State Copy: _____
Agency Copy: _____
Purchase Order #: FBE 50981
CFDA#:

AGREEMENT

This contractual agreement is entered into for the period July 1, 2014 through June 30, 2015, by and between the State of Wisconsin represented by its Department of Health Services, on behalf of the Division of Mental Health and Substance Abuse Services, whose principle business address is 1 West Wilson Street, P. O. Box 7851, Madison, Wisconsin 53707-7851,

Hereinafter referred to as PURCHASER, and Lutheran Social Services of WI & Upper MI, Inc. –Western Region, whose principal business address is 647 W. Virginia St, Suite 200, Milwaukee, WI 53204, hereinafter referred to as PROVIDER.

The Department of Health Services employee responsible for administration of this contract will be Janeen Meyer, whose principle business address is 1 West Wilson Street P.O. Box 7851, Madison, Wisconsin 53707-7851. In the event that the Contract Administrator is unable to administer this agreement, Purchaser will contact Provider and designate a new Contract Administrator.

WHEREAS, Purchaser wishes to purchase services from Provider as it is authorized to do so by Wisconsin law; and

WHEREAS, Provider is engaged in furnishing the desired services;

NOW, THEREFORE, in consideration of the mutual undertaking and agreements hereinafter set forth, Purchaser and Provider agree as follows:

I. **SERVICES TO BE PROVIDED**

A. A detailed description of the services to be provided and Provider's means of delivering them is included in Exhibit 1 (six pages) which is attached to and incorporated in this contract by reference.

B. No services are to be provided until an official State of Wisconsin Purchase Order is issued by Purchaser to Provider.

II. **COST OF SERVICES**

A. Payment for services provided in accordance with the terms and conditions of this contract shall not exceed $693,030.00 for the period of July1, 2014 through June 30, 2015, for a projected Average Daily Population (ADP) of 41.

B. A detailed budget breakdown and explanation is included in Exhibit 2 (one page) which is attached to and incorporated in this contract by reference.

III. **PAYMENT FOR SERVICES**

A. Payment to Provider shall be initialized upon receipt of an invoice itemizing expenditures.

B. Invoices shall be sent to Purchaser's Contract Administrator, who will verify the appropriateness and necessity of the expenditures and forward to the proper office for payment.

C. Provider shall return to Purchaser any funds paid to Provider in excess of the allowable costs of services provided under this agreement. If Provider fails to return funds paid by Purchaser

in excess of the allowable cost of the services provided, Purchaser may recover from Provider any money paid in excess of the conditions of this agreement from subsequent payments made by Purchaser to Provider or may recover such funds by any legal means.

IV. REPORTING

A. Provider shall comply with the reporting requirements of Purchaser. Any required reports shall be forwarded to Purchaser's Contract Administrator according to the schedule of Purchaser.

V. STATE AND FEDERAL RULES AND REGULATIONS

A. The Provider agrees to meet state and federal laws, rules and regulations, and program policies applicable to this Agreement.

B. Provider will be acting in its independent capacity and not as an employee of the Department. Provider shall not be deemed or construed to be an employee of the Department for any purpose whatsoever.

C. The Provider agrees to comply with Public Law 103-227, also known as the Pro-Children Act of 1994, which prohibits tobacco smoke in any portion of a facility owned or leased or contracted for by an entity which receives federal funds, either directly or through the State, for the purpose of providing services to children under the age of 18.

D. Affirmative Action Plan

- As required by Wisconsin's Contract Compliance Law (s. 16.765, Wis. Stat.), every Provider contracting with the Purchaser must agree to equal employment and affirmative action policies and practices in its employment programs. The Provider must submit an Affirmative Action Plan to the Purchaser in accordance with the Wisconsin Office of Contract Compliance instructions posted on the following website: http://vendornet.state.wi.us/vendornet/contract/contcom.asp

- An affirmative action plan is required from a Provider who receives a state contract over $25,000 AND who has a work force of 25 or more employees as of the award date, unless the Provider is exempt by established criteria. The plan is due to the Purchaser within fifteen (15) working days of the award date of the Purchaser's contract. The plan must have been prepared or revised not more than one year prior to the award date of the contract. Universities, other states and local governments, except those of the State of Wisconsin who receive state contracts of over $25,000, must submit affirmative action plans in the same manner as the Provider.

- The Provider must submit its affirmative Action plan or request for exemption from filing an affirmative action plan in accordance to the Wisconsin Office of Contract Compliance within fifteen (15) working days to:

  Affirmative Action Contract Officer
  Office of Procurement and Contract Management
  Department of Health Services
  1 West Wilson Street, Room 665
  P.O. Box 7850
  Madison, WI. 53707
  Phone: (608) 261-4957

E. Civil Rights Compliance (CRC)

1. In agreements for the provision of services to clients, the Provider must comply with all Federal Civil Rights laws applicable to service delivery requirements. All Providers must

submit a CRC Plan within fifteen (15) working days of the award date of the agreement or contract in accordance with the procedures outline on the following website: http://dhs.wisconsin.gov/civilrights/CRC/requirements.htm.

2. The Provider agrees that it will comply with all Equal Opportunity Requirements under Title VI and VII of the Civil Rights Act of 1964, Sections 503 and 504 of the Rehabilitation Act of 1973, Title VI and XVI of the Public Health Service Act, the Age Discrimination in Employment Act of 1967, the Age Discrimination Act of 1975, the Omnibus Reconciliation Act of 1981, the American with Disabilities Act (ADA) of 1990, the Wisconsin Fair Employment Act and applicable amendments and other Federal Civil Rights laws listed in the CRC Plan. If Purchaser received a Civil Rights Letter of Assurance during the previous year that covers the applicable compliance period, the Provider need not submit a new Letter of Assurance. The Provider will further insure that:

   a. No otherwise qualified person will be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination in any manner on the basis of age, race, religion, color, sex, national origin disability (USDA-FNS program funding protects political belief or political affiliation when Food Stamp Act funding is received). This policy covers eligibility for and access to service delivery, and treatment in all programs and activities. All employees of the Provider are expected to support goals and programmatic activities relating to nondiscrimination in service delivery.

   b. No otherwise qualified person shall be excluded from employment, be denied the benefits of employment or otherwise be subjected to discrimination in employment in any manner or team of employment on the basis of age, arrest record, color, conviction record, disability or association with a person with a disability; honesty testing, genetic testing, marital status, military service membership, national origin or ancestry, political beliefs, pregnancy or childbirth, race, religion, sex, sexual orientation, and use or non-use of lawful products outside of working hours. Unless otherwise exempted under Executive Order 11246, as amended, and Section 503 of the Rehabilitation of 1973, or if the Provider is considered to be a Federal Contractor, the Provider assures that it will comply with these requirements. All employees are expected to support goals and programmatic activities relating to non-discrimination in employment.

   c. The Provider shall post its Equal Opportunity Policy, the name of the Equal Opportunity Coordinator and the Limited English Proficiency Coordinator when the Provider is engaged in the provision of service delivery. The discrimination complaint process must be posted in conspicuous places available to applicants and recipients of services. The complaint process will be according to Purchaser's standards. The compliant process notice shall be translated into the major primary languages of the limited English Proficient (LEP) participants in the service area when the Provider is engaged in providing services. The notice will announce the availability of free oral interpretation for services if needed. The Provider shall not request interpretation services from family members, friends and minors. However, the participant may request a family member or friend to serve as interpreter. Under no circumstance will a minor be allowed to serve as interpreter.

   d. The Provider agrees to comply with the Purchaser's guidelines for ensuring Access and Equal Opportunity in Service Delivery and Employment by Recipients of Federal and State Funded Programs, Services and Activities issued by the State of Wisconsin, Department of Health Services, Department of Children and Families and Department of Workforce Development; which can be found on the following website: http://dhs.wisconsin.gov/civilrights/CRC/requirements.htm.

   e. The Purchaser will monitor the CRC of the Provider. The Purchaser may conduct reviews to ensure that the Provider is ensuring compliance by its subcontractors or

grantees according to guidelines in the State of Wisconsin Department of Health Services, Department of Children and families and Department of Workforce Development most recent CRC Plan requirements. The Provider agrees to comply with Civil Rights monitoring reviews, including allowing the examination of records and relevant files maintained by Provider, as well as interviews with staff, clients, and applicants for services, subcontractors, grantees, and referral agencies. The reviews will be conducted according to Department procedures. The Purchaser will also conduct reviews to address immediate concerns of complainants.

f. Where the Purchaser has a direct contract with another Provider's subcontractor, the Provider need not monitor the Subcontractor's or Sub-grantee's compliance with the requirements of the CRC Plan.

g. The Provider agrees to cooperate with the Purchaser in developing, implementing and monitoring corrective action plans that result from complaint investigations or monitoring efforts.

3. The Provider agrees that it will:

a. hire staff with non-English language skills, sign language skills and or provide staff with special translation or sign language skills training, or find qualified persons who are available within a reasonable period of time and who can communicate accurately, and effectively with limited or non-English speaking or speech or hearing-impaired clients at no cost to the client;

b. provide reasonable accommodations and/or language assistance to the clients during the application process, in the receipt of services, and in the process of complaint or appeals;

c. train staff in human relations techniques, sensitivity to persons with disabilities and cultural sensitivity / cultural competency;

d. make programs and facilities accessible, as appropriate, e.g., outstations, authorized representatives, adjusted work hours, ramps, doorways, elevators, or ground floor rooms, Braille, large print or taped information for the visually or cognitively impaired;

e. post and / or make available vital informational material in languages and formats appropriate to the needs of the client population.

VI. **SUBCONTRACTS**

Provider may subcontract part of this agreement only with the prior written approval of Purchaser. Provider retains responsibility for fulfillment of all terms and conditions of this agreement when it enters into subcontractual agreements.

VII. **GENERAL PROVISIONS**

A. Any moneys advanced to Provider by Purchaser for services provided under this Agreement shall be deposited in a bank with Federal Deposit Insurance Corporation (hereinafter FDIC) insurance coverage. Any balance exceeding FDIC coverage must be collaterally secured.

B. Provider shall conduct all procurement transactions, regardless of whether by sealed bids or by negotiation and without regard to dollar value of the transactions, in a manner that provides maximum open and free competitions.

C. The Provider 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 employer of such person or persons and of the Purchaser.

D. If a state public official (section 19.42, Stats.) or an organization in which a state public official holds at least a 10% interest is a party to this agreement, this agreement is voidable by the state unless appropriate disclosure is made to:

The State of Wisconsin Ethics Board
44 E. Mifflin St., Ste 601
Madison, WI 53703

Telephone (608) 266-8123.

E. Foreign corporations (corporations other than a Wisconsin corporation) which become a party to a contract must possess a certificate of authority from the Wisconsin Secretary of State and must have and continuously maintain a registered resident agent, and otherwise conform to all requirements of Chapter 180, Wisconsin Statutes, relating to foreign corporations.

VIII. **PROPERTY MANAGEMENT REQUIRMENTS**

A. If this agreement results in a book or other material, Purchaser reserves a royalty-free, non-exclusive irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, all material from the approved program.

B. Any discovery or invention arising out of, or developed in the course of work aided by this agreement, shall be promptly and fully reported to the Purchaser.

IX. **RECORDS**

A. Provider shall maintain such records as required by State and Federal law.

B. Provider will allow inspection of records and programs, insofar as is permitted by State and Federal law, by representatives of Purchaser and its authorized agents, and Federal agencies, in order to confirm Provider's compliance with the specifications of this contract.

C. Provider agrees to retain and make available to Purchaser all program and fiscal records for six (6) years after end of contract period.

D. The use or disclosure by any party of any information concerning eligible individuals who receive services from Provider for any purpose not connected with the administration of Provider's or Purchaser's responsibilities under this contract is prohibited except with the informed, written consent of the eligible individual or the individual's legal guardian.

X. **Privacy And Confidential Information**

This Section is in addition to the responsibilities and obligations imposed on the Provider through any Business Associate Agreement between the State and the Provider. In the event of a conflict between this Section and the BAA, the BAA will have precedence.

A. Definitions

1. Confidential Information

Confidential Information means all tangible and intangible information and materials accessed or disclosed in connection with this Agreement, in any form or medium (and without regard to whether the information is owned by the State or by a third party), that satisfy at least one of the following criteria:

- Personally Identifiable Information;
- Individually Identifiable Health Information;

- non-public information related to the State's employees, customers, technology (including data bases, data processing and communications networking systems), schematics, specifications, and all information or materials derived therefrom or based thereon; or
- information designated as confidential in writing by the State.

2. Individually Identifiable Health Information

Individually Identifiable Health Information means information that relates to the past, present, or future physical or mental health or condition of the individual, or that relates to the provision of health care in the past, present or future, and that is combined with or linked to any information that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual.

3. Personally Identifiable Information

Personally Identifiable Information means an individual's last name and the individual's first name or first initial, in combination with and linked to any of the following elements, if the element is not publicly available information and is not encrypted, redacted, or altered in any manner that renders the element unreadable:

- the individual's Social Security number;
- the individual's driver's license number or state identification number;
- the individual's date of birth;
- the number of the individual's financial account, including a credit or debit card account number, or any security code, access code, or password that would permit access to the individual's financial account;
- the individual's DNA profile; or
- the individual's unique biometric data, including fingerprint, voice print, retina or iris image, or any other unique physical characteristic.

4. Corrective Action Plan

Corrective Action Plan means a plan communicated by the State to the Provider for the Provider to follow in the event of any threatened or actual use or disclosure of any Confidential Information that is not specifically authorized by this Agreement, or in the event that any Confidential Information is lost or cannot be accounted for by the Provider.

B. Duty of Non-Disclosure and Security Precautions

Provider shall not use Confidential Information for any purpose other than the limited purposes set forth in the Agreement. Provider shall hold the Confidential Information in confidence, and shall not disclose such Confidential Information to any persons other than those directors, officers, employees, and agents Representatives who have a business-related need to have access to such Confidential Information in furtherance of the limited purposes of this Agreement and who have been apprised of, and agree to maintain, the confidential nature of such information in accordance with the terms of this Agreement. Provider shall be responsible for the breach of this Agreement by any of its Representatives.

Provider shall institute and/or maintain such procedures as are reasonably required to maintain the confidentiality of the Confidential Information, and shall apply the same level of care as it employs to protect its own confidential information of like nature.

Provider shall ensure that all indications of confidentiality contained on or included in any item of Confidential Information shall be reproduced by Provider on any reproduction, modification, or translation of such Confidential Information. If requested by the State, Provider shall make a

reasonable effort to add a proprietary notice or indication of confidentiality to any tangible materials within its possession that contain Confidential Information of the State, as directed.

If requested by the State, Provider shall return or destroy all Individually Identifiable Health Information and Personally Identifiable Information it holds upon termination of this Agreement.

C. Limitations on Obligations

The obligations of confidentiality assumed by Provider pursuant to this Agreement shall not apply to the extent Provider can demonstrate that such information:

is part of the public domain without any breach of this Agreement by Provider;

- is or becomes generally known on a non-confidential basis, through no wrongful act of Provider;
- was known by Provider prior to disclosure hereunder without any obligation to keep it confidential;
- was disclosed to it by a third party which, to the best of Provider's knowledge, is not required to maintain its confidentiality;
- was independently developed by Provider; or
- is the subject of a written agreement whereby the State consents to the disclosure of such Confidential Information by Provider on a non-confidential basis.

D. Legal Disclosure

If Provider or any of its Representatives shall be under a legal obligation in any administrative, regulatory or judicial circumstance to disclose any Confidential Information, Provider shall give the State prompt notice thereof (unless it has a legal obligation to the contrary) so that the State may seek a protective order or other appropriate remedy. In the event that such protective order is not obtained, Provider and its Representatives shall furnish only that portion of the information that is legally required and shall disclose the Confidential Information in a manner reasonably designed to preserve its confidential nature.

E. Unauthorized Use, Disclosure, or Loss

If Provider becomes aware of any threatened or actual use or disclosure of any Confidential Information that is not specifically authorized by this Agreement, or if any Confidential Information is lost or cannot be accounted for, Provider shall notify the State's (Contract Manager/Contact Liaison/Privacy Officer) within the same business day the Provider becomes aware of such use, disclosure, or loss. Such notice shall include, to the best of the Provider's knowledge at that time, the persons affected, their identities, and the Confidential Information disclosed.

The Provider shall take immediate steps to mitigate any harmful effects of the unauthorized use, disclosure, or loss. The Provider shall reasonably cooperate with the State's efforts to seek appropriate injunctive relief or otherwise prevent or curtail such threatened or actual breach, or to recover its Confidential Information, including complying with a reasonable Corrective Action Plan.

If the unauthorized use, disclosure, or loss is of Personally Identifiable Information, or reasonably could otherwise identify individuals, Provider shall, at its own cost, take any or all of the following measures that are directed by the State as part of a Corrective Action Plan:

Notify the affected individuals by mail or the method previously used by the State to communicate with the individual. If the Provider cannot with reasonable diligence determine the mailing address of the affected individual and the State has not previously contacted that individual, the Provider shall provide notice by a method reasonably calculated to provide actual notice.

Notify consumer reporting agencies of the unauthorized release.

Offer credit monitoring and identity theft insurance to affected individuals from a company, and under terms, acceptable to the State for one year from the date the individual enrolls in credit monitoring.

Provide a customer service or hotline to receive telephone calls and provide assistance and information to affected individuals during hours that meet the needs of the affected individuals, as established by the State.

Adequately staff customer service telephone lines to assure an actual wait time of less than five (5) minutes for callers.

If the unauthorized use, disclosure, or loss is of Individually Identifiable Health Information, Provider shall, at its own cost, notify the affected individuals by mail or the method previously used by the State to communicate with the individual. If the Provider cannot with reasonable diligence determine the mailing address of the affected individual and the State has not previously contacted that individual, the Provider shall provide notice by a method reasonably calculated to provide actual notice. In addition, the Provider will take other measures as are directed by the State as part of a Corrective Action Plan:

F. Liquidated Damages: Equitable Relief: Indemnification

1. Indemnification: In the event of a breach of this Section by Provider, Provider shall indemnify and hold harmless the State of Wisconsin and any of its officers, employees, or agents from any claims arising from the acts or omissions of the Provider, and its subProviders, employees and agents, in violation of this Section, including but not limited to costs of monitoring the credit of all persons whose Confidential Information was disclosed, disallowances or penalties from federal oversight agencies, and any court costs, expenses, and reasonable attorney fees, incurred by the State in the enforcement of this Section. In addition, notwithstanding anything to the contrary herein, the Provider shall compensate the State for its actual staff time and other costs associated with the State's response to the unauthorized use or disclosure constituting the breach.

2. Equitable Relief. The Provider acknowledges and agrees that the unauthorized use, disclosure, or loss of Confidential Information may cause immediate and irreparable injury to the individuals whose information is disclosed and to the State, which injury will not be compensable by money damages and for which there is not an adequate remedy available at law. Accordingly, the parties specifically agree that the State, on its own behalf or on behalf of the affected individuals, shall be entitled to obtain injunctive or other equitable relief to prevent or curtail any such breach, threatened or actual, without posting security and without prejudice to such other rights as may be available under this Agreement or under applicable law.

3. Liquidated Damages: The Provider agrees that an unauthorized use or disclosure of Confidential Information may result in damage to the State's reputation and ability to serve the public interest in its administration of programs affected by this Agreement. Such amounts of damages which will be sustained are not calculable with any degree of certainty and thus shall be the amounts set forth herein. Assessment under this provision is in addition to other remedies under this Agreement and as provided in law or equity. The State shall assess damages as appropriate and notify the Provider in writing of the assessment. The Provider shall automatically deduct the damage assessments from the next appropriate monthly invoice, itemizing the assessment deductions on the invoice.

Liquidated Damages shall be as follows:

- $1000 for each individual whose Confidential Information was used or disclosed;
- $2500 per day for each day that the Provider fails to substantially comply with the Corrective Action Plan under this Section

G. Compliance Reviews

The State may conduct a compliance review of the Provider's security procedures to protect Confidential Information under Section _ (the audit section) of this Agreement.

H. Survival

This Section shall survive the termination of the Agreement.

XI. CONTRACT REVISIONS AND/OR TERMINATION

A. Failure to comply with any part of this agreement may be considered cause for revision, suspension or termination of this contract.

B. This contract or any part thereof may be renegotiated in such circumstances as:

- increased or decreased volume of services;
- changes required by State or Federal law or regulations, or court action; or
- monies available affecting the substance of this contract.

C. Revision of this agreement may be made by mutual agreement. The revision will be effective only when the Purchaser and the Provider attach an addendum or amendment to this agreement which is signed by the authorized representatives of both parties, except in circumstances in which increased caseload or award amount, where such increase in funds is for the same purpose as originally agreed upon, the agreement may be amended by a unilateral amendment made by the Purchaser.

D. This contractual agreement can be terminated by a 30-day written notice by either party.

E. Provider shall notify Purchaser whenever it is unable to provide the required quality or quantity of services specified. Upon such notification, Purchaser shall determine whether such inability will require revision or cancellation of this agreement.

F. If Purchaser finds it necessary to terminate this agreement prior to the stated expiration date for reason other than non-performance by Provider, actual costs incurred by Provider may be reimbursed for an amount determined by mutual agreement of both parties.

XII. RESOLUTION OF DISPUTES

Provider may appeal decisions with Purchaser in accordance with Chapter 788, Wis. Stats.

XIII. INDEMNITY AND INSURANCE

A. Provider agrees that it will at all times during the existence of this agreement indemnify Purchaser against any and all loss, damages, and costs of expenses which Purchaser may sustain, incur, or be required to pay by reason of any eligible client's suffering personal injury, death, or property loss resulting from Provider's acts or omissions while any eligible client is participating in or receiving the care and services to be furnished by Provider under this agreement; however, the provisions of this paragraph shall not apply to liabilities, losses, or charges, costs, or expenses caused by Purchaser.

B. Provider agrees that, in order to protect itself as well as Purchaser under the indemnity agreement provision set forth in above paragraph, Provider will at all times during the terms of this agreement keep in force a liability insurance policy issued by a company authorized to do

business in the State of Wisconsin and licensed by the Wisconsin Insurance Department. Within thirty (30) days of the execution of this agreement, Provider shall furnish Purchaser with written verification of the existence of such insurance. In the event of any action, suit, or proceedings against Purchaser upon any matter herein indemnified against, Provider shall within five (5) working days, cause notice in writing thereof to be given to Purchaser by certified mail, addressed to its post office address.

XIV. **ELIGIBILITY STANDARDS**

A. Provider and Purchaser understand and agree that the eligibility of individuals to receive the services to be purchased under this agreement from Provider will be determined by Purchaser.

B. Services to be delivered under this agreement by Provider to the eligible individuals must be authorized by Purchaser.

C. Provider shall transfer an individual from one category of care or service to another only with Purchaser's prior written approval.

D. Individuals are entitled to a fair hearing under Chapter 227, Wis. Stats., concerning eligibility for services. Provider shall inform each individual of this right. If an individual requests such a hearing, his/her benefits shall continue until a decision is rendered.

XV. **CONDITIONS OF THE PARTIES OBLIGATIONS**

A. This contract is contingent upon authorization of Wisconsin and United States law, and any material amendment or repeal of the same affecting relevant funding or authority of Purchaser shall serve to revise or terminate this agreement, except as further agreed to by the parties hereto.

B. Purchaser and Provider understand and agree that no clause, term or condition of this contract shall be construed to supersede the lawful powers or duties of either party.

C. It is understood and agreed that the entire contract 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.

XVI. **TIMELY CONTRACT SIGNING**

This agreement becomes null and void if the time between the earlier dated signature and the later dated signature on this agreement (or addendum) exceeds sixty (60) days inclusive of the two signature dates.

Provider's Authorized Representative
Name –Ronald A. Hauser
Title – CPO
Lutheran Social Services of WI & Upper MI, Inc.

2/21/14
Date

Purchaser's Contract Administrator
Name – Janeen Meyer
Title – Forensic Service Specialist

6-24-14
Date

Purchaser's Authorized Representative
Linda Harris, Administrator
Division of Mental Health and Substance Abuse Services
Department of Health Services

6/24/14
Date

dmhsasSerconAd.doc

Department of Health Services

Division of Mental Health and Substance Abuse Services

Community Forensic Services

1.0 PROGRAM GOALS

1.1 The program goals for the Conditional Release Program for persons committed as Not Guilty by Reason of Mental Disease or Defect who have been conditionally released into the community are as follows:

1.1.1 To provide access to court ordered mental health services by assuring immediate linkages to mental health services in order to insure immediate treatment and supervision.

1.1.2 To provide forensic knowledge and expertise to community mental health providers, court system and probation/parole agents through ongoing training and consultation.

1.1.3 To provide extensive case management services and coordination of treatment planning with the county departments as commitments to DHS expire.

2.0 SERVICES TO BE PROVIDED

2.1 In order to meet program goals, the Provider must comply with the quality criteria established by the Community Forensic Services unit. Provide and be able to demonstrate competence in the delivery of the services set forth below. The DHS Contract Administrator will evaluate the Provider's compliance through the use of a Community Forensic Services Conditional Release Program Monitoring Plan, see **Exhibit 3 and Exhibit 5**. Services include:

2.1.1 Mobile, community based treatment founded on individual client need, demonstrated through the client treatment plan, including:

2.1.1.1 Case management based on individual client need

2.1.1.2 CSP services based on individual need

2.1.1.3 Inter-agency and inter-county coordination of services identified.

2.1.2 An initial multidisciplinary staffing to be conducted within 30 days of placement. The initial conditional release plan, created and implemented collaboratively by institute staff, DCC agent and Provider will be reviewed and modified as necessary. Multidisciplinary staffings must be held no less than every six months, and the results of these staffings must be documented in written progress notes. Adjustments to individual treatment plans, as a result of multidisciplinary treatment team meetings, will be documented in a revised Individual Service Plan (ISP) and placed in the client's chart. Multidisciplinary treatment team staffings must involve all members of the community treatment team:

2.1.2.1 DMHSAS Community Forensic Services Specialist (DHS Contract Administrator, who is available for consultation and conflict resolution as appropriate).

2.1.2.2 Provider

2.1.2.3 DOC DCC agent

2.1.2.4 County 51.42 Board/Department representative, as applicable

2.1.2.5 Sub-contract treatment providers, as applicable (in person or by phone)

2.1.2.6 Others as deemed appropriate (*e.g.* guardian, spouse, significant other, parent, etc.)

2.1.3 Psychotropic medication management, administration and monitoring through a qualified physician, and in compliance with any applicable court order related to medications.

2.1.4 Changes in financial profile must be reported monthly or as designated by Purchaser. Client's financial profile and eligibility for benefits must be reviewed no less than every six months and documented as a part of the staffing note as in 2.1.2 above. Medical assistance and third party payment sources must be considered on an on-going basis. Denials of benefits shall be appealed within the designated time frames.

2.1.5 Individual Service Plan (ISP) must be developed in writing and submitted to Purchaser (Community Forensic Service Specialist) within 90 days of admission into the conditional release program, and reviewed not less than every six months. ISP's must address the following items or include a statement why an item is not addressed:

2.1.5.1 Individualized assessment (including required: suicide risk assessment and psycho-social, trauma screen and Optional: AODA, HCR-20 or Sex Offender Assessments of client needs/strengths/goals.

2.1.5.2 Psychosocial rehabilitation services, including AODA and supported employment/vocational programming.

2.1.5.3 Monitoring of symptom status.

2.1.5.4 Psychotropic medication management, administration and monitoring, including documented frequency of MD appointments and plan for administration monitoring if applicable.

2.1.5.5 Coordination of treatment goals and court ordered conditions and DOC DCC case specific rules of supervision.

2.1.5.6 Clear expectations of number of contacts expected with DOC DCC agent and format of contacts (phone, one to one, team, etc.). Plan should clearly identify frequency of meetings with DCC agent, frequency of HVs, UAs, etc.

2.1.5.7 Residence issues, including time lines for transitioning from CBRF or other supervised living to independent setting. Time lines will be established in consultation with DHS Contract Administrator.

2.1.5.8 Ability to pay issues, as deemed appropriate.

2.1.5.9 Defined achievable and relevant goals which include specific treatment approaches/interventions, responsible parties, measurable goals and time lines. The goal outcomes will be specific and stated in the ISP for each of the above items including frequency of therapy appointments, etc.

2.1.6 Progress reports will be written and submitted to Purchaser every three months. Reports will reflect summary of

progress toward stated goals for the previous three months, address client's response to the ISP treatment approach/intervention and describe any changes being implemented.

2.1.7 Provider will submit immediate notice and update as appropriate, the Forensic Services Information System database (FSIS), of any of the following occurrences to Purchaser:

2.1.7.1 New clients; the following information will be provided: name, date of CR, max date, MHI release date, DOB, Court Case Number, County of Commitment, DOC DCC agent name and number and DOC number). Send CR 271, 272, 274, 275 and 276 as you receive them.

2.1.7.2 Placement in custody, reason and date.

2.1.7.3 Placement in community hospital on MA, or as approved by Forensic Services Specialist, reason and date.

2.1.7.4 Elopements/absconding.

2.1.7.5 Revocation decision by court, send CR 275 and 276.

2.1.7.6 Change in residence (address, phone number, etc.).

2.1.7.7 Change in case manager or agent.

2.1.7.8 Death of a client.

2.1.7.9 Early discharge by court with date of discharge and copy of order.

2.1.7.10 Media attention on any CR client and/or client behavior likely to promote media attention according to criteria established in Protocol for High Profile Reporting.

2.1.7.11 New charges or convictions.

2.1.7.12 Per program's suicide protocol

2.1.8 Comprehensive Transition Plan must be developed in writing and submitted to the court. The court requires a plan and a request for discharge order 60 days prior to the maximum release date. Preparation of the plan must be initiated not later than 90 days prior to maximum release date. A copy of this plan will be submitted to the Purchaser. The transition plan must include:

2.1.8.1 Services client will need after discharge from commitment.

2.1.8.2 Detailed plan for county of residence to assume responsibility for provision of services with indication the county of residence has been involved in development of the transition plan.

2.1.8.3 Consideration of possible commitment to county of residence 51.42 board under Ch. 51/55 at expiration of 971.17 commitment.

2.1.8.4 Treatment provider's evaluation of client's willingness to comply with ongoing mental health services; assessment of county's of residence willingness and preparedness to work with client; transition concerns.

2.1.9 Written Crisis Response Plan must be available both in the client file, and on-site at each sub-contracted entity. The plan must include crisis response for regular working hours and after hours. It must include at a minimum:

2.1.9.1 DCC agent name and phone number

2.1.9.2 DCC agent supervisor name and phone number

2.1.9.3 Local law enforcement phone numbers

2.1.9.4 Provider name and phone number, including emergency contact information.

2.1.9.5 Specific plan for handling emergency situations, including specifics about whom to contact and where the client is to be taken if emergency inpatient psychiatric hospitalization is required.

2.1.10 Pre-Dispositional Investigation Reports (PDI) will be completed and presented to court in accordance with court

ordered time frames. PDI may include input from the DOC DCC agent. A copy will be sent to Purchaser.

2.1.11 Initial treatment plans on direct court release cases will be prepared within the statutory and court ordered time frames in collaboration with DOC DCC and the County 51.42 Board representative.

2.1.12 All Global Information System (GIS) data (i.e., specific addresses of licensed/regulated daycare facilities) will be used solely for the legally authorized function of placement, care and treatment of conditionally released persons, and will not be shared with any other agency or individual.

2.1.13 Provider will serve as coordinator of the examination process for competency examinations ordered by the courts. Provider will assist examiners in accessing appropriate treatment records.

2.1.14 For fiscal year 2015, four (4) performance expectations will be pursued, see **Exhibit 5**. Provider will seek to meet the specific performance standards described in Exhibit 5.

2.2 The Request for Bid and the Provider's accepted Bid are binding upon the parties hereto. If any of the provisions of this Contract conflict with provisions of the Request for Bid or the Provider's Bid, the provisions of this Contract will control and supersede the provisions of both the Request for Bid or the Provider's Bid.

End of Exhibit 1

Exhibit 2- FY 14 Budget

Lutheran Social Services of WI & Upper MI, Inc-Western Region

A total budget amount of $693,030.00 is available over the period July 1, 2014 through June 30, 2015.

Payments will be made based upon actual expenditure reports submitted monthly by the proposer in accordance with the terms of the RFB and contract.

Allowable costs are: Clinical salaries/benefits; support services salaries/benefits; insurance/liability; training/professional fees; rent/occupancy; equipment; supplies; postage; telephone; travel; contract costs, miscellaneous costs and indirect administrative costs.

Funds may be used to purchase capital equipment with prior written approval from the Division of Mental Health and Substance Abuse Services. Capital equipment costs are defined as all costs associated with the acquisition of assets having a value in excess of $5000, and a useful life in excess of one year. Funds can be used to purchase/rent supplies such as adaptive and communication equipment, and make housing modifications.

Funds cannot be used to supplant current salaries. Funding is for the provision of services and administrative costs of running the program. Indirect administrative costs related to management and supervision of CR. These costs must not exceed 8% of direct contract costs during the 12-month (one-year) contract period.

WISCONSIN DEPARTMENT OF HEALTH SERVICES

Division of Mental Health and Substance Abuse Services

Community Forensic Services

Conditional Release Program

Conditional Release Monitoring Plan

In order to meet the Conditional Release program goal of providing support and direction to the service delivery team, a monitoring plan has been developed. The Forensic Services Specialists will review client files periodically in each of our five regions.

Forensic Services Specialists will schedule times to visit the office of each regional provider to accomplish this monitoring task. They will need access to all client files and a workspace in which to operate the laptop computers. A computer-generated report will be produced on each file reviewed. Providers will receive copies of these reports for their general information and a summary report outlining the monitoring results and recommendations.

The following four general areas will be monitored: assessment, treatment plan, face to face contacts and other. Please review the quality criteria. You may contact Jenny Fahey at 608-266-7793 or Janeen Meyer at 608-266-5677 if you have any questions about the monitoring plan or the quality criteria.

"ASSESSMENT" QUALITY CRITERIA

1. Is current assessment adequate? **CRITERIA:** Assessment documented for all fields below or a statement that an assessment is not needed for a given field. There is documentation in file of the client's psychiatric assessment, the diagnosis(s), social history, vocational history, legal history and description of the offense leading to the 971.17 commitment.
2. Minimum of 1 Psychiatric Assessment? **CRITERIA:** There is documentation of a comprehensive assessment or evaluation by a psychiatrist which includes history of mental illness and symptoms; inpatient and out patient treatment; medications; diagnosis(s); relevant developmental, medical, social, AODA, vocational and criminal history; coping and cognitive ability; and other pertinent information in terms of client's potential for successful community living and maintenance of mental health. There is evidence that this assessment has been updated within five years.
3. Axis I Diagnostic Information? **CRITERIA:** There is documentation of a diagnosis(s) as defined by the DSM IV. There is evidence of an annual review that confirms the diagnosis. If no diagnosis, there is a statement to that effect.
4. Axis II Diagnostic Information? **CRITERIA:** There is documentation of a diagnosis(s) as defined by the DSM IV. There is evidence of an annual review that confirms the diagnosis. If no diagnosis, there is a statement to that effect.
5. File Information from Others? **CRITERIA:** There is documentation from collateral resources including past and present service providers, MMHI or WMHI, family and significant others, etc.
6. Social History Assessment? **CRITERIA:** There is documentation of client's developmental, familial, educational and residential history; substance use; support network; social security needs and benefits; strengths and weaknesses, etc. There is evidence that this assessment has been updated within five years.
7. Vocational History? **CRITERIA:** There is documentation of the client's employment history, vocational development, present status in terms of job acquisition, readiness, strengths and weaknesses. There is evidence that this assessment has been updated within six months.
8. AODA Assessment? **CRITERIA:** There is documentation of the client's history of substance use, inpatient and outpatient treatment, involvement in support groups, strengths and weaknesses, and need, if any, for continued treatment. There is evidence that this assessment has been updated within six months.
9. Legal History? **CRITERIA:** There is documentation of the client's prior law violations, convictions, probation's, jail and prison sentences, and Crime Information Bureau (CIB) record summary.

10. Offense Description Leading to (971.17) Commitment? **CRITERIA:** There is documentation that describes the offense in detail and/or a copy of the Criminal Complaint is in the file.
11. Suicide Risk Assessment? **CRITERIA:** There is documentation of results of a completed assessment upon admission and protocol was followed, at each six month treatment plan review and when there is a crisis or significant loss in the client's life (IE when placed in custody at the jail or MHI) and when the case manager determines a need based on concerns related to suicide risk.

"TREATMENT PLAN" QUALITY CRITERIA

1. Is there a treatment plan? **CRITERIA:** Court ordered treatment plan, court ordered amendments and current (dated within last six months) individual service plan (ISP) or individual treatment plan (ITP) present in file.
2. Has treatment plan been reviewed at 6-month intervals? **CRITERIA:** Series of updated/reviewed treatment plans dated in 6-month intervals with evidence of review (new goals, approaches, changes, confirmation of diagnoses) or some statement stating review by treatment team was conducted.
3. Are goals appropriate? **CRITERIA:** Treatment goals are documented, related to the identified problem/treatment issue, are realistic, measurable (identify a specific observable behavior or outcome and a target date for accomplishment), achievable and directed to the desired long-term outcome.
4. Level of supervision? **CRITERIA:** DOC supervision level is identified and is appropriate to the need of the client. Preferably there is documentation in the progress note that the level is being achieved.
5. Medication management? **CRITERIA:** Documentation that a psychiatrist has oversight of psychotropic medication regime and sees client no less than once every six months.
6. Medication monitoring? **CRITERIA:** Documentation of medication monitoring, frequency of service and service provider identified. Evidence of client's level of responsibility and compliance in taking medication as directed.
7. Goals related to offense? **CRITERIA:** There is documentation in the plan, ISP/ITP that addresses corrective action, therapy, etc. related to the criminal offense for which the client was found NGI.
8. Plan to attain each goal? **CRITERIA:** There is a specific approach documented for each treatment goal. Each approach identifies exactly what action will occur, who is responsible, where, when and how often this action will take place. Preferably there is additional documentation regarding why a specific approach is being employed.
9. Residential services? **CRITERIA:** There is documentation of client's current residence that identifies address, type of housing, relevant others in residence, type and frequency of supports needed. If in supervised setting, there is documentation of time limit and plan for transition to less restrictive environment or for frequency of reviews for appropriateness. See #3, 7 & 8.

10. Other community services? **CRITERIA:** Other needed services are identified. There is documentation that this area has been assessed and a plan is in place if needed. Plan will identify service needed, provider, frequency and duration of service, and other supports such as CSP, day programming, etc. See #3, 7 & 8.
11. AODA services? **CRITERIA:** There is documentation that this area has been assessed and a plan is in place if needed or a statement that service is not needed. Plan will identify service needed, provider, frequency and duration of service, and other supports such as AA, NA, UA, etc. See #3, 7 & 8.
12. Vocational services? **CRITERIA:** Current employment and/or educational status are identified including address, type of work, hours of work, wages and benefits. There is documentation that this area has been assessed and a plan is in place if needed or a statement that service is not needed. Plan will identify service needed, provider, frequency and duration of service, and other supports such as job coach, DVR, placement services, etc. See #3, 7 & 8.
13. Counseling services? **CRITERIA:** There is documentation that the mental health needs have been assessed and a plan is in place if needed or a statement that service is not needed. Plan will identify counseling service needed, provider, frequency and duration of service. See #3, 7 & 8.
14. Outside reimbursement? **CRITERIA:** There is documentation that fiscal needs have been assessed and that all available income sources and amounts are identified.
15. Suicide precautions? **CRITERIA:** There is documentation of the level of risk and a plan that describes the intervention and/or treatment approach per suicide protocol, if needed or a statement that service is not needed. Plan will identify service needed, provider, frequency and duration of service and any other supports.

"Face to Face Contacts" Quality Criteria

Face to Face Contact is defined as an "in person" contact between individual service providers and the client for a minimum of 5 minutes for the purpose of scheduled treatment interventions, mental status assessments, supervision, or other service provision as designated in the treatment plan.

The "Other" category is for documenting incidental contact, spontaneous socialization, and miscellaneous supportive contact, which may or may not be defined in the treatment plan.

Using a self-explanatory drop down menu, the Monitoring Tool will record the frequency of "face to face contacts" for the following service providers:

1. Psychiatrist
2. Probation Agent
3. Case Manager
4. AODA Providers

5. Therapist
6. Vocational Counselor
7. CSP
8. Other

"OTHER" QUALITY CRITERIA

1. **Are the conditional release rules, conditions and modifications included?** CRITERIA: **There is a copy of the current list of standard conditional release rules (F-25614) and additional client specific rules imposed by the assigned agent.**
2. **Are the progress notes related to the goals?** CRITERIA: **Progress notes are written in behavioral terms and address progress toward the specified treatment goal. Preferably, they document the client's response to the specified treatment approach.**
3. **Frequency of progress note?** CRITERIA: **Drop down menu is self-explanatory.**
4. **Is there a continuing care plan?** CRITERIA: **In discharged client files, there is documentation that a comprehensive plan has been developed with input from DOC, the 51 system from the client's county of residence, the client and the regional provider. This plan addresses client's continuing treatment needs and identifies service providers. In client files within six months of MR date, there is documentation that a continuing care plan is in progress with input from DOC, 51 system, client and the regional provider.**
5. **Is documentation of subcontractors' role included in the treatment goals and actions?** CRITERIA: **All subcontractors' contributions to the treatment plan are documented using the treatment plan quality criteria.**
6. **Is there a crisis plan?** CRITERIA: **There is documentation of a comprehensive crisis plan in the treatment plan, subject to six month reviews and evidence that all providers are familiar with this plan and know exactly what to do and who to call if an emergency situation develops.**

EXHIBIT 3 FY 15 Conditional Release Monitoring Plan

EXHIBIT 4-4b CONDITIONAL RELEASE MANDATORY INVOICE FORMAT
Definitions
(revised May 2014)

CATEGORY	*COSTS FOR MONTH OF*_____	*COSTS TO DATE*
Clinical Salaries/benefits		
Support Services Salaries/benefits		
Insurance/liability		
Training/pro fees		
Rent/occupancy		
Equipment		
Supplies		
Postage		
Telephone		
Travel		
Contract Costs		
Miscellaneous Costs		
Indirect Admin Costs		
TOTALS		

Exhibit 4b

- **Clinical Salaries/benefits**: Costs for employment of CR clinical staff.
- **Support Services Salaries/benefits**: Clerical, receptionist, secretarial services related to CR.
- **Insurance/liability**: Malpractice and other relevant insurance.
- **Training/professional fees/dues**: Costs related to maintaining professional certification, standards of practice and membership in professional organizations related to CR provision of services.
- **Rent/occupancy**: Cost of leasing office space for CR.
- **Equipment**: Permanent items such as desks, chairs, computers, cell phones, fax machines, etc. purchased with DHS funds, which then become the property of DHS and not the provider.
- **Supplies/Office Costs**: Consumable items such as paper, pens, file folders, etc. and services such as printing.
- **Postage**: Stamps and postal service costs related to CR.
- **Telephone**: Service costs related to CR.
- **Travel**: Staff mileage and other travel costs related to CR.
- **Contractual Costs**: Sub contract costs for the provision of statutorily mandated CR services. See breakdown of contractual services on next page.
- **Miscellaneous Costs**: Other costs related to CR services, which are beyond the scope of the above categories. This category shall not exceed $500 in any 12-month (one-year) period.
- **Indirect Admin Costs**: Costs related to management and supervision of CR. These costs must not exceed 8% of direct contract costs during the 12-month (one-year) contract period.

Breakdown of "Contractual Costs" for Each Client and Definitions

EXHIBIT 4-4b CONDITIONAL RELEASE MANDATORY INVOICE FORMAT

Definitions

(revised May 2014)

The following information will be identified for each client on supplemental documentation to be submitted to DHS monthly with the standard invoice.

- **Adult Family Home:** Informal residential setting with one family or agency simulating a family. May involve 1-2 clients. Highly individualized for high-need clients that may not be appropriate for traditional group homes.

- **Counseling:** SCRAM, 1:1 or group AODA, MH, vocational or other treatment oriented service involving processing thoughts, feelings and problem resolution.

- **CBRF:** Residential setting with a larger group of clients (typically 4 or more), provides uniform structure for all clients, including supervision of light housekeeping duties, self care, meal preparation, leisure activities, etc. May include skill-building activities.

- **Day Services:** Time structuring, leisure programs, skill building groups and other activities, away from the client's residence, identified in the ISP with staff oversight and direction.

- **Medication, management & monitoring:** Includes cost of medications and services related to supervised administration, blood draws and laboratory costs to measure therapeutic levels.

- **Rent/Supported Apartment:** Includes rent, rent supplements and mentoring services to facilitate successful apartment living.

- **Transportation:** Includes bus passes, taxi and other transport services to facilitate client participation in court ordered treatment programs, employment, case manager directed activities and supervision meetings.

- **Utilities:** Cost of electricity, gas, water and temperature control. May include phone if on EMP.

- **Vocational:** Cost of sheltered work, supported employment, placement services and prevocational activities that support clients' job readiness and job seeking. May also include educational services relevant to job acquisition.

- **Client support/allowance:** Costs for allowance, incentive plans, household items, basic hygiene necessities, etc.

- **AODA Residential:** Residential setting for treatment of AODA issues.

- **Inpatient Hospitalization**: Hospital setting for psychiatric stabilization or detoxification for alcohol/drugs.

Exhibit #5 - FY15 Contract Deliverables

Conditional Release (CR) Contract Deliverables FY15	**Performance Expectation**	**Performance Standards**	**Data Source, Collection, Method and Application**
Outcome #1	Conditional Release clients will be financially self-sustained to the extent possible.	At 9 months of placement on CR, 95% of the new clients will have a reduction in the cost of their care, which may assist in clients becoming more financially self-sustained.	Contract Deliverable Spreadsheet *Only new clients' granted CR in July, August & September 2014 will be measured by looking at the initial cost of care and their cost of care 9 months later. That time period was chosen in order to gather a full 9 months of data.*
Outcome #2	Conditional Release Clients participate in meaningful daily activities. Meaningful activities include all of the following, and the time involvement can be a composite of all elements: • Competitive employment for clients who are able to work • Structured employment, including sheltered, supported or volunteer activities • Educational or vocational training • Treatment or treatment related activities • Other similar or related activities	90% of the clients in the CR Program will be involved in meaningful daily activities. Meaningful activities will be discussed and implemented as a goal on client ISPs (individual service plans).	Contract Deliverable Spreadsheet
Outcome #3	Justifications for all clients placed in CBRFs are completed with DHS staff.	Prior to discharge from the CR Program, 75% of the clients who were residing in a CBRF or Adult Family Home when they were placed on Conditional Release move to a less structured living situation.	CBRF Tracking Spreadsheet, Monthly Bills *DHS Conditional Release Specialists will track all clients in CBRFs.*

Exhibit #5 - FY15 Contract Deliverables

Conditional Release (CR) Contract Deliverables FY15	**Performance Expectation**	**Performance Standards**	**Data Source, Collection, Method and Application**
Outcome #4	Case Managers will use Motivational Interviewing (MI) with clients to address their treatment and behavioral issues.	Continue with monthly tracked measures: • Staff attendance • Staff presentation of recorded audio • Peer review results • Individual Learning Plan on file • Staff participation in learning activity • Staff submit one Consumer Evaluation monthly	Motivational Interviewing training, MI tracking sheets

Contract Name: Enter Text
Contract Number: Enter text

BUSINESS ASSOCIATE AGREEMENT
With Contract

This Business Associate Agreement is incorporated into the Underlying Contract known as Enter Text and is made between the Wisconsin Department of Health Services, **Division of Mental Health and Substance Abuse Services** ("Covered Entity"), and the **Lutheran Social Services- Western Region** ("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:

See exhibit 1.

Note: This contract for Conditional Release involves the collection and creation of health information protected by the federal HIPPA regulations and confidential treatment information protected under § 51.30, Wis. Stats.

The Covered Entity and Business Associate agree to modify the Contract to incorporate the terms of this Agreement and to comply with the requirements of 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 Contract and after Contract termination. The parties agree that any conflict between provisions of the Contract and the Agreement will be governed by the terms of the Agreement.

1. DEFINITIONS

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, Required by Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.

Specific Definitions:

a. 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 Lutheran Social Services- Western Region.

b. 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 in this Agreement, shall mean the Wisconsin Department of Health Services.

c. HIPAA Rules: "HIPAA Rules" shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.

2. RESPONSIBILITIES OF BUSINESS ASSOCIATE

a. Business Associate shall not use or disclose any Protected Health Information except as permitted or required by the Agreement, as permitted or required by law, or as otherwise authorized in writing by the Covered Entity, if done by the Covered Entity. Unless otherwise limited herein, Business Associate may use or disclose Protected Health Information 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.

b. Business Associate shall not request, use, or disclose more than the minimum amount of Protected Health Information necessary to accomplish the purpose of the use or disclosure.

c. Business Associate shall inform the Covered Entity if it or its subcontractors will perform any work outside the U.S. that involves access to, or the disclosure of, Protected Health Information.

3. SAFEGUARDING AND SECURITY OF PROTECTED HEALTH INFORMATION

a. Business Associate shall use appropriate safeguards, including complying with Subpart C of 45 CFR Part 164 with respect to electronic Protected Health Information, to prevent use or disclosure of Protected Health Information other than as provided for by the Agreement.

b. 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. REPORTING OF A VIOLATION TO COVERED ENTITY BY BUSINESS ASSOCIATE

The Business Associate shall report to Covered Entity any use or disclosure of Protected Health Information 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.

a. **Discovery of a Violation**. The Business Associate must inform the Covered Entity by telephone call, plus email or fax, within the next business day following the discovery of any violation.

   i. The Violation shall be treated as "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.
   ii. Notification shall be provided to one of the contact persons as listed in section 4.d.
   iii. Notification shall occur within the first business day that follows discovery of the Violation.

b. **Mitigation.** The Business Associate shall take immediate steps to mitigate any harmful effects of the unauthorized use, disclosure, or loss. 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.

c. **Investigation of Breach**. The Business Associate shall immediately investigate the Violation and report in writing within <u>one week</u> to a contact listed in section 4.d. with the following information:

   i. Each Individual whose Protected Health Information has been or is reasonably to have been accessed, acquired, or disclosed during the Incident;
   ii. A description of the types of Protected Health Information that were involved in the Violation (such as full name, social security number, date of birth, home address, account number);
   iii. A description of unauthorized persons known or reasonably believed to have improperly used or disclosed Protected Health Information or confidential data;
   iv. A description of where the Protected Health Information or confidential data is believed to have been improperly transmitted, sent, or utilized;
   v. A description of probable causes of the improper use or disclosure;
   vi. A brief description of what the Business Associate is doing to investigate the Incident, to mitigate losses, and to protect against further Violations;
   vii. The actions the Business Associate has undertaken or will undertake to mitigate any harmful effect of the occurrence; and
   viii. A Corrective Action Plan that includes the steps the Business Associate has taken or shall take to prevent future similar Violations.

d. **Covered Entity Contact Information.** To direct communications to above-referenced Covered Entity's staff, the Business Associate shall initiate contact as indicated herein. The Covered Entity reserves the right to make changes to the contact information by giving written notice to the Business Associate.

Covered Entity Program Manager:	DHS Privacy Officer	DHS Security Officer

Beth Dodsworth
1 W. Wilson Street, Room 850,
Madison, WI 53707
(608) 266-2862
Beth Dodsworth@wi.gov
Enter text
Enter text
Enter text

c/o Office of Legal Counsel
Department of Health Services
1 W. Wilson Street
Madison, WI 53707
608-266-5484

Department of Health Services
1 W. Wilson Street
Madison, WI 53707
608-261-8310

5. USE OR DISCLOSURE OF PROTECTED HEALTH INFORMATION BY SUBCONTRACTORS OF THE BUSINESS ASSOCIATE

In accordance with 45 CFR 164.502(e)(1) and 164.308(b), if applicable, the Business Associate shall ensure that any subcontractors that create, receive, maintain, or transmit Protected Health Information on behalf of the Business Associate agree to the same restrictions, conditions, and requirements that apply to the Business Associate with respect to such information.

6. COMPLIANCE WITH ELECTRONIC TRANSACTIONS AND CODE SET STANDARDS

If the Business Associate conducts any Standard Transaction for, or on behalf of, a Covered Entity, the Business Associate shall comply, and shall require any subcontractor or agent conducting such Standard Transaction to comply, with each applicable requirement of Title 45, Part 162, of the Code of Federal Regulation. The Business Associate shall not enter into, or permit its subcontractors or agents to enter into, any Agreement in connection with the conduct of Standard Transactions for, or on behalf of, Covered Entity that:

a. Changes the definition, Health Information condition, or use of a Health Information element or segment in a Standard;
b. Adds any Health Information elements or segments to the maximum defined Health Information Set;
c. Uses any code or Health Information elements that are either marked "not used" in the Standard's Implementation Specification(s) or are not in the Standard's Implementation Specifications(s); or
d. Changes the meaning or intent of the Standard's Implementations Specification(s).

7. ACCESS TO PROTECTED HEALTH INFORMATION

At the direction of the Covered Entity, the Business Associate agrees to provide access, in accordance with 45 CFR 164.524, to any Protected Health Information held by the Business Associate, which Covered Entity has determined to be part of Covered Entity's Designated Record Set, in the time and manner designated by the Covered Entity. This access will be provided to Covered Entity, or (as directed by Covered Entity) to an Individual, in order to meet requirements under the Privacy Rule.

8. AMENDMENT OR CORRECTION TO PROTECTED HEALTH INFORMATION

At the direction of the Covered Entity, the Business Associate agrees to amend or correct Protected Health Information 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.

9. DOCUMENTATION OF DISCLOSURES OF PROTECTED HEALTH INFORMATION BY THE BUSINESS ASSOCIATE

The Business Associate agrees to document and make available to the Covered Entity, or (at the direction of the Covered Entity) to an Individual, such disclosures of Protected Health Information to respond to a proper request by the Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.

10. INTERNAL PRACTICES

The Business Associate agrees to make its internal practices, books, and records relating to the use and disclosure of Protected Health Information 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 requirements of HIPAA.

11. TERM AND TERMINATION OF AGREEMENT

a. 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 may:

   i. Exercise any of its rights to reports, access, and inspection under this Agreement;
   ii. Require the Business Associate within a 30-day period to cure the breach or end the violation;
   iii. Terminate this Agreement if the Business Associate does not cure the breach or end the violation within the time specified by the Covered Entity;
   iv. Immediately terminate this Agreement if the Business Associate has breached a material term of this Agreement and cure is not possible.

b. Before exercising either 11.ii. or 11.iii, 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.

12. RETURN OR DESTRUCTION OF PROTECTED HEALTH INFORMATION

Upon termination, cancellation, expiration, or other conclusion of this Agreement, the Business Associate will:

a. Return to the Covered Entity or, if return is not feasible, destroy all Protected Health Information and any compilation of Protected Health Information in any media or form. The Business Associate agrees to ensure that this provision also applies to Protected Health Information of the Covered Entity in possession of subcontractors and agents of the Business Associate. The Business Associate agrees that any original record or copy of Protected Health Information in any media is included in and covered by this provision, as well as all originals or copies of Protected Health Information provided to subcontractors or agents of the Business Associate. The Business Associate agrees to complete the return or destruction as promptly as possible, but not more than **30** business days after the conclusion of this Agreement. The Business Associate will provide written documentation evidencing that return or destruction of all Protected Health Information has been completed.

b. If the Business Associate destroys Protected Health Information, it shall be done with the use of technology or methodology that renders the Protected Health Information unusable, unreadable, or undecipherable to unauthorized individuals as specified by HHS in HHS guidance. Acceptable methods for destroying Protected Health Information include:

   i. For paper, film, or other hard copy media: shredding or destroying in order that Protected Health Information cannot be read or reconstructed and
   ii. For electronic media: clearing, purging, or destroying consistent with the standards of the National Institute of Standards and Technology (NIST).

   Redaction is specifically excluded as a method of destruction of Protected Health Information unless the information is properly redacted so as to be fully de-identified.

c. If the Business Associate believes that the return or destruction of Protected Health Information is not feasible, the Business Associate shall provide written notification of the conditions that make return or destruction not feasible. If the Business Associate and Covered Entity agree that return or destruction of Protected Health Information is not feasible, the Business Associate shall extend the protections of this Agreement to Protected Health Information and prohibit further uses or disclosures of the Protected Health Information of the Covered Entity without the express written authorization of the Covered Entity. Subsequent use or disclosure of any Protected Health Information subject to this provision will be limited to the use or disclosure that makes return or destruction not feasible.

13. COMPLIANCE WITH STATE LAW

The Business Associate acknowledges that Protected Health Information from the Covered Entity may be subject to state confidentiality laws. Business Associate shall comply with the more restrictive protection requirements between state and federal law for the protection of Protected Health Information.

14. MISCELLANEOUS PROVISIONS

a. Indemnification for Breach. Business Associate shall, to the extent allowed by Wisconsin law, indemnify the Covered Entity for costs associated with any Incident arising from the acquisition, access, use, or disclosure of Protected Health Information by the Business Associate in a manner not permitted under HIPAA Rules.

b. Automatic Amendment. This Agreement shall automatically incorporate any change or modification of applicable state or federal law as of the effective date of the change or modification. The Business Associate agrees to maintain compliance with all changes or modifications to applicable state or federal law.

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 applicable state and federal law.

d. Survival. All terms of this Agreement that by their language or nature would survive the termination or other conclusion of this Agreement shall survive.

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

COVERED ENTITY		BUSINESS ASSOCIATE	
	Division of Mental Health and Substance Abuse Services		Lutheran Social Services of WI & Upper MI, Inc
Print Name:	Janeen Meyer	Print Name:	Ronald Hauser
SIGNATURE:		**SIGNATURE:**	Ronald A. Hauser
Title:	Forensic Service Specialist	Title:	CPO
Date:	Choose date	Date:	Choose date 2/21/14