits of the contract/agreement only after written evidence of payment or non-coverage of the submitted claim for services has been made by the third party payer.

E) Notwithstanding any statutory or common law provisions to the contrary, Provider shall return to Purchaser funds paid in excess of the actual allowable costs of the programs provided. If the Provider fails to return funds paid in excess of the actual allowable cost of any standard programs provided, Purchaser may elect to recover such funds from subsequent payments made to Provider. The allowable costs of standard programs shall be determined pursuant to the Department of Health Services' Accounting Principle and Allowable Cost Policy Manual.

F) Should the total dollar amount or number of units on either the Funding Detail (when applicable) or Program Service Preauthorization(s) be greater than the cost or number of units of services actually delivered, the Purchaser shall not be liable for payments in excess of actual cost of services delivered.

G) Invoice forms shall be approved by the Purchaser. Invoices shall not be submitted for payment prior to the delivery of the last unit of service for that billing period.

H) Providers billing a monthly proration of the total contract (1/12th amount) shall indicate actual units delivered AS WELL AS the actual costs for the time period invoiced. Unless otherwise authorized by Department staff, reimbursement will either be the monthly prorated expenses or the actual expenses (to a maximum of the total Y-T-D prorated amount), whichever is less.

I) Community Based Residential Facilities (CBRF), Residential Care Apartment Complexes (RCAC) and Adult Family Homes (AFH) shall, as a condition of this contract, complete the State CBRF Model Contract rate-setting form (commonly referred to in State Medicaid Waivers manual as Attachment 4) or a form approved by the Department as justification for their daily rate when required by Purchaser.

## 5. INDEMNITY AND INSURANCE

A) Indemnification. Provider agrees to indemnify, hold harmless and defend Purchaser, its officers, agents, and employees from any and all liability, including claims, demands, losses, costs, damages, fees and expenses of every kind, for damage to persons or property including, without limitation, claims arising out of State or Federal anti-discrimination laws, which either arise out of, in connection with, or occur during the course of this agreement, where such liability is founded upon or grows out of the acts or omissions of any agent or employee of the Provider. Provider further agrees to indemnify Purchaser for any amount Purchaser may be required to repay to the State of Wisconsin by virtue of payments made to Provider by Purchaser under this agreement that the State of Wisconsin determines to be overpayments or inappropriate payments.

B) Insurance. Provider agrees that, in order to protect itself and Purchaser under the indemnity agreement set forth in the paragraph above, it will, at all times during the terms of this agreement, keep in force and effect insurance policies as outlined below, issued by a company or companies authorized to do business in the State of Wisconsin and satisfactory to the Purchaser. Such insurance shall be primary. Purchaser shall be given thirty (30) days advance notice of cancellation or non-renewal during the term of this Contract.

Upon execution of this agreement, Provider shall furnish Purchaser with a Certificate of Insurance (as well as any applicable renewal notice) and, upon request, certified copies of the required insurance policies showing the following:

1) Commercial General Liability Insurance-Policy shall be written to provide coverage for, but not limited to the following: premises and operations, products and completed operations, personal injury, blanket contractual. Limits of liability not less than \$500,000 general aggregate, \$500,000 products/completed operations aggregate, \$500,000 personal injury, \$500,000 each occurrence. Waukesha County, its boards, commissions, agencies, officers, employees and representatives shall be named as additional insured and so stated on the Certificate of Insurance.

- 2) Automobile Liability Insurance-Business automobile policy covering all owned, hired and non-owned private passenger and commercial vehicles. Limits of liability not less than \$500,000 combined single limit.
- 3) Worker's Compensation and Employers' Liability Insurance-Statutory worker's compensation benefits and employers' liability insurance with a limit of liability not less than \$100,000 each accident. Company shall require subcontractors not protected under its insurance to take out and maintain such insurance.
- 4) Professional Liability Insurance-Required for services involving professionally licensed personnel such as medical services, accounting services or financial management services, or as otherwise required by the Purchaser and so noted in this agreement. Policy shall provide liability coverage for damages arising out of the negligent act, error or omission of the Provider in the conduct of their work. Limits of liability not less than \$500,000 each occurrence/claim, \$500,000 aggregate.
- 5) Fidelity/Crime Coverage-Required for services involving in-home services to clients, financial management services, property management services or any other service involving care, custody, or control of County or client assets. Employee fidelity/dishonesty coverage to cover dishonest acts of insured's employees and agents resulting in loss of property, money or securities of County or its clients including forgery or alteration. Limits of liability not less than \$25000.

6. CONTRACT REQUIREMENTS WHEN PAYMENTS EXCEED \$25,000 FOR SERVICES DELIVERED IN A CONTRACT YEAR:

A) INSURANCE REQUIREMENTS:

If Provider receives \$25,000 or more from Purchaser for services provided in a calendar year period, Provider shall arrange for additional insurance coverage as listed below:

- 1) Limit of Umbrella Liability insurance or General Liability:

\$1,000,000	Each Occurrence
\$1,000,000	Aggregate

- 2) Umbrella coverage to be in excess of all basic coverages set forth in Sections 2, 3 and 4 above.

B) CERTIFIED FINANCIAL AUDIT REQUIREMENTS:

If Provider receives \$25,000 or more from Purchaser for services provided in a calendar year period, Provider shall arrange for an independent financial and compliance audit pursuant to applicable federal guidelines (Office of Management and Budget Circular Nos. A-110, A-128 or A-133, and appropriate federal program compliance requirements) plus

those guidelines provided by the Department of Health Services and/or the Department of Children and Families[in the form of DHS Audit Guide, State Single Audit Guidelines and/or the Provider Agency Audit Guide, available online at [www.dhs.wisconsin.gov/grants/Audit/auditdept/index.htm](http://www.dhs.wisconsin.gov/grants/Audit/auditdept/index.htm)]. The source of funding will determine which guidelines need to be followed. Provider shall incorporate by reference in the engagement letter any federal and state guidelines.

1) Provider agrees to deliver to Purchaser, within 180 days of the end of the reporting year, one copy of the resultant independent audit report, to include, but not limited to, the following elements:

a) Financial Statements:

1. Comparative Balance Sheet of Total Agency.
2. Statement of Operations for Total Agency.
3. Statement of Changes in Financial Position for Total Agency.
4. Supplementary schedule of revenues and expenses by funding agency, by program, activity, or function.
5. Notes to financial statements including units of service, if applicable, provided by Contract [if not disclosed on the face of the financial statements], and disclosure of related party transactions, if any.

b) Auditor's Reports:

1. Report on the financial position, results of operations, and change in financial position of the entire agency, and supplementary schedule of revenues and expenses by program.
2. Report on compliance including compliance with applicable laws and regulations, any subsequent revisions, and compliance with material financial terms and conditions of the Contract.
3. Report on Evaluation of Internal Accounting Controls.
4. Findings of non-compliance.
5. Schedule of questioned cost and the potential amount of repayment prior to offsetting any unrelated items.
6. Show separately the individual program costs. Report any dollar amount owed Purchaser due to the year-end audit findings, and show that amount separately with a complete explanation of how the amount was determined.

7. If vendor manages any client funds, the Auditor shall sample the client accounts to determine the appropriate use of the funds and evaluate for adequate internal controls. The Auditor shall comment on their findings in their report.
8. Copy of management letter, if one was issued.

c) General:

1. If Provider administers multiple programs or activities, including one or more public-funded programs, the audit shall follow the provisions of the Office of Management and Budget Circular A-128 to the extent possible. These requirements are established to insure that audits are made on an organization-wide basis rather than on a grant-by-grant basis.
  2. Financial examinations should be made in accordance with generally accepted auditing standards adopted by the American Institute of Certified Public Accountants (AICPA) and incorporated in "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions," 1981 revision, issued by the U.S. Comptroller General.
  3. Provider agrees to deliver to Purchaser this audit report within thirty (30) days of its receipt by Provider, but no later than one hundred and eighty (180) days after the completion of Provider's fiscal year.
- 2) With the exception of government entities organized under the Wisconsin Statutes, Purchaser shall notify Provider of receipt of the audit completed by the independent auditor if the audit does not meet the requirements of the Department of Health Services' or the Department of Children and Families' audit guidelines, as appropriate. Purchaser shall initiate resolution of audit findings with Provider within ninety (90) days following notification of the audit's acceptance.
- 3) Purchaser reserves the right to conduct an independent audit of Provider agency if Provider fails to secure an audit covering all funds or if a follow-up review of selected areas is determined to be necessary. In the event that Provider fails to secure an audit, Purchaser's costs for completing an audit will be charged to Provider.
- 4) Purchaser will initiate resolution of audit findings with Provider pursuant to Audit Resolution Policies developed by the Department of Health Services or the Department of Children and Families.
- 5) Provider hereby authorizes and directs Auditor to share the work papers with Purchaser or Purchaser's representative upon request of Purchaser.

6) Failure to comply with the requirements of this section: In the event that the Provider fails to have an appropriate audit performed or fails to provide a complete audit report to the Purchaser within the specified timeframes, the Purchaser may:

- a) Conduct an audit or arrange for an independent audit of the Provider and charge the cost of completing the audit to the Provider;
- b) Charge the Provider for all loss of Federal or State aid or for penalties assessed to the Purchaser because the Provider did not submit a complete audit report within the required time frame;
- c) Disallow the cost of audits that do not meet these standards; and/or
- d) Withhold payment, cancel the contract, or take other actions deemed by the Purchaser to be necessary to protect the Purchaser's interests.

## 7. DISCRIMINATION

### Affirmative Action/Civil Rights Compliance

- A) ALL PROVIDERS must submit a signed and completed Letter of Assurance, regardless of number of employees or dollar amount of contracted services. A copy can be found at <http://dhs.wisconsin.gov/civilrights/CRC/requirements.htm>.
- B) IF YOU ARE A PROVIDER WITH MORE THAN 25 EMPLOYEES AND MORE THAN \$25,000 IN CONTRACTED SERVICES IN A BUDGET YEAR, you will complete a current Subrecipient Civil Rights Compliance Action plan for Meeting Equal Opportunity Requirements under Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title VI and XVI of the Public Service Health Act, the Age Discrimination Act of 1975, the Omnibus Budget Reconciliation Act of 1981 and the Americans with Disabilities Act (ADA) of 1990. You must keep this plan on file and have it available for Purchaser to view in either a desk audit or a site visit. You do not have to submit a copy to Purchaser unless requested. The plan may cover a 3 year period. A copy of the plan can be found at <http://dhs.wisconsin.gov/civilrights/CRC/requirements.htm>.
- C) Purchaser will monitor the Civil Rights Compliance of Provider. Purchaser may conduct reviews to ensure that the Provider is in compliance by performing desk audits or onsite reviews. Provider agrees to comply with Civil Rights monitoring reviews, including the examination of records and relevant files maintained by Provider, as well as interviews with staff, clients, applicants for services, subcontractors and referral agencies. Purchaser will also conduct reviews to address immediate concerns of complainants.
- D) The Provider agrees to the following provisions:

1. No otherwise qualified person shall be excluded from participation in, be denied the benefits of, or otherwise be subject to discrimination in any manner on the basis of race, color, national origin, religion, sex, disability or age. This policy covers eligibility for and access to service delivery, and treatment in all programs and activities.
  2. No otherwise qualified person shall be excluded from employment, be denied the benefits of employment or otherwise be subject to discrimination in employment in any manner or term of employment on the basis of age, race, religion, color, sex, national origin, or ancestry, handicap (as defined in Section 504 and the Americans with Disabilities Act (ADA)), physical condition, developmental disability (as defined in s.51.05(5)), arrest or conviction record (in keeping with s.111.32), sexual orientation, marital status, or military participation. All employees are expected to support goals and programmatic activities relating to non-discrimination in employment.
  3. The Provider shall post the Equal Opportunity Policy, the name of the Equal Opportunity Coordinator and the discrimination complaint process in conspicuous places available to applicants and clients of services, and applicants for employment and employees. The complaint process will be according to Purchaser's standards and made available in languages and formats understandable to applicants, clients and employees.
  4. The Provider agrees that through its normal selection of staff, it will employ staff with special language skills or find persons who are available within a reasonable time and who can communicate with non-English speaking clients; train staff in human relations techniques and sensitivity to cultural patterns; and make the programs and facilities accessible, as appropriate, through outstations, authorized representatives adjusted work hours, ramps, doorways, elevators, or ground floor rooms.
- E) The Purchaser will take constructive steps to ensure compliance by the Provider with the provisions of this subsection.

## 8. PROVIDER RESPONSIBILITIES

Provider agrees to comply with State and Federal Rules and Regulations, applicable to the services covered by this agreement. **Failure to comply with any part of this agreement which results in an audit exception of State funding will be reimbursed by Provider.** Further, as a condition of reimbursement, Provider shall:

- A) Submit to Purchaser the monthly invoice of services as provided under Section 4. The invoice shall be submitted to Purchaser no later than the tenth (10) day of the following month. The invoice must be on Provider's letterhead or invoices supplied by Purchaser, and be signed and dated by Provider's authorized representative or designee. Fees collected on behalf of a client from any source will be treated as an adjustment to the costs and will be reported accordingly on Provider's billings; that is, the Provider shall report gross charges and gross revenues and the Purchaser will send a net payment.

B) Submit to Purchaser, by January 24, 2014, all final billings or adjustments to billings, that would be reimbursed under the terms of this agreement. No billings for 2013 will be accepted after this date. This will insure that Purchaser will be able to meet the State of Wisconsin deadlines for submission of expenses to obtain reimbursement. **Failure to obtain billing for services by this date will negate any payment terms (as provided for under Section 4).**

C) If a provider delivers less than \$25,000 in services in a calendar year, no audit is required, however a financial review may be requested.

D) Maintain a uniform double-entry accounting system and a management information system compatible with the cost accounting and control systems. [See DHS Accounting Principles and Allowable Costs Policies Manual, Division of Management Services.]

E) Cooperate with Purchaser on establishing costs for reimbursement purposes.

F) Enter a client into service only with the prior authorization of Purchaser.

G) Transfer a client from one category of care or service to another only upon receipt of advance approval of Purchaser.

H) Submit copies of State certification and licensing for the respective programs being purchased under this agreement. Renewals of State licenses or certificates shall also be provided as soon as practical.

I) Notify Purchaser in writing, sixty (60) days prior to any changes in the location of the delivery of the provided services, and of any major changes in the officers, management, or ownership of Provider's agency.

J) When requested, submit within thirty (30) days of the month's end a monthly expenditure report.

K) Provide a high quality service as agreed to under this contract. The quality of the Provider's service is to be measured either by any standards established by the Provider's industry or, in the event such standards have not been established, by comparison to the service offered by similarly situated providers in the industry.

L) Conduct caregiver background checks at its own expense of all employees assigned to do work for Purchaser if required under the provisions of DHS 12, Wis. Admin. Code (online at <http://www.legis.state.wi.us/rsb/code.htm>). The Provider shall maintain the results of background checks on its own premises for at least three (3) years from the conclusion of this contract. The Provider shall notify Purchaser in writing if an employee has been charged with or convicted of any crime specified in DHS 12.07(2). Waukesha County reserves the right to request the results of the background checks and/or to do additional background checks on their own.

M) Certify through signing this contract that neither Provider or any of its principals are debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in federal assistance programs by any federal department or agency. In addition, Provider shall notify Purchaser within five business days in writing if Provider or its principals receive a designation from the federal government that they are debarred, suspended, proposed for debarment, or declared ineligible by a federal agency.

## 9. RECORDS

A) Provider shall maintain records and financial statements as required by Purchaser, and State and Federal rules and regulations.

B) When directed by Purchaser, Provider shall provide statistical reports for the State's Human Services Reporting System [HSRS] or Program Participation System [PPS].

C) Purchaser's representatives, or representatives of appropriate State or Federal agencies (i.e. The Centers for Medicare and Medicaid Services), shall have a right of access to client, employee, financial or other records of Provider as may be necessary to evaluate or confirm Provider's rates and charges for care and service, collections and cost estimates in compliance with the specifications of this agreement. The provision of this paragraph shall continue for a period of three years following the completion of services.

D) Any information, records and reports provided to or obtained by the Purchaser pursuant to the preceding paragraph, or which otherwise comes into possession of the Purchaser pursuant to this agreement, shall be subject to the provisions of Wisconsin's Public Records Law, including provisions regarding limitations upon access based upon trade secret information and State or Federal restrictions.

E) The use or disclosure by any party of any information concerning clients who receive services from Provider for any purpose not connected with the administration of Provider's or Purchaser's responsibilities under this agreement is prohibited except with the informed, written consent of the eligible client or the client's legal guardian, except as otherwise provided in section 21 "Qualified Service Agreement".

## 10. CLIENT ELIGIBILITY

Provider shall provide services only to individuals who are eligible for services. Provider and Purchaser understand and agree that the eligibility of individuals to receive the services to be purchased from Provider under this agreement will be determined by Purchaser. When Purchaser and Provider agree that services will be provided to an individual with disabilities, client eligibility for services purchased under this agreement shall not be affected by virtue of any such disabilities, as required by State or Federal laws.

11. INCORPORATION OF GRIEVANCE PROCEDURE AND OTHER PROCEDURES/DOCUMENTS

Provider shall abide by the provisions of the Waukesha County Health and Human Services' "Client Rights and the Grievance Procedure for Community Services" which is hereby incorporated by reference and made a part of this agreement with such additions, exceptions, or alterations as may be stated therein, and section 21 "Qualified Service Agreement" of this agreement. Provider shall give Purchaser a written report for each grievance that is filed against Provider regarding any client that is subject to this agreement.

12. RESOLUTION OF DISPUTES

The parties will attempt to resolve any dispute regarding this contract between themselves and any mutually agreed upon resolution will be in writing. Disputes under this contract will be governed by Wisconsin law.

13. REVISIONS AND TERMINATIONS OF THE AGREEMENT

A) If through any cause, the Provider shall fail to fulfill in timely and proper manner its obligations under this agreement, or if the Provider shall violate any of the covenants or stipulations of this agreement, the Purchaser shall thereupon have the right to terminate this agreement by giving written notice to the Provider specifying the effective date thereof, at least five days before the effective notice of such termination.

B) Any and all revisions of this agreement shall be agreed to by Purchaser and Provider in an Addendum, to be signed by the authorized representatives of both parties.

C) Provider shall notify Purchaser whenever it is unable to provide the required quality or quantity of services. Upon such notification, Purchaser and Provider shall determine whether such inability will require a revision or termination of this agreement.

D) This agreement can be terminated by a sixty (60) day written notice by either party when not in conflict with other licensing requirements or contract provisions.

E) In the case of a residential care center, this agreement can be terminated for cause by a fifteen (15) day written notice by either party. In the case of a child foster home or child group home, this agreement can be terminated for cause by a five (5) day written notice by either party. "Cause" under this agreement is defined as when the parties cannot reach agreement concerning substantial operating procedure.

F) The issuance of any criminal charges against an agent or representative of the Provider, within the scope of services to be purchased in this agreement, can constitute a substantial breach of agreement and may empower Purchaser to immediately cancel said agreement.

14. RENEGOTIATION

This agreement, or any part thereof, must be renegotiated in the event of:

- A) Increased or decreased volume of services, changes required by Federal or State laws,
- B) Regulations or court action, or,
- C) Fiscal funding available affecting the substance of this agreement.

15. BILLING AND COLLECTION PROCEDURES

- A) Purchaser shall assume all responsibilities for billing and collection.
- B) Purchaser shall recover from Provider money paid in excess of the terms of this agreement or money paid for services not received or provided. Upon Purchaser's written demand for repayment, Provider shall tender the amount of repayment within (30) thirty days, unless other repayment terms are agreed upon in writing.

16. PROHIBITED PRACTICES

- A) During the period of this agreement, Provider shall not hire, retain, or utilize for compensation, any member, officer, or employee of the Waukesha County Health and Human Services who represents the Purchaser, or any person, whom, to the knowledge of the Provider, has a conflict of interest. No employee of the Waukesha County Health and Human Services who represents the Purchaser shall be an officer, member of the Board of Directors, or have a proprietary interest in the Provider's business. Any exceptions to this term must be approved in advance by the Purchaser.
- B) Provider shall furnish Purchaser with written disclosure of any financial interest, employee relationship, professional services or consultant relationship, which any of Provider's employees, officers, board members, stockholders, or members of their immediate family may have with respect to any supplier of goods and services under this agreement.

17. ASSIGNMENT LIMITATION

This agreement shall be binding upon and inure to the benefit of the parties and their successors and assigns provided, however, neither party shall assign its obligations hereunder without the prior written consent of the other.

18. INDEPENDENT CONTRACTOR

Nothing contained in this agreement shall constitute or be construed to create a partnership or joint venture between the Purchaser or its successors or assigns and Provider or its successors or assigns. By entering into this agreement and by acting in compliance herewith, Provider is at all times acting and performing as an independent contractor, duly authorized to perform the acts required hereunder, and in no sense shall be considered employees, agents or volunteers of the Purchaser.

19. INSPECTION OF PREMISES

Provider shall allow Purchasers representatives and the representatives of any local, state or federal unit to visually inspect the Provider's premises. Inspection shall be permitted without formal notice whenever care and services are being furnished. Purchaser may conduct on-site reviews of any contracted service programs.

20. CONDITIONS OF THE PARTIES' OBLIGATIONS

A) This agreement is contingent upon authorization of State and Federal laws. Any material amendment or repeal of the same affecting relevant funding or authority of the Purchaser shall serve to terminate this agreement, except as agreed to by the parties.

B) Nothing contained in this agreement shall be construed to supersede the lawful powers or duties of either party.

C) This agreement is subject to sufficient funding being available to Purchaser.

D) Purchaser will make payments for this contract period only when all Insurance and other Compliance requirements have been met (or waived by the Purchaser). Evidence of compliance with the Insurance requirement will be thru a Certificate of Insurance.

E) Purchaser reserves the right to withdraw any recipient from the program, service, institution, or facility of Provider at any time, when in the judgement of Purchaser, it is in the best interest of Purchaser or the recipient to do so.

F) This Agreement shall terminate on December 31, 2013, unless Purchaser provides otherwise in writing to Provider.

21. QUALIFIED SERVICE AGREEMENT

In order to insure the provision of services to the Purchaser's clients and allow for the Purchaser to monitor those services, considering that the disclosure of this information is governed by one or more State Administrative Codes, State Statutes, Federal Regulations and/or Federal Statutes, the Purchaser and the Provider each agree:

A) To be fully bound by the governing State Code or Statute and/or Federal Regulation or Statute in receiving, storing, and otherwise dealing with any information about a client who receives services.

B) To institute appropriate procedures for safeguarding such information, particularly client identifying information.

C) Absent a lawful court order, to refuse to provide any confidential information pertaining to clients unless authorized to do so by the governing State Code or Statute and/or Federal Regulation or Statute.

D) To recognize that any unauthorized disclosure of client information may result in either civil and/or criminal proceedings.

E) Provider agrees to pay the cost of addressing any security breach, including the cost of credit monitoring, for any breach for which they are responsible.

## 22. HIPAA COMPLIANCE

A) The Provider agrees to comply with the Federal regulations implementing the Health Insurance Portability and Accountability Act of 1996 (HIPAA) to the extent those regulations apply to the services the Provider provides or purchases with funds provided under this contract.

B) When applicable, Provider agrees to comply with the Health Information and Technology for Economic and Clinical Health Act (HITECH) which was enacted by Congress on Feb. 17, 2009. This Act increases Provider responsibilities regarding the requirements of HIPAA privacy and security provisions.

C) In addition, certain functions included in this agreement may be covered within HIPAA rules. As such the Purchaser must comply with all provisions of the law and determine whether Provider is a "Business Associate" within the context of the law. If Provider is determined to be a Business Associate, they will be required to sign and return with this contract the Business Associate Agreement, which will be included and made part of this agreement and subsequent agreements. The Business Associate Agreements will be mailed in a separate mailing to Providers who have been determined to meet the definition of "Business Associate" within the context of the law. When the Business Associate Agreement is amended, an updated copy will be sent out for signature and will replace any earlier versions on file.

## 23. WAIVER FUNDED SERVICES

A) All Medicaid waiver service providers must execute a SMA Provider Agreement with the Department of Health Services and must register online with the Department. Provider agreements are available online at <http://dhs.wisconsin.gov/forms/F-0.asp>. Registration can be accessed online at

<http://doa.wi.gov/DHSSurveys/TakeSurvey.aspx?SurveyID=74L3368K>. These requirements need to be completed every four years.

B) This contract may not limit the consumer's right to select a different provider at any time or guarantee the provider any payment of waiver dollars if the service is ultimately not provided.

C) Termination shall not release the Provider of its obligation to serve covered clients then receiving services until transfer of the case to another service provider can be accomplished.

D) If services are funded through Children's Long Term Support (CLTS) waivers, Provider must bill for services through the Third Party Administrator unless specifically exempted by Purchaser.

#### 24. OLDER AMERICANS ACT

The Provider agrees to comply with the Federal Regulations of the Older Americans Act of 1965 (as amended in 2006) to the extent those regulations apply to the services the Provider provides or purchases with funds provided under this contract.

The attached Program Description(s) and any Funding Detail Reports (when applicable) are hereby incorporated by reference in their entirety.

It is understood and agreed that the entire Agreement between the parties is contained herein except for those matters incorporated herein by reference, and that this Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter thereof.

The Provider's Authorized Representative executing this contract represents that s/he is authorized to execute contracts on behalf of the Provider and, as a consequence, the Provider is bound by such signature.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals as of the date first written above.

\_\_\_\_\_  
Provider's Authorized Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Organization Name

\_\_\_\_\_  
Peter Schuler, Director  
Waukesha County Health and Human Services

\_\_\_\_\_  
Date

Attachments: Program Description(s)  
Funding Detail Report (when applicable)